

Inclusive Framework on BEPS

Progress report July 2016-June 2017



OECD

BETTER POLICIES FOR BETTER LIVES

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

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

G20 Leaders, Hangzhou Communique, September 2016

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

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

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

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

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

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

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

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

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



INTRODUCTION

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

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

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

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

The Inclusive Framework on BEPS

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


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

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

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

This report

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



Part I – BEPS measures are being implemented around the world

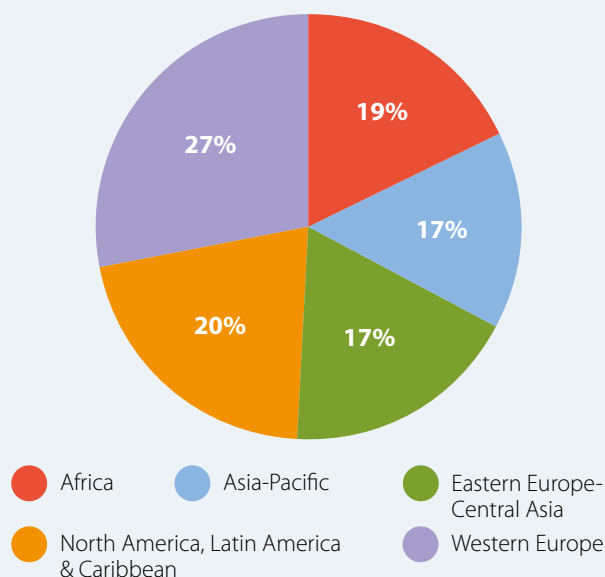
To date, 100 countries and jurisdictions have decided to work together on an equal footing to implement the BEPS package of measures, and all of them are moving quickly forward with their common commitment to ensure that their tax bases can no longer be eroded by artificial profit shifting and base erosion.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

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

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

Figure 1. Regional composition of the Inclusive Framework on BEPS

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



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

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

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

1.1. BEPS minimum standards: Increasing transparency

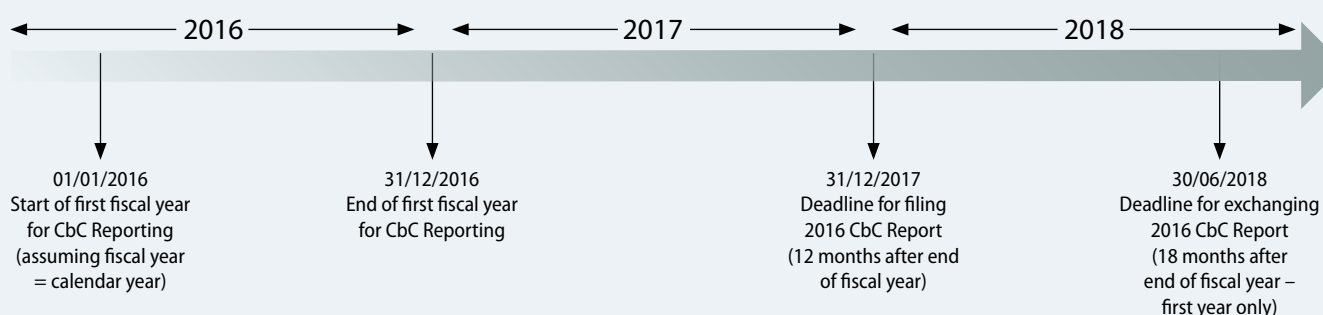
In the past, tax administrations have had limited information on the global picture relevant to the correct taxation of the profits of MNEs. Changing this imbalance was a key objective of the BEPS Project. Enhanced transparency with the implementation of the minimum standards on the exchange of information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

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

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

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

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



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

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

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

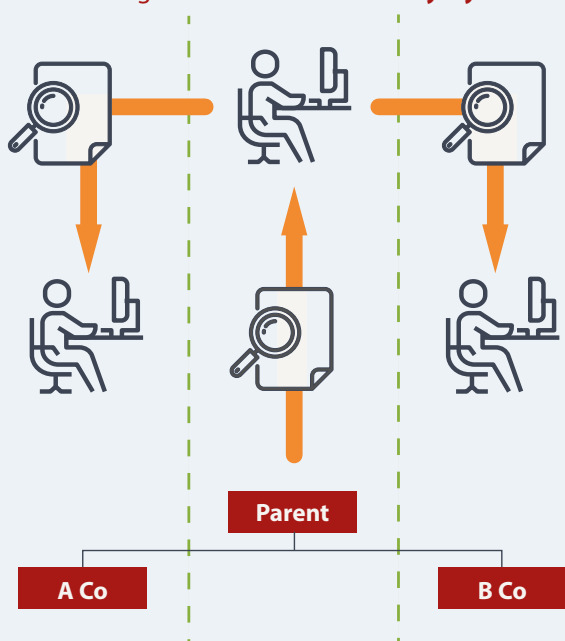
Applying the agreed EUR 750 million, or equivalent, threshold reduces compliance costs but also ensures that MNE groups controlling about 90% of total corporate revenues will be subject to the CbCR obligations. With the actions already taken by governments to meet their commitments, CbCR obligations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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

Figure 4. Framework for tax rulings exchange

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

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

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

1.2. BEPS minimum standards: Aligning taxation with value creation

Countering harmful tax practices – preferential regimes (Action 5)

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

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

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

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

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

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

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

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

Preventing tax treaty abuse (Action 6)

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

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

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

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

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

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



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

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

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

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

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

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

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

2. IMPLEMENTING THE OTHER ELEMENTS OF THE BEPS PACKAGE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

2.1.2. Revising the Transfer Pricing Guidelines

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

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

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

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

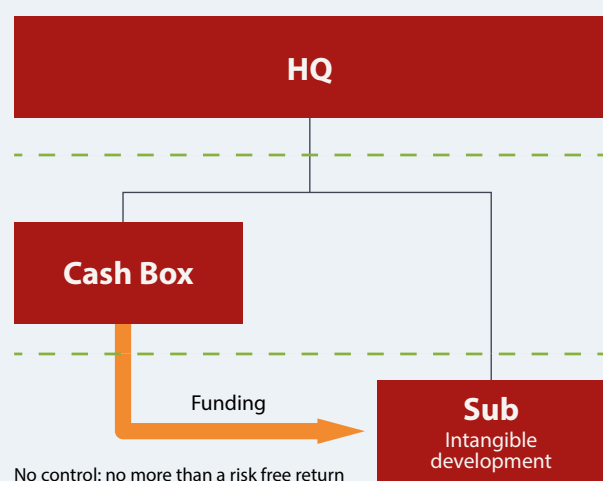
These changes are putting an end to arrangements like the “cash box”, with the strengthened guidance on risk, intangibles and capital ensuring that such an entity which provides funding for the development of valuable intangibles but does not have the capacity to control the risks associated with its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

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

2.2. Domestic measures to tackle BEPS

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

Figure 5. Cash box



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

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

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



2.3. Addressing digital economy tax challenges in indirect taxation

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

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

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

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

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

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

3. MAKING INROADS AGAINST BASE EROSION AND PROFIT SHIFTING

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

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

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

3.2. The BEPS Project is affecting business tax planning behaviour

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

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

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

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

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

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

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



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

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

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

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

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

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

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

13. EY, 2017 Tax Risk and Controversy Series, Tax Steps into the light, p12. <http://www.ey.com/gl/en/services/tax/ey-tax-steps-into-the-light>

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

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



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

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

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

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


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

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

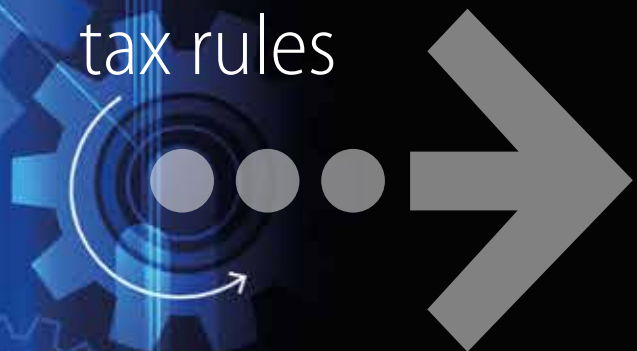
In particular, aggregated and anonymised statistics from Country-by-Country Reports (CbCRs) will be made available to the OECD Secretariat for the economic and statistical analysis of BEPS and future assessment of the effectiveness of the changes recommended as part of the BEPS package. Up until now,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

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





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



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

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

1.1 The peer review process for the BEPS minimum standards

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

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

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

1.2 Schedule of the Peer Reviews

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

Figure 7. Status of peer review process

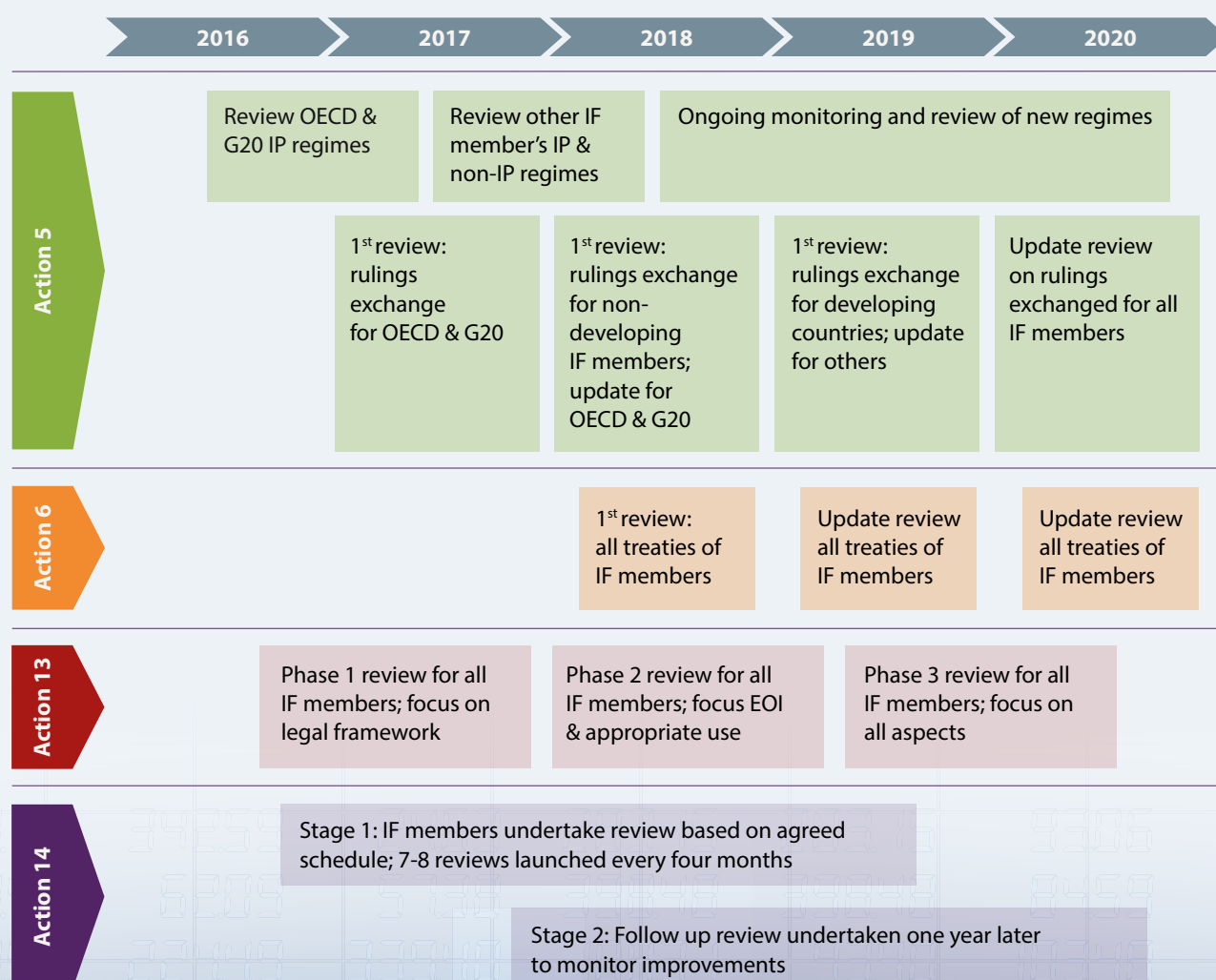


Table 1. Results from the peer reviews of preferential regimes

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

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

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

1.3 First outcomes from the peer review processes

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

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

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

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

2.1 Addressing the tax challenges of the digitalisation of the economy

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Box 4. Toolkits on BEPS and related issues

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

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

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

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

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

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

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

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

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

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

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

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

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

3. SUPPORTING A GLOBAL MEMBERSHIP TO TACKLE BEPS

3.1 Ensuring effective participation in the Inclusive Framework

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

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

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

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

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

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

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

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

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

3.2 Bilateral and multilateral assistance on implementation of the BEPS measures

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

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

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

Box 6. Tackling BEPS issues in the extractive industries

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

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

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

4. ENGAGEMENT WITH OTHER STAKEHOLDERS

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

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

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

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

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

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

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

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

International organisations

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

Regional organisations

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

ATAF

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

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

CIAT

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

CREDAF

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

IOTA

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

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

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

CONCLUSION

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

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

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

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

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

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



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

22 members, participating in their personal capacity:

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

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

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

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

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

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

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

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

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

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

1. Terms of Reference and Methodologies

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

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

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

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

2. Schedule of peer reviews

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

Action 5 – Transparency framework for the exchange of tax rulings

Peer review timeline for OECD/G20 members

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

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

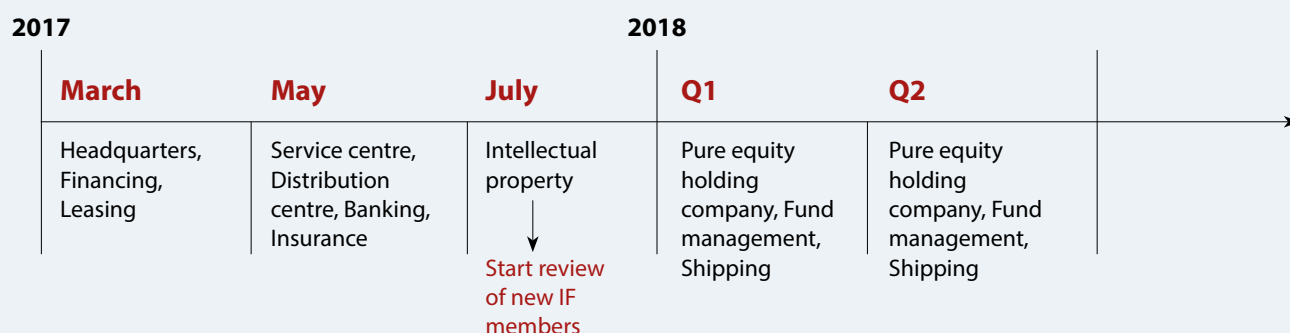
2017	2018	2019	2020
	1st review	2nd review	3rd review
	Of the 2017 implementation period	Of the 2018 implementation period	Of the 2019 implementation period

Peer review timeline for developing countries that request additional time

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

Action 5 – Preferential regimes

Peer review timeline for all IF members



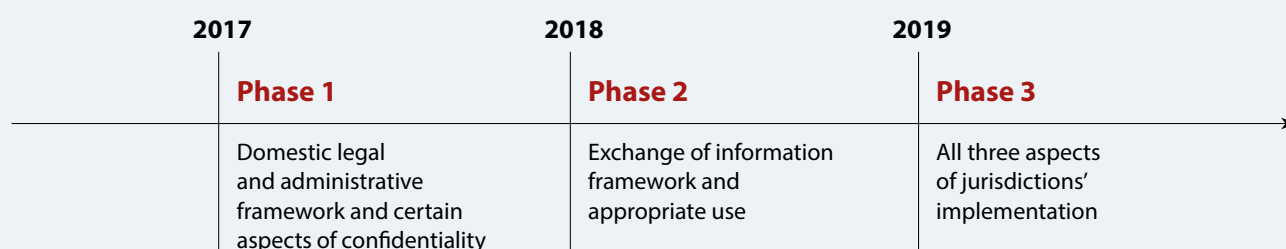
Action 6 – Treaty shopping

Peer review timeline for all IF members



Action 13 – Country-by-Country reporting

Peer review timeline for all IF members



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

Action 14 – Mutual agreement procedures*

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

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

Annex D – Updated BEPS indicators

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

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

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

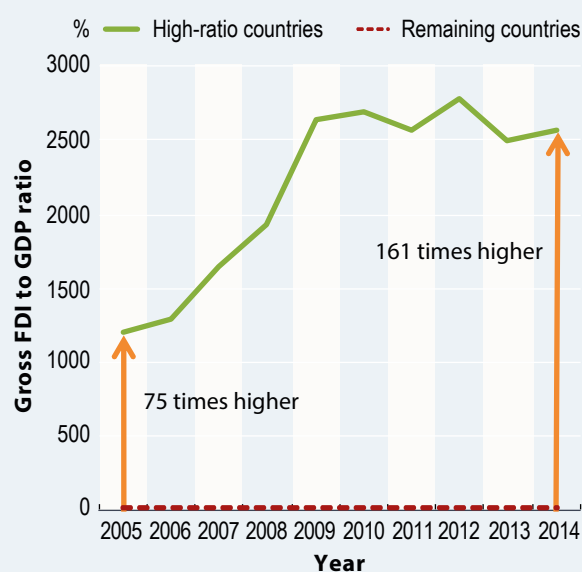
Some of the key insights that can be drawn from these updated BEPS indicators are:

- **Foreign direct investment is concentrated.**

Significantly high concentrations of foreign direct investment (FDI) relative to gross domestic product (GDP) in a relatively small number of countries could be an indication of BEPS, since GDP is a measure of real economic activity and FDI measures investment related both to real economic activity but also to purely financial activity including BEPS.

- The data shown in Figure 8 presents the average gross FDI to GDP ratios for a group of countries with high FDI to GDP ratios (solid dark line) and the same ratio for the average of all other remaining countries (dashed line). This indicator is calculated as the ratio of these two lines, represented by the arrows on Figure 8. The indicator shows an increasing concentration of FDI in countries with high FDI to GDP ratios.

Figure 8. Concentration of Foreign Direct Investment Relative to GDP



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

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

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

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

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

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

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

Figure 9. High profits of low-tax affiliates

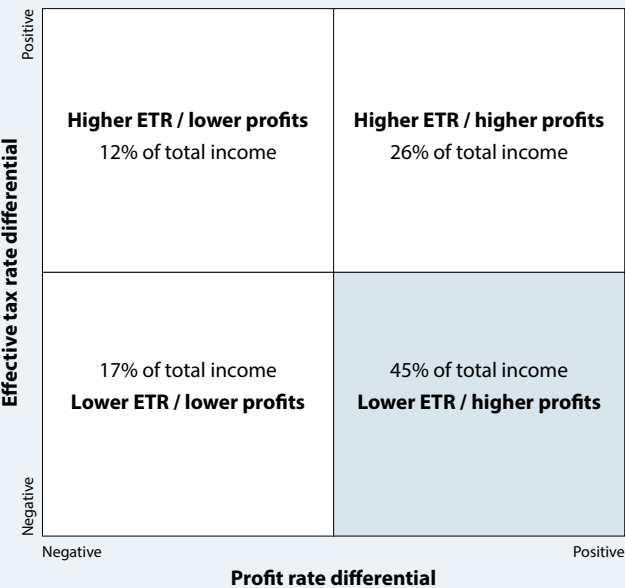
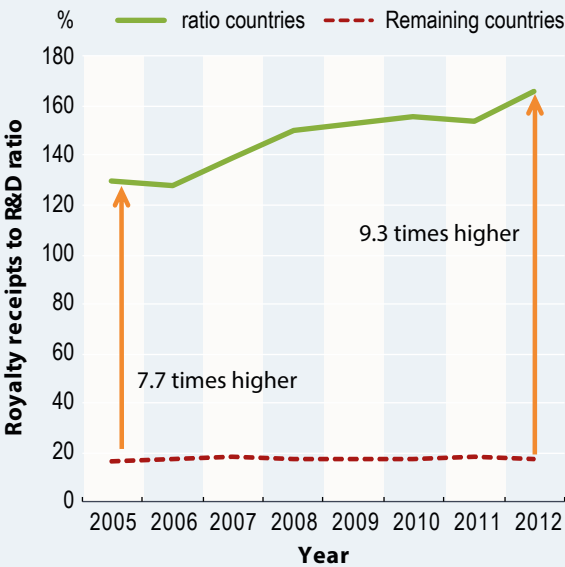


Figure 10. Concentration of royalty receipts relative to GDP

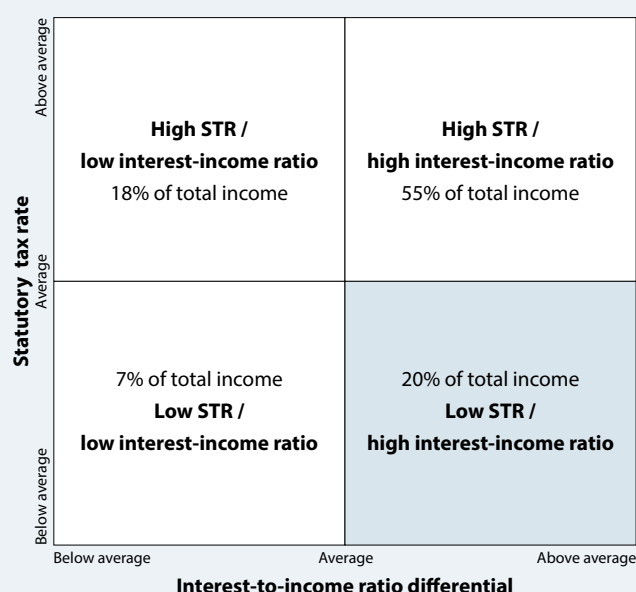


Debt from both related parties and third parties appears to be more concentrated in MNE affiliates in countries with higher statutory tax rates. The strategic allocation of debt to facilitate excessive interest deductions is one of the BEPS channels used by MNEs to reduce their worldwide tax liability.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

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

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

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



Further reading

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

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

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

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



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



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