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BUILDING A MORE RESILIENT INTERNATIONAL TAX SYSTEM TO SUPPORT SUSTAINABLE GROWTH: AN UPDATE ON BEPS, EXCHANGE OF INFORMATION AND THE TAX AND DEVELOPMENT PROGRAMME

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1. In 2013, a Declaration on Base Erosion and Profit Shifting [C/MIN(2013)22/FINAL] was adopted at the Ministerial Council Meeting (MCM), and this was followed in 2014 with the Declaration on Automatic Exchange of Information in Tax Matters [C/MIN(2014)5/FINAL]. Both Declarations called for updates on the progress made in these important areas, and this report sets out the key developments in both areas over the last 12 months, as well as an update on the related work under the Tax and Development Programme.

2. Getting the global tax rules right is central to building a stable environment that fosters trade and investment. A system that allows cross-border tax evasion to go undetected and facilitates the shifting of corporate profits to low or no tax jurisdictions, far from where the underlying economic activity takes place, undermines taxpayer confidence in government and fosters inequality. For more than 50 years, the OECD has set international tax standards aimed at eliminating tax barriers to cross-border trade and investment such as the risk of double taxation. With the **OECD/G20 Base Erosion and Profit Shifting (BEPS) Project** and the work to increase tax transparency through effective information exchange, the OECD is establishing a robust framework to enable countries to tackle tax avoidance and evasion effectively, to restore confidence in the integrity of the tax system and contribute to growth that is sustainable and resilient.

3. Through the Tax and Development Programme, the Global Forum on Transparency and Exchange of Information for Tax Purposes and the strategy announced in November 2014 to deepen developing country engagement in the BEPS Project, the OECD is also working to ensure that these efforts have global impact. As political leaders turn their attention this year to the post-2015 Sustainable Development Goals (SDGs) and the need to assure appropriate financing for development, taxation will play a key role in domestic resource mobilisation efforts. The OECD is well-placed to make an important contribution to this work, reinforcing its position as the leading organisation to tackle these critical international tax issues.

Addressing Base Erosion and Profit Shifting

4. Ministers and Representatives of 49 countries and the European Union recognised, through their adoption of the Declaration on Base Erosion and Profit Shifting, the pressing need to address BEPS, as a serious risk to tax revenues and tax sovereignty, "with an impact on investment, services and competition, and thus on growth and employment globally". Noting the request by G20 Leaders at their meeting in Los Cabos in June 2012 to address BEPS, and welcoming the February 2013 OECD Report on *Addressing Base Erosion and Profit Shifting*, G20 Finance Ministers called on the OECD to develop a comprehensive action plan to address the loopholes and mismatches in the international and domestic tax rules. These loopholes facilitate the international tax planning which has the effect of artificially shifting profits away from the locations where the value creation takes place, with the net result of double non-taxation or very low effective taxation on global corporate profits. The BEPS Project was designed to close the loopholes and address the mismatches to ensure that the international tax system responds effectively to the tax challenges of a globalised economy and emerging business models.

5. The comprehensive Action Plan on Base Erosion and Profit Shifting [CTPA/CFA/NOE2(2013)29/FINAL/CONF] was published in July 2013 by the OECD and endorsed by the G20 Leaders at their September 2013 summit in St Petersburg. With G20 endorsement, the BEPS Project has brought together 44 of the world's largest economies, to work on an equal footing in the Committee on Fiscal Affairs (CFA) – the 34 OECD Member countries, as well as the 10 non-OECD G20 members and OECD Accession countries: Argentina, Brazil, People's Republic of China, Colombia, India, Indonesia, Latvia, Russian Federation, Saudi Arabia, and South Africa.

6. The 15-point Action Plan sets out the following critical action areas to address, with timelines for the work to be undertaken:

- **Action 1:** Address the tax challenges of the digital economy;
- **Action 2:** Neutralise the effects of hybrid mismatch arrangements;
- **Action 3:** Strengthen rules on Controlled Foreign Companies (CFCs)
- **Action 4:** Limited base erosion via interest deductions and other financial payments
- **Action 5:** Counter harmful tax practice more effectively, taking into account transparency and substance
- **Action 6:** Prevent tax treaty abuse
- **Action 7**: Prevent the artificial avoidance of PE status
- **Action 8**: Assure that transfer pricing outcomes are in line with value creation intangibles
- **Action 9**: Assure that transfer pricing outcomes are in line with value creation: risks and capital
- **Action 10**: Assure that transfer pricing outcomes are in line with value creation: other high-risk transactions
- **Action 11:** Establish methodologies to collect and analyse data on BEPS and the actions to address BEPS.
- **Action 12**: Require taxpayers to disclose their aggressive tax planning arrangements
- **Action 13**: Re-examine transfer pricing documentation
- **Action 14**: Make dispute resolution mechanisms more effective
- **Action 15:** Develop a multilateral instrument capable of implementing the tax treaty-related BEPS measures.

7. Progress has already been made on the 15 Actions, and the first outputs were delivered in September 2014. Two final reports, one interim report and four reports containing draft recommendations were delivered, and upon implementation by governments, will neutralise hybrid mismatches (Action 2), address treaty shopping and other forms of treaty abuse (Action 6), minimise the abuse of transfer pricing rules in the critical area of intangibles (Action 8). Measures to enhance transparency for tax administrations and provide more consistency for taxpayers through improved transfer pricing documentation, including a template for country by country reporting (Action 13) have also been agreed, and in January 2015, the CFA agreed guidance on their implementation. This includes the scope of multinational enterprises to which the Country by Country reporting requirements will apply, and requiring the Country-by-Country reports to be filed in the country of residence of the multinational's ultimate parent entity, and only exchanged with countries fulfilling a number of conditions, in particular confidentiality and the proper use of the information.

8. With political leadership, important progress has also been made to tackle harmful tax practices (Action 5), with an agreed approach in the area of preferential tax regimes applying to intellectual property ("patent boxes"). Opening the way for the development of a new legal instrument, the 44 countries in the BEPS Project have also agreed a mandate for the negotiation of a multilateral instrument (Action 15) as well as for the establishment of a negotiating group, which will be open to all interested countries. The ad hoc negotiating group is being established by the Secretary-General and the programme of work will be defined following their first meeting. Participation in the negotiating group will be free of charge. This multilateral instrument will be capable of modifying the existing network of over 3 000 bilateral tax treaties in line with the tax treaty-related measures agreed in the BEPS Project. Negotiations will commence shortly, and are anticipated to be concluded by the end of 2016, when the multilateral instrument should be opened for signature. Finally, the measures outlined in September 2014 included a common understanding of the tax challenges raised by the digital economy (Action 1), which will allow countries to continue to work together to ensure that the measures developed in the other areas of the BEPS Project, fully address those challenges.

9. Recognising the global nature of BEPS, efforts were launched to identify the BEPS issues that were most critical for low-income countries. The OECD Secretariat, working closely with the International Monetary Fund (IMF) and other international and regional organisations, produced a 2-part report that was presented to the G20 Development Working Group (DWG) and Finance Ministers in September 2014, which outlined the impact of BEPS on low income countries, and identified ways to support developing countries in addressing them. As part of these efforts, and recognising the need to ensure that the BEPS solutions are truly global, a new 3-part strategy to deepen engagement with developing countries on BEPS issues was launched by the OECD in November 2014. Welcomed by the G20 Leaders at their November 2014 Summit, the strategy includes the participation of a regionally balanced representation of developing countries in the meetings of the CFA and its subsidiary bodies from January 2015. As a result, 62 countries[1] are now directly engaged in the development of the BEPS measures, and five regional networks of tax policy and administration officials have also been established to ensure an even broader scope of engagement, while retaining the effectiveness of the BEPS process given its ambitious timeframes. Two leading regional tax organisations, the African Tax Administration Forum (ATAF) and the Inter-American Centre of Tax Administrations (CIAT) have been invited to participate in the CFA as observers, i.e. the same status that the IMF, World Bank and the United Nations have in the Committee. The OECD has also recently signed a Memorandum of Understanding with CREDAF (*Centre de rencontres et d'études des dirigeants des administrations fiscales*) aimed at supporting tax administrations in francophone countries and facilitating closer engagement in the tax work of the OECD.

10. Extensive consultation with stakeholders from business and industry (in conjunction with BIAC), civil society, and labour (led by TUAC) has been a centre piece of the Project: 9 public consultations have been held after receiving more than 4 000 pages of comments on the public discussion of the drafts. Almost 30 000 people have watched the six live webcasts presented by senior members of the OECD Secretariat. This multi-dimensional and transparent consultation process has raised public awareness of the measures being developed, and helped to refine the solutions proposed, in particular by ensuring the development of responses to BEPS that balance the need to ensure their effectiveness while avoiding unnecessary compliance burdens on business which could limit cross-border investment and trade. This commitment to transparent and broad public engagement will be continued through the remainder of the Project, so that all relevant considerations are taken into account and to facilitate the process of reaching agreement on the measures as well as their implementation by governments and business.

11. Looking ahead, work continues at a rapid pace to finalise the measures to be considered by the CFA in September 2015, and the Council in early October 2015. These include designing effective controlled foreign company (CFC) rules (Action 3); setting out proposals to prevent base erosion via interest deductions and other financial payments (Action 4); progressing the second phase of work on countering harmful tax practices (Action 5); preventing the artificial avoidance of 'Permanent Establishment' status (Action 7); assuring transfer pricing outcomes in line with value creation (Actions 8-10); establishing the methodologies to allow an economic analysis of BEPS and the impact of the measures to address BEPS (Action 11); designing mandatory disclosure rules for taxpayers for their aggressive tax planning arrangements (Action 12); and improving the effectiveness of the dispute resolution mechanism for cross-border tax issues (Action 14).

1 Albania, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Korea, Latvia, Lithuania, Luxembourg, Malaysia, Mexico, Morocco, Netherlands, New Zealand, Nigeria, Norway, People's Republic of China, Peru, Philippines, Poland, Portugal, Russian Federation, Saudi Arabia, Senegal, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom, United States, Viet Nam.

12. As the work on the remaining aspects of the Action Plan continues, work to provide guidance on implementation of those measures is also underway, to promote consistent implementation and administration of the measures. The Forum on Tax Administration, which brings together the heads of tax administrations of 46 economies, will have an important role to play with regard to administration of the BEPS measures. Meeting in October 2014 in Dublin, they committed to work together more closely to deal with the tax administration aspects of the BEPS Project. This includes implementation of a strategy for systematic and enhanced collaboration between tax administrations based on existing legal instruments, along with a newly established platform, the voluntary Joint International Tax Shelter Information and Collaboration (JITSIC) network, which together will enable them to address cross-border tax avoidance more efficiently and effectively. It also includes the work of competent authorities to improve the mutual agreement procedure process (the FTA MAP Forum), which will play a key role in the implementation of Action 14 in preventing double taxation where it is likely that a minimum standard will be established which will require a monitoring mechanism.

13. By the end of 2015, in line with the commitment of all OECD Members and G20 countries, a holistic package taking into account the integrated nature of the BEPS Actions will be agreed. The CFA expects to finalise the work in September, to be presented to the OECD Council in early October, and in turn to the G20 Finance Ministers. Achieving agreement on this package and the shared goal of addressing BEPS effectively, will require the continued high-level political support of all countries and their commitment to ensuring a fairer international tax system that will promote sustainable growth.

Improving tax transparency through information exchange

14. In 2014 at the Ministerial Council Meeting, Ministers and Representatives of 47 countries and the European Union adopted the Declaration on Automatic Exchange of Information (AEOI) in Tax Matters [C/MIN(2014)5/FINAL]. Noting the publication of the AEOI Standard which was approved by the CFA, and the important role it would play in targeting tax fraud and evasion, the AEOI Declaration also invited the Secretary-General to report on progress in developing further guidance on the implementation of the new single global standard at the 2015 Meeting of the Council at Ministerial level.

15. Since the AEOI Declaration was adopted in May 2014, rapid progress has been made. In July, after approval by the Council, the full AEOI Standard, including technical details necessary for implementation – detailed Commentaries and IT modalities, was published, and implementation of the AEOI Standard on a reciprocal basis was adopted as a Council Recommendation [C(2014)81/FINAL]. Achieving a single common global AEOI Standard breaks new ground: addressing the tax compliance needs of jurisdictions, while avoiding a proliferation of different and inconsistent standards which would lower effectiveness and increase costs for both businesses and governments. This landmark achievement has led the way for a rapid uptake by jurisdictions of this Standard, which will allow governments to trace financial flows and offshore accounts which were previously unknown.

16. The Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) has been charged by the G20 to monitor the implementation of the AEOI Standard. It has called on all jurisdictions, other than developing countries which are not financial centres, to commit to undertaking the first exchanges of information under the AEOI Standard by 2017 or 2018. To date 93 jurisdictions have already made such commitment: [2]

[2] The United States has indicated that it will be undertaking automatic information exchanges pursuant to FATCA from 2015 and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They

JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2017
Anguilla, Argentina, Barbados, Belgium, Bermuda, British Virgin Islands, Cayman Islands, Chile, Colombia, Croatia, Curaçao, Cyprus[3], Czech Republic, Denmark, Dominica, Estonia, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Montserrat, Netherlands, Niue, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Trinidad and Tobago, Turks and Caicos Islands, United Kingdom, Uruguay
JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018
Andorra, Antigua and Barbuda, Aruba, Australia, Austria, Bahamas, Belize, Brazil, Brunei Darussalam, Canada, China, Costa Rica, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Marshall Islands, Macao (China), Malaysia, Monaco, New Zealand, Qatar, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Turkey, United Arab Emirates
JURISDICTIONS THAT HAVE NOT INDICATED A TIMELINE OR THAT HAVE NOT YET COMMITTED
Bahrain, Cook Islands, Nauru, Panama, Vanuatu

17. Of the committed jurisdictions referred to above, 52 have also already taken an important step towards implementation by having joined the Multilateral Competent Authority Agreement (MCAA). The MCAA has been developed by the OECD to support jurisdictions and their competent authorities to undertake AEOI in practice. It is based on the multilateral Convention on Mutual Administrative Assistance in Tax Matters, which now has 85 participating jurisdictions, including an increasing number of developing countries. The multilateral Convention is not limited to automatic exchange of information, but can also be used for the exchange of information on request and spontaneous exchange. Because of this flexibility, the multilateral Convention will therefore be of central importance for countries seeking to implement some of the BEPS measures, such as to exchange the Country-by-Country reports, and spontaneous exchange of tax rulings.

18. Recognising that participation in AEOI is a positive step for tax transparency and addressing tax evasion, developing countries have expressed their concerns on achieving implementation in practice. There is no question that implementation of AEOI and putting the information received to effective use, requires resources in terms of skills, personnel, legal frameworks, rigorous confidentiality and data protection safeguards, and political will. With that in mind and responding to a call from the G20 Development Working Group, the Global Forum worked with its members, which include more than 60 developing countries, to develop a Roadmap for the participation of developing countries in AEOI implementation.

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also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.

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

19. Published in August 2014, the Roadmap acknowledged that those developing countries which were not financial centres, would not be asked to commence exchanging information under the AEOI Standard by 2017 or 2018, and would be supported through a stepped process towards AEOI in practice. That process is now underway, with the launch of a series of pilot projects on AEOI implementation. These pilots partner OECD Members with developing countries to build their capacity to participate effectively in AEOI, and the first three projects underway involve Albania-Italy; Colombia-Spain, and the Philippines-Australia. Additional projects, with Morocco, Pakistan and Uganda are being developed. Over time, these pilot projects will foster the development of guidance and best practice based on experience that can be drawn from to benefit other developing countries.

20. To support those jurisdictions which have committed to meet an ambitious timetable for AEOI implementation, the OECD has developed training sessions on effective AEOI implementation which it will continue to host through 2015. Guidance is also being prepared on best practice for implementation of the AEOI Standard, to ensure consistency and reduce compliance costs for governments and the financial sector, including a public web portal. The Global Forum has established an AEOI working group to lead the preparation of the terms of reference and methodology which will guide the review process to ensure jurisdictions are meeting their AEOI commitments.

21. The recent work on AEOI does not stand alone however, building on the OECD's long-standing experience in developing the standard for Exchange of Information on request (EOIR). Since 2010, the Global Forum has been carrying out its 2-phase peer review process to ensure jurisdictions' compliance with the EOIR Standard. The Global Forum, which has grown steadily from 79 members in 2009 to 126 members today, has completed a total of 150 reviews (Phase 1, Phase 2 or combined Phase 1 and 2 reviews) and 92 jurisdictions have acted to implement more than 500 of the recommendations which have been made. These reviews have led to overall ratings allocated to 77 jurisdictions so far: 20 jurisdictions are "Compliant", 43 jurisdictions are "Largely Compliant", and 10 jurisdictions are "Partially Compliant".

22. Despite this significant progress over the past six years, there are still some jurisdictions that fail to meet the EOIR Standard: 4 jurisdictions have been rated as "Non-Compliant", while an additional 11 jurisdictions are currently not able to pass to the 2nd phase of the review process until they address significant shortcomings identified in their legal framework. Responding to a call from the G20 Finance Ministers, the OECD has begun to develop possible tougher incentives and implementation processes to deal with jurisdictions that fail to meet the EOIR Standard. In February, the Secretary-General's report to the G20 Finance Ministers included an interim report on possible tougher incentives, and a final report will be delivered to G20 Finance Ministers at their meeting in September. It is critical for the credibility of the global commitment to the exchange of information and the continued efficacy of international standards on tax evasion for a level playing field to be maintained – non-complying jurisdictions should not be able to benefit to the detriment of those jurisdictions that do meet the Standard.

Tax and Development

23. The need for a global approach to international tax issues has become increasingly important as the global economy is more and more inter-connected. The exponential increase in cross-border trade and investment means that national tax systems cannot be considered in isolation when designing tax policy. The international tax rules must be relevant across all economies. Moreover, the importance of tax to development will be sharply highlighted in 2015, as countries prepare to adopt the post-2015 Sustainable Development Goals, including plans for financing future development needs. In this regard, domestic resource mobilisation, and therefore effective tax systems, has a central role.

24. The OECD's tax work with developing countries continues to adapt to respond to the needs expressed by developing countries. This has seen the programme of work focus on areas including transfer

pricing, exchange of information, natural resource taxation and efforts to fight tax crime as well as work to support tax policy aspects such as assessment of tax incentive regimes, comparative practices in taxpayer education and an assessment of the drivers of tax morale – the motivation of citizens to pay taxes. In this work, the OECD works with key international organisations the IMF, the World Bank and the UN, as well as regional tax organisations, ATAF (African Tax Administration Forum), CIAT (Inter-American Centre of Tax Administrations), CREDAF (Centre de Rencontres et d'Etudes des Dirigeants des Administrations Fiscales) and SGATAR (Study Group on Asian Tax Administration and Research).

25. In September 2014, the OECD Secretariat, working closely with the IMF and other international and regional organisations, delivered a 2-part report to the G20 Development Working Group identifying the impact of Base Erosion and Profit Shifting on low income countries. Drawing on consultations and extensive dialogue with developing countries through the OECD's Task Force on Tax and Development, it revealed how developing countries often face specific conditions that can impact their ability to address BEPS. With their heavy reliance on revenues from corporate income tax (compared to OECD countries), the impact of not addressing those challenges is exacerbated. The invitation to developing countries to participate directly in the development of the BEPS measures will be effective in this regard as will the institution of the regional dialogues for tax policy and administration officials (see further paragraph 7).

26. The OECD is working with the IMF, the UN and the World Bank under a G20 Development Working Group mandate to undertake work to address specific BEPS-related priorities of developing countries such as wasteful tax incentives and the absence of useful comparability data for use in transfer pricing cases. Working with the other international organisations as well as regional tax organisations such as ATAF, CIAT, CREDAF and SGATAR, the OECD will also develop practical toolkits, to be finalised in 2016 and 2017, to support developing countries as they seek to implement the BEPS measures once finalised at the end of 2015.

27. On exchange of information, the Global Forum counts more than 60 developing countries as members, all committed to the EOIR Standard. It is actively supporting developing countries to address the challenges they face to participation in AEOI (see further paragraph 16). In October 2014, the Global Forum launched the Africa Initiative aimed at promoting greater tax transparency to tackle tax evasion and other forms of illicit financial flows on the continent. The initiative works with African leaders to build support for more widespread commitments to the EOIR Standard, and over time to AEOI, as well as providing support to countries seeking to implement these standards. This 3 year program is steered by an Africa Task Force which includes the regional tax organisations active in Africa, ATAF and CREDAF, and also the World Bank.

28. The OECD is also supporting developing countries fight tax crimes. As part of the Oslo Dialogue launched by the Organisation in 2011 to promote a whole-of-government approach to tackling tax crime and other financial crimes, the OECD International Academy for Tax Crime Investigation was established in mid-2014 after the success of a number of pilot training programmes. The intensive courses attract officials from a variety of disciplines reflecting the inter-agency effort required to effectively address financial crime – ministries of finance, the judiciary, financial intelligence units and revenue authorities. The foundation and intermediate level courses have trained over 100 participants from 36 countries, including more than 20 developing countries to date. The Academy is hosted by the Guardia di Finanza, near Rome, Italy, and experts are drawn from OECD countries as well as international agencies engaged on this issue such as Interpol, Europol, the Egmont Group of Financial Intelligence Units and the IMF.

29. The need for improved tax audit capacity to support administrations address complex cases involving international tax issues has seen steady demand for the *Tax Inspectors Without Borders* initiative (TIWB). A TIWB Toolkit has now been developed to guide parties through the tax audit expert deployment process, and six pilot projects are underway, with a further five developing countries having

already indicated their interest in participating. The experience from the pilot projects is currently being reviewed, with a view to the formal launch of TIWB.

30. Support to developing countries in the area of tax policy has also continued to be expanded, extending the reach of Revenue Statistics, an OECD flagship publication of more than 40 years. Four years ago, the Revenue Statistics programme began to be extended to interested non-OECD countries. Working with the OECD to standardise the relevant revenue data, tax officials from these countries develop an accurate data snapshot, comparable over time as well as across countries. The 4th Latin America and Caribbean edition was published this year, covering 20 countries; the second Asian edition to be issued later in 2015 will cover 5 countries in the region, and the first African edition is currently in development. Ensuring accurate data is a critical tool for developing informed tax policy, and will support countries to meet their development needs through improved domestic resource mobilisation. The OECD coordinates with other international organisations, such as the IMF, to ensure that work on Revenue Statistics is complementary and considers the impact of consultations with developing country governments.