



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

**MOSCOW, RUSSIA**

**19-20 JULY 2013**

This report consists of two parts. Part I is the Progress Report to the G20 by the Global Forum on Transparency and Exchange of Information for Tax Purposes delivered to the G20 in April 2013. Part II is a report by the OECD Secretary-General regarding the work on base erosion and profit shifting (BEPS) and tackling offshore tax evasion. The OECD Secretary-General report details the BEPS action plan, as well as a proposal to move globally towards automatic exchange of information.

## Introduction

The G20 Leaders in Los Cabos commended the work of the Global Forum on Transparency and Exchange of Information and expressed their support for the OECD's work on base erosion and profit shifting (BEPS) – legal tax avoidance – and how it may skew the fairness of tax systems generally. Since then, the political pressure and public outcry over international tax evasion and the perceived unfairness of the international tax system has increased to levels not seen since the G20 called for increased transparency and exchange of information in 2008. The recent “offshore leaks” disclosures and other scandals are clear indications that more remains to be done to combat offshore tax evasion. But tax cheats are not the only ones in the spotlight. The very low effective tax rates that multinationals can achieve through international tax planning continue to raise serious concerns. Leaders, civil society and everyday taxpayers have renewed demands for greater transparency and action to tackle offshore tax evasion as well as changes to the international tax rules to restore fairness and integrity of their tax systems and the global financial system more generally. The message is clear: all taxpayers must pay their fair share.

The OECD is spearheading three initiatives that are aimed directly at this objective:

- The Global Forum on Transparency and Exchange of Information for Tax Purposes (The Global Forum) is moving ahead quickly with its peer reviews and is well into its examination of effectiveness – unambiguous ratings for as many as 50 jurisdictions will be published later this year.
- The OECD's work on Base Erosion and Profit Shifting (BEPS) aims to bring the international tax rules into the 21st century. In line with the report presented to G20 Finance Ministers in February 2013, the OECD has developed an action plan to respond to BEPS, which is annexed to this report. The action plan sets out a roadmap and process for further work.
- The OECD is strengthening its efforts to increase international cooperation, and in particular is working to improve the effectiveness of automatic exchange of information.

The following report contains two parts. Part I is the Global Forum's report on the progress it is making and the next steps. Once again, the Global Forum is producing concrete results on the transparency landscape. This work is having an impact: jurisdictions are implementing the standards by changing both their legal frameworks and their practices. Part II presents the BEPS action plan and describes the efforts by the OECD to promote all forms of international cooperation in particular, automatic exchange of information.

All of these initiatives support governments' efforts to restore trust in their tax systems by setting the standards and providing the instruments to combat tax evasion, improve tax compliance and ensure the fairness of their tax systems in an environment where the transparency of corporate vehicles, which spans not only tax, but also efforts to combat corruption and money-laundering, is increasingly central to a host of policy discussions. The OECD stands ready to take forward your agenda in addressing the problems of tax evasion and avoidance.

## **PART I**

# **Global Forum on Transparency and Exchange of Information for Tax Purposes**

## **Progress Report to the G20 Finance Ministers and Central Bank Governors: Global Forum Update on Effectiveness and On-going Monitoring**

19 - 20 July 2013

In April 2013, the Global Forum sent a progress report to the G20 Finance Ministers and Central Bank Governors on the effectiveness of information exchange practices. This report provides an update on the Global Forum's activities since the last April 2013 report although no new peer review reports have been adopted since.

## **REPORT TO THE G20 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS: GLOBAL FORUM UPDATE ON EFFECTIVENESS AND ON-GOING MONITORING**

1. In April 2013, the Global Forum sent a progress report to the G20 Finance Ministers and Central Bank Governors on the effectiveness of information exchange practices. In their Communiqué, the Finance Ministers and Central Bank Governors commended the progress made by many jurisdictions and urged all jurisdictions to quickly implement the recommendations made. They also welcomed progress towards automatic exchange of information, and while it is expected this form of exchange of information to be the future standard, the Global Forum was called to be in charge of monitoring this process.

2. Since April 2013, the Global Forum has not adopted any new peer review reports and so the report sent in April is unchanged. At its June 2013 meeting, the Peer Review Group has nevertheless considered a further 13 reports: Israel and Lithuania assessing the legal and regulatory framework (Phase 1); Austria, The Bahamas, Bermuda, Brazil, British Virgin Islands, India, Luxembourg, Malta, Monaco, Qatar, and San Marino assessing the practices of exchange of information (Phase 2). These reports have been approved by the Peer Review Group and are expected to be adopted by the Global Forum at the end of July 2013. The ratings exercise, which will provide overall ratings for around 50 jurisdictions (see last page of this document), is well underway and these ratings are on schedule to be published before the end of 2013. Each jurisdiction will be assigned with a rating of “compliant”, “largely compliant”, “partially compliant” or “non-compliant” both for the individual elements of the Global Forum’s *Terms of Reference* and for overall compliance with the standard.

3. The Global Forum also held a second meeting of Competent Authorities in May 2013, where participants were able to discuss the day-to-day issues of managing exchange of information requests. The report to the G20 in April highlighted the growing importance of exchange of information, and participants at the May meeting reported a growing complexity and a rapid increase in the number of incoming requests and reported on the resources they were putting to be able to effectively respond to the expected increase in requests.

4. Regarding the role that the Global Forum will play in relation to automatic exchange of information, note has been taken of the G20 communiqué and these matters will be carefully considered in preparation for the Global Forum plenary meeting in November 2013.

**REPORT TO THE G20 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS: GLOBAL FORUM  
UPDATE ON EFFECTIVENESS AND ONGOING MONITORING<sup>1</sup>  
APRIL 2013**

**EXECUTIVE SUMMARY**

In November 2012, the G20 Finance Ministers and Central Bank Governors asked the Global Forum to report on the effectiveness of information exchange practices by April 2013 and in February 2013 reiterated this call and encouraged the Global Forum to continue to make rapid progress in assessing and monitoring on a continuous basis the implementation of the international standard on information exchange (see Annex 1 for the text of the G20 Communiqués). **This report provides an assessment of the Global Forum's work so far on assessing information exchange practices** and describes the next steps for the Global Forum, notably the completion of the Phase 2 reviews and the assignment of ratings.

The Global Forum has now completed 100 peer review reports. The reviews of jurisdictions laws' have been completed for the vast majority of member jurisdictions and the focus is now moving to the review of practice, where reviews have been completed for 30 Global Forum members. Since the Global Forum responded to the G20's call to ensure a rapid implementation of the international standard of transparency and exchange of information in 2009, it has completed 100 peer reviews and issued over 600 recommendations for improvement, more than 300 of which are already being acted upon. The number of jurisdictions that have committed to implement the standard and have joined the Global Forum has grown to 119 and around 1 100 new EOI relationships to the standard have been put in place. These results show that the Global Forum's work is leading to greatly improved transparency, wider exchange of information networks, and upgraded legal frameworks.

Ultimately the real test of whether the Global Forum has achieved its goal is whether it has improved transparency and made exchange of information more effective in practice. A key output of the reviews of practice is the assignment of a rating both for a jurisdiction's compliance with each element of the Global Forum's *Terms of Reference* as well as an overall rating. The issuance of an overall rating will best achieve both the recognition of progress by jurisdictions toward a level playing field and the identification of jurisdictions that are not in step with the international consensus. It is expected that the first ratings (for as many as 50 jurisdictions) will be finalised by the Global Forum at its plenary meeting in November 2013. The Global Forum looks forward to reporting back to the G20 after completion of the initial ratings exercise.

The delivery of overall ratings will be a watershed moment in the Global Forum's evolution, as it represents the completion of its original mandate, while at the same time setting the bar for its future work. Indeed, as the reviews are being completed and the ratings exercise undertaken, the Global Forum has started reflecting on its future beyond its current mandate, which extends to the end of 2015. Global Forum members are united in seeing the Global Forum play an important role beyond the Phase 2 reviews and the current mandate. Thus, the ratings exercise should be seen as one component of an ongoing process for which the support of the G20 is key.

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<sup>1</sup> This document 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

## **Introduction**

1. The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) was profoundly restructured in 2009 following a call from the G20 to ensure a rapid implementation of the standards through the establishment of a rigorous and comprehensive peer review process. The Global Forum reported the findings of its first 79 Peer Reviews to the G20 Leaders at their June 2012 Los Cabos Summit. That report conveyed to the G20 Leaders the progress made since their November 2011 Cannes Summit, showing a high level of co-operation among members and the actions taken by jurisdictions to tackle the deficiencies identified, resulting in a good level of compliance with the internationally agreed standard. The report also identified room for further improvements and the need to assess that effective exchange of information is implemented. In their Communiqué, the G20 leaders commended the progress made and urged all jurisdictions, particularly those which did not qualify for a Phase 2 review, to take the necessary actions to tackle the deficiencies identified.

2. In November 2012, the G20 Finance Ministers and Central Bank Governors asked the Global Forum to report on the effectiveness of information exchange practices by April 2013 and in February 2013 reiterated this call and encouraged the Global Forum to continue to make rapid progress in assessing and monitoring on a continuous basis the implementation of the international standard on information exchange. **This report provides an assessment of the Global Forum's work so far on assessing information exchange practices** and describes the next steps for the Global Forum, notably the completion of the Phase 2 reviews and the assignment of ratings.

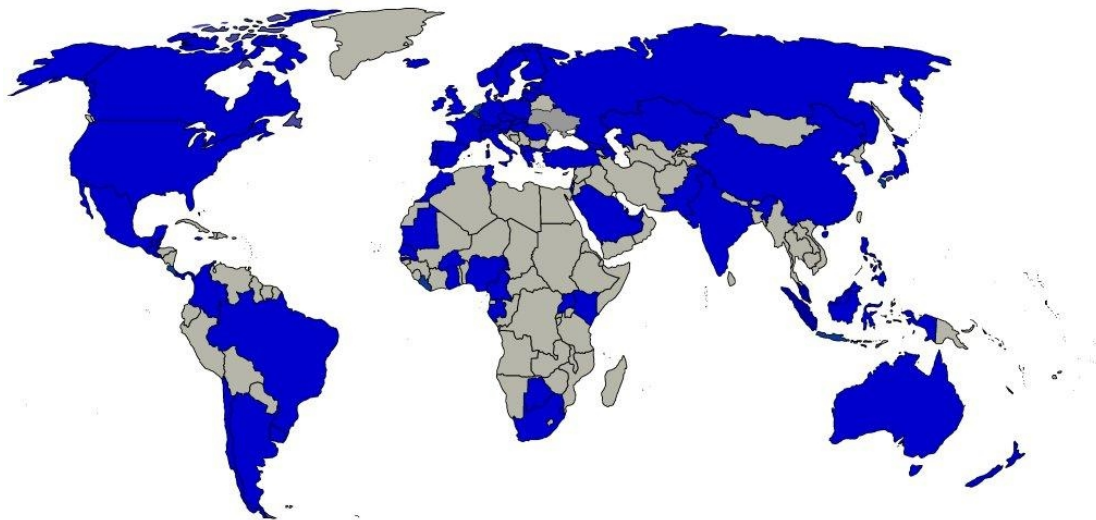
### **A. State of Play**

3. Since 2009, the capacity for cooperation in international tax matters has improved significantly. More jurisdictions are committed to the standard, the number of exchange of information agreements has grown substantially, and many changes in domestic legislation have been introduced to comply with the standard. The Global Forum also conducts a number of technical assistance activities aimed to ensure that jurisdictions that are new to cooperation in international tax matters equally participate and implement the standard and has worked with the competent authorities responsible for exchange of information to facilitate assistance amongst the tax administration.

### **Membership**

4. One of the great achievements of the Global Forum has been the establishment of a level playing field with **119 member jurisdictions** now committed to implementing the standards of transparency and exchange of information. Only **Lebanon has so far refused to commit to the standard and become a member of the Global Forum** despite being identified as a jurisdiction relevant to the Global Forum's work.

5. The Global Forum has welcomed 11 new members since its report to the G20 in June 2012. Kazakhstan, Pakistan, Cameroon, Burkina Faso, Albania, Uganda, Gabon, and Senegal joined late in 2012. Azerbaijan, Romania and the Kingdom of Lesotho have joined early in 2013. Observership to the Global Forum has also increased to 12 organisations with the inclusion of the Centre de rencontres et d'études des dirigeants des administrations fiscales (CREDAF) and the World Customs Organisation. (See Annex 4 for a complete list of Global Forum members and observers).



### *Network of agreements*

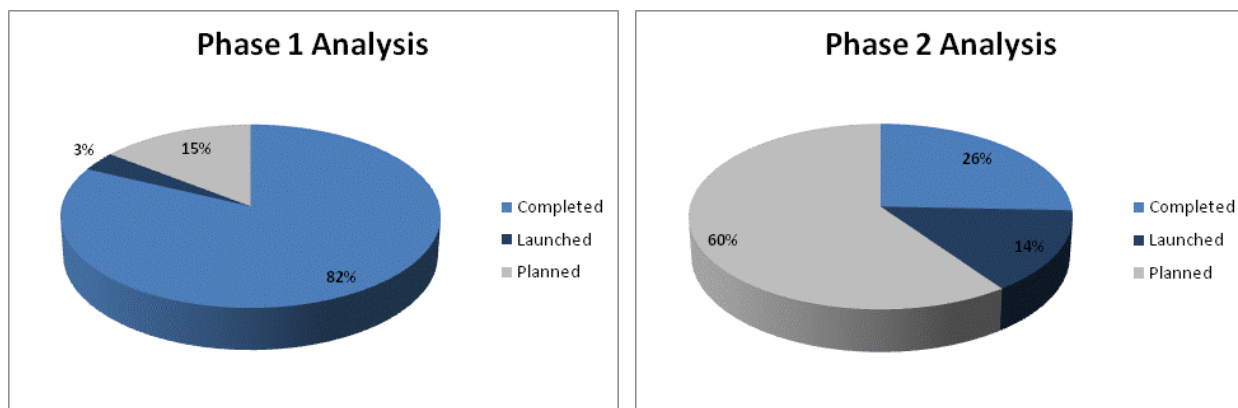
6. The connectivity between Global Forum members continues to grow. In 2008, most exchange of information on request was based on the existing network of tax treaties between jurisdictions with a long track record of exchange of information. Only a handful of dedicated tax information exchange agreements (TIEAs) were in place. **Today, there are almost 800 bilateral TIEAs worldwide**, ensuring the existence of mechanisms to exchange information with those jurisdictions that do not have large tax treaty networks. A separate related development has been the updating and expansion of the Convention on Mutual Administrative Assistance in Tax Matters in 2011, a multilateral convention that, with the support of the G20, has more than doubled its number of signatories in the past two years. This has led to a further increase in the number of Exchange of Information (EOI) relationships, consisting of 675 additional EOI relationships (where a bilateral agreement already existed) and 228 new EOI relationships (where no bilateral agreement previously existed). With the support of the G20, further progress is expected in the next few months. Overall, the number of new EOI relationships (bilateral and multilateral) has increased by around 1 100 since the Global Forum began its work in 2009.

### *Peer Review Process*

7. The mandate of the Global Forum is to promote exchange of information through a robust and comprehensive monitoring and peer review process. This process is divided between Phase 1 reviews, which examine a jurisdiction's legal framework for the exchange of information, and Phase 2 reviews, which examine information exchange in practice. **To date, the Global Forum has adopted and published 100 peer review reports** (see the complete list of adopted reports in Annex 5).

**Table 1: Progress of the Peer Reviews**

Review	Total	Adopted	Launched	Planned
<b>Phase 1</b>	91	70	4	17
<b>Phase 2</b>	91	4	17	70
<b>Combined</b>	26	26	0	0
<b>Total</b>	208	100	21	87



8. Since the Global Forum's last report to the G20 in June 2012, 21 peer reviews have been published, containing 112 new recommendations. These are:

- 11 Phase 1 reports (Belize, Dominica, Marshall Islands, Nauru, Niue, Poland, Portugal, Russia, Samoa, Sint Maarten, and Slovenia),
- 6 Combined Phase 1 and Phase 2 reports (Argentina, Finland, Iceland, South Africa, Sweden, and Turkey),
- 4 stand-alone Phase 2 reports (Belgium, Cayman Islands, Guernsey, and Singapore).

In addition, 5 more supplementary reports have been adopted (Costa Rica, Liechtenstein, Monaco, United Kingdom, and Uruguay).

9. At the time of the last report to the G20, 11 jurisdictions (Botswana, Brunei, Costa Rica, Guatemala, Lebanon, Liberia, Panama, Trinidad and Tobago, United Arab Emirates, Uruguay and Vanuatu) could not move to Phase 2 because it was determined at the time of their Phase 1 reviews that critical elements necessary to achieving an effective exchange of information were not in place in their legal framework. In another two cases (Liechtenstein and Switzerland), progress to Phase 2 was subject to conditions.

10. Costa Rica, Liechtenstein and Uruguay have since responded by making the changes needed to improve their legal frameworks and, on the basis of their supplementary reports, have now qualified for Phase 2. With respect to the new Phase 1 reviews completed since June 2012, four additional jurisdictions cannot move to the Phase 2 review (Dominica, Marshall Islands, Nauru, and Niue). Hence as of the day of the production of this report a **total of 13 jurisdictions cannot move to Phase 2 review until they act on the recommendations to improve their legal and regulatory framework:** Botswana, Brunei, Dominica, Guatemala, Lebanon, Liberia, Marshall Islands, Nauru, Niue, Panama, Trinidad and Tobago, United Arab Emirates and Vanuatu. Additionally, the Phase 2 review of Switzerland is still subject to conditions.

11. Of the jurisdictions not moving to Phase 2, follow up reports<sup>2</sup> have been submitted by Botswana, Brunei, Guatemala, Lebanon, Liberia, Panama, Trinidad and Tobago, and United Arab Emirates on the progress they have made in implementing changes to address the recommendations made in their reports. The follow up reports of Dominica, Marshall Islands, Nauru, and Niue are not yet due. Switzerland has

<sup>2</sup> Follow-up reports are detailed written reports by a jurisdiction to the PRG of the steps it has taken or has planned to take to implement recommendations made in a peer review report. Unlike supplementary reports, they are not peer-reviewed.



also recently provided a follow up report providing details of actions taken by its Government to implement the recommendations made in its report.

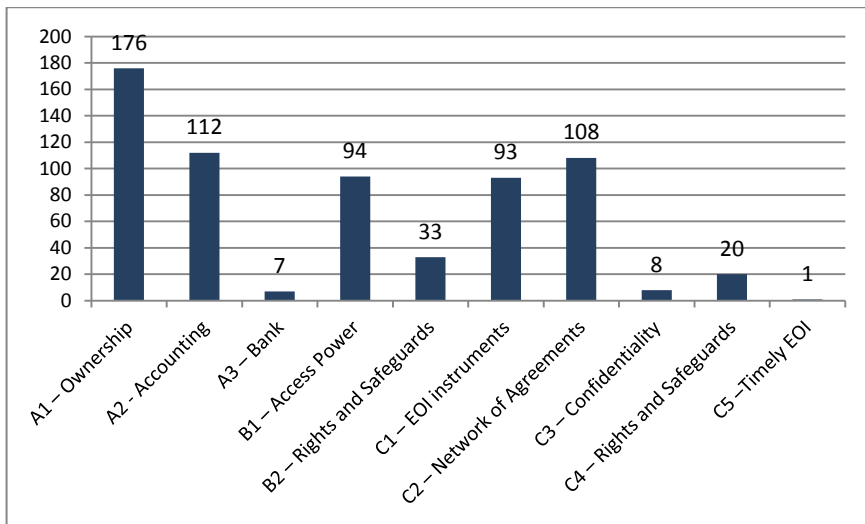
**Results**

12. The Global Forum’s peer review reports include determinations in respect of the elements which comprise the international standard as to whether a jurisdiction’s legal framework is in place and recommendations are made for improvement where appropriate (see Annex 2 for a complete table of determinations). Of the total number of **862** determinations made:

- ✓ 618 elements were found to be “in place”;
- ✓ 171 elements were “in place, but needing improvement”; and
- ✓ 73 elements were “not in place”.

13. A fundamental aspect of the Global Forum’s peer reviews are the recommendations for improvement that go along with the determinations in cases where there is some deficiency in the implementation of the standards. In the 100 reports adopted so far, a total of **652 Phase 1 recommendations have been made**.

**Table 2: Number of Phase 1 recommendations per element**



14. Where the Global Forum has made recommendations, jurisdictions have responded in many cases by making changes to improve their systems for the exchange of information. A supplementary review procedure has been established so that these changes can be evaluated and given public recognition. To date, 19 supplementary reports have been launched, of which 18 have been completed, with the following results:

- 78 recommendations addressed
- 49 determinations upgraded
- 8 jurisdictions have been able to qualify for the Phase 2 where initially they could not move to Phase 2 (Antigua and Barbuda, Barbados, British Virgin Islands, Costa Rica, San Marino, Seychelles, Turks and Caicos Islands, and Uruguay)
- 2 jurisdictions (Belgium and Liechtenstein) for which the Phase 2 review was subject to conditions are now able to proceed to their Phase 2 reviews, and the Phase 2 review of Belgium has now been completed.

15. In addition, all jurisdictions are required to provide follow-up reports describing the action taken to address recommendations made in their reports. So far, **68 jurisdictions have provided follow-up reports describing actions they have taken to implement more than 300 recommendations:**

- ✓ 53 jurisdictions have improved their legislation to ensure the availability of accounting and ownership information, **17 of which have abolished or immobilised bearer shares;**
- ✓ 38 jurisdictions improved access power to the information under domestic laws, **17 of these jurisdictions improved their access to bank information for EOI purposes;**
- ✓ 13 jurisdictions reported improvements in EOI procedures or strengthening EOI units for timely EOI;

16. These results show that the Global Forum’s work is leading to greatly improved transparency, wider exchange of information networks, and upgraded legal frameworks. As noted below under “Phase 2 and the Ratings Exercise”, the real test of whether the Global Forum has achieved its goal is whether it has improved transparency and made exchange of information more effective in practice. This can only be determined at the end of the Phase 2 reviews, which are currently ongoing and any definitive conclusion on the results would be premature.

### ***Technical Assistance and Training***

17. Since June 2012, the Global Forum has organized four training seminars in Paris, Dubai, Manila and Barbados, and proposes to hold seminars in Brasilia, Prague as well as Dakar in the first half of 2013. In collaboration with other international organisations and development agencies, assistance has been provided to a number of jurisdictions. In recognition of the fact that many new countries that are joining the Global Forum are developing countries and are new to international cooperation in exchange of information, assistance is being provided to create awareness of the international standard, help jurisdictions prepare for their peer reviews and implement the recommendations made. The Global Forum is also developing important tools to assist jurisdictions in implementing the standard, including a toolkit, work manual and a tracking system for requests for information.

### ***Competent Authority Database***

18. Following the first meeting of Competent Authorities – the officials responsible for exchange of information on a day-to-day basis – in Madrid in May 2012, the Global Forum has launched a database

which includes contacts for more than 70 jurisdictions. This tool will facilitate the flow of exchange of information amongst tax administrations and help develop the EOI network. A second meeting of Competent Authorities will be held in the Netherlands in May 2013. Competent Authorities will share challenges regarding the growing volume and complexity of information exchange and practices

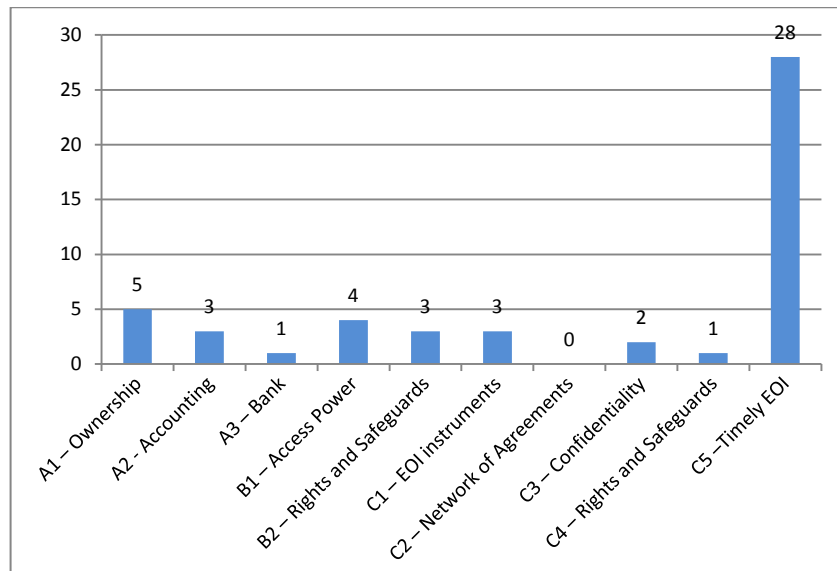
implemented to respond to these challenges, as well as the importance and challenges of developing the use of EOI within their tax administration.

**B. Measuring effectiveness**

19. The preliminary indications from the Combined reviews and stand alone Phase 2 reviews conducted to date show that the timeliness of responses is improving and there has been an increase in the volume of requests in recent years. For these jurisdictions, figures indicate that there has been a 22% increase in the volume of the requests they receive over the three-year review period. This figure is even more pronounced for those jurisdictions that have smaller volumes of requests. Those jurisdictions with fewer than 100 requests in the first year of review saw an average increase of more than 100% over the three years. In addition, a large number of EOI relationships have just recently come into force and are only now starting to be used. As a result there remains a considerable scope for increase in the volume of requests and jurisdictions should expect the number of requests to go up in the near term. However, there is a wide variation in the extent to which EOI agreements are being used by different jurisdictions – some rely on the agreements more for their deterrent effect (for example by preventing taxpayers from evading tax in the first place or inciting them to provide information voluntarily) while others consciously seek to test them in practice right away. Where agreements are used, they are effective in countering tax evasion.

20. While the timeliness of responses to exchange of information requests is improving, it is also clear that a number of issues still need to be addressed. Out of the 30 published peer reviews assessing phase 2 aspects, 50 recommendations have been made to improve the jurisdictions’ ability to effectively exchange information in practice, and most of these recommendations relate to timeliness.

**Table 3: Number of Phase 2 recommendations per element**



21. Thirteen jurisdictions have already reported taking action to address these issues by improving their case management systems and devoting additional resources to exchange of information. Moreover, improvements in processes are also being made in jurisdictions which have not yet undergone a Combined or Phase 2 review in anticipation of their reviews.

22. These results show the very practical impact the work of the Global Forum is having. As a result of these improvements, exchange of information on request will become a much more effective tool in the future as changes in member jurisdictions' EOI systems and organisations are reflected in an improved service to treaty partners. The great benefit to member jurisdictions is the potential to prevent tax evasion through increased use of EOI agreements and effective cooperation in practice.

### C. Phase 2 and the Ratings Exercise

23. Ultimately the real test of whether the Global Forum has achieved its goal is whether it has improved transparency and made exchange of information more effective in practice. Where the Phase 1 reviews examine a jurisdiction's legal framework for exchange of information, Phase 2 reviews examine how well that framework does in practice. The Global Forum's second mandate began in January 2013, and this coincides with the beginning of the stand alone Phase 2 reviews and evaluating compliance in practice. **A key output of Phase 2 reviews is the assignment of a rating both for a jurisdiction's compliance with each element of the Global Forum's Terms of Reference as well as an overall rating.**

24. The issuance of an overall rating will best achieve both the recognition of progress by jurisdictions toward a level playing field and the identification of jurisdictions that are not in step with the international consensus.

25. The Global Forum is proceeding carefully with the ratings exercise in order to ensure a fair, consistent and transparent result. Consideration has been given to the timing of the ratings exercise as it will be important to complete Phase 2 reviews for a representative subset of jurisdictions before finalising ratings to ensure that the application of the ratings system is consistent across jurisdictions. As a representative subset of Phase 2 reviews will be completed later in 2013, work within the Global Forum is underway to establish a fair and transparent process through which ratings will be assigned to all jurisdictions having already undergone an analysis of the exchange of information practices. Ratings will then be an integral part of Phase 2 reviews going forward.

26. The Phase 2 ratings, including the overall rating, will be applied on the basis of a four-tier system:

<b>Compliant</b>	The essential element is, in practice, fully implemented.
<b>Largely compliant</b>	There are only minor shortcomings in the implementation of the essential element.
<b>Partially compliant</b>	The essential element is only partly implemented.
<b>Non-compliant</b>	There are substantial shortcomings in the implementation of the essential element.

27. It is expected that the first ratings (for as many as 50 jurisdictions) will be finalised by the Global Forum at its plenary meeting in November 2013. **The Global Forum looks forward to reporting back to the G20 after completion of the initial ratings exercise.**

### D. Beyond Phase 2

28. The delivery of overall ratings will be a watershed moment in the Global Forum's evolution, as it represents the completion of its original mandate while at the same time setting the bar for its future work.

Indeed, as the reviews are being completed and the ratings exercise undertaken, the Global Forum has started reflecting on its future beyond its current mandate, which extends to the end of 2015. This discussion includes the question of how to refine and improve the *Terms of Reference* which embodies the international standard, and what form of assessment and monitoring on a continuous basis should take place once the Phase 2 reviews are completed so as to ensure that jurisdictions continue to cooperate effectively. There is also a question of how the Global Forum should position itself in a rapidly evolving exchange of information environment where many members are participating in a wider variety of exchange relationships including automatic exchange of information. As the exchange of information environment evolves, the Global Forum is reflecting on how it can be proactive rather than reactive.

29. Global Forum members are united in seeing the Global Forum play an important role beyond the Phase 2 reviews and the current mandate. Thus, the ratings exercise should be seen as one component of an ongoing process for which the support of the G20 is key.

## **ANNEX 1: G20 COMMUNIQUES**

### **G20 Finance Ministers and Central Bank Governors, Moscow, 15-16 February, 2013, para 20**

*In the tax area, we welcome the OECD report on addressing base erosion and profit shifting and acknowledge that an important part of fiscal sustainability is securing our revenue bases. We are determined to develop measures to address base erosion and profit shifting, take necessary collective actions and look forward to the comprehensive action plan the OECD will present to us in July. We strongly encourage all jurisdictions to sign the Multilateral Convention on Mutual Administrative Assistance. We encourage the Global Forum on Transparency and Exchange of Information to continue to make rapid progress in assessing and monitoring on a continuous basis the implementation of the international standard on information exchange and look forward to the progress report by April 2013. We reiterate our commitment to extending the practice of automatic exchange of information, as appropriate, and commend the progress made recently in this area. We support the OECD analysis for multilateral implementation in that domain.*

### **G20 Finance Ministers and Central Bank Governors, Mexico City, November 2012, para 21**

*We commend the signings of the Multilateral Convention in Cape Town and further progress made towards transparency as reported by the Global Forum whose membership has increased. We look forward to a progress report by the Global Forum on the effectiveness of information exchange practices by April 2013. We welcome and endorse the improved OECD standard with respect to information requests on a group of taxpayers and encourage all countries to adopt it when appropriate. We will continue to implement practices of automatic exchange of information and call on the OECD to analyze the safeguards, mechanisms and milestones necessary to increase its use and efficient implementation in a multilateral context. We also welcome the work that the OECD is undertaking into the problem of base erosion and profit shifting and look forward to a report about progress of the work at our next meeting.*

## ANNEX 2: PHASE 1 REVIEWS

	Jurisdiction	Type of Review	Availability of Information			Access to Information		Exchange of Information					Move to Phase 2
			A1 – Ownership	A2 - Accounting	A3 – Bank	B1 – Access Power	B2 – Rights and Safeguards	C1 – EOI instruments	C2 – Network of Agreements	C3 – Confidentiality	C4 – Rights and Safeguards	C5 – Timely EOI	
1	Andorra	Phase 1	In place, but	In place, but	In place	In place, but	In place, but	In place, but	In place	In place	In place	Not assessed	Yes
2	Anguilla	Phase 1	In place, but	Not in place	In place	In place, but	In place	In place	In place	In place	In place	Not assessed	Yes
3	Antigua and Barbuda	Phase 1 + Supplementary	In place	Not in place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
4	Argentina	Combined	In place	In place	In place	In place	In place	In place	In place, but	In place	In place	Not assessed	-
5	Aruba	Phase 1	In place, but	In place	In place	In place, but	In place, but	In place, but	In place, but	In place	In place	Not assessed	Yes
6	Australia	Combined	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
7	Austria	Phase 1	Not in place	In place	In place	In place, but	In place, but	In place, but	In place, but	In place	In place	Not assessed	Yes
8	The Bahamas	Phase 1	In place	Not in place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
9	Bahrain	Phase 1	In place	In place, but	In place	In place, but	In place, but	In place, but	In place	In place	In place	Not assessed	Yes
10	Barbados	Phase 1 + Supplementary	In place, but	In place, but	In place	In place, but	In place	In place, but	In place, but	In place	In place	Not assessed	Yes
11	Belgium	Phase 1 + Supplementary + Phase 2	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
12	Belize	Phase 1	In place, but	Not in place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes

	Jurisdiction	Type of Review	A1 – Ownership	A2 - Accounting	A3 – Bank	B1 – Access Power	B2 – Rights and Safeguards	C1 – EOI instruments	C2 – Network of Agreements	C3 – Confidentiality	C4 – Rights and Safeguards	C5 – Timely EOI	Move to Phase 2
13	Bermuda	Phase 1 + Supplementary	In place, but	In place, but	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
14	Botswana	Phase 1	In place, but	In place, but	In place	Not in place	In place	Not in place	Not in place	Not in place	In place	Not assessed	No
15	Brazil	Phase 1	In place	In place	In place	In place	In place, but	In place, but	In place	In place	In place	Not assessed	Yes
16	Brunei	Phase 1	Not in place	Not in place	In place	Not in place	In place	Not in place	Not in place	In place	In place	Not assessed	No
17	Canada	Combined	In place, but	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
18	Cayman Islands	Phase 1 + Supplementary + Phase 2	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
19	Chile	Phase 1	In place, but	In place	In place	In place, but	In place, but	In place	In place	In place	In place	Not assessed	Yes
20	China	Combined	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
21	Cook Islands	Phase 1	In place, but	Not in place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
22	Costa Rica	Phase 1 + Supplementary	Not in place	In place, but	In place	In place	In place	In place, but	In place	In place	In place	Not assessed	Yes
23	Curacao	Phase 1	In place, but	In place	In place	In place	In place, but	In place, but	In place, but	In place	In place	Not assessed	Yes
24	Cyprus	Phase 1	In place, but	Not in place	In place	In place, but	In place, but	In place	In place, but	In place	In place	Not assessed	Yes
25	Czech Republic	Phase 1	Not in place	In place	In place	In place, but	In place	In place	In place	In place	In place, but	Not assessed	Yes
26	Denmark	Combined	In place, but	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
27	Dominica	Phase 1	In place, but	Not in place	In place	Not in place	In place	Not in place	In place, but	In place, but	In place	Not assessed	No



	Jurisdiction	Type of Review	A1 – Ownership	A2 - Accounting	A3 – Bank	B1 – Access Power	B2 – Rights and Safeguards	C1 – EOI instruments	C2 – Network of Agreements	C3 – Confidentiality	C4 – Rights and Safeguards	C5 – Timely EOI	Move to Phase 2
28	Estonia	Phase 1 + Supplementary	In place, but	In place	In place	In place	In place	In place	In place	In place, but	In place	Not assessed	Yes
29	Finland	Combined	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
30	France	Combined	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
31	FYROM	Phase 1	In place	In place	In place	In place	In place, but	In place	In place	In place	In place	Not assessed	Yes
32	Germany	Combined	In place, but	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
33	Ghana	Phase 1	In place, but	In place, but	In place	In place	In place	In place, but	In place, but	In place	In place	Not assessed	Yes
34	Gibraltar	Phase 1	In place, but	Not in place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
35	Greece	Combined	In place, but	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
36	Grenada	Phase 1	In place, but	Not in place	In place	In place, but	In place	In place, but	In place, but	In place	In place	Not assessed	Yes
37	Guatemala	Phase 1	Not in place	In place	In place	Not in place	In place, but	Not in place	Not in place	In place	In place	Not assessed	No
38	Guernsey	Phase 1 + Phase 2	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
39	Hong Kong, China	Phase 1	In place, but	In place	In place	In place, but	In place	In place, but	In place, but	In place	In place	Not assessed	Yes
40	Hungary	Phase 1	Not in place	In place, but	In place	In place, but	In place, but	In place, but	In place	In place	In place, but	Not assessed	Yes
41	Iceland	Combined	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
42	India	Phase 1	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
43	Indonesia	Phase 1	In place, but	In place, but	In place	Not in place	In place	In place, but	In place, but	In place	In place	Not assessed	Yes
44	Ireland	Combined	in place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-

45	Isle of Man	Combined	In place	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
46	Italy	Combined	In place	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
47	Japan	Combined	In place	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
48	Jamaica	Phase 1	In place, but	In place, but	In place	Not in place	In place, but	Not in place	In place	In place	In place	In place	Not assessed	Yes
49	Jersey	Combined	In place	In place, but	In place	In place, but	In place	In place, but	In place	In place	In place	In place	Not assessed	-
50	Korea, Republic of	Combined	In place, but	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
51	Lebanon	Phase 1	Not in place	In place, but	In place	Not in place	In place	Not in place	Not in place	In place	In place	In place	Not assessed	No
52	Liberia	Phase 1	Not in place	Not in place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	No
53	Liechtenstein	Phase 1 + Supplementary	Not in place	In place	In place	In place	In place, but	In place, but	In place	In place	In place	In place	Not assessed	Yes
54	Luxembourg	Phase 1	Not in place	In place	In place	In place, but	In place	In place, but	In place	In place	In place	In place	Not assessed	Yes
55	Macao, China	Phase 1	In place, but	In place, but	In place	In place	In place	In place	In place, but	In place	In place	In place	Not assessed	Yes
56	Malaysia	Phase 1	In place, but	In place, but	In place	In place, but	In place	In place, but	In place, but	In place	In place	In place	Not assessed	Yes
57	Malta	Phase 1	In place	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
58	Marshall Islands	Phase 1	Not in place	Not in place	In place	In place, but	In place	In place, but	In place	In place	In place	In place	Not assessed	No
59	Mauritius	Combined + Supplementary	In place, but	In place, but	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
60	Mexico	Phase 1	In place, but	In place, but	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
61	Monaco	Phase 1 + Supplementary	In place	In place	In place	In place	In place, but	In place	In place, but	In place	In place	In place	Not assessed	Yes

	Jurisdiction	Type of Review	A1 – Ownership	A2 - Accounting	A3 – Bank	B1 – Access Power	B2 – Rights and Safeguards	C1 – EOI instruments	C2 – Network of Agreements	C3 – Confidentiality	C4 – Rights and Safeguards	C5 – Timely EOI	Move to Phase 2
62	Montserrat	Phase 1	In place, but	Not in place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
63	Nauru	Phase 1	Not in place	Not in place	In place	Not in place	Not assessed	Not in place	Not in place	Not in place	Not in place	Not assessed	No
64	Netherlands	Combined	In place, but	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
65	New Zealand	Combined	In place, but	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
66	Niue	Phase 1	In place, but	In place, but	In place	In place	In place	Not in place	In place, but	In place	In place	Not assessed	No
67	Norway	Combined	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	-
68	Panama	Phase 1	Not in place	Not in place	In place	Not in place	In place	Not in place	Not in place	In place	In place, but	Not assessed	No
69	Philippines	Phase 1	In place, but	In place, but	In place	In place	In place	In place, but	In place, but	In place	In place	Not assessed	Yes
70	Poland	Phase 1	Not in place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
71	Portugal	Phase 1	In place, but	In place	In place	In place	In place, but	In place	In place	In place	In place	Not assessed	Yes
72	Qatar	Phase 1 + Supplementary	In place	In place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
73	Russia	Phase 1	In place, but	In place	In place, but	In place, but	In place	In place, but	In place, but	In place, but	In place, but	Not assessed	Yes
74	St. Kitts and Nevis	Phase 1	In place	In place, but	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
75	St. Lucia	Phase 1	In place	Not in place	In place	In place, but	In place	In place, but	In place	In place	In place, but	Not assessed	Yes
76	St. Vincent and the Grenadines	Phase 1	In place, but	Not in place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
77	Samoa	Phase 1	In place, but	Not in place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes
78	San Marino	Phase 1 + Supplementary	In place	In place	In place	In place	In place, but	In place, but	In place, but	In place	In place	Not assessed	Yes



	Jurisdiction	Type of Review	A1 – Ownership	A2 - Accounting	A3 – Bank	B1 – Access Power	B2 – Rights and Safeguards	C1 – EOI instruments	C2 – Network of Agreements	C3 – Confidentiality	C4 – Rights and Safeguards	C5 – Timely EOI	Move to Phase 2
94	Uruguay	Phase 1 + Supplementary	In place, but	In place	In place	In place, but	In place, but	In place	In place	In place	In place	Not assessed	Yes
95	Vanuatu	Phase 1	In place, but	Not in place	In place	Not in place	Not assessed	Not in place	Not in place	In place	In place	Not assessed	No
96	Virgin Islands (British)	Phase 1 + Supplementary	In place, but	Not in place	In place	In place	In place	In place	In place	In place	In place	Not assessed	Yes

### **ANNEX 3: SCHEDULE OF REVIEWS**

At its meeting in Mexico on 1-2 September 2009, the Global Forum decided on a three-year mandate with the possibility, if needed, to extend it, aimed at monitoring and peer review of its members and other relevant jurisdictions based on the Global Forum standards of transparency and information exchange for tax purposes. This was reiterated by the Global Forum at its meeting in Paris on 25-26 October 2011 which agreed to extend the Global Forum's current mandate until the end of 2015.

The Global Forum also established a Peer Review Group (PRG) to develop the methodology and detailed terms of reference for the peer review process and agreed that "there will be two phases for the peer review". Phase 1 will examine the legal and regulatory framework in each jurisdiction whereas Phase 2 will evaluate the implementation of the standards in practice. It was also agreed that all jurisdictions would be reviewed under Phase 1 during the first mandate, which is not necessarily the case for Phase 2.

The attached schedule of reviews is based on the guidelines set out below.

The schedule attempts to balance a number of considerations and no inference should be drawn about a particular jurisdiction from the timing of the reviews. All members of the Global Forum will ultimately be reviewed under both Phase 1 and Phase 2. In some cases where jurisdictions have a long standing commitment to the Global Forum standards, an adequate treaty network and a history of exchange of information with other jurisdictions, a combined Phase 1-2 review has been scheduled. Moreover, a number of jurisdictions have volunteered for a combined Phase 1-2 review to be scheduled. However, not all jurisdictions which might prefer and be suitable for combined Phase 1-2 have been scheduled for such combined reviews because of resources issues.

The following factors were taken into account in developing the schedule:

- Achieving a regional balance, a balance between OECD and non OECD reviews over the period of the mandate and a balance between those that committed to the standard early and those that have made more recent commitments.
- Jurisdictions lacking exchange of information agreements have been scheduled later for Phase 2 reviews as they do not have sufficient experience in implementing the standard in practice.
- The schedule takes into account exceptional circumstances so as not to overburden jurisdictions which would undergo other peer reviews around the same time (for instance FATF).
- Jurisdictions which are not members of the Global Forum but are considered to be relevant to be reviewed have been scheduled early for Phase 1 reviews.

Note that the schedule is provisional, particularly as relates to Phase 2 reviews, and may need to be adjusted to take account of circumstances as they arise.

2010				2011			
1 <sup>st</sup> Half		2 <sup>nd</sup> Half		1 <sup>st</sup> Half		2 <sup>nd</sup> Half	
Australia	Canada	Belgium	Bahrain	Anguilla	Andorra	Chile	Cook Islands
Barbados	Denmark	France	Estonia	Antigua and Barbuda	Brazil	China	Czech Republic
Bermuda	Germany	Isle of Man	Guernsey	Turks and Caicos	Brunei	Costa Rica	Grenada
Botswana	India	Italy	Hungary	Austria	Hong Kong, China	Cyprus	Liberia
Cayman Islands	Jamaica	Liechtenstein	Japan	British Virgin Islands	Macao, China	Gibraltar	Malta
Ghana	Jersey	New Zealand	Philippines	Indonesia	Malaysia	Greece	Russian Federation
Ireland	Monaco	San Marino	Singapore	Luxembourg	Spain	Guatemala	Saint Lucia
Mauritius	Panama	Saudi Arabia	Switzerland	Netherlands	United Arab Emirates	Korea	Slovak Republic
Norway	Seychelles	The Bahamas	Aruba	Curaçao	Uruguay	Mexico	South Africa
Qatar	Trinidad and Tobago	United States	United Kingdom	Saint Kitts and Nevis	Vanuatu	Montserrat	St. Vincent and the Grenadines
				Former Yugoslav Republic of Macedonia			Sint Maarten
				Lebanon			




- Phase 1 review
- Phase 2 review
- Combined review

2012				2013			
1st Half		2nd Half		1st Half		2nd Half	
Samoa	Turkey	Belgium	British Virgin Islands	Bahrain	Malaysia	Anguilla	Andorra
Argentina	Portugal	Bermuda	Austria	Estonia	Slovak Republic	Antigua and Barbuda	Botswana
Belize	Finland	Cayman Islands	Hong Kong, China	Jamaica	Slovenia	Chile	Ghana
Dominica	Sweden	Cyprus	India	Philippines	Vanuatu	Former Yugoslav Republic of Macedonia	Grenada
Israel	Iceland	Guernsey	Luxembourg	Turks and Caicos	Indonesia	Costa Rica	Israel
Marshall Islands	Slovenia	Malta	Monaco	United Arab Emirates	Seychelles	Guatemala	Liberia
Nauru	Brazil	Qatar	Panama	Barbados	Colombia	Mexico	Russian Federation
Niue		San Marino	Switzerland	Brunei	Georgia	Montserrat	Saint Kitts and Nevis
Poland		Singapore	Federated States of Micronesia	Macao, China	Nigeria	Trinidad and Tobago	Saint Lucia
		The Bahamas		Lithuania		Latvia	St. Vincent and the Grenadines
				Kenya			Lebanon



































- Phase 1 review
- Phase 2 review
- Combined review



2014			
1 <sup>st</sup> Half		2 <sup>nd</sup> Half	
Belize	Czech Republic	Liechtenstein	
Dominica	Gibraltar	Samoa	
Marshall Islands	Hungary	Albania	
Nauru	Curaçao	Burkina Faso	
Niue	Poland	Cameroon	
Saudi Arabia	Sint Maarten	Gabon	
Cook Islands	El Salvador	Kazakhstan	
Portugal	Mauritania	Pakistan	
Uruguay	Morocco	Senegal	
Aruba	Tunisia	Uganda	

-  Phase 1 review
-  Phase 2 review
-  Combined review

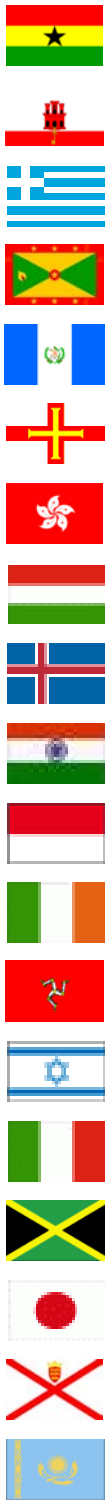
## ANNEX 4: LIST OF MEMBERS AND OBSERVERS

	Albania	Kenya	
	Andorra	Korea	
	Anguilla	Latvia	
	Antigua and Barbuda	Lesotho	
	Argentina	Liberia	
	Aruba	Liechtenstein	
	Australia	Lithuania	
	Austria	Luxembourg	
	Azerbaijan	Macau, China	
	The Bahamas	Malaysia	
	Bahrain	Malta	
	Barbados	Marshall Islands	
	Belgium	Mauritania	
	Belize	Mauritius	
	Bermuda	Mexico	
	Botswana	Monaco	
	Brazil	Montserrat	
	British Virgin Islands	Morocco	
	Brunei Darussalam	Nauru	
	Burkina Faso	Netherlands	
	Cameroon	New Zealand	

	Canada	Nigeria	
	Cayman Islands	Niue	
	Chile	Norway	
	China	Pakistan	
	Colombia	Panama	
	Cook Islands	Philippines	
	Costa Rica	Poland	
	Curaçao	Portugal	
	Cyprus <sup>3, 4</sup>	Qatar	
	Czech Republic	Romania	
	Denmark	Russian Federation	
	Dominica	St. Kitts and Nevis	
	El Salvador	St. Lucia	
	Estonia	Sint Maarten	
	Finland	St. Vincent and the Grenadines	
	Former Yugoslav Republic of Macedonia (FYROM)	Samoa	
	France	San Marino	
	Gabon	Saudi Arabia	
	Georgia	Senegal	
	Germany	Seychelles	

<sup>3</sup> Footnote 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 recognizes the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

<sup>4</sup> Footnote by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognized 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.



Ghana  
 Gibraltar  
 Greece  
 Grenada  
 Guatemala  
 Guernsey  
 Hong Kong, China  
 Hungary  
 Iceland  
 India  
 Indonesia  
 Ireland  
 Isle of Man  
 Israel  
 Italy  
 Jamaica  
 Japan  
 Jersey  
 Kazakhstan

Singapore  
 Slovak Republic  
 Slovenia  
 South Africa  
 Spain  
 Sweden  
 Switzerland  
 Trinidad and Tobago  
 Tunisia  
 Turkey  
 Turks and Caicos Islands  
 Uganda  
 United Arab Emirates  
 United Kingdom  
 United States  
 United States Virgin Islands  
 Uruguay  
 Vanuatu  
 European Union



### Observers of the Global Forum

African Tax Administration Forum	Inter-American Development Bank
Asian Development Bank	International Finance Corporation
Centre de Rencontre des Administrations Fiscales	International Monetary Fund
Commonwealth Secretariat	United Nations
European Bank for Reconstruction and Development	World Bank
European Investment Bank	World Customs Organisation

**ANNEX 5: PEER REVIEW REPORTS ADOPTED AND PUBLISHED**

	Jurisdiction	Type of review	Publication date
1	Andorra	Phase 1	12 September 2011
2	Anguilla	Phase 1	12 September 2011
3	Antigua and Barbuda	Phase 1	12 September 2011
		Supplementary	20 June 2012
4	Argentina	Combined (Phase 1 and Phase 2)	27 October 2012
5	Aruba	Phase 1	14 April 2011
6	Australia	Combined (Phase 1 and Phase 2)	28 January 2011
7	Austria	Phase 1	12 September 2011
8	The Bahamas	Phase 1	14 April 2011
9	Bahrain	Phase 1	12 September 2011
10	Barbados	Phase 1	28 January 2011
		Supplementary	5 April 2012
11	Belgium	Phase 1	14 April 2011
		Supplementary	12 September 2011
		Phase 2	11 April 2013
12	Belize	Phase 1	11 April 2013
13	Bermuda	Phase 1	30 September 2010
		Supplementary	5 April 2012
14	Botswana	Phase 1	30 September 2010
15	Brazil	Phase 1	5 April 2012
16	Brunei Darussalam	Phase 1	26 October 2011
17	Canada	Combined (Phase 1 and Phase 2)	14 April 2011
18	The Cayman Islands	Phase 1	30 September 2010
		Supplementary	12 September 2011
		Phase 2	11 April 2013
19	Chile	Phase 1	5 April 2012
20	China	Combined (Phase 1 and Phase 2)	20 June 2012
21	Cook Islands	Phase 1	20 June 2012

22	Costa Rica	Phase 1	5 April 2012
		Supplementary	11 April 2013
23	Curacao	Phase 1	12 September 2011
24	Cyprus	Phase 1	5 April 2012
25	Czech Republic	Phase 1	5 April 2012
26	Denmark	Combined (Phase 1 and Phase 2)	28 January 2011
27	Dominica	Phase 1	27 October 2012
28	Estonia	Phase 1	14 April 2011
		Supplementary	20 June 2012
29	Finland	Combined (Phase 1 and Phase 2)	11 April 2013
30	The Former Yugoslav Republic of Macedonia	Phase 1	26 October 2011
31	France	Combined (Phase 1 and Phase 2)	1 June 2011
32	Germany	Combined (Phase 1 and Phase 2)	14 April 2011
33	Ghana	Phase 1	14 April 2011
34	Gibraltar	Phase 1	26 October 2011
35	Greece	Combined (Phase 1 and Phase 2)	20 June 2012
36	Grenada	Phase 1	20 June 2012
37	Guatemala	Phase 1	5 April 2012
38	Guernsey	Phase 1	28 January 2011
		Phase 2	11 April 2013
39	Hong Kong, China	Phase 1	26 October 2011
40	Hungary	Phase 1	1 June 2011
41	Iceland	Combined (Phase 1 and Phase 2)	11 April 2013
42	India	Phase 1	30 September 2010
43	Indonesia	Phase 1	26 October 2011
44	Ireland	Combined (Phase 1 and Phase 2)	28 January 2011
45	The Isle of Man	Combined (Phase 1 and Phase 2)	1 June 2011
46	Italy	Combined (Phase 1 and Phase 2)	1 June 2011
47	Jamaica	Phase 1	30 September 2010
48	Japan	Combined (Phase 1 and Phase 2)	26 October 2011
49	Jersey	Combined (Phase 1 and Phase 2)	26 October 2011
50	Korea, Republic of	Combined (Phase 1 and Phase 2)	5 April 2012
51	Lebanon	Phase 1	20 June 2012
52	Liberia	Phase 1	20 June 2012
53	Liechtenstein	Phase 1	12 September 2011
		Supplementary	27 October 2012
54	Luxembourg	Phase 1	12 September 2011
55	Macao, China	Phase 1	26 October 2011
56	Malaysia	Phase 1	26 October 2011
57	Malta	Phase 1	5 April 2012
58	Marshall Islands	Phase 1	27 October 2012

59	Mauritius	Combined (Phase 1 and Phase 2)	28 January 2011
		Supplementary	26 October 2011
60	Mexico	Phase 1	5 April 2012
61	Monaco	Phase 1	30 September 2010
		Supplementary	26 October 2011
		Supplementary	27 October 2012
62	Montserrat	Phase 1	20 June 2012
63	The Netherlands	Combined (Phase 1 and Phase 2)	26 October 2011
64	Nauru	Phase 1	11 April 2013
65	New Zealand	Combined (Phase 1 and Phase 2)	1 June 2011
66	Niue	Phase 1	27 October 2012
67	Norway	Combined (Phase 1 and Phase 2)	28 January 2011
68	Panama	Phase 1	30 September 2010
69	The Philippines	Phase 1	1 June 2011
70	Poland	Phase 1	11 April 2013
71	Portugal	Phase 1	11 April 2013
72	Qatar	Phase 1	30 September 2010
		Supplementary	5 April 2012
73	Russia	Phase 1	27 October 2012
74	Samoa	Phase 1	27 October 2012
75	Saint Kitts and Nevis	Phase 1	12 September 2011
76	Saint Lucia	Phase 1	20 June 2012
77	Saint Vincent and the Grenadines	Phase 1	5 April 2012
78	San Marino	Phase 1	28 January 2011
		Supplementary	26 October 2011
79	The Seychelles	Phase 1	28 January 2011
		Supplementary	20 June 2012



80	Singapore	Phase 1	1 June 2011
		Phase 2	11 April 2013
81	Sint Maarten	Phase 1	27 October 2012
82	Slovakia	Phase 1	5 April 2012
83	Slovenia	Phase 1	27 October 2012
84	South Africa	Combined (Phase 1 and Phase 2)	27 October 2012
85	Spain	Combined (Phase 1 and Phase 2)	26 October 2011
86	Sweden	Combined (Phase 1 and Phase 2)	11 April 2013
87	Switzerland	Phase 1	1 June 2011
88	Trinidad and Tobago	Phase 1	28 January 2011
89	Turkey	Combined (Phase 1 and Phase 2)	11 April 2013
90	The Turks and Caicos Islands	Phase 1	12 September 2011
		Supplementary	26 October 2011
91	United Arab Emirates	Phase 1	20 June 2012
92	The United Kingdom	Combined (Phase 1 and Phase 2)	12 September 2011
		Supplementary	11 April 2013
93	The United States	Combined (Phase 1 and Phase 2)	1 June 2011
94	Uruguay	Phase 1	26 October 2011
		Supplementary	27 October 2012
95	Vanuatu	Phase 1	26 October 2011
96	The Virgin Islands (British)	Phase 1	12 September 2011
		Supplementary	26 October 2011

**LIST OF JURISDICTIONS EXPECTED TO BE ALLOCATED RATINGS IN NOVEMBER 2013**

Argentina	Australia	Austria	Bahamas	Bahrain
Belgium	Bermuda	Brazil	Canada	Cayman Islands
China	Cyprus	Denmark	Estonia	Finland
France	Germany	Greece	Guernsey	Hong Kong, China
Iceland	India	Ireland	Isle of Man	Italy
Jamaica	Japan	Jersey	Korea	Luxembourg
Macao, China	Malta	Mauritius	Monaco	Netherlands
New Zealand	Norway	Philippines	Qatar	San Marino
Seychelles	Singapore	South Africa	Spain	Sweden
Turkey	Turks and Caicos Islands	United Kingdom	United States	Virgin Islands (British)

## **PART II**

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

## **Report to the G20 Finance Ministers and Central Bank Governors: Base Erosion and Profit Shifting (BEPS) and Automatic Exchange of Information**

19- 20 July 2013

## **REPORT TO THE G20 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS: BASE EROSION AND PROFIT SHIFTING (BEPS) AND AUTOMATIC EXCHANGE OF INFORMATION**

### **Base Erosion and Profit Shifting (BEPS)**

1. There is a growing perception that governments lose substantial corporate tax revenue because of international tax planning designed to shift profits in ways that erode the taxable base of developed and developing countries to locations where they are subject to a more favourable tax treatment. This type of tax planning can often lead to double non-taxation, i.e., situations where income is not taxed anywhere: not in the taxpayer's country of residence nor in the source country. The consequences of the base erosion and profit shifting (BEPS) currently achieved by some multinationals range from unintended competitive advantages for MNEs over smaller or domestic companies to distortion of investment decisions to loss of substantial corporate tax revenue for governments. More fundamentally, the perceived unfairness resulting from BEPS jeopardises citizens' trust in the integrity of the tax system as a whole, thereby undermining voluntary tax compliance.

2. This issue has reached the highest levels in many countries, and the communiqué of the Finance Ministers and Central Bank Governors of 16 February called on OECD to adopt by July a comprehensive action plan to address BEPS. We are very pleased to report that on 25 June 2013, the OECD's Committee on Fiscal Affairs (CFA), at a meeting in which all G20 countries participated, approved an ambitious plan to put an end to BEPS.

### ***Fifteen actions to put an end to BEPS***

3. The Action Plan sets forth a **comprehensive strategy composed of 15 actions to put an end to BEPS**. The digital economy provides a good illustration of the issues that must be addressed, including novel and ever-changing business models, the importance and mobility of intangible assets, and the ability to provide goods and services cross-border without a physical presence. While the actions in the BEPS action plan will clearly have an impact on BEPS in the digital economy, there is also a need for a thorough analysis of this sector. **Action 1 of the BEPS action plan thus establishes a dedicated task force which will identify the issues raised by the digital economy** and possible actions to address them. The work of the task force on the digital economy will cut across the work done on the other actions, which are organised according to three main principles:

- **Preventing double non-taxation due to the gaps that exist between countries' tax rules.** Tax policy is at the core of countries' sovereignty, and each country has the right to design its tax system in the way it considers most appropriate. At the same time, the increasing interconnectedness of domestic economies has highlighted the gaps that can be created by interactions between domestic tax laws. Currently, there are no international standards to address these gaps and prevent the double non-taxation that can arise as a result. **The action plan thus will develop a fundamentally new set of standards designed to prevent double non-taxation.** The actions will, for example, prevent companies from making taxable income disappear due to mismatches in different countries' tax rules (so-called *hybrid mismatch arrangements*). They will also prevent the use of excessive leverage to erode the taxable base via interest payment, as well as the use of offshore subsidiaries to stash income in low or no tax jurisdictions (i.e., Controlled Foreign Companies rules).
- **Aligning taxation with substance.** Existing tax treaty and transfer pricing rules are generally effective, and prevent double taxation of profits, but may in some cases facilitate the separation

of taxable profits from the value-creating activities that give rise to those profits. **The action plan will restore the intended effects of these standards by aligning taxation with substance**, while at the same time continuing to prevent double taxation. In particular, the current interpretation of the arm's length principle is challenged by the ability of MNEs to artificially shift profits by transferring easily movable assets (such as intangibles and capital). The action plan will fix these issues with measures, **either within or beyond the arm's length principle, to ensure that taxable profits can no longer be artificially shifted away from the countries where value is created**. The action plan will also ensure that shell companies cannot be used to achieve double non-taxation by inappropriately claiming treaty benefits.

- **Improving transparency**. Addressing BEPS will also require greater transparency between taxpayers and tax administrations, and among tax administrations. The action plan will level the playing field between companies and tax administrators by creating a common template for MNEs to report to all relevant governments their global allocation of profits, economic activity, and taxes paid among countries (country by country operating). It also requires more transparency between governments, with the need for countries **to disclose rulings and other tax benefits to their partners**. The action plan also will provide mechanisms to collect better data so as to be able to measure BEPS and monitor developments. At the same time, work will be done to provide the necessary certainty to encourage global investment and **make sure that disputes are resolved quickly**.

#### *An inclusive process: the OECD/G20 Project on BEPS*

4. BEPS is a global issue and requires a global solution. The BEPS action plan marks a turning point in the history of international co-operation on taxation and it is critical that the work include all relevant stakeholders. Therefore, **all interested G20 countries** (including those that are not members of the OECD) **will be invited to participate in the BEPS project on an equal footing**, including in the governance of the project. Developing countries will also be involved through the existing participation of the United Nations in the CFA, along with other mechanisms. Finally, business and civil society will be invited to comment on the different proposals developed in the course of the work and a high-level policy dialogue with all interested parties will be organised on an annual basis.

#### *Time is of the essence*

5. **The action plan sets forth deadlines for all of the actions, which will be delivered within 18 to 24 months**. Addressing BEPS is critical for most countries and must be done in a timely, inclusive and effective manner, not least to prevent the existing consensus-based framework from unravelling. The pace of the project must ensure that concrete actions can be delivered quickly. Political expectations are very high in most countries and the results and impact of the BEPS work will be in line with these political expectations.

6. To ensure that the actions can be implemented quickly, **a multilateral instrument to amend bilateral treaties will be developed**. The delivery of certain actions will result in changes to the OECD Model Tax Convention, which are not directly effective without amendments to bilateral tax treaties. If undertaken on a purely treaty-by-treaty basis, the sheer number of treaties in effect may make such a process very lengthy, the more so where countries embark on comprehensive renegotiations of their bilateral tax treaties. A multilateral instrument, which is innovative in the area of international taxation, will greatly speed this process.

## Automatic Exchange of Information

7. In June 2012 I reported to the G20 Leaders on our work on automatic exchange of information. Since then, there has been growing interest in promoting automatic information exchange as a tool to improve international tax compliance. In February 2013, you expressed support for our “*analysis for multilateral implementation in that domain*” and in April, you welcomed “*progress made towards automatic exchange of information which is expected to be the standard*” and urged “*all jurisdictions to move towards exchanging information automatically with their treaty partners, as appropriate*” and you asked us to report back. Since your last meeting, the OECD, working with G20 countries, has made further progress in developing a new multilateral standard on automatic exchange of information, taking into account country specific characteristics.

8. This work draws on earlier work of the OECD, developments on automatic exchange of information in the European Union, anti-money laundering standards and the development of a Model Intergovernmental Agreement to improve international tax compliance and implement FATCA with a view to adapt the terms of that agreement “to a common model for automatic exchange of information, including the development of reporting and due diligence standards for financial institutions”. **A growing number of countries and jurisdictions have already decided to join this approach. In particular, the G8 has stated their commitment to automatic exchange of information as the new standard.** Finally, in response to your continued call, many countries have also signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. **Against this background, and in order to level the playing field, it is necessary to promote the new global model for automatic exchange of information.**

9. Automatic exchange of information involves the systematic and periodic transmission of certain “bulk” taxpayer information by the source country to the residence country. Implementing this standard requires (i) clearly defining the content of the information exchange, (ii) developing model due diligence and reporting rules, and a technical platform, to efficiently operate automatic exchange of information, and (iii) using a network of bilateral and multilateral instruments as the legal platform to exchange the information automatically.

### *(i) The standard*

10. Under the standard, jurisdictions obtain from reporting financial institutions and automatically exchange with exchange partners, as appropriate, on an annual basis **financial information with respect to all reportable accounts**, identified by financial institutions on the basis of common reporting and due diligence rules. The term “financial information” means **interest, dividends, account balance, income from certain insurance products, sales proceeds from financial assets and other income generated with respect to assets held in the account or payments made with respect to the account.** The term “reportable accounts” means accounts held by individuals and entities (which includes trusts and foundations), and the standard includes a requirement to look through passive entities to report on the relevant controlling persons.

11. Before entering into a reciprocal agreement to exchange information automatically with another country, it is essential that the receiving country has the legal framework and administrative capacity and processes in place to ensure the confidentiality of the information received and that such information is only used for the purposes specified in the instrument. Where this is not the case, automatic exchange is not “appropriate”.

### *(ii) Practical implementation of the standard: the operational platform*

12. Operating effective automatic exchange of financial account information requires common reporting and due diligence rules, and common information exchange procedures supported by common or compatible IT systems. Together with G20 countries, and in close coordination with the EU in order to minimise divergences, the OECD is developing a standard solution including model operating documents and a technical platform to allow for swift implementation of automatic exchange of information on a

secure and cost effective basis. The practical implementation of the standard is **described in detail in the attached report and next steps are identified below**. The attached report “A Step Change in Tax Transparency,” prepared for the G8 Summit in June 2013, analyses how jurisdictions can efficiently implement automatic exchange of information in the multilateral context and outlines four concrete steps needed to put such exchanges into practice.

*(iii) Legal basis for automatic exchange of information: the Multilateral Convention on Mutual Administrative Assistance in Tax Matters*

13. Different legal bases for automatic exchange of information already exist. Whilst bilateral treaties such as those based on Article 26 of the OECD Model Tax Convention permit such exchanges, it may be more efficient to establish automatic exchange relationships through a multilateral information exchange instrument.

14. The Multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2011, is such an instrument. It provides for all possible forms of administrative co-operation between States, contains strict rules on confidentiality and proper use, and permits automatic exchange of information.

15. Automatic exchange under the Multilateral Convention requires a separate agreement between the competent authorities of the parties, which can be entered into by two or more parties thus allowing for a single agreement with several parties (with actual automatic exchange taking place on a bilateral basis). Such an agreement would activate and “operationalise” automatic exchange between the participating countries. It would specify the information to be exchanged and would also deal with practical issues such as the time and format of the exchange. **With your support, a standardised competent authority agreement will be developed to allow parties to the Multilateral Convention to opt into automatic exchange of information and a version of this agreement could also be used for automatic exchange under bilateral tax conventions.**

16. I am glad to report that the Multilateral Convention is now becoming a truly global instrument and that your call on countries to sign it is being responded to positively. More than 70 jurisdictions, including all G20 countries, are either already covered by the Convention or are likely to be covered soon. At a recent signing ceremony held at OECD headquarters on 29 May **Austria, Belize, Estonia, Latvia, Luxembourg, Nigeria, Saudi Arabia, Singapore and the Slovak Republic** became the latest signatories. Further signatures are expected before the September 2013 G20 Summit in St. Petersburg.

*(iv) Next Steps*

17. Experts from OECD and G20 countries are developing a single truly global model for automatic exchange. A draft detailed model competent authority agreement and related operating documents have already been prepared and were discussed in June by OECD, G20 and other countries. Common guidance will be important to ensure consistency in implementation and interpretation across jurisdictions to avoid creating unnecessary costs and complexity for financial institutions in particular those with operations in more than one country. **A model competent authority agreement could be available as early as the second half of 2013 with the detailed guidance following in the first half of 2014. A reporting schema and a first version of the related instructions could also be finalised in the second half of 2013.**

18. The work cannot be limited to the G20 and OECD. The G20 has already mandated the Global Forum on Transparency and Exchange of Information for Tax Purposes to monitor the implementation of the standard once it is fully developed and to ensure a global reach and a level playing field. There is now work in a number of areas to ensure that all countries can benefit from this new transparent environment. This includes, for instance, helping developing countries identify needs for technical assistance and capacity building and ensuring that countries have the adequate framework both in law and in practice to ensure the confidentiality of the information received. The OECD stands ready to work closely with the Global Forum as this work progresses.

# **ANNEX A**

## **ACTION PLAN ON BASE EROSION AND PROFIT SHIFTING (BEPS)**



## ACTION PLAN ON BASE EROSION AND PROFIT SHIFTING

### I. INTRODUCTION

1. **Globalisation has benefited our domestic economies.** Globalisation is not new, but the pace of integration of national economies and markets has increased substantially in recent years. The free movement of capital and labour, the shift of manufacturing bases from high-cost to low-cost locations, the gradual removal of trade barriers, technological and telecommunication developments, and the ever-increasing importance of managing risks and of developing, protecting and exploiting intellectual property, have had an important impact on the way cross-border activities take place. Globalisation has boosted trade and increased foreign direct investments in many countries. Hence it supports growth, creates jobs, fosters innovation, and has lifted millions out of poverty.

2. **Globalisation impacts countries' corporate income tax regimes.** As long ago as the 1920s, the League of Nations recognised that the interaction of domestic tax systems can lead to double taxation with adverse effects on growth and global prosperity. Countries around the world agree on the need to eliminate double taxation and the need to achieve this on the basis of agreed international rules that are clear and predictable, giving certainty to both governments and businesses. International tax law is therefore a key pillar in supporting the growth of the global economy.

3. **As the economy became more globally integrated, so did corporations.** Multi-national enterprises (MNE) now represent a large proportion of global GDP. Also, intra-firm trade represents a growing proportion of overall trade. Globalisation has resulted in a shift from country-specific operating models to global models based on matrix management organisations and integrated supply chains that centralise several functions at a regional or global level. Moreover, the growing importance of the service component of the economy, and of digital products that often can be delivered over the Internet, has made it much easier for businesses to locate many productive activities in geographic locations that are distant from the physical location of their customers. These developments have been exacerbated by the increasing sophistication of tax planners in identifying and exploiting the legal arbitrage opportunities and the boundaries of acceptable tax planning, thus providing MNEs with more confidence in taking aggressive tax positions.

4. **These developments have opened up opportunities for MNEs to greatly minimise their tax burden.** This has led to a tense situation in which citizens have become more sensitive to tax fairness issues. It has become a critical issue for all parties:

- *Governments are harmed.* Many governments have to cope with less revenue and a higher cost to ensure compliance. Moreover, Base Erosion and Profit Shifting (BEPS) undermines the integrity of the tax system, as the public, the press and some taxpayers deem reported low corporate taxes to be unfair. In developing countries, the lack of tax revenue leads to critical under-funding of public investment that could help promote economic growth. Overall resource allocation, affected by tax-motivated behaviour, is not optimal.
- *Individual taxpayers are harmed.* When tax rules permit businesses to reduce their tax burden by shifting their income away from jurisdictions where income producing activities are conducted, other taxpayers in that jurisdiction bear a greater share of the burden.

- *Businesses are harmed.* MNEs may face significant reputational risk if their effective tax rate is viewed as being too low. At the same time, different businesses may assess such risk differently, and failing to take advantage of legal opportunities to reduce an enterprise's tax burden can put it at a competitive disadvantage. Similarly, corporations that operate only in domestic markets, including family-owned businesses or new innovative companies, have difficulty competing with MNEs that have the ability to shift their profits across borders to avoid or reduce tax. Fair competition is harmed by the distortions induced by BEPS.

## II. BACKGROUND

5. **Taxation is at the core of countries' sovereignty, but the interaction of domestic tax rules in some cases leads to gaps and frictions.** When designing their domestic tax rules, sovereign states may not sufficiently take into account the effect of other countries' rules. The interaction of independent sets of rules enforced by sovereign countries creates frictions, including potential double taxation for corporations operating in several countries. It also creates gaps, in cases where corporate income is not taxed at all, either by the country of source or the country of residence, or is only taxed at nominal rates. In the domestic context, coherence is usually achieved through a principle of matching – a payment that is deductible by the payer is generally taxable in the hands of the recipient, unless explicitly exempted. There is no similar principle of coherence at the international level, which leaves plenty of room for arbitrage by taxpayers, though sovereign states have co-operated to ensure coherence in a narrow field, namely to prevent double taxation.

6. **The international standards have sought to address these frictions in a way that respects tax sovereignty, but gaps remain.** Since at least the 1920s, it has been recognised that the interaction of domestic tax systems can lead to overlaps in the exercise of taxing rights that in turn can result in double taxation. Countries have long worked and are strongly committed to eliminate such double taxation in order to minimise trade distortions and impediments to sustainable economic growth, while affirming their sovereign right to establish their own tax rules. There are gaps and frictions among different countries' tax systems that were not taken in account in designing the existing standards and which are not dealt with by bilateral tax treaties. The global economy requires countries to collaborate on tax matters in order to be able to protect their tax sovereignty.

7. **In many circumstances, the existing domestic law and treaty rules governing the taxation of cross-border profits produce the correct results and do not give rise to BEPS.** International co-operation has resulted in shared principles and a network of thousands of bilateral tax treaties that are based on common standards and that therefore generally result in the prevention of double taxation on profits from cross-border activities. Clarity and predictability are fundamental building blocks of economic growth. It is important to retain such clarity and predictability by building on this experience. At the same time, instances where the current rules give rise to results that generate concerns from a policy perspective should be tackled.

8. **Over time, the current rules have also revealed weaknesses that create opportunities for BEPS.** BEPS relates chiefly to instances where the interaction of different tax rules leads to double non-taxation or less than single taxation. It also relates to arrangements that achieve no or low taxation by shifting profits away from the jurisdictions where the activities creating those profits take place. No or low taxation is not *per se* a cause of concern, but it becomes so when it is associated with practices that artificially segregate taxable income from the activities that generate it. In other words, what creates tax policy concerns is that, due to gaps in the interaction of different tax systems, and in some cases because of the application of bilateral tax treaties, income from cross-border activities may go untaxed anywhere, or be only unduly lowly taxed.

9. **The spread of the digital economy also poses challenges for international taxation.** The digital economy is characterised by an unparalleled reliance on intangible assets, the massive use of data (notably personal data), the widespread adoption of multi-sided business models capturing value from externalities generated by free products, and the difficulty of determining the jurisdiction in which value creation occurs. This raises fundamental questions as to how enterprises in the digital economy add value and make their profits, and how the digital economy relates to the concepts of source and residence or the characterisation of income for tax purposes. At the same time, the fact that new ways of doing business may result in a relocation of core business functions and, consequently, a different distribution of taxing rights which may lead to low taxation is not *per se* an indicator of defects in the existing system. It is important to examine closely how enterprises of the digital economy add value and make their profits in order to determine whether and to what extent it may be necessary to adapt the current rules in order to take into account the specific features of that industry and to prevent BEPS.

10. **These weaknesses put the existing consensus-based framework at risk, and a bold move by policy makers is necessary to prevent worsening problems.** Inaction in this area would likely result in some governments losing corporate tax revenue, the emergence of competing sets of international standards, and the replacement of the current consensus-based framework by unilateral measures, which could lead to global tax chaos marked by the massive re-emergence of double taxation. In fact, if the Action Plan fails to develop effective solutions in a timely manner, some countries may be persuaded to take unilateral action for protecting their tax base, resulting in avoidable uncertainty and unrelieved double taxation. It is therefore critical that governments achieve consensus on actions that would deal with the above weaknesses. As the G20 Leaders pointed out, “Despite the challenges we all face domestically, we have agreed that multilateralism is of even greater importance in the current climate, and remains our best asset to resolve the global economy’s difficulties” (G20, 18-19 June 2012).

11. **In the changing international tax environment, a number of countries have expressed a concern about how international standards on which bilateral tax treaties are based allocate taxing rights between source and residence States.** This Action Plan is focused on addressing BEPS. While actions to address BEPS will restore both source and residence taxation in a number of cases where cross-border income would otherwise go untaxed or would be taxed at very low rates, these actions are not directly aimed at changing the existing international standards on the allocation of taxing rights on cross-border income.

12. **The G20 finance ministers called on the OECD to develop an action plan to address BEPS issues in a co-ordinated and comprehensive manner.** Specifically, this Action Plan should provide countries with domestic and international instruments that will better align rights to tax with economic activity. As called for in the *Addressing Base Erosion and Profit Shifting* (the BEPS report), this Action Plan (i) identifies actions needed to address BEPS, (ii) sets deadlines to implement these actions and (iii) identifies the resources needed and the methodology to implement these actions.

### III. ACTION PLAN

13. **Fundamental changes are needed to effectively prevent double non-taxation, as well as cases of no or low taxation associated with practices that artificially segregate taxable income from the activities that generate it.** A number of actions can be undertaken in order to address the weaknesses in the current rules in an effective and efficient manner. This Action Plan calls for fundamental changes to the current mechanisms and the adoption of new consensus-based approaches, including anti-abuse provisions, designed to prevent and counter base erosion and profit shifting:

- *New international standards must be designed to ensure the coherence of corporate income taxation at the international level.* BEPS issues may arise directly from the existence of

loopholes, as well as gaps, frictions or mismatches in the interaction of countries' domestic tax laws. These types of issues generally have not been dealt with by OECD standards or bilateral treaty provisions. There is a need to complement existing standards that are designed to prevent double taxation with instruments that prevent double non-taxation in areas previously not covered by international standards and that address cases of no or low taxation associated with practices that artificially segregate taxable income from the activities that generate it. Moreover, governments must continue to work together to tackle harmful tax practices and aggressive tax planning.

- ***A realignment of taxation and relevant substance is needed to restore the intended effects and benefits of international standards, which may not have kept pace with changing business models and technological developments:***
  - (i) Whilst bilateral tax treaties have been effective in preventing double taxation, there is a concern that they often fail to prevent double non-taxation that results from interactions among more than two countries. In particular, the involvement of third countries in the bilateral framework established by treaty partners puts a strain on the existing rules, in particular when done via shell companies that have little or no substance in terms of office space, tangible assets and employees.
  - (ii) In the area of transfer pricing, the rules should be improved in order to put more emphasis on value creation in highly integrated groups, tackling the use of intangibles, risks, capital and other high-risk transactions to shift profits. At the same time, there is consensus among governments that moving to a system of formulary apportionment of profits is not a viable way forward; it is also unclear that the behavioural changes companies might adopt in response to the use of a formula would lead to investment decisions that are more efficient and tax-neutral than under a separate entity approach.
- ***The actions implemented to counter BEPS cannot succeed without further transparency, nor without certainty and predictability for business.*** The availability of timely, targeted and comprehensive information is essential to enable governments to quickly identify risk areas. While audits remain a key source of relevant information, they suffer from a number of constraints and from a lack of relevant tools for the early detection of aggressive tax planning. As a result, timely, comprehensive and relevant information on tax planning strategies is often unavailable to tax administrations, and new mechanisms to obtain that information must be developed. At the same time, mechanisms should be implemented to provide businesses with the certainty and predictability they need to make investment decisions.

#### ***A. Actions***

14. **BEPS is a concern in the context of the digital economy. The actions will help address these concerns. However, there are specificities that need to be taken into consideration.** This will require a thorough analysis of the different business models, the ever-changing business landscape and a better understanding of the generation of value in this sector. Moreover, indirect tax aspects should also be considered. Drawing on the other actions included in this plan, a dedicated task force on the digital economy will be established.

#### ***ACTION 1 – Address the Tax Challenges of the Digital Economy***

*Identify the main difficulties that the digital economy poses for the application of existing international tax rules and develop detailed options to address these difficulties, taking a*

*holistic approach and considering both direct and indirect taxation. Issues to be examined include, but are not limited to, the ability of a company to have a significant digital presence in the economy of another country without being liable to taxation due to the lack of nexus under current international rules, the attribution of value created from the generation of marketable location-relevant data through the use of digital products and services, the characterisation of income derived from new business models, the application of related source rules, and how to ensure the effective collection of VAT/GST with respect to the cross-border supply of digital goods and services. Such work will require a thorough analysis of the various business models in this sector.*

*(i) Establishing international coherence of corporate income taxation*

15. **Globalisation means that domestic policies, including tax policy, cannot be designed in isolation.** Tax policy is at the core of countries' sovereignty, and each country has the right to design its tax system in the way it considers most appropriate. At the same time, the increasing interconnectedness of domestic economies has highlighted the gaps that can be created by interactions between domestic tax laws. Therefore, there is a need to complement rules to prevent double taxation with a fundamentally new set of standards designed to establish international coherence in corporate income taxation.

16. **Four main issues have been identified:**

- ***The BEPS report calls for the development of “instruments to put an end to or neutralise the effects of hybrid mismatch arrangements and arbitrage”.*** Hybrid mismatch arrangements can be used to achieve unintended double non-taxation or long-term tax deferral by, for instance, creating two deductions for one borrowing, generating deductions without corresponding income inclusions, or misusing foreign tax credit and participation exemption regimes. Country rules that allow taxpayers to choose the tax treatment of certain domestic and foreign entities could facilitate hybrid mismatches. While it may be difficult to determine which country has in fact lost tax revenue, because the laws of each country involved have been followed, there is a reduction of the overall tax paid by all parties involved as a whole, which harms competition, economic efficiency, transparency and fairness.

#### **ACTION 2 – Neutralise the Effects of Hybrid Mismatch Arrangements**

*Develop model treaty provisions and recommendations regarding the design of domestic rules to neutralise the effect (e.g., double non-taxation, double deduction, long-term deferral) of hybrid instruments and entities. This may include: (i) changes to the OECD Model Tax Convention to ensure that hybrid instruments and entities (as well as dual resident entities) are not used to obtain the benefits of treaties unduly; (ii) domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payor; (iii) domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient (and is not subject to taxation under controlled foreign company (CFC) or similar rules); (iv) domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction; and (v) where necessary, guidance on co-ordination or tie-breaker rules if more than one country seeks to apply such rules to a transaction or structure. Special attention should be given to the interaction between possible changes to domestic law and the provisions of the OECD Model Tax Convention. This work will be co-ordinated with the work on interest expense deduction limitations, the work on CFC rules, and the work on treaty shopping.*

- ***One area in which the OECD has not done significant work in the past is CFC rules.*** One of the sources of BEPS concerns is the possibility of creating affiliated non-resident taxpayers and routing income of a resident enterprise through the non-resident affiliate. CFC and other anti-deferral rules have been introduced in many countries to address this issue. However, the CFC rules of many countries do not always counter BEPS in a comprehensive manner. While CFC rules in principle lead to inclusions in the residence country of the ultimate parent, they also have positive spillover effects in *source countries* because taxpayers have no (or much less of an) incentive to shift profits into a third, low-tax jurisdiction.

#### **ACTION 3 – Strengthen CFC Rules**

*Develop recommendations regarding the design of controlled foreign corporation rules. This work will be co-ordinated with other work as necessary.*

- ***Another issue raising BEPS concerns is excessive deductible payments such as interest and other financial payments.*** The deductibility of interest expense can give rise to double non-taxation in both the inbound and outbound investment scenarios. From an inbound perspective, the concern regarding interest expense deduction is primarily with lending from a related entity that benefits from a low-tax regime, to create excessive interest deductions for the issuer without a corresponding interest income inclusion by the holder. The result is that the interest payments are deducted against the taxable profits of the operating companies while the interest income is taxed favourably or not at all at the level of the recipient, and sometimes the group as a whole may have little or no external debt. From an outbound perspective, a company may use debt to finance the production of exempt or deferred income, thereby claiming a current deduction for interest expense while deferring or exempting the related income. Rules regarding the deductibility of interest expense therefore should take into account that the related interest income may not be fully taxed or that the underlying debt may be used to inappropriately reduce the earnings base of the issuer or finance deferred or exempt income. Related concerns are raised by deductible payments for other financial transactions, such as financial and performance guarantees, derivatives, and captive and other insurance arrangements, particularly in the context of transfer pricing.

#### **ACTION 4 – Limit Base Erosion via Interest Deductions and Other Financial Payments**

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

- ***Preferential regimes continue to be a key pressure area.*** In 1998, the OECD issued a report (OECD, 1998) on harmful tax practices in part based on the recognition that a “race to the bottom” would ultimately drive applicable tax rates on certain mobile sources of income to zero for all countries, whether or not this was the tax policy a country wished to pursue. Agreeing to a set of common rules may in fact help countries to make their sovereign tax policy choices. The underlying policy concerns expressed in the 1998 Report as regards the “race to the bottom” on

the mobile income tax base are as relevant today as they were 15 years ago. However, the “race to the bottom” nowadays often takes less the form of traditional ring-fencing and more the form of across the board corporate tax rate reductions on particular types of income (such as income from financial activities or from the provision of intangibles). The BEPS report calls for proposals to develop “solutions to counter harmful regimes more effectively, taking into account factors such as transparency and substance.” In furtherance of this goal, the work of the Forum on Harmful Tax Practices (FHTP) will be refocused to develop more effective solutions.

***ACTION 5 – Counter Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance***

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

*(ii) Restoring the full effects and benefits of international standards*

17. **Current rules work well in many cases, but they need to be adapted to prevent BEPS that results from the interactions among more than two countries and to fully account for global value chains.** The interposition of third countries in the bilateral framework established by treaty partners has led to the development of schemes such as low-taxed branches of a foreign company, conduit companies, and the artificial shifting of income through transfer pricing arrangements. FDI figures show the magnitude of the use of certain regimes to channel investments and intra-group financing from one country to another through conduit structures. In order to preserve the intended effects of bilateral relationships, the rules must be modified to address the use of multiple layers of legal entities inserted between the residence country and the source country.

18. **Existing domestic and international tax rules should be modified in order to more closely align the allocation of income with the economic activity that generates that income:**

- ***Treaty abuse is one of the most important sources of BEPS concerns.*** The Commentary on Article 1 of the OECD Model Tax Convention already includes a number of examples of provisions that could be used to address treaty-shopping situations as well as other cases of treaty abuse, which may give rise to double non-taxation. Tight treaty anti-abuse clauses coupled with the exercise of taxing rights under domestic laws will contribute to restore source taxation in a number of cases.

***ACTION 6 – Prevent Treaty Abuse***

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

- ***The definition of permanent establishment (PE) must be updated to prevent abuses.*** In many countries, the interpretation of the treaty rules on agency-PE allows contracts for the sale of

goods belonging to a foreign enterprise to be negotiated and concluded in a country by the sales force of a local subsidiary of that foreign enterprise without the profits from these sales being taxable to the same extent as they would be if the sales were made by a distributor. In many cases, this has led enterprises to replace arrangements under which the local subsidiary traditionally acted as a distributor by “commissionnaire arrangements” with a resulting shift of profits out of the country where the sales take place without a substantive change in the functions performed in that country. Similarly, MNEs may artificially fragment their operations among multiple group entities to qualify for the exceptions to PE status for preparatory and ancillary activities.

#### ***ACTION 7 – Prevent the Artificial Avoidance of PE Status***

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

- ***A major issue is transfer pricing and the enforcement of the arm’s length principle.*** Transfer pricing rules serve to allocate income earned by a multinational enterprise among those countries in which the company does business. In many instances, the existing transfer pricing rules, based on the arm’s length principle, effectively and efficiently allocate the income of multinationals among taxing jurisdictions. In other instances, however, multinationals have been able to use and/or misapply those rules to separate income from the economic activities that produce that income and to shift it into low-tax environments. This most often results from transfers of intangibles and other mobile assets for less than full value, the over-capitalisation of lowly taxed group companies and from contractual allocations of risk to low-tax environments in transactions that would be unlikely to occur between unrelated parties.
- ***Alternative income allocation systems, including formula based systems, are sometimes suggested.*** However, the importance of concerted action and the practical difficulties associated with agreeing to and implementing the details of a new system consistently across all countries mean that, rather than seeking to replace the current transfer pricing system, the best course is to directly address the flaws in the current system, in particular with respect to returns related to intangible assets, risk and over-capitalisation. Nevertheless, special measures, either within or beyond the arm’s length principle, may be required with respect to intangible assets, risk and over-capitalisation to address these flaws.

#### ***ACTION 8, 9, 10 – Assure that Transfer Pricing Outcomes are in Line With Value Creation***

##### ***Action 8 - Intangibles***

*Develop rules to prevent BEPS by moving intangibles among group members. This will involve: (i) adopting a broad and clearly delineated definition of intangibles; (ii) ensuring that profits associated with the transfer and use of intangibles are appropriately allocated in accordance with (rather than divorced from) value creation; (iii) developing transfer pricing rules or special measures for transfers of hard-to-value intangibles; and (iv) updating the guidance on cost contribution arrangements.*

##### ***Action 9 – Risks and Capital***

*Develop rules to prevent BEPS by transferring risks among, or allocating excessive capital to, group members. This will involve adopting transfer pricing rules or special measures to*



*ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital. The rules to be developed will also require alignment of returns with value creation. This work will be co-ordinated with the work on interest expense deductions and other financial payments.*

#### **Action 10 – Other High-Risk Transactions**

*Develop rules to prevent BEPS by engaging in transactions which would not, or would only very rarely, occur between third parties. This will involve adopting transfer pricing rules or special measures to: (i) clarify the circumstances in which transactions can be recharacterised; (ii) clarify the application of transfer pricing methods, in particular profit splits, in the context of global value chains; and (iii) provide protection against common types of base eroding payments, such as management fees and head office expenses.*

(iii) *Ensuring transparency while promoting increased certainty and predictability*

19. **Preventing BEPS implies transparency at different levels.** Progress on transparency has been made by the Global Forum on Transparency and Exchange of Information for Tax Purposes, but the need for a more holistic approach has been revealed when it comes to preventing BEPS, which implies more transparency on different fronts. Data collection on BEPS should be improved. Taxpayers should disclose more targeted information about their tax planning strategies, and transfer pricing documentation requirements should be less burdensome and more targeted.

- ***Improving the availability and analysis of data on BEPS is critical, including to monitor the implementation of the Action Plan.*** The BEPS report notes that there are several studies and data indicating that there is an increased disconnect between the location where value creating activities and investment take place and the location where profits are reported for tax purposes. The BEPS report noted that further work needs to be done to evaluate such studies, to develop measures of the scale and effects of BEPS behaviours, and to monitor the impact of measures taken under the Action Plan to address BEPS. This should include outcome-based techniques, which look at measures of the allocation of income across jurisdictions relative to measures of value creating activities, as well as techniques that can be used to monitor the specific issues identified in the Action Plan. Accordingly, it is important to identify the types of data that taxpayers should provide to tax administrators, as well as the methodologies that can be used to analyse these data and to assess the likely economic implications of BEPS behaviours and actions taken to address BEPS.

#### **ACTION 11 – Establish Methodologies to Collect and Analyse Data on BEPS and the Actions to Address It**

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

*to respect taxpayer confidentiality and the administrative costs for tax administrations and businesses.*

- ***Transparency on certain tax planning / transactions is also needed.*** Comprehensive and relevant information on tax planning strategies is often unavailable to tax administrations. Yet the availability of timely, targeted and comprehensive information is essential to enable governments to quickly identify risk areas. While audits remain a key source of relevant information, they suffer from a number of constraints as tools for the early detection of aggressive tax planning techniques. Measures designed to improve information flow about tax risks to tax administrations and tax policy makers (“disclosure initiatives”) may be useful in this regard. Other potentially useful measures include co-operative compliance programmes between taxpayers and tax administrations (see e.g. OECD, 2013).

#### ***ACTION 12 – Require Taxpayers to Disclose Their Aggressive Tax Planning Arrangements***

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

- ***Transparency also relates to transfer pricing and value-chain analyses.*** A key issue in the administration of transfer pricing rules is the asymmetry of information between taxpayers and tax administrations. This potentially undermines the administration of the arm’s length principle and enhances opportunities for BEPS. In many countries, tax administrations have little capability of developing a “big picture” view of a taxpayer’s global value chain. In addition, divergences between approaches to transfer pricing documentation requirements leads to significant administrative costs for businesses. In this respect, it is important that adequate information about the relevant functions performed by other members of the MNE group in respect of intra-group services and other transactions is made available to the tax administration.

#### ***ACTION 13 – Re-examine Transfer Pricing Documentation***

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

20. ***The actions to counter BEPS must be complemented with actions that ensure certainty and predictability for business.*** Work to improve the effectiveness of the mutual agreement procedure (MAP) will be an important complement to the work on BEPS issues. The interpretation and application of novel rules resulting from the work described above could introduce elements of uncertainty that should be minimised as much as possible. Work will therefore be undertaken in order to examine and address obstacles that prevent countries from solving treaty-related disputes under the MAP. Consideration will

also be given to supplementing the existing MAP provisions in tax treaties with a mandatory and binding arbitration provision.

***ACTION 14 – Make Dispute Resolution Mechanisms More Effective***

*Develop solutions to address obstacles that prevent countries from solving treaty-related disputes under MAP, including the absence of arbitration provisions in most treaties and the fact that access to MAP and arbitration may be denied in certain cases.*

*(iv) From agreed policies to tax rules: the need for a swift implementation of the measures*

21. **There is a need to consider innovative ways to implement the measures resulting from the work on the BEPS Action Plan.** The delivery of the actions included in the Action Plan on BEPS will result in a number of outputs. Some actions will likely result in recommendations regarding domestic law provisions, as well as in changes to the Commentary to the OECD Model Tax Convention and the Transfer Pricing Guidelines. Other actions will likely result in changes to the OECD Model Tax Convention. This is for example the case for the introduction of an anti-treaty abuse provision, changes to the definition of permanent establishment, changes to transfer pricing provisions and the introduction of treaty provisions in relation to hybrid mismatch arrangements. Changes to the OECD Model Tax Convention are not directly effective without amendments to bilateral tax treaties. If undertaken on a purely treaty-by-treaty basis, the sheer number of treaties in effect may make such a process very lengthy, the more so where countries embark on comprehensive renegotiations of their bilateral tax treaties. A multilateral instrument to amend bilateral treaties is a promising way forward in this respect.

***ACTION 15: Develop a Multilateral Instrument***

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

***B. Timing***

22. **Addressing BEPS is critical for most countries and must be done in a timely manner,** not least to prevent the existing consensus-based framework from unravelling. The pace of the project must be rapid so that concrete actions can be delivered quickly. At the same time, governments also need time to complete the necessary technical work and achieve widespread consensus. Against this background, it is expected that the Action Plan will largely be completed in a two-year period, recognising that some actions will be addressed faster as work has already been advanced, while others might require longer term work:

- Amongst the actions more likely to be delivered in *12-18 months* are those in the areas of hybrid mismatch arrangements, treaty abuse, the transfer pricing aspects of intangibles, documentation requirements for transfer pricing purposes, a report identifying the issues raised by the digital economy and possible actions to address them, as well as part of the work on harmful tax practices.

- Actions to be delivered *in two years* relate to CFC rules, interest deductibility, preventing the artificial avoidance of PE status, the transfer pricing aspects of intangibles, risks, capital and high-risk transactions, part of the work on harmful tax practices, data collection, mandatory disclosure rules, and dispute resolution.
- Actions that may require *more than two years* include the transfer pricing aspects of financial transactions, part of the work on harmful tax practices and the development of a multilateral instrument to swiftly implement changes to bilateral treaties. Although these actions are considered as key items of the Action Plan, it is recognised that this work will have to be developed in different stages, starting with a thorough analysis of the issues.

23. Annex A contains a table summarising the different actions and indicating the expected timeline for completing them.

### **C. Methodology**

24. **The BEPS project marks a turning point in the history of international co-operation on taxation.** As the current consensus-based framework is at risk, it is critical that a proper methodology be adopted to make sure that the work is inclusive and effective, takes into account the perspective of developing countries and benefits from the input of business and the civil society at large.

*(i) An inclusive and effective process: launching the OECD/G20 BEPS Project and involving developing countries*

25. **Accomplishing the actions set forth in this Action Plan requires an effective and comprehensive process that involves all relevant stakeholders.** To this end, and in order to facilitate greater involvement of major non-OECD economies, the “BEPS Project” will be launched. In light of the strong interest and support expressed on several occasions by the G20, it is proposed that interested G20 countries that are not members of the OECD will be invited to be part of the project as Associates, i.e. on an equal footing with OECD Members (including at the level of the subsidiary bodies involved in the work on BEPS), and will be expected to associate themselves with the outcome of the BEPS Project. Other non-members could be invited to participate as Invitees on an ad hoc basis.

26. **Developing countries also face issues related to BEPS, though the issues may manifest differently given the specificities of their legal and administrative frameworks.** The UN participates in the tax work of the OECD and will certainly provide useful insights regarding the particular concerns of developing countries. The Task Force on Tax and Development (TFTD) and the OECD Global Relations Programme will provide a useful platform to discuss the specific BEPS concerns in the case of developing countries and explore possible solutions with all stakeholders. Finally, existing mechanisms such as the Global Fora on Tax Treaties, on Transfer Pricing, on VAT and on Transparency and Exchange of Information for Tax Purposes will all be used to involve all countries in the discussions regarding possible technical solutions.

*(ii) Efficient process*

27. **Political expectations are very high in most countries and the results and impact of the BEPS work must be in line with these political expectations.** The BEPS Project will draw on the expertise of the CFA and of its subsidiary bodies. While the practices of these subsidiary bodies are well-adapted to developing consensus on routine work, they require some adaptation to deliver results within the expected timelines. There is thus a need to find ways to accomplish the work quickly while seeking consensus. Each subsidiary body will need to seek new ways to find consensus as quickly as possible. This may involve, for example, setting up focus groups for the actions for which it is responsible. Each focus group could be composed of a relatively small number of delegates, with one country taking the lead and acting as co-ordinator. The focus groups would work actively in between meetings of the relevant subsidiary body, using remote working methods and reducing physical meetings to a minimum, to prepare drafts which would be circulated to and approved by the subsidiary body.

*(iii) Consulting with business and civil society*

28. **Consultation with non-governmental stakeholders is also key. Business and civil society representatives will be invited to comment on the different proposals developed in the course of the work.** The OECD's core relationship with civil society is through the Business and Industry Advisory Committee (BIAC) and the Trade Union Advisory Committee (TUAC) to the OECD. Non-governmental organisations, think tanks, and academia will also be consulted. The OECD's work on the different items of the Action Plan will continue to include a transparent and inclusive consultation process, and a high-level policy dialogue with all interested parties will be organised on an annual basis.

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## ANNEX A: OVERVIEW OF THE ACTIONS AND TIMELINES

This annex contains summary tables indicating the timeline for the actions included in the Action Plan.

**Table A.1 - Summary of the BEPS Action Plan by action**

<i>Action</i>	<i>Description</i>	<i>Expected Output</i>	<i>Deadline</i>
<b>1- Address the Tax Challenges of the Digital Economy</b>	<p><i>Identify the main difficulties that the digital economy poses for the application of existing international tax rules and develop detailed options to address these difficulties, taking a holistic approach and considering both direct and indirect taxation. Issues to be examined include, but are not limited to, the ability of a company to have a significant digital presence in the economy of another country without being liable to taxation due to the lack of nexus under current international rules, the attribution of value created from the generation of marketable location-relevant data through the use of digital products and services, the characterisation of income derived from new business models, the application of related source rules, and how to ensure the effective collection of VAT/GST with respect to the cross-border supply of digital goods and services. Such work will require a thorough analysis of the various business models in this sector.</i></p>	<p>Report identifying issues raised by the digital economy and possible actions to address them</p>	<p>September 2014</p>

<b>Action</b>	<b>Description</b>	<b>Expected Output</b>	<b>Deadline</b>
<b>2- Neutralise the Effects of Hybrid Mismatch Arrangements</b>	<i>Develop model treaty provisions and recommendations regarding the design of domestic rules to neutralise the effect (e.g., double non-taxation, double deduction, long-term deferral) of hybrid instruments and entities. This may include: (i) changes to the OECD Model Tax Convention to ensure that hybrid instruments and entities (as well as dual resident entities) are not used to obtain the benefits of treaties unduly; (ii) domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payor; (iii) domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient ( and is not subject to taxation under controlled foreign company (CFC) or similar rules); (iv) domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction; and (v) where necessary, guidance on co-ordination or tie-breaker rules if more than one country seeks to apply such rules to a transaction or structure. Special attention should be given to the interaction between possible changes to domestic law and the provisions of the OECD Model Tax Convention. This work will be co-ordinated with the work on interest expense deduction limitations, the work on CFC rules, and the work on treaty shopping.</i>	Changes to the Model Tax Convention	September 2014
		Recommendations regarding the design of domestic rules	September 2014
<b>3- Strengthen CFC Rules</b>	<i>Develop recommendations regarding the design of controlled foreign corporation rules. This work will be co-ordinated with other work as necessary.</i>	Recommendations regarding the design of domestic rules	September 2015
<b>4- Limit Base Erosion via Interest Deductions and Other Financial Payments</b>	<i>Develop recommendations regarding best practices in the design of rules to prevent base erosion through the use of interest expense, for example through the use of related-party and third-party debt to achieve excessive interest deductions or to finance the production of exempt or deferred income, and other financial payments that are economically equivalent to interest payments. The work will evaluate the effectiveness of different types of limitations. In connection with and in support of the foregoing work, transfer pricing guidance will also be developed regarding the pricing of related party financial transactions, including financial and performance guarantees, derivatives (including internal derivatives used in intra-bank dealings), and captive and other insurance arrangements. The work will be co-ordinated with the work on hybrids and CFC rules.</i>	Recommendations regarding the design of domestic rules	September 2015
		Changes to the Transfer Pricing Guidelines	December 2015

<i>Action</i>	<i>Description</i>	<i>Expected Output</i>	<i>Deadline</i>
<b>5 - Counter Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance</b>	<i>Revamp the work on harmful tax practices with a priority on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for any preferential regime. It will take a holistic approach to evaluate preferential tax regimes in the BEPS context. It will engage with non-OECD members on the basis of the existing framework and consider revisions or additions to the existing framework.</i>	Finalise review of member country regimes	September 2014
		Strategy to expand participation to non-OECD members	September 2015
		Revision of existing criteria	December 2015
<b>6- Prevent Treaty Abuse</b>	<i>Develop model treaty provisions and recommendations regarding the design of domestic rules to prevent the granting of treaty benefits in inappropriate circumstances. Work will also be done to clarify that tax treaties are not intended to be used to generate double non-taxation and to identify the tax policy considerations that, in general, countries should consider before deciding to enter into a tax treaty with another country. The work will be co-ordinated with the work on hybrids.</i>	Changes to the Model Tax Convention	September 2014
		Recommendations regarding the design of domestic rules	September 2014
<b>7- Prevent the Artificial Avoidance of PE Status</b>	<i>Develop changes to the definition of PE to prevent the artificial avoidance of PE status in relation to BEPS, including through the use of commissionaire arrangements and the specific activity exemptions. Work on these issues will also address related profit attribution issues.</i>	Changes to the Model Tax Convention	September 2015



<i>Action</i>	<i>Description</i>	<i>Expected Output</i>	<i>Deadline</i>
<b>8- Assure that Transfer Pricing Outcomes are in Line With Value Creation / Intangibles</b>	<i>Develop rules to prevent BEPS by moving intangibles among group members. This will involve: (i) adopting a broad and clearly delineated definition of intangibles; (ii) ensuring that profits associated with the transfer and use of intangibles are appropriately allocated in accordance with (rather than divorced from) value creation; (iii) developing transfer pricing rules or special measures for transfers of hard-to-value intangibles; and (iv) updating the guidance on cost contribution arrangements.</i>	Changes to the Transfer Pricing Guidelines and possibly to the Model Tax Convention	September 2014
		Changes to the Transfer Pricing Guidelines and possibly to the Model Tax Convention	September 2015
<b>9- Assure that Transfer Pricing Outcomes are in Line With Value Creation / Risks and Capital</b>	<i>Develop rules to prevent BEPS by transferring risks among, or allocating excessive capital to, group members. This will involve adopting transfer pricing rules or special measures to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital. The rules to be developed will also require alignment of returns with value creation. This work will be coordinated with the work on interest expense deductions and other financial payments.</i>	Changes to the Transfer Pricing Guidelines and possibly to the Model Tax Convention	September 2015
<b>10- Assure that Transfer Pricing Outcomes are in Line With Value Creation / Other High-Risk Transactions</b>	<i>Develop rules to prevent BEPS by engaging in transactions which would not, or would only very rarely, occur between third parties. This will involve adopting transfer pricing rules or special measures to: (i) clarify the circumstances in which transactions can be recharacterised; (ii) clarify the application of transfer pricing methods, in particular profit splits, in the context of global value chains; and (iii) provide protection against common types of base eroding payments, such as management fees and head office expenses.</i>	Changes to the Transfer Pricing Guidelines and possibly to the Model Tax Convention	September 2015

<b>Action</b>	<b>Description</b>	<b>Expected Output</b>	<b>Deadline</b>
<b>11- Establish Methodologies to Collect and Analyse Data on BEPS and the Actions to Address It</b>	<i>Develop recommendations regarding indicators of the scale and economic impact of BEPS and ensure that tools are available to monitor and evaluate the effectiveness and economic impact of the actions taken to address BEPS on an ongoing basis. This will involve developing an economic analysis of the scale and impact of BEPS (including spillover effects across countries) and actions to address it. The work will also involve assessing a range of existing data sources, identifying new types of data that should be collected, and developing methodologies based on both aggregate (e.g. FDI and balance of payments data) and micro-level data (e.g. from financial statements and tax returns), taking into consideration the need to respect taxpayer confidentiality and the administrative costs for tax administrations and businesses.</i>	Recommendations regarding data to be collected and methodologies to analyse them	September 2015
<b>12- Require Taxpayers to Disclose Their Aggressive Tax Planning Arrangements</b>	<i>Develop recommendations regarding the design of mandatory disclosure rules for aggressive or abusive transactions, arrangements, or structures, taking into consideration the administrative costs for tax administrations and businesses and drawing on experiences of the increasing number of countries that have such rules. The work will use a modular design allowing for maximum consistency but allowing for country specific needs and risks. One focus will be international tax schemes, where the work will explore using a wide definition of “tax benefit” in order to capture such transactions. The work will be co-ordinated with the work on co-operative compliance. It will also involve designing and putting in place enhanced models of information sharing for international tax schemes between tax administrations.</i>	Recommendations regarding the design of domestic rules	September 2015

<i>Action</i>	<i>Description</i>	<i>Expected Output</i>	<i>Deadline</i>
<b>13- Re-examine Transfer Pricing Documentation</b>	<i>Develop rules regarding transfer pricing documentation to enhance transparency for tax administration, taking into consideration the compliance costs for business. The rules to be developed will include a requirement that MNE's provide all relevant governments with needed information on their global allocation of the income, economic activity and taxes paid among countries according to a common template.</i>	Changes to Transfer Pricing Guidelines and Recommendations regarding the design of domestic rules	September 2014
<b>14- Make Dispute Resolution Mechanisms More Effective</b>	<i>Develop solutions to address obstacles that prevent countries from solving treaty-related disputes under MAP, including the absence of arbitration provisions in most treaties and the fact that access to MAP and arbitration may be denied in certain cases.</i>	Changes to the Model Tax Convention	September 2015
<b>15- Develop a Multilateral Instrument</b>	<i>Analyse the tax and public international law issues related to the development of a multilateral instrument to enable jurisdictions that wish to do so to implement measures developed in the course of the work on BEPS and amend bilateral tax treaties. On the basis of this analysis, interested Parties will develop a multilateral instrument designed to provide an innovative approach to international tax matters, reflecting the rapidly evolving nature of the global economy and the need to adapt quickly to this evolution.</i>	Report identifying relevant public international law and tax issues	September 2014
		Develop a multilateral instrument	December 2015

**Table A.2 - Summary of the BEPS Action Plan by timeline**

<i>BY SEPTEMBER 2014</i>		
<i>Action</i>	<i>Description</i>	<i>Expected Output</i>
<b>Address the Tax Challenges of the Digital Economy</b>	<i>Identify the main difficulties that the digital economy poses for the application of existing international tax rules and develop detailed options to address these difficulties, taking a holistic approach and considering both direct and indirect taxation. Issues to be examined include, but are not limited to, the ability of a company to have a significant digital presence in the economy of another country without being liable to taxation due to the lack of nexus under current international rules, the attribution of value created from the generation of marketable location-relevant data through the use of digital products and services, the characterisation of income derived from new business models, the application of related source rules, and how to ensure the effective collection of VAT/GST with respect to the cross-border supply of digital goods and services. Such work will require a thorough analysis of the various business models in this sector.</i>	Report identifying issues raised by the digital economy and possible actions to address them

<i>Action</i>	<i>Description</i>	<i>Expected Output</i>
<b>Neutralise the Effects of Hybrid Mismatch Arrangements</b>	<i>Develop model treaty provisions and recommendations regarding the design of domestic rules to neutralise the effect (e.g., double non-taxation, double deduction, long-term deferral) of hybrid instruments and entities. This may include: (i) changes to the OECD Model Tax Convention to ensure that hybrid instruments and entities (as well as dual resident entities) are not used to obtain the benefits of treaties unduly; (ii) domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payor; (iii) domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient (and is not subject to taxation under controlled foreign company (CFC) or similar rules); (iv) domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction; and (v) where necessary, guidance on co-ordination or tie-breaker rules if more than one country seeks to apply such rules to a transaction or structure. Special attention should be given to the interaction between possible changes to domestic law and the provisions of the OECD Model Tax Convention. This work will be co-ordinated with the work on interest expense deduction limitations, the work on CFC rules, and the work on treaty shopping.</i>	Changes to the Model Tax Convention
		Recommendations regarding the design of domestic rules
<b>Counter Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance – phase 1</b>	<i>Revamp the work on harmful tax practices with a priority on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for any preferential regime. It will take a holistic approach to evaluate preferential tax regimes in the BEPS context. It will engage with non-OECD members on the basis of the existing framework and consider revisions or additions to the existing framework.</i>	Finalise review of member country regimes

<i>Action</i>	<i>Description</i>	<i>Expected Output</i>
<b>Prevent Treaty Abuse</b>	<i>Develop model treaty provisions and recommendations regarding the design of domestic rules to prevent the granting of treaty benefits in inappropriate circumstances. Work will also be done to clarify that tax treaties are not intended to be used to generate double non-taxation and to identify the tax policy considerations that, in general, countries should consider before deciding to enter into a tax treaty with another country. The work will be co-ordinated with the work on hybrids.</i>	Changes to the Model Tax Convention
		Recommendations regarding the design of domestic rules
<b>Assure that Transfer Pricing Outcomes are in Line With Value Creation / Intangibles - phase 1</b>	<i>Develop rules to prevent BEPS by moving intangibles among group members. This will involve: (i) adopting a broad and clearly delineated definition of intangibles; (ii) ensuring that profits associated with the transfer and use of intangibles are appropriately allocated in accordance with (rather than divorced from) value creation; ...</i>	Changes to the Transfer Pricing Guidelines and possibly to the Model Tax Convention
<b>Re-examine Transfer Pricing Documentation</b>	<i>Develop rules regarding transfer pricing documentation to enhance transparency for tax administration, taking into consideration the compliance costs for business. The rules to be developed will include a requirement that MNE's provide all relevant governments with needed information on their global allocation of the income, economic activity and taxes paid among countries according to a common template.</i>	Changes to Transfer Pricing Guidelines and Recommendations regarding the design of domestic rules
<b>Develop a Multilateral Instrument –phase 1</b>	<i>Analyse the tax and public international law issues related to the development of a multilateral instrument to enable jurisdictions that wish to do so to implement measures developed in the course of the work on BEPS and amend bilateral tax treaties. On the basis of this analysis, interested Parties will develop a multilateral instrument designed to provide an innovative approach to international tax matters, reflecting the rapidly evolving nature of the global economy and the need to adapt quickly to this evolution.</i>	Report identifying relevant public international law and tax issues

<b>BY SEPTEMBER 2015</b>		
<i>Action</i>	<i>Description</i>	<i>Expected Output</i>
<b>Strengthen CFC Rules</b>	<i>Develop recommendations regarding the design of controlled foreign corporation rules. This work will be co-ordinated with other work as necessary.</i>	Recommendations regarding the design of domestic rules
<b>Limit Base Erosion via Interest Deductions and Other Financial Payments</b>	<i>Develop recommendations regarding best practices in the design of rules to prevent base erosion through the use of interest expense, for example through the use of related-party and third-party debt to achieve excessive interest deductions or to finance the production of exempt or deferred income, and other financial payments that are economically equivalent to interest payments. The work will evaluate the effectiveness of different types of limitations. In connection with and in support of the foregoing work, transfer pricing guidance will also be developed regarding the pricing of related party financial transactions, including financial and performance guarantees, derivatives (including internal derivatives used in intra-bank dealings), and captive and other insurance arrangements. The work will be co-ordinated with the work on hybrids and CFC rules.</i>	Recommendations regarding the design of domestic rules
<b>Counter Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance – phase 2</b>	<i>Revamp the work on harmful tax practices with a priority on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for any preferential regime. It will take a holistic approach to evaluate preferential tax regimes in the BEPS context. It will engage with non-OECD members on the basis of the existing framework and consider revisions or additions to the existing framework.</i>	Strategy to expand participation to non-OECD members
<b>Prevent the Artificial Avoidance of PE Status</b>	<i>Develop changes to the definition of PE to prevent the artificial avoidance of PE status in relation to BEPS, including through the use of commissionaire arrangements and the specific activity exemptions. Work on these issues will also address related profit attribution issues.</i>	Changes to the Model Tax Convention

<i>Action</i>	<i>Description</i>	<i>Expected Output</i>
<b>Assure that Transfer Pricing Outcomes are in Line With Value Creation / Intangibles – phase 2</b>	<i>Develop rules to prevent BEPS by moving intangibles among group members. This will involve: ... (iii) developing transfer pricing rules or special measures for transfers of hard-to-value intangibles; and (iv) updating the guidance on cost contribution arrangements.</i>	Changes to the Transfer Pricing Guidelines and possibly to the Model Tax Convention
<b>Assure that Transfer Pricing Outcomes are in Line With Value Creation / Risks and Capital</b>	<i>Develop rules to prevent BEPS by transferring risks among, or allocating excessive capital to, group members. This will involve adopting transfer pricing rules or special measures to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital. The rules to be developed will also require alignment of returns with value creation. This work will be co-ordinated with the work on interest expense deductions and other financial payments.</i>	Changes to the Transfer Pricing Guidelines and possibly to the Model Tax Convention
<b>Assure that Transfer Pricing Outcomes are in Line With Value Creation / Other High-Risk Transactions</b>	<i>Develop rules to prevent BEPS by engaging in transactions which would not, or would only very rarely, occur between third parties. This will involve adopting transfer pricing rules or special measures to: (i) clarify the circumstances in which transactions can be recharacterised; (ii) clarify the application of transfer pricing methods, in particular profit splits, in the context of global value chains; and (iii) provide protection against common types of base eroding payments, such as management fees and head office expenses.</i>	Changes to the Transfer Pricing Guidelines and possibly to the Model Tax Convention



<i>Action</i>	<i>Description</i>	<i>Expected Output</i>
<b>Establish Methodologies to Collect and Analyse Data on BEPS and the Actions to Address It</b>	<p><i>Develop recommendations regarding indicators of the scale and economic impact of BEPS and ensure that tools are available to monitor and evaluate the effectiveness and economic impact of the actions taken to address BEPS on an ongoing basis. This will involve developing an economic analysis of the scale and impact of BEPS (including spillover effects across countries) and actions to address it. The work will also involve assessing a range of existing data sources, identifying new types of data that should be collected, and developing methodologies based on both aggregate (e.g. FDI and balance of payments data) and micro-level data (e.g. from financial statements and tax returns), taking into consideration the need to respect taxpayer confidentiality and the administrative costs for tax administrations and businesses.</i></p>	<p>Recommendations regarding data to be collected and methodologies to analyse them</p>
<b>Require Taxpayers to Disclose Their Aggressive Tax Planning Arrangements</b>	<p><i>Develop recommendations regarding the design of mandatory disclosure rules for aggressive or abusive transactions, arrangements, or structures, taking into consideration the administrative costs for tax administrations and businesses and drawing on experiences of the increasing number of countries that have such rules. The work will use a modular design allowing for maximum consistency but allowing for country specific needs and risks. One focus will be international tax schemes, where the work will explore using a wide definition of “tax benefit” in order to capture such transactions. The work will be co-ordinated with the work on co-operative compliance. It will also involve designing and putting in place enhanced models of information sharing for international tax schemes between tax administrations.</i></p>	<p>Recommendations regarding the design of domestic rules</p>
<b>Make Dispute Resolution Mechanisms More Effective</b>	<p><i>Develop solutions to address obstacles that prevent countries from solving treaty-related disputes under MAP, including the absence of arbitration provisions in most treaties and the fact that access to MAP and arbitration may be denied in certain cases.</i></p>	<p>Changes to the Model Tax Convention</p>

**BY DECEMBER 2015**

<b>Action</b>	<b>Description</b>	<b>Expected Output</b>
<p><b>Limit Base Erosion via Interest Deductions – phase 2</b></p>	<p><i>Develop recommendations regarding best practices in the design of rules to prevent base erosion through the use of interest expense, for example through the use of related-party and third-party debt to achieve excessive interest deductions or to finance the production of exempt or deferred income, and other financial payments that are economically equivalent to interest payments. The work will evaluate the effectiveness of different types of limitations. In connection with and in support of the foregoing work, transfer pricing guidance will also be developed regarding the pricing of related party financial transactions, including financial and performance guarantees, derivatives (including internal derivatives used in intra-bank dealings), and captive and other insurance arrangements. The work will be co-ordinated with the work on hybrids and CFC rules.</i></p>	<p>Changes to the Transfer Pricing Guidelines</p>
<p><b>Counter Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance – phase 3</b></p>	<p><i>Revamp the work on harmful tax practices with a priority on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for any preferential regime. It will take a holistic approach to evaluate preferential tax regimes in the BEPS context. It will engage with non-OECD members on the basis of the existing framework and consider revisions or additions to the existing framework.</i></p>	<p>Revision of existing criteria to identify harmful tax practices</p>
<p><b>Develop a Multilateral Instrument – phase 2</b></p>	<p><i>Analyse the tax and public international law issues related to the development of a multilateral instrument to enable jurisdictions that wish to do so to implement measures developed in the course of the work on BEPS and amend bilateral tax treaties. On the basis of this analysis, interested Parties will develop a multilateral instrument designed to provide an innovative approach to international tax matters, reflecting the rapidly evolving nature of the global economy and the need to adapt quickly to this evolution.</i></p>	<p>Multilateral instrument</p>

## **ANNEX B**

### **A STEP CHANGE IN TAX TRANSPARENCY**

**Delivering a standardised, secure and cost effective model of  
bilateral automatic exchange for the multilateral context**

## EXECUTIVE SUMMARY

Vast amounts of money are kept offshore and go untaxed to the extent that taxpayers fail to comply with tax obligations in their home jurisdictions. Jurisdictions around the world, small and large, developing and developed, OECD and non-OECD, stand united in calling for further action to address the issue of international tax avoidance and evasion.

And change is taking place. A major breakthrough towards more transparency was accomplished in 2009 with information exchange upon request becoming the international standard and the restructured Global Forum on Exchange of Information and Transparency for Tax Purposes starting to monitor the implementation of the standard through peer reviews.

Now, there is another step change in international tax transparency driven by developments around the globe, including in the United States and Europe, with unprecedented political support for automatic exchange of information. In April 2013 the G20 Finance Ministers and Central Bank Governors endorsed automatic exchange as the expected new standard.

Anticipating these developments and in light of the increase in automatic exchange agreements, the G8 Presidency requested a report from the OECD to analyse how jurisdictions could build on the recent developments to implement automatic exchange in a multilateral context. It invited reflections on specifications for the information to be exchanged, the legal basis for the exchange and consideration of the necessary platform to exchange the information.

This report, prepared under the authority of the OECD Secretary General, responds to that request. It sets out the key success factors for an effective model for automatic exchange, provides relevant background and outlines four concrete steps needed to put such a model into practice: (i) enacting broad framework legislation to facilitate the expansion of a country's network of partner jurisdictions, (ii) selecting (or where necessary entering into) a legal basis for the exchange of information, (iii) adapting the scope of reporting and due diligence requirements and coordinating guidance, and (iv) developing common or compatible IT standards. The report also provides potential timeframes for each of the action items.

The report recognises that offshore tax evasion is a global issue requiring global solutions – otherwise the issue is simply relocated, rather than resolved. With more and more jurisdictions joining the Convention on Mutual Administrative Assistance in Tax Matters there exists a clear legal basis for comprehensive automatic exchange with strict safeguards protecting confidentiality. Bilateral tax treaties also provide such a legal basis and within the European Union, Directives provide a specific legal framework for automatic exchange of information regarding interest income and certain other types of income between its 27 (soon 28) members. This report notes that a global solution also means a global standard to minimise costs for businesses and governments, while at the same time enhancing effectiveness, maintaining confidence in open markets and best serving society at large. A proliferation of inconsistent models is in nobody's interest.

## I. Introduction<sup>5</sup>

1. As the world becomes increasingly globalised it is becoming easier for all taxpayers to make, hold and manage investments through foreign financial institutions, something that not long ago was accessible only to a select few. Vast amounts of money are kept offshore and go untaxed to the extent that taxpayers fail to comply with tax obligations in their home jurisdiction. Offshore tax evasion is a serious problem for jurisdictions all over the world, OECD and non-OECD, small and large, developing and developed. Cooperation between tax administrations is critical in the fight against tax evasion and a key aspect of that cooperation is exchange of information.

2. The OECD has a long history of working on all forms of exchange of information – on request, spontaneous, and automatic – and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and Article 26 of the OECD Model Tax Convention provide a basis for all forms of information exchange. Over the past few years much progress has been made by the OECD and the Global Forum on Transparency and Exchange of Information for Tax Purposes in improving transparency and exchange of information on request.<sup>6</sup>

3. More recently, political interest has also focussed on the opportunities provided by automatic exchange of information. On 19 April 2013 the G20 Finance Ministers and Central Bank Governors endorsed automatic exchange as the expected new standard and called upon the OECD to report on progress in developing a new multilateral standard on automatic exchange of information, taking into account country-specific characteristics.<sup>7</sup> The G20 decision followed earlier announcements by a number of European countries of their intention to develop and pilot multilateral tax information exchange based on the Model Intergovernmental Agreement to Improve International Tax Compliance and to Implement FATCA, developed between these countries and the United States (hereafter the “Model 1 IGA”). On 9 April 2013, the Ministers of Finance of France, Germany, Italy, Spain and the UK announced their intention to exchange FATCA-type information amongst themselves in addition to exchanging information with the United States.<sup>8</sup> On 13 April 2013, Belgium, the Czech Republic, the Netherlands, Poland, and

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<sup>5</sup> This document 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.

<sup>6</sup> One hundred twenty jurisdictions from around the world have committed to the international standard of transparency and exchange of information (EOI) on request and joined the Global Forum; 100 peer review reports have been completed and published; 652 recommendations have been made for jurisdictions to improve their ability to cooperate in tax matters; more than 1100 EOI relationships that provide for the exchange of information in tax matters to the standard have been established; and 68 jurisdictions have already introduced or proposed changes to their laws to implement more than 300 recommendations. More information on the work of the Global Forum can be found on the following link: <http://www.oecd.org/tax/transparency>.

<sup>7</sup> Paragraph 14 of the communiqué states (in part): “*We welcome progress made towards automatic exchange of information which is expected to be the standard and urge all jurisdictions to move towards exchanging information automatically with their treaty partners, as appropriate. We look forward to the OECD working with G20 countries to report back on the progress in developing of a new multilateral standard on automatic exchange of information, taking into account country-specific characteristics. The Global Forum will be in charge of monitoring*”.

<sup>8</sup> They said: “*An important part of the fight against international evasion and fraud is tax transparency. As you know, following the passage of the U.S. Foreign Account Tax Compliance Act we have all been in joint discussions with the U.S. as to the most effective way of concluding intergovernmental agreements to provide for automatic information*”.

Romania also expressed interest in this approach, which by May 14 had already been endorsed by 17 countries,<sup>9</sup> with Mexico and Norway joining the initiative in early June.

4. Further the United Kingdom recently agreed to automatically exchange information, on the basis of the intergovernmental approaches developed with the United States, with its Crown Dependencies (the Isle of Man, Guernsey and Jersey) and many of its Overseas Territories (Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Montserrat, and Turks and Caicos Islands). All these jurisdictions have also made commitments to join the pilot project with France, Germany, Italy, Spain and the UK. Also on May 30 the OECD Ministerial called on "... all jurisdictions to move towards automatic exchange of information and to improve the availability, the quality and the accuracy of information on beneficial ownership, in order to effectively act against tax fraud and evasion."

5. This report responds to a request by the G8 Presidency to analyse how jurisdictions can build on the recent increases in bilateral automatic exchange agreements to efficiently implement automatic exchange of financial account information (hereinafter "financial information") in a multilateral context.<sup>10</sup> It first discusses the key success factors for an effective model for automatic exchange of financial information, as they were identified in recent work conducted at the OECD and summarised in its report on automatic exchange delivered to the G20 in 2012 (part II). It then sets out four concrete steps to put such automatic exchange into practice including possible timeframes for the delivery of each step (part III). The Annex provides background on the recent bilateral agreements based on the Model 1 IGA and how they can be useful in advancing towards a standardised automatic exchange model.

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*exchange. These discussions have resulted in a model agreement which minimises burdens on business while ensuring effective and efficient reciprocal exchange of information."*

<sup>9</sup> Cf the Joint Statement of 17 countries on 14 May at ECOFIN.

<sup>10</sup> This report does not cover EU specific aspects, as they are beyond the scope of the report. The EU participates in OECD meetings and there is close cooperation in many areas including on technical standards. The EU has developed a wealth of expertise in automatic exchange of information between tax administrations as a tool to combat cross-border tax evasion in the direct tax area. The 2003 Savings Directive on interest income provides for detailed rules on collection and exchange of information. The 2011 Directive on Administrative Cooperation obliges member states to automatically exchange information on several other types of income. The EU, closely co-operating with OECD, has also developed standard computerized formats (and related instructions) for member states' tax administrations to automatically exchange information under these two directives. On May 22, the EU Council unanimously agreed to give priority to efforts to extend automatic exchange of information at the EU and global level and welcomed the ongoing efforts made in the G8, G20 and OECD to develop a global standard (Council conclusions 22 May 2013).

## II. Key features of a standardised multilateral automatic exchange model on financial information

6. As a general matter, for a model for automatic exchange of financial information to be effective it must be specifically designed with residence jurisdictions' tax compliance in mind rather than be a by-product of domestic reporting. Further, it needs to be standardised so as to benefit the maximum number of residence jurisdictions and financial institutions while recognising that certain issues remain to be decided by local implementation. The advantage of standardisation is process simplification, higher effectiveness and lower costs for all stakeholders concerned. A proliferation of different and inconsistent models would potentially impose significant costs on both government and business to collect the necessary information and operate the different models. It could lead to a fragmentation of standards, which may introduce conflicting requirements, further increasing the costs of compliance and reducing effectiveness. Finally, because tax evasion is a global issue, the model needs to have a global reach so that it addresses the issue of offshore tax evasion and does not merely relocate the problem rather than solving it. It is against this background that the G20 in April called upon the OECD working with G20 countries to develop a multilateral standard and to report progress at the next G20 meeting in July. The Global Forum has been charged with monitoring.

7. In 2012 the OECD delivered to the G20 the report "[\*Automatic Exchange of Information: What it is, How it works, Benefits, What remains to be done\*](#)",<sup>11</sup> which summarizes the key features of an effective model for automatic exchange. The main success factors for effective automatic exchange are: (1) a common agreement on the scope of reporting and exchange and related due diligence procedures; (2) a legal basis for the domestic reporting and international exchange of information; and (3) common technical solutions.

### *1. Common agreement on scope of reporting and exchange including related due diligence procedures*

8. An effective model for automatic exchange of information requires an agreement on the scope of the information to be reported by domestic financial institutions and exchanged with residence jurisdictions. This will ensure that the reporting by financial institutions is aligned with the interests of the residence country. It will also increase the quality and predictability of the information that is being exchanged. The result will be significant opportunities for the residence country to enhance compliance and make optimal use of the information (e.g. through automatic matching with domestic compliance information and data analysis).

9. In order to limit the opportunities for taxpayers to circumvent the model by shifting assets to institutions or investing in products that are not covered by the model a reporting regime requires a broad scope across three dimensions:

- **The scope of financial information reported:** A comprehensive reporting regime would cover different types of investment income including interest, dividends and similar types of income, and also address situations where a taxpayer seeks to hide capital that itself represents income or assets on which tax has been evaded (e.g. by requiring information on account balances).
- **The scope of accountholders subject to reporting:** A comprehensive reporting regime requires reporting not only with respect to individuals, but should also limit the opportunities for taxpayers to circumvent reporting by using interposed legal entities or arrangements. This means requiring financial institutions to look through shell companies, trusts or similar arrangements, including

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<sup>11</sup> <http://www.oecd.org/tax/exchange-of-tax-information/automaticexchangeofinformationreport.htm>

taxable entities to cover situations where a taxpayer seeks to hide the principal but is willing to pay tax on the income.

- **The scope of financial institutions required to report:** A comprehensive reporting regime would cover not only banks but also other financial institutions such as brokers, collective investment vehicles and insurance companies.

10. Besides a common agreement on the scope of the information to be collected and exchanged, an effective model of automatic exchange of financial information also requires an agreement on a robust set of **due diligence procedures** to be followed by financial institutions to: (i) identify reportable accounts and (ii) obtain the accountholder identifying information that is required to be reported for such accounts. The due diligence procedures are critical as they help to ensure the quality of the information that is reported and exchanged.

## ***2. Legal basis and confidentiality***

11. A standardised multilateral automatic exchange model requires a **legal basis** for: (i) the domestic reporting obligation and (ii) the exchange of the information. The reporting obligations will typically be included in domestic tax legislation, with due diligence procedures to ensure the quality of the data set out in regulations or guidance. There are different legal bases upon which automatic exchange could take place, and which already exist, including a bilateral treaty with a provision based on Article 26 of the OECD Model Convention or the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. The Nordic Convention also provides such a basis and within the European Union, Directives provide a specific legal framework for automatic exchange on interest income and certain other types of information between its 27 (soon 28) members.

12. All treaties and exchange of information instruments contain strict provisions that require information exchanged to be kept secret or confidential and limit the persons to whom the information can be disclosed and the purposes for which the information may be used. The OECD recently released a Guide on Confidentiality, “[Keeping it Safe](#)”<sup>12</sup> which sets out best practices related to confidentiality and provides practical guidance on how to ensure an adequate level of protection. Before entering into an agreement to exchange information automatically with another country, it is essential that the receiving country has the legal framework and administrative capacity and processes in place to ensure the confidentiality of the information received and that such information is only for the purposes specified in the instrument.<sup>13</sup>

## ***3. Technical and IT aspects***

13. The development of common technical solutions for reporting and exchange of information is a critical element in a standardised exchange system - especially one that will be used by a large number of countries and financial institutions. Standardisation will reduce the overall costs for governments and financial institutions.

14. First, the **technical reporting formats** must be standardised so that information can be captured, exchanged and processed quickly and efficiently in a cost-effective manner by the receiving jurisdiction.

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<sup>12</sup> <http://www.oecd.org/tax/exchange-of-tax-information/keepingitsafetheoecdguideontheofconfidentialityofinformationexchangedfortaxpurposes.htm>

<sup>13</sup> Cf. the reference to “... *exchanging information automatically with their treaty partners, as appropriate*” [underlining added]. Paragraph 14, G20 Finance Ministers and Central Bank Governors communiqué, April 19, 2013.



15. Second, secure and compatible methods of **transmission and encryption of the data** must be in place. Many jurisdictions already electronically exchange information on request and do so on the basis of protocols developed by the OECD. The method of transmission generally takes place directly from one country's exchange of information portal to the other country's exchange of information portal (commonly called "point-to-point") or, within the EU, such exchanges take place by way of a secure network (CCN). Nordic countries exchange automatically under the Nordic Convention over a secure network. In addition, the information being exchanged must be encrypted and the encryption and decryption methods must be compatible with the systems in both the sending and the receiving jurisdiction.

### III. Making it happen

16. Key developments are already under way. Five European countries, each an OECD and EU member (France, Germany, Italy, Spain and the United Kingdom), developed with the United States the Model 1 IGA.<sup>14</sup> The Model 1 IGA provides for reporting by financial institutions to their local tax authorities, which then exchange the information on an automatic basis with the residence jurisdiction tax authorities. This approach is consistent with the general architecture of automatic information exchange that is also used in the EU context, for instance for the EU Savings Directive. The Model 1 IGA further contains a commitment to work with interested jurisdictions, the OECD and where appropriate the EU on adapting the terms of the IGA "to a common model for automatic exchange of information, including the development of reporting and due diligence standards for financial institutions."<sup>15</sup> The United States is already in discussions with over 75 jurisdictions and as more bilateral automatic exchange agreements are being signed the Finance Ministers from the same five European countries in a joint letter stated:

*"We believe that these agreements represent a step change in tax transparency, enabling us to clamp down further on tax evasion. We will be looking to promote these agreements as the new international standard, including through the various international fora, with the ultimate aim of agreeing a multilateral framework."*

17. As discussed in the Annex, the Model 1 IGA contains a number of key features of an effective automatic exchange model. This, along with the fact that governments and financial institutions around the world are already investing to implement it, makes the Model 1 IGA a logical basis on which to build. At the same time account should also be taken of the system and corresponding IT tools used in connection with the EU Savings Directive so as to keep costs to a minimum for governments and financial institutions.

18. These developments offer an opportunity to move towards a standardised model of automatic exchange of information and avoid the possibility of a fragmentation of standards, which would impose significantly higher costs on financial institutions and governments. Four steps can now be taken (a number of them are already ongoing at the OECD) to implement a standardised multilateral model of automatic exchange:

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<sup>14</sup> Both the OECD and the European Commission welcomed these developments. Welcoming the agreements in July 2012 OECD Secretary-General Angel Gurría said: "I warmly welcome the co-operative and multilateral approach on which the model agreement is based. We at the OECD have always stressed the need to combat offshore tax evasion while keeping compliance costs as low as possible. A proliferation of different systems is in nobody's interest. We are happy to redouble our efforts in this area, working closely with interested countries and stakeholders to design global solutions to global problems to the benefit of governments and business around the world." In February 2012 Mr. Šemeta, EU Commissioner for Taxation said: "The EU and USA share a strong objective: to tackle trans-border tax evasion and ensure national treasuries can collect what they are due. I am confident that this new development will pave the way to achieve this in a business friendly manner."

<sup>15</sup> Cf. Article 6, paragraph 3 Model I IGA.

## ***1. Enact broad framework legislation***

19. Most jurisdictions will need to adopt legislation to implement the Model 1 IGA and in particular the domestic reporting obligations. This presents an opportunity to create in one step a broader framework legislation facilitating the subsequent expansion of a country's network of partner jurisdictions. The framework legislation could allow the executive to expand reporting to account holders that are residents of other jurisdictions by way of regulation and/or administrative guidance, provided relevant conditions are met.

- The timing for enacting any legislation will vary by country, but preparation of draft legislation is already advanced in many jurisdictions making it possible in principle to accomplish this step quite quickly and in many instances already during 2013.<sup>16</sup>

20. The main purpose of such framework legislation would be to allow additional jurisdictions to be added without the requirement to separately amend primary legislation each time a new agreement is entered into. It would thus not need to provide for the detailed reporting and due diligence requirements which could be contained in secondary legislation and/or administrative guidance.

## ***2. Select a legal basis for the exchange of information***

21. Different legal bases for automatic exchanges of information reported under a comprehensive reporting regime (i.e., covering different types of investment income and financial information, applying to individuals and certain entities, and covering a wide range of financial institutions)<sup>17</sup> already exist. While bilateral treaties such as those based on Article 26 of the OECD Model Tax Convention permit such exchanges<sup>18</sup>, it may be more efficient to establish automatic exchange relationships through a multilateral information exchange instrument. The Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Convention)<sup>19</sup>, as amended in 2011, is such an instrument. It provides for all possible forms of administrative co-operation between States, contains strict rules on confidentiality and proper use, and permits automatic exchange of information.<sup>20</sup> One of its main advantages is its global reach: more than 60 countries, including all G20 countries, have either signed the Convention or committed to do so<sup>21</sup> with further signatures expected before the September 2013 G20 Summit in St. Petersburg.<sup>22</sup>

22. Automatic exchanges under the Convention require a separate agreement between the competent authorities of the parties, which can be entered into by two or more parties thus allowing for a single agreement with several parties (with actual automatic exchanges taking place on a bilateral basis). Such an

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<sup>16</sup> Not all jurisdictions will require new legislation. In some jurisdictions (e.g. Mexico) existing laws and related powers may already be broad enough thus requiring only implementing guidance. Other jurisdictions may have already legislated (e.g. the United Kingdom).

<sup>17</sup> Cf. paragraph 8 above.

<sup>18</sup> Cf. paragraph 9 of the Commentary on Article 26 of the OECD Model Convention

<sup>19</sup> The Multilateral Convention was developed jointly by the Council of Europe and the OECD and opened for signature by the member states of both organisations on 25 January 1988. The Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the international standard on exchange and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. It was opened for signature on 1st June 2011.

<sup>20</sup> See Article 6.

<sup>21</sup> For a list of signatory countries and further information see [www.oecd.org/ctp/eoi/mutual](http://www.oecd.org/ctp/eoi/mutual)

<sup>22</sup> "In view of the next G20 Summit, we also strongly encourage all jurisdictions to sign or express interest in signing the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and call on the OECD to report on progress" See paragraph 14 of 19 April Communiqué of G20 Finance Ministers and Central Bank Governors.

agreement would activate and “operationalise” automatic exchange between the participating countries. It would specify the information to be exchanged and would also deal with practical issues such as the time and format of the exchange.

- A draft model competent authority agreement has already been prepared in connection with ongoing work discussed more fully below and will be discussed at a meeting of OECD and G20 countries in June which also includes a consultation with business. A model agreement could be available as early as the second half of 2013.

23. Implementing broad framework legislation allowing the executive to expand reporting to include other jurisdictions, coupled with a single or standardised competent authority agreement, would then provide a fast and effective way to implement the automatic exchange model.

24. Jurisdictions could also rely on their existing bilateral treaties or certain tax information exchange agreements<sup>23</sup> with essentially the same competent authority agreement as that to be used under the Convention, provided they already have a broad enough treaty network and the competent authority agreement is standardised to ensure consistency and retain operability of the model. As an alternative, jurisdictions could enter into a multilateral intergovernmental agreement or multiple intergovernmental agreements that would be international treaties in their own right (coupled with more limited competent authority agreements). However, given the need for separate ratification such an approach would be more time consuming. The Nordic Convention also provides such a basis and within the European Union Directives provide a binding legal framework for automatic exchange on interest income and certain other types of information among its 27 (soon 28) members.

- Given that automatic exchange can be based on a number of existing instruments including bilateral treaties, certain tax information exchange agreements, and the Convention, and given that more and more jurisdictions are joining the Convention a broad legal network for such exchanges already exists and is likely to have grown significantly by the end of 2013.

### ***3. Adapt the scope of the reporting and due diligence requirements and coordinate guidance to ensure consistency and reduce cost***

25. Developing a standardised model for automatic exchange can draw on the Model 1 IGA<sup>24</sup>, with amendments required to support a standardised multilateral model that addresses the needs of all participating jurisdictions and remains administrable for both financial institutions and participating jurisdictions. These changes include simplifying the rules by removing U.S. specificities that are not needed or feasible for a multilateral approach, dealing with any different effective dates from those used for the Model 1 IGA itself and building on what already exists for instance in the EU context and in the area of anti-money laundering standards.<sup>25</sup> Work in this area started at the OECD in 2012 and is progressing rapidly. OECD and G20 countries discussed draft proposals at their last meeting in March 2013 and the next meeting is scheduled for June. For the purposes of illustration, examples of areas where such changes are needed include:

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<sup>23</sup> The OECD Model Tax Information Exchange Agreement (TIEA) does not provide the legal basis for automatic exchange. However, certain individual TIEAs do.

<sup>24</sup> The U.S. also developed another model intergovernmental agreement (the “Model 2 IGA”) which provides for direct disclosure of account information from the financial institutions to the U.S. IRS. The Model 2 IGA seems less compelling as a template for a multilateral standard for automatic exchange as it requires that all financial institutions set up individual communication lines with multiple residence jurisdictions.

<sup>25</sup> The Model 1 IGA already refers to the FATF Recommendations, both for purposes of identifying the financial institutions required to report and for certain aspects of the customer due diligence procedures.

- **Thresholds:** The Model 1 IGA provides a threshold amount below which an account does not have to be reported but also allows financial institutions to report all accounts without applying a threshold. Thresholds may reduce the burden for some financial institutions and certain types of accounts (or even eliminate any reporting obligation), but also add complexity, especially in a multilateral context. For a multilateral model, removing such thresholds could be a possible simplification. The EU Savings Directive, for instance, has no such threshold amounts.
- **Exceptions to reportable accountholders:** With respect to individual accountholders the Model 1 IGA covers both residents and citizens of the United States. As most jurisdictions only tax residents not citizens, the multilateral model would only need to cover residents. With respect to entities, the Model 1 IGA covers all types of U.S. entities but specifically excludes 12 categories of low risk/generally compliant entities which are defined by reference to U.S. legislation. Such an approach in a multilateral context, where every country would specify a list of different exceptions by reference to domestic law, may be difficult for financial institutions to operate and may also be difficult to legislate domestically. A simplified approach needs to be developed.
- **Due diligence procedures:** The due diligence procedures required by the Model 1 IGA could generally be used with certain modifications to remove U.S. specificities, such as reliance on U.S. forms and the removal of identification requirements associated with citizenship. Inspiration could also be taken from the due diligence procedures included in the EU Savings Directive. Due diligence procedures may also have potential synergies in helping ensure that source taxation rules are properly applied.
- **Exceptions to reporting financial institutions:** The Model 1 IGA provides for certain categories of financial institutions that are explicitly excluded from the reporting obligations. Some of these exclusions may be inappropriate or unworkable in a multilateral context.<sup>26</sup>

26. At a more detailed level, common guidance will also need to be developed to ensure consistency and standardisation of the reporting and due diligence requirements introduced by jurisdictions in their domestic rules. Given that implementation will be based on domestic law, it is important to ensure consistency in implementation across jurisdictions to avoid creating unnecessary costs and complexity for financial institutions in particular those with operations in more than one country resulting from different interpretations in different jurisdictions. This will require common guidance which is a logical outcome of the OECD work described above.

- Building on ongoing work, detailed guidance is being advanced with possible finalisation during the first half of 2014.

#### ***4. Develop common or compatible IT standards***

##### **a) The reporting format**

27. A standard format for the exchange of information is essential to ensure the model remains effective and administrable. The OECD has brought together its member countries, the EU, and representatives of the business community to assist in the development of a reporting format (“schema”)

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<sup>26</sup> For instance, the exclusion of local foreign financial institutions (FFIs) seems to be of limited relevance outside of the FATCA context: one of the conditions provides that where those FFIs identify an account of a non-resident U.S. specified person, they need to report such accounts as if they were a reporting FFI. Translated for a common reporting standard, this condition would mean that a local FFI would be required to report all accounts held by non-resident account holders, which makes the exclusion meaningless.

for implementing FATCA which is based on STF<sup>27</sup> and incorporates many elements of FISC 153.<sup>28</sup> It is expected that this will be flexible enough to be used for reporting and exchange under a multilateral exchange model, subject to minor amendments.

b) Compatible transmission methods and agreed levels of encryption

28. Already a number of jurisdictions have experience in exchanging tax information through electronic means and using agreed encryption standards.<sup>29</sup> In its effort to prepare for FATCA implementation, the United States is working to develop a secure data exchange process that intends to allow jurisdictions to exchange data securely based on agreed encryption protocols and software compatibility solutions. This process could potentially be used by interested jurisdictions not only for exchange but also for data collection. Thus there should be no reason to believe that what exists and what is being developed should not be susceptible to support automatic exchanges.

- The reporting schema and a first version of the related instructions could be finalised within the second half of 2013. Secure transmission systems either already exist or, where they do not, can be established by interested jurisdictions, based on ongoing work in time for the first transmission of information.

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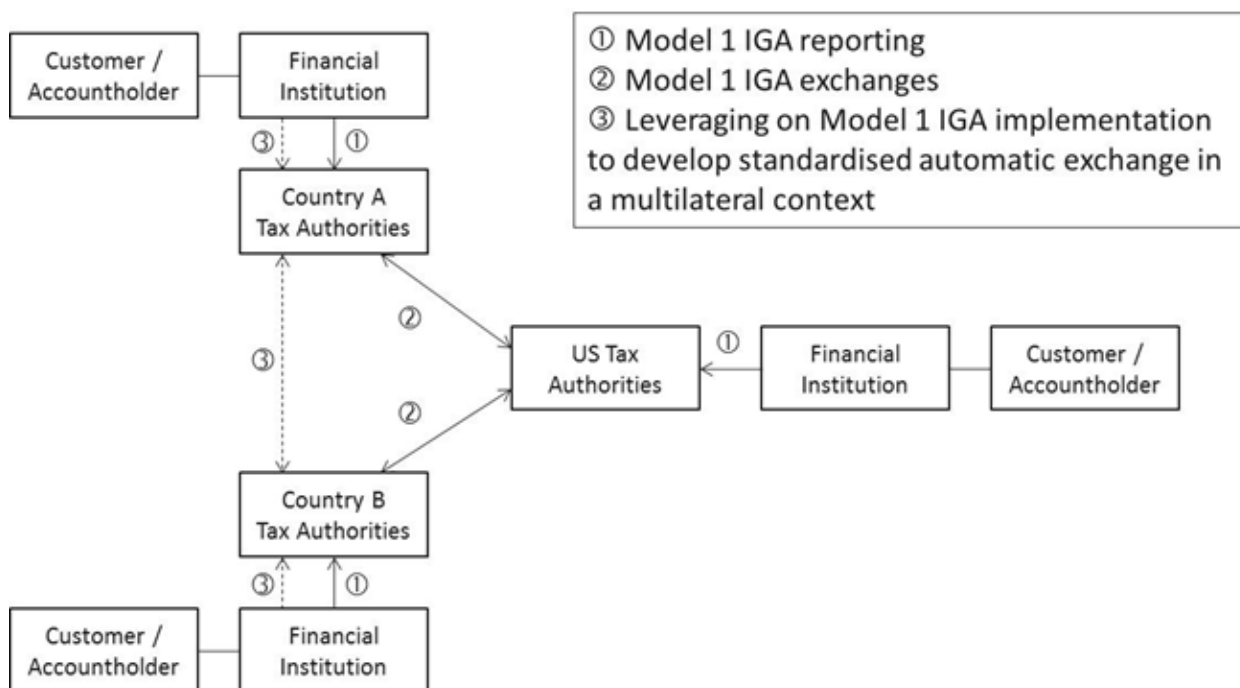
<sup>27</sup> STF (Standard Transmission Format) is a standard format for automatic exchange of tax information which was developed by the OECD and uses XML language.

<sup>28</sup> FISC 153 is the standard that is used for the EU Savings Directive.

<sup>29</sup> EU countries exchange information under the Savings Directive mainly through email file transmissions over a secure network (CCN) maintained by the European Commission, Nordic countries exchange automatically under the Nordic Convention over a secure network and other countries exchange electronically using encrypted e-mails.

**ANNEX: USING RECENT BILATERAL AGREEMENTS TO ADVANCE TOWARDS A STANDARDISED MULTILATERAL MODEL**

29. The diagram below illustrates the potential for developing a standardised automatic exchange model building on the Model 1 IGA and recent bilateral agreements. The lines marked by the numbers 1 and 2 show the flow of information required under a Model 1 IGA. In both cases (to the United States and from the United States to countries A and B respectively) the customer/accountholder provides information to the financial institution which is then reported by the financial institution to the tax authorities in their country of residence. The tax authorities in countries A and B then automatically exchange the information with the tax authority in the United States and the United States automatically exchanges with the tax authorities in countries A and B, respectively. The line marked by number 3 shows the possibility of leveraging on implementation of the Model 1 IGA to allow countries to exchange similar information with other countries.



30. Jurisdictions that are making changes to domestic law, including adopting due diligence rules for financial institutions, for purposes of implementing a Model 1 IGA will have an interest in leveraging such changes to use them to establish automatic exchange relationships with respect to accountholders from certain other jurisdictions that themselves are introducing similar rules. Further, financial institutions around the world are currently making significant investments to comply with FATCA. Aligning a multilateral model with the Model 1 IGA will allow financial institutions to leverage on this investment and reduce their compliance cost. At the same time such a model also needs to take into account what exists and has already been developed for instance in the OECD and the EU contexts.

31. Further, the Model 1 IGA has a number of the key features of an effective automatic exchange model discussed above, therefore making it a key development for standardised automatic exchange globally.

32. First, it contains detailed rules that provide for a reporting regime with a comprehensive scope:

- It covers a wide range of financial institutions (including not only banks, brokers and custodians but also certain insurance companies, trusts and collective investment vehicles, including hedge funds and private equity funds).
- It provides for reporting on a very broad range of financial information including account balance, gross amount of interest/dividends/other income and proceeds from sale or redemption of property in a custodial account, and income from certain insurance contracts.
- It requires reporting in respect of individuals and entities with an additional requirement that financial institutions look behind certain entities to determine the beneficial owners, which limits the opportunities for circumventing the model by interposing shell companies, trusts, foundations or other corporate vehicles, whether taxable or not.

33. Second, it includes a number of features to ensure the information that is exchanged meets certain quality standards and can be effectively used by the residence jurisdiction including:

- The requirement to capture taxpayer identification numbers (TINs) of accountholders where they exist.<sup>30</sup>
- Detailed due diligence procedures to be followed by financial institutions in order to identify reportable accountholders. These procedures often rely on know-your-customer rules followed by financial institutions under applicable anti-money laundering rules, which increases their effectiveness and reduces costs.

34. Third, it relies on relationships and processes that already exist– financial institutions reporting to their domestic tax authorities and one tax authority exchanging information with another tax authority – and that have proven to work. Finally it is designed for global application.

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<sup>30</sup> In 1997 the OECD Council issued a recommendation on the use of tax payer identification numbers in the international context; see: [http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=c\(97\)29/final](http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=c(97)29/final)