

The
G20 Research Group
at Trinity College at the Munk School of Global Affairs and Public Policy
in the University of Toronto
presents the

2017 G20 Hamburg Summit Final Compliance Report

8 July 2017 to 30 October 2018

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29 November 2018

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“The University of Toronto ... produced a detailed analysis to the extent of which each G20 country has met its commitments since the last summit ... I think this is important; we come to these summits, we make these commitments, we say we are going to do these things and it is important that there is an organisation that checks up on who has done what.”

— *David Cameron, Prime Minister, United Kingdom, at the 2012 Los Cabos Summit*

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PART TWO: CIIR ASSESSMENTS

11. International Taxation: Base Erosion and Profit Shifting

“We remain committed to the implementation of the Base Erosion and Profit Shifting.”

G20 Leaders’ Declaration: Shaping an Interconnected World

Assessment

	No Compliance	Partial Compliance	Full Compliance
Argentina			+1
Australia			+1
Brazil			+1
Canada			+1
China			+1
France			+1
Germany			+1
India			+1
Indonesia			+1
Italy			+1
Japan			+1
Korea			+1
Mexico			+1
Russia			+1
Saudi Arabia			+1
South Africa			+1
Turkey			+1
United Kingdom			+1
United States			+1
European Union			+1
Average		+1.00	

Background

On 19 July 2013, the Organisation for Economic Co-operation and Development (OECD) issued the Action Plan on Base Erosion and Profit Shifting (BEPS). On 6 September 2013, at the St. Petersburg Summit, the G20 leaders committed to automatic exchange of information as the new global standard and fully supported the OECD’s work. Implementation details of the BEPS Action Plan developed thereafter constitute the BEPS package with 15 actions that equip governments with the domestic and international instruments needed to tackle BEPS. Countries were provided a tool to ensure that profits are taxed where economic activities generating the profits are performed and where value is created. The BEPS package also gives businesses greater certainty by reducing disputes over the application of international tax rules and standardizing compliance requirements. To expand the coverage of measures to tackle BEPS, the inclusive framework was developed, bringing together over 100 countries and jurisdictions to collaborate on the implementation of the OECD/G20 BEPS package.⁵²³² Commitments to address BEPS were reiterated at all subsequent G20 summits.

⁵²³²About BEPS and the inclusive framework, OECD (Paris). Access Date: 30 March 2018.
<http://www.oecd.org/tax/beps/beps-about.htm>

Commitment Features

This commitment requires G20 members to implement measures consistent with the Action Plan on Base Erosion and Profit Shifting.

According to the OECD, its members and G20 members along with developing countries that participated in the development of the BEPS package are establishing a modern international tax framework under which profits are taxed where economic activity and value creation occur. Work will be carried out to support all countries interested in implementing and applying the rules in a consistent and coherent manner, particularly those for which capacity building is an important issue.⁵²³³ Thus, in order to fully comply with this commitment, G20 members should implement OECD recommendations on BEPS embodied in 15 BEPS Actions both to directly limit opportunities for profit shifting practices and support the expansion of the BEPS framework coverage on developing countries. BEPS action focus on the following issues:

- Action 1 addresses the tax challenges of the digital economy and identifies the main difficulties that the digital economy poses for the application of existing international tax rules.
- Action 2 develops model treaty provisions and recommendations regarding the design of domestic rules to neutralize the effects of hybrid instruments and entities (e.g. double non-taxation, double deduction, long-term deferral).
- Action 3 sets out recommendations to strengthen the rules for the taxation of controlled foreign corporations (CFC).
- Action 4 outlines a common approach based on best practices for preventing base erosion through the use of interest expense, for example through the use of related-party and third-party debt to achieve excessive interest deductions or to finance the production of exempt or deferred income.
- Action 5 revamps the work on harmful tax practices with a focus on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for preferential regimes, such as IP regimes.
- Action 6 develops model treaty provisions and recommendations regarding the design of domestic rules to prevent treaty abuse.
- Action 7 contains changes to the definition of permanent establishment to prevent its artificial circumvention, e.g. via the use of commissionaire structures and the likes.
- Actions 8 — 10 contain transfer pricing guidance to assure that transfer pricing outcomes are in line with value creation in relation to intangibles, including hard-to-value ones, to risks and capital, and to other high-risk transactions.

⁵²³³The BEPS Package, OECD (Paris). Access Date: 30 March 2018. <http://www.oecd.org/tax/beps/beps-about.htm#BEPSPackage>

- Action 11 establishes methodologies to collect and analyze data on BEPS and the actions to address it, develops recommendations regarding indicators of the scale and economic impact of BEPS and ensure that tools are available to monitor and evaluates the effectiveness and economic impact of the actions taken to address BEPS on an ongoing basis.
- Action 12 contains recommendations regarding the design of mandatory disclosure rules for aggressive tax planning schemes, taking into consideration the administrative costs for tax administrations and business and drawing on experiences of the increasing number of countries that have such rules.
- Action 13 contains revised guidance on transfer pricing documentation, including the template for country-by-country reporting, to enhance transparency while taking into consideration compliance costs.
- Action 14 develops solutions to address obstacles that prevent countries from solving treaty-related disputes under MAP, via a minimum standard in this area as well as a number of best practices. It also includes arbitration as an option for willing countries.
- Action 15 provides an analysis of the legal issues related to the development of a multilateral instrument to enable countries to streamline the implementation of the BEPS treaty measures, as well as the mandate to carry out that work in 2016. On 7 June 2017, over 70 ministers and other high-level representatives participated in the signing ceremony of this multilateral instrument, the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. Thus, in terms of Action 15 G20 members are required to become signatories to the Multilateral Convention.⁵²³⁴

Particular elements of each of the BEPS Actions are described in relevant reports⁵²³⁵ and summarized in the special Explanatory Statement.⁵²³⁶

Measures to support other countries interested in applying anti-BEPS rules may include: membership in the Inclusive Framework on BEPS;⁵²³⁷ organizing different events on BEPS issues, for instance regional meetings and seminars, and public consultations; implementing programs aimed at capacity-building and exchange of experience.⁵²³⁸

Commitment on BEPS is a pledge, which the G20 leaders make every summit since St.Petersburg (2013). The deadline for the implementation is 2019. G20 research team tracks the progress made by

⁵²³⁴ BEPS Actions, OECD (Paris). Access Date: 20 March 2018. <http://www.oecd.org/tax/beps/beps-actions.htm>

⁵²³⁵ BEPS Actions, OECD (Paris) Access Date: 20 March 2018. <http://www.oecd.org/tax/beps/beps-actions.htm>

⁵²³⁶ BEPS 2015 Final Reports Executive Summaries, OECD (Paris) Access Date: 20 March 2018.

<http://www.oecd.org/ctp/beps-reports-2015-executive-summaries.pdf>

⁵²³⁷ BEPS Inclusive Framework Composition. OECD (Paris) 6 July 2017. Access Date: 20 March 2018.

<http://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf>

⁵²³⁸ Background Brief: Inclusive Framework for BEPS Implementation, OECD (Paris) January 2017. Access Date: 20 March 2018. <http://www.oecd.org/tax/background-brief-inclusive-framework-for-beps-implementation.pdf>

G20 members every year. Actions taken before the compliance period (in this case 9 July 2017) are taken into account to present a more fair picture and show the progress members made.

Full compliance requires member's actions in line with these requirements to be taken during the compliance period. Actions in line with the indicated requirements taken prior to the compliance period lead to partial compliance. If the G20 member has not taken any actions consistent with the BEPS package it receives a score of -1.

Scoring Guidelines

-1	G20 member does not makes progress in implementing domestic reforms consistent with the BEPS package OR supports countries interested in applying anti-BEPS rules during the compliance period, AND has not managed to implement some reforms to address BEPS before the compliance cycle started
0	G20 member does not makes progress in implementing domestic reforms consistent with the BEPS package OR supports countries interested in applying anti-BEPS rules during the compliance period BUT has managed to implement some reforms to address BEPS before the compliance cycle started
+1	G20 member makes progress in implementing domestic reforms consistent with the BEPS package OR supports countries interested in applying anti-BEPS rules during the compliance period

Argentina: +1

Argentina has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

During 2016 and at the beginning of 2017, tax reform proposals were introduced in Argentina, including tax amnesty and voluntary disclosure regime for local residents; repeal of the 10 per cent withholding tax on dividends paid to non-resident investors; elimination of the minimum presumed income tax in 2019; update of the income tax thresholds and rates for individuals; and reduction of the wealth tax burden.⁵²³⁹

On 7 June 2017, Argentina signed the multilateral instrument (BEPS Action 6).⁵²⁴⁰

On 20 September 2017, Resolution N° 4,130-E was published in the official gazette with the requirements for country-by-country (CbC) reporting in Argentina.⁵²⁴¹ The measures in Title 1 of the resolution generally reflect standard CbC reporting requirements such as the EUR750 million threshold and type of information to be reported (BEPS Action 13).

⁵²³⁹ Argentina-Response to BEPS, KMPG Argentina (Buenos Aires). Access Date: 18 December 2017.

<https://home.kpmg.com/xx/en/home/insights/2016/04/beps-action-plan-argentina.html#2>.

⁵²⁴⁰ BEPS Actions implementation by country.-Argentina, Deloitte (Buenos Aires) August 2017. Access Date: 18 December 2017. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-argentina.pdf>.

⁵²⁴¹ Argentina: Country-by-country reporting rules. Access Date: 18 December 2017.

<https://home.kpmg.com/xx/en/home/insights/2017/09/tnf-argentina-cbc-reporting-rules.html>.

On 26 March 2018, the Argentine tax administration (AFIP) extended the deadline for taxpayers to comply with a notification requirement under the country-by-country (CbC) reporting regime.⁵²⁴² The new deadline is 2 May 2018 for those taxpayers whose “ultimate parent company” of a multinational entity (MNE) group has a fiscal year ended as of December 2017.

On 24 October 2018, the Argentine tax authorities (AFIP) released information about country-by-country (CbC) reporting, including a list of jurisdictions having agreements with Argentina.⁵²⁴³

During the compliance period Argentina has taken actions to implement the BEPS Action Plan.

Thus, it has received a score of +1.

Analyst: Elizaveta Safonkina

Australia: +1

Australia has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 8 September 2012, the Tax Laws Amendment was passed, the object of subdivision of which was to ensure the following amounts are appropriately brought to tax in Australia, consistent with the arm’s length principle: (a) profits which would have accrued to an Australian entity if it had been dealing at arm’s length, but, by reason of non–arm’s-length conditions operating between the entity and its foreign associated entities, have not so accrued; (b) profits which an Australian permanent establishment (within the meaning of the relevant international tax agreement) of a foreign entity might have been expected to make if it were a distinct and separate entity engaged in the same or similar activities under the same or similar conditions, but dealing wholly independently.⁵²⁴⁴

On 11 September 2015, the new Tax Laws Amendment was passed, in which the Multinational Anti-Avoidance Law, which applied as from 1 January 2016, aimed to tackle the artificial avoidance of Australian permanent establishments and broadly applied to significant global entities (members of a global group with annual global income of AUD 1 billion or more).⁵²⁴⁵

In March 2016, Australia adopted the Action 2 Report recommendations (each an OECD recommendation), with some minor modifications as recommended throughout the report. (The topic of BEPS Action 2 is: Neutralising the effects of branch mismatch arrangements.) The hybrid mismatch rules will commence in Australia for payments made on or after the later of 1 January 2018 or six months after the hybrid mismatch legislation receives royal assent. A simple dual inclusion income approach will be taken to avoid unnecessary complexity and minimise compliance costs for taxpayers. Excess amounts disallowed will be able to be carried forward to set off against dual inclusion income in another period. Consideration will be given to possible mechanisms to reduce

⁵²⁴² Argentina: Country-by-country notification deadline extended to 2 May 2018. Access Date: 31 October 2018. <https://home.kpmg.com/xx/en/home/insights/2018/10/tnf-argentina-cbc-reporting-domestic-subsidiaries-of-us-multinational-entities.html>

⁵²⁴³ Argentina: Country-by-country reporting, domestic subsidiaries of U.S. multinational entities. Access Date: 29 October 2018. <https://home.kpmg.com/xx/en/home/insights/2018/10/tnf-argentina-cbc-reporting-domestic-subsidiaries-of-us-multinational-entities.html>.

⁵²⁴⁴ Tax Laws Amendment (Cross-Border Transfer Pricing) Act (No. 1) 2012, Federal Register of Legislation 11 September 2012. Access Date: 14 December 2017. <https://www.legislation.gov.au/Details/C2012A00115>

⁵²⁴⁵ Tax Laws Amendment (Combating Multinational Tax Avoidance) Act 2015, Federal Register of Legislation 16 December 2015. Access Date: 14 December 2017. <https://www.legislation.gov.au/Details/C2015A00170>

uncertainty and the potential compliance burden in applying the imported mismatch rule, whilst still ensuring an appropriate level of integrity.⁵²⁴⁶

On 7 June 2017, Australia signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS during a signing ceremony hosted by the OECD in Paris. The convention helps the fight against BEPS project in existing bilateral tax treaties in a synchronized and efficient manner. These measures will prevent treaty abuse, improve dispute resolution, prevent the artificial avoidance of permanent establishment status and neutralise the effects of hybrid mismatch arrangements.⁵²⁴⁷

On 27 November 2017, the Australian Taxation Office published that in the 2016-17 Budget, the Government announced it would implement the OECD hybrid mismatch rules developed by Action Item 2 of the OECD BEPS Action Plan, taking into account recommendations by the Board of Taxation.⁵²⁴⁸

On 27 September 2018, it was announced that Australia deposited with the OECD their instruments of ratification or acceptance of the treaty, called the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Instrument or BEPS MLI).⁵²⁴⁹

Australia has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Australia has received a score of +1.

Analyst: Arkadiy Khudyakov

Brazil: +1

Brazil has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 30 September 2015, Brazilian authorities released Provisional Measure 694/2015. PM 694 to amend the relevant legislation concerning the withholding of tax applicable to payments of interest

⁵²⁴⁶ Implementation of the OECD hybrid mismatch rules, The Board of Taxation March 2016. Access Date: 14 December 2017. <http://taxboard.gov.au/files/2016/05/Implementation-of-the-OECD-hybrid-mismatch-rules.pdf>

⁵²⁴⁷ 68 Countries Sign Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS, Tax and Transfer Policy Institute 8 June 2017. Access Date: 05 January 2018. <http://www.austaxpolicy.com/news/68-countries-sign-multilateral-convention-implement-tax-treaty-related-measures-prevent-beps/>

⁵²⁴⁸ Implementation of the OECD hybrid mismatch rules, Australian Taxation Office 27 November 2017. Access Date: 14 December 2017. <https://www.ato.gov.au/General/New-legislation/In-detail/Other-topics/International/Implementation-of-the-OECD-hybrid-mismatch-rules/>

⁵²⁴⁹ Australia, France, Japan, Slovak Republic ratify BEPS MLI, MNE Tax 28 September 2018. Access Date: 31 October 2018. <https://mnetax.com/australia-france-japan-slovak-republic-ratify-beps-mli-30051>

on net equity.⁵²⁵⁰ PM 696 also introduced a further limitation in relation to the calculation base for such payments.⁵²⁵¹ However, the Congress repealed the Provisional Measure. (Action 2)

On 3 November 2015, tax authorities tried to introduce a mandatory disclosure through Medida Provisória nº 685, but it was rejected by congress.⁵²⁵² (Action 12)

On 17 March 2016, law 13,259/2016 was published. It contains changes to the capital gains tax modifications originally included in PM 692 and introduces some changes to the controlled foreign corporation rules. Law 13,259/2016 revises the progressive rates, to a range from 15 per cent to 22.5 per cent.⁵²⁵³ (Action 3)

On 21 October 2016, Brazil signed the Multilateral Competent Authority Agreement on the exchange of country-by-country reports.⁵²⁵⁴ (Action 13)

On 21 February 2017, the tax authorities issued Normative Instruction No. 1,689, which regulates the dispute resolution mechanism.⁵²⁵⁵ (Action 14)

On 27 July 2017, BRICS Heads of Tax Authorities Meeting agreed on continuing to share experiences on the measures they take to address the challenges in implementing the outcomes of the G20 tax reform. They remain committed to the facilitation of economic growth, as well as the timely, consistent and widespread implementation of the BEPS project outcomes and call upon all relevant jurisdictions to join the Inclusive Framework on BEPS on an equal footing.⁵²⁵⁶

On 31 July 2017, Brazil and the United Kingdom highlighted the importance of their active participation in the work of the OECD/G20 Inclusive Framework on BEPS, the Global Forum on Transparency and Exchange of Information on Tax Matters, and also the implementation of initiatives to the automatic exchange of information for tax purposes, with reference to financial assets and income, tax rulings and country-by-country reporting by multinational groups.⁵²⁵⁷

⁵²⁵⁰ Brazil: Changes to the calculation basis, International tax review, 29 October 2015, Access Date: 26 December 2017. <http://www.internationaltaxreview.com/Article/3501642/Brazil-Changes-to-the-calculation-basis-and-withholding-tax-for-interest-on-net-equity-payments.html>

⁵²⁵¹ Brazil: Changes to the calculation basis, International tax review, 29 October 2015, Access Date: 26 December 2017. <http://www.internationaltaxreview.com/Article/3501642/Brazil-Changes-to-the-calculation-basis-and-withholding-tax-for-interest-on-net-equity-payments.html>

⁵²⁵² Nota sobre a Medida Provisória nº 685, Portal Brazil, 5 November 2015, Access Date: 26 December 2017. <http://idg.receita.fazenda.gov.br/noticias/ascom/2015/novembro/nota-sobre-a-medida-provisoria-no-685-1>

⁵²⁵³ Lei Nº 13.259, de 16 de março de 2016, Chamber of Deputies, 16 March 2016, Access Date 26 December 2017. <http://www2.camara.leg.br/legin/fed/lei/2016/lei-13259-16-marco-2016-782560-norma-actualizada-pl.html>

⁵²⁵⁴ Signatories of the multilateral competent authority agreement on the exchange of country-by-country reports (CBC MCAA) and signing dates, OECD, 19 December 2017, Access Date: 26 December 2017. <https://www.oecd.org/tax/beps/CbC-MCAA-Signatories.pdf>

⁵²⁵⁵ Instrução normativa RFB Nº 1689, de 20 de fevereiro de 2017, Receita Federal, 21 February 2017, Access Date: 26 December 2017. <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=80650>

⁵²⁵⁶ Communiqué of BRICS Heads of Tax Authorities Meeting issued in Hangzhou on 27 July 2017, Portal Brazil, 27 July 2017, Access Date: 26 December 2017. <http://idg.receita.fazenda.gov.br/noticias/ascom/2017/julho/receita-federal-participa-de-reuniao-dos-paises-brics/communique-meeting-of-brics-heads-of-tax-authorities.pdf>

⁵²⁵⁷ Joint statement by the Finance Minister of Brazil and the Chancellor of the Exchequer at the 2nd UK-Brazil Economic and Financial Dialogue held in Brasília on 31 July 2017, UK government web site, 31 July 2017, Access Date: 26 December 2017. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/637058/UK-Brazil_2nd_Economic_and_Financial_Dialogue_-_Joint_Statement.pdf

On 3 May 2018, Brazil and Switzerland signed a treaty for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance (the Treaty). The Treaty includes provisions based on the OECD BEPS action plan, such as Action 6 (preventing the granting of treaty benefits inappropriate circumstances) and Action 14 (making dispute resolution mechanisms more effective).⁵²⁵⁸

On 7 May 2018, Brazil and Singapore signed an income tax treaty (the Treaty). The Treaty contains a number of treaty-based recommendations from the BEPS project contained in Action 6 (preventing the granting of treaty benefits inappropriate circumstances).⁵²⁵⁹

Brazil has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Brazil has received a score of +1.

Analyst: Logvinenko Dmitriy

Canada: +1

Canada has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 22 March 2016, Canada released its federal budget, which indicated that Canada plans to follow the revised OECD transfer pricing guidelines.⁵²⁶⁰

On 22 April 2016, the Canada Revenue Agency released Income Tax Information Circular IC70-6R7, Advance Income Tax Rulings and Technical Interpretations, which contains new measures in paragraphs 54 and 55 under the heading “Exchange of Information and Rulings under BEPS Action 5.” These paragraphs indicate Canada’s commitment to the spontaneous exchange of information on tax rulings with participating countries in five areas: cross-border rulings related to preferential regimes; cross-border rulings related to transfer pricing; cross-border rulings related to a download adjustment not directly reflected in the taxpayer’s accounts; permanent establishment rulings; and related-party conduit rulings.⁵²⁶¹

On 15 December 2016, Canada passed the final legislation to implement country-by-country (CbC) reporting requirements for Canadian multinational enterprises.⁵²⁶²

On 3 February 2017, the Canada Revenue Agency released the prescribed form (RC4649) to be used for CbC reporting.⁵²⁶³

⁵²⁵⁸ Global Tax Alert , Ernst&Young 21 May 2018. Access Date: 31 October 2018.

<https://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---21-may-2018>

⁵²⁵⁹ Global Tax Alert , Ernst&Young 21 May 2018. Access Date: 31 October 2018.

<https://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---21-may-2018>

⁵²⁶⁰ BEPS Actions Implementation by country. Canada, Deloitte July 2017. Access Date: 4 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-canada.pdf>

⁵²⁶¹ BEPS Actions Implementation by country. Canada, Deloitte July 2017. Access Date: 4 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-canada.pdf>

⁵²⁶² BEPS Actions Implementation by country. Canada, Deloitte July 2017. Access Date: 4 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-canada.pdf>

On 2 March 2017, the Canada Revenue Agency released detailed guidance in RC4651.⁵²⁶⁴

On 7 June 2017, Canada signed the OECD's Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. Once in effect, it will modify up to 75 of Canada's bilateral tax treaties (referred to as Covered Tax Agreements). The most significant modification will be to add a broad anti-avoidance rule into these tax treaties, referred to as the principal purpose test.⁵²⁶⁵

On 22 March 2017, the Canadian government released its budget for 2017. The Canadian government did not propose any specific BEPS-related changes to its domestic legislation but reiterated its intention to ensure that its tax system meets all of the minimum standards agreed to under the OECD's BEPS project.⁵²⁶⁶

On 31 January 2018, the OECD's Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting was tabled in the House of Commons. This is the first step in the process for Canada to ratify the convention, which it signed in June 2017.⁵²⁶⁷

On 28 May 2018, Finance Minister Bill Morneau tabled a Notice of Ways and Means Motion in the House of Commons formalizing the Government's intention to introduce legislation that would enact the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting—also known as the Multilateral Instrument or MLI—into Canadian law. A global initiative developed by over 100 jurisdictions, the MLI is aimed at countering tax avoidance strategies that lead to base erosion and profit shifting (BEPS), in which businesses and wealthy individuals use tax treaty loopholes to inappropriately shift profits to low-tax or no-tax locations, to avoid paying taxes⁵²⁶⁸.

Canada has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Canada has received a score of +1.

Analysts: Belichenko Angelina and Uliana Koptiyukh

⁵²⁶³ BEPS Actions Implementation by country. Canada, Deloitte July 2017. Access Date: 4 December 2017. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-canada.pdf>

⁵²⁶⁴ BEPS Actions Implementation by country. Canada, Deloitte July 2017. Access Date: 4 December 2017. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-canada.pdf>

⁵²⁶⁵ New PPT rule in the OECD's Multilateral Instrument to displace Canadian GAAR? Osler 27 November 2017. Access Date: 19 December 2017. https://www.osler.com/en/resources/regulations/2017/new-ppt-rule-in-the-oecd-s-multilateral-instrument?utm_source=Mondaq&utm_medium=syndication&utm_campaign=View-Original

⁵²⁶⁶ Canada - response to BEPS, KPMG 31 May 2017. Access Date: 4 December 2017. <https://home.kpmg.com/xx/en/home/insights/2016/04/beps-action-plan-canada.html>

⁵²⁶⁷ Canada begins ratification process for multilateral tax convention to implement BEPS, Osler 7 February 2018. <https://www.osler.com/en/resources/regulations/2018/canada-begins-ratification-process-for-multilateral-tax-convention-to-implement-beps> ⁵²⁶⁷ Canada Takes Next Step in Fight Against Aggressive International Tax Avoidance. Department of Finance Canada. Access Date: 22 October 2018. <https://www.canada.ca/en/department-finance/news/2018/05/canada-takes-next-step-in-fight-against-aggressive-international-tax-avoidance.html>

⁵²⁶⁸ Canada Takes Next Step in Fight Against Aggressive International Tax Avoidance. Department of Finance Canada. Access Date: 22 October 2018. <https://www.canada.ca/en/department-finance/news/2018/05/canada-takes-next-step-in-fight-against-aggressive-international-tax-avoidance.html>

China: +1

China has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 1 December 2014, Chinese taxation authorities pledged to step up the supervision of multinational companies in a campaign to crack down on tax avoidance. Zhang Zhiyong, deputy director of the State Administration of Taxation, said China will comprehensively monitor the profit levels of foreign companies to make sure there is no “base erosion and profit shifting.”⁵²⁶⁹

On 3 February 2015, Zhang Zhiyong, deputy director of the State Administration of Taxation (SAT), said during a meeting of tax officials that the administration is taking steps to “upgrade” the current taxation system through a multi-faceted project that includes greater international cooperation, modernization of the domestic taxation laws and fighting tax avoidance. Top government officials and those from taxation bureaus from all provinces and major cities participated in the meeting, underscoring the importance of the issue. Liao Tizhong, director of the international taxation department of the SAT, said one of the key tasks is to bring the current taxation laws in line with international standards, which means to complete the amendment of the current laws, especially the Tax Collection and Management Law and Individual Income Law. The amendment will absorb the latest international principles, especially an action plan being made under the G20 framework known as “base erosion and profit shifting,” Liao said.⁵²⁷⁰

On 9 October 2015, China pledged to promote a plan to stop multinational companies from avoiding taxes by shifting profits to destinations with lower corporate tax requirements. The plan was endorsed by G20 finance ministers on 9 October during the annual meetings of the World Bank and the International Monetary Fund in Lima, Peru.⁵²⁷¹

In February 2016, China signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. In addition, working in the transforming international taxation landscape, China has established an inclusive framework that consists of three aspects of administration, service and audit to tackle cross-border tax avoidance and protect national interests.⁵²⁷²

On 7 June 2017, Mainland China and 67 other jurisdictions signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS during a signing ceremony hosted by the OECD in Paris.⁵²⁷³

⁵²⁶⁹ China to prevent foreign companies from avoiding tax, Xinhua 2 December 2014.
http://english.gov.cn/state_council/ministries/2014/12/02/content_281475018241423.htm

⁵²⁷⁰ Officials vow to plug tax loopholes, China Daily 4 February 2015.
http://english.gov.cn/state_council/ministries/2015/02/04/content_281475050001345.htm

⁵²⁷¹ China to actively promote tax implementation, Site of Central People’s Government of the People’s Republic of China (English version) 9 October 2015.

http://english.gov.cn/news/video/2015/10/12/content_281475209983343.htm
⁵²⁷² Taxation in China, one step closer to modernization, China Daily 11 May 2016.

http://english.gov.cn/news/top_news/2016/05/11/content_281475346592189.htm

⁵²⁷³ Mainland China signs Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS, Ernst&Young 29 August 2017. Access Date: 28 March 2018.
http://www.ey.com/Publication/vwLUAssets/Mainland_China_signs_Multilateral_Convention_to_Implement_Tax_Treaty_Related_Measures_to_Prevent_BEPS/USDFILE/2017G_04865-171Gbl_Mainland%20CN%20signs%20MC%20to%20Implement%20Tax%20Treaty%20Related%20Measures%20to%20Prevent%20BEPS.pdf

On 7 February 2018, India's Union Cabinet agreed to sign a protocol to amend the 1994 income tax treaty with China, which will include BEPS project measures (i.e., Actions 6 and 14).⁵²⁷⁴

On 20 July 2018, Chinese authorities have released a plan to reform national and local taxation to create a more efficient, unified tax collection system. The plan, released by the General Office of the Communist Party of China Central Committee and the General Office of the State Council, detailed the main tasks and principles of the reform. Functions of taxation institutions will be optimized and resource allocation improved to increase tax-policy transparency and consistency.⁵²⁷⁵

China has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, China has received a score of +1.

Analyst: Anna Tsvetkova

France: +1

France has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 1 October 2016, France published law N° 2015-1785 in the Journal officiel de la République française (JORF) introducing article 223 to the General Tax Code. It obliges companies with consolidated global turnover equal to more than EUR750 million to file a country-by-country (CbC) declaration to facilitate transfer pricing control.⁵²⁷⁶

On 8 July 2017, a ministerial order presenting the list of countries with which France will exchange CbC reporting information automatically and bilaterally was published in France's official journal.⁵²⁷⁷

On 13 September 2017, the French Finance Committee interviewed Pascal Saint-Amans, Director of the OECD Center for Tax Policy and Administration, on the Action Plan on Base Erosion and Profit Shifting which should allow making further progress in implementing the BEPS package.⁵²⁷⁸

On 16 September 2017, France officially published the draft law authorizing the approval of the Convention with the Republic of Singapore. It aims at preventing double taxation and tax evasion as well as fraud in income taxes and includes an anti-abuse clause.⁵²⁷⁹

⁵²⁷⁴ India to Sign Protocol to Amend Income Tax Treaty with China, Includes BEPS Measures, Reuters 22 February 2018. Access Date: 28 March 2018. <https://tax.thomsonreuters.com/blog/india-to-sign-protocol-to-amend-income-tax-treaty-with-china-includes-beps-measures/>

⁵²⁷⁵ China releases tax reform plan, Xinhua 20 July 2018. Access Date: 20.10.2018. http://english.gov.cn/policies/latest_releases/2018/07/20/content_281476230107430.htm

⁵²⁷⁶ Décret n° 2016-1288 du 29 septembre 2016 pris pour l'application de l'article 223 quinquies C du code général des impôts, Legifrance 01 October 2016. Access Date: 16 December 2017. <https://www.legifrance.gouv.fr/eli/decret/2016/9/29/ECFE1601202D/jo/texte>

⁵²⁷⁷ Arrêté du 6 juillet 2017 pris en application du II de l'article 223 quinquies C du code général des impôts, Legifrance 8 July 2017. Access Date: 24 December 2017. <https://www.legifrance.gouv.fr/eli/arrete/2017/7/6/ECOE1714076A/jo/texte>

⁵²⁷⁸ Compte rendu n° 14 - Commission des finances, de l'économie générale et du contrôle budgétaire, Assemblée nationale 13 September 2017. Access Date: 16 December 2017. <http://www.assemblee-nationale.fr/15/pdf/cr-cfiab/16-17/c1617014.pdf>

On 29 September 2017, France participated in the Tallinn Digital Summit between European Heads of State and Government with an agenda initiative that was dedicated to digital taxation.⁵²⁸⁰ The Summit was aimed at ensuring that tech giants pay a fair contribution on their earnings in the country where their turnover is actually made.⁵²⁸¹ France and 3 other European countries agreed to pool their efforts in pushing for Google, Apple, Facebook and Amazon to pay fair, coherent taxes in Europe.⁵²⁸²

On 5 October 2017, Bruno Le Maire, Minister of Economy and Finance, and Mounir Mahjoubi, Minister of State for the Digital Sector signed three decrees to tighten the transparency and loyalty obligations of websites and social media platforms. In the future, the platforms will have to specify their listing and classification criteria. Collaborative economy websites will also be required to provide information about the type of seller and the contact service fees amount.⁵²⁸³

On 6 November 2017, the National Assembly of France adopted the amendment N°II-CF463 to the French Book of Tax Procedures, which develops a transfer pricing documentation standard.⁵²⁸⁴

On 4 December 2017, the French National Assembly adopted the 2018 French Social Security Finance and Income Tax Bills. These bills introduce some changes to the income tax and social security rates and bands in France and are expected to come into effect on 1 January 2018. Among the new changes, the bill contains new anti-abuse provision.⁵²⁸⁵

On 19 April 2018, the French Senate unanimously approved the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI). The MLI has been sent to the French National Assembly for further approval. The MLI will enter into force for France on the first day of the month following the expiration of a period of three calendar months beginning on the date of the deposit of the instrument of ratification of the MLI with the OECD.⁵²⁸⁶

France has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, France has received a score of +1.

Analysts: Diana Kovrigina, Ekaterina Rosolovskaya and Anastasiia Shkrebo

⁵²⁷⁹ Projet de loi autorisant l'approbation de la convention avec la République de Singapour en vue d'éviter les doubles impositions et de prévenir l'évasion et la fraude fiscales en matière d'impôts sur le revenu, Sénat 16 September 2017. Access Date: 16 December 2017. <http://www.senat.fr/rap/l15-385/l15-3856.html>

⁵²⁸⁰ Regulation of the digital economy in France and Europe, Gouvernement français 6 October 2017. Access Date: 24 December 2017. <http://www.gouvernement.fr/en/regulation-of-the-digital-economy-in-france-and-europe>

⁵²⁸¹ Regulation of the digital economy in France and Europe, Gouvernement français 6 October 2017. Access Date: 24 December 2017. <http://www.gouvernement.fr/en/regulation-of-the-digital-economy-in-france-and-europe>

⁵²⁸² Regulation of the digital economy in France and Europe, Gouvernement français 6 October 2017. Access Date: 24 December 2017. <http://www.gouvernement.fr/en/regulation-of-the-digital-economy-in-france-and-europe>

⁵²⁸³ Regulation of the digital economy in France and Europe, Gouvernement français 6 October 2017. Access Date: 24 December 2017. <http://www.gouvernement.fr/en/regulation-of-the-digital-economy-in-france-and-europe>

⁵²⁸⁴ Amendement N°II-CF463, Assemblée nationale 6 November 2017. Access Date: 16 December 2017.

http://www.assemblee-nationale.fr/15/amendements/0235C/CIION_TOUTE/CF463.asp

⁵²⁸⁵ Projet de loi de financement de la sécurité sociale pour 2018, Sénat 22 December 2017. Access Date: 24 December 2017.

http://www.senat.fr/espace_presse/actualites/201710/projet_de_loi_de_financement_de_la_securite_sociale_pour_2018.html

⁵²⁸⁶ Global Tax Alert, Ernst&Young 21 May 2018. Access Date: 31 October 2018.

<https://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---21-may-2018>

Germany: +1

Germany has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 11 November 2014, the United Kingdom and German governments announced in a joint statement that they had agreed on a proposal in relation to the work on harmful tax practices carried out under BEPS Action 5.⁵²⁸⁷ The proposal is based on the Nexus Approach which was set forth as the preferred approach in the report issued by the OECD on 16 September 2014, Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance.⁵²⁸⁸

On 17 December 2015, representatives of Germany and Japan signed a revised income tax treaty and a protocol that will replace the existing 1966 treaty.⁵²⁸⁹ The new treaty and protocol include some of the OECD recommendations under BEPS Actions 2 and 6. It modified the provisions on business profits, expanding the extent of reduction and exemption of taxation on investment income, introducing the provisions for assistance in the collection of taxes, and reinforcing the provisions for the exchange of information concerning tax matters, while avoiding double taxation and preventing international tax evasion and tax avoidance.⁵²⁹⁰

On 18 July 2016, the German government adopted the law on modernizing the taxation process.⁵²⁹¹ The law places emphasize on the increase in cost-effectiveness and efficiency through more extensive use of information technology and creating a service-oriented taxation process.⁵²⁹²

⁵²⁸⁷ Proposals for new rules for preferential IP regimes: Germany-UK joint statement, Government of the UK 11 November 2014. Access Date: 20 December 2017. <https://www.gov.uk/government/publications/proposals-for-new-rules-for-preferential-ip-regimes-germany-uk-joint-statement>.

⁵²⁸⁸ The Latest on BEPS - 24 November 2014, Ernst & Young 24 November 2014. Access Date: 20 December 2017. <http://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---24-november-2014>

⁵²⁸⁹ Gesetz zu dem Abkommen vom 17. Dezember 2015 zwischen der Bundesrepublik Deutschland und Japan zur Beseitigung der Doppelbesteuerung auf dem Gebiet der Steuern vom Einkommen und bestimmter anderer Steuern sowie zur Verhinderung der Steuerverkürzung und -umgehung vom 18. Juli 2016, Federal Ministry of Finance 25 July 2016. Access Date: 20 December 2017. http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales_Steuerrecht/S taatenbezogene_Informationen/Laender_A_Z/Japan/2016-07-25-Japan-Abkommen-DBA-Gesetz.pdf?__blob=publicationFile&v=6

⁵²⁹⁰ Gesetz zu dem Abkommen vom 17. Dezember 2015 zwischen der Bundesrepublik Deutschland und Japan zur Beseitigung der Doppelbesteuerung auf dem Gebiet der Steuern vom Einkommen und bestimmter anderer Steuern sowie zur Verhinderung der Steuerverkürzung und -umgehung vom 18. Juli 2016, Federal Ministry of Finance 25 July 2016. Access Date: 20 December 2017. http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales_Steuerrecht/S taatenbezogene_Informationen/Laender_A_Z/Japan/2016-07-25-Japan-Abkommen-DBA-Gesetz.pdf?__blob=publicationFile&v=6

⁵²⁹¹ Gesetz zur Modernisierung des Besteuerungsverfahrens vom 18. Juli 2016, Federal Ministry of Finance 22 July 2016. Access Date: 20 December 2017. http://www.bundesfinanzministerium.de/Content/DE/Gesetzestexte/Gesetze_Gesetzesvorhaben/Abteilungen/Abteilung_IV/18_Legislaturperiode/Gesetze_Verordnungen/2016-07-22-Steuermodernisierungsgesetz/3-Verkuendetes-Gesetz.pdf?__blob=publicationFile&v=2

⁵²⁹² Gesetz zur Modernisierung des Besteuerungsverfahrens vom 18. Juli 2016, Federal Ministry of Finance 22 July 2016. Access Date: 20 December 2017. http://www.bundesfinanzministerium.de/Content/DE/Gesetzestexte/Gesetze_Gesetzesvorhaben/Abteilungen/Abteilung_IV/18_Legislaturperiode/Gesetze_Verordnungen/2016-07-22-Steuermodernisierungsgesetz/3-Verkuendetes-Gesetz.pdf?__blob=publicationFile&v=2

On 7 December 2016, the agreement between Australia and Germany for the elimination of double taxation with respect to taxes on income and capital and the prevention of fiscal evasion and avoidance entered into force. It was signed on 12 November 2016 and covered such issues as the elimination of double taxation and the prevention of tax cuts and evasion.⁵²⁹³

On 27 June 2017, the German government approved the Act against Harmful Tax Practices in connection with the licensing of intellectual property rights. The act intends to limit the tax deductibility of cross-border license fees for the right to use intellectual property. Tax regimes are based on the Nexus Approach described in OECD BEPS Action 5.⁵²⁹⁴

On 15 September 2017, following the informal meeting of the Economic and Financial Affairs Council (Ecofin) of the European Union held in Tallinn, the European Commission published its Communication on a fair and efficient tax system in the European Union for the digital single market. The document presents the critical challenges in taxing businesses that provide services digitally and proposes both long-term — a fundamental reform of the international corporate tax framework — and short-term solutions, such as the introduction of an equalization tax on turnover, a withholding tax on digital transactions or a levy on revenues generated from the provision of digital services or advertising activity. Germany agreed to the proposals.⁵²⁹⁵

On 29 September 2017, France participated in the Tallinn Digital Summit between European Heads of State and Government with an agenda initiative that was dedicated to digital taxation.⁵²⁹⁶ The Summit was aimed at ensuring that tech giants pay a fair contribution on their earnings in the country where their turnover is actually made.⁵²⁹⁷

On 16 August 2018, the German MoF issued a circular on the spontaneous exchange of CbC reports between Germany and the United States concerning reporting fiscal year 2016. This follows a joint statement between Germany and the US that was released on 10 July 2018 and states the Competent Authorities intend to spontaneously exchange CbC reports for fiscal years of MNE groups commencing on or after 1 January 2016 and before 1 January 2017. Also, the two countries are

⁵²⁹³ Gesetz zu dem Abkommen vom 12. November 2015 zwischen der Bundesrepublik Deutschland und Australien zur Beseitigung der Doppelbesteuerung auf dem Gebiet der Steuern vom Einkommen und vom Vermögen sowie zur Verhinderung der Steuerverkürzung und -umgehung vom 11. Oktober 2016, Federal Ministry of Finance 17 October 2016. Access Date: 20 December 2017.

http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales_Steuern/S/taatenbezogene_Informationen/Laender_A_Z/Australien/2016-10-17-Australien-Abkommen-DBA-Gesetz.pdf?__blob=publicationFile&v=4

⁵²⁹⁴ Gesetz gegen schädliche Steuerpraktiken im Zusammenhang mit Rechteüberlassungen vom 27. Juni 2017, Federal Ministry of Finance 4 July 2017. Access Date: 20 December 2017.

http://www.bundesfinanzministerium.de/Content/DE/Gesetzestexte/Gesetze_Gesetzesvorhaben/Abteilungen/Abteilung_IV/18_Legislaturperiode/Gesetze_Verordnungen/2017-07-04-Gesetz-schaedliche-steuerpraktiken-rechteueberlassung/3-Verkuendetes-Gesetz.pdf?__blob=publicationFile&v=2

⁵²⁹⁵ Taxation: Commission sets out path towards fair taxation of the Digital Economy, European Commission 21 September 2017. Access Date: 20 December 2017. http://europa.eu/rapid/press-release_IP-17-3305_en.htm

⁵²⁹⁶ Regulation of the digital economy in France and Europe, Gouvernement français 6 October 2017. Access Date: 24 December 2017. <http://www.gouvernement.fr/en/regulation-of-the-digital-economy-in-france-and-europe>

⁵²⁹⁷ Regulation of the digital economy in France and Europe, Gouvernement français 6 October 2017. Access Date: 24 December 2017. <http://www.gouvernement.fr/en/regulation-of-the-digital-economy-in-france-and-europe>

currently negotiating a Competent Authority Agreement to allow for the automatic exchange of CbC reports.⁵²⁹⁸

Germany has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Germany has received a score of +1.

Analyst: Daria Evreeva

India: +1

India has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 17 May 2017, the Union Cabinet chaired by Prime Minister Shri Narendra Modi gave its approval for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.⁵²⁹⁹ The convention is an outcome of the OECD/G20 BEPS project to tackle base erosion and profit shifting through tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no overall corporate tax being paid.⁵³⁰⁰

On 6 October 2017, the Indian Tax Administration issued draft rules for country-by-country (CbC) reporting and the furnishing of the master file for public comments in keeping with India's commitment to implement the recommendations of 2015 Final Report on Action 13, titled "Transfer Pricing Documentation and Country-by-Country Reporting," identified under the OECD's BEPS Pproject, section 286 of the Income-tax Act, 1961 ('the Act') was inserted vide Finance Act, 2016, providing for furnishing of a CbC report in respect of an international group by its constituent or parent entity.⁵³⁰¹

On 31 October 2017, the Central Board of Direct Taxes announced the rules for maintaining and furnishing of transfer pricing documentation in the Master File and Country-by-Country report. Since it is the first reporting year for furnishing of the CbC report, the due date for filing for reportable accounting year 2016-17 has already been extended to 31 March 2018 vide Circular No. 26/2017 dated 25.10.2017. Similarly, the date of compliance for furnishing the master file for fiscal year 2016-17 has been extended to 31 March 2018 as a one-time relief measure.⁵³⁰²

⁵²⁹⁸ Global Tax Alert, Ernst&Young 27 August 2018. Access Date: 31 October 2018.

[https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_27_August_2018/\\$FILE/2018G_010940-18Gbl_The%20Latest%20on%20BEPS%20-%2027%20August%202018.pdf](https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_27_August_2018/$FILE/2018G_010940-18Gbl_The%20Latest%20on%20BEPS%20-%2027%20August%202018.pdf)

⁵²⁹⁹ Cabinet approves signing of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting by India, Press Information Bureau Government of India Cabinet 17 May 2017. Access Date: 17 May 2017. <http://pib.nic.in/newsite/PrintRelease.aspx?relid=161885>

⁵³⁰⁰ Cabinet approves signing of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting by India, Press Information Bureau Government of India Cabinet 17 May 2017. Access Date: 17 May 2017. <http://pib.nic.in/newsite/PrintRelease.aspx?relid=161885>

⁵³⁰¹ Framing of rules in respect of Country-by-Country reporting and furnishing of master file — comments and suggestions thereof, Press Information Bureau Government of India Ministry of Finance 6 October 2017. Access Date: 6 October 2017. <http://pib.nic.in/newsite/PrintRelease.aspx?relid=171450>

⁵³⁰² CBDT notifies rules in respect of Country-by-Country reporting and furnishing of Master File, Press Information Bureau Government of India Ministry of Finance 31 October 2017. Access Date: 1 November 2017. <http://pib.nic.in/newsite/printrelease.aspx?relid=173146>

On 07 February 2018, the Union Cabinet approved signing and ratification of protocol amending the agreement between India and China on avoidance of double taxation and prevention of fiscal evasion.⁵³⁰³

On 14 April 2018, the Central Board of Direct Taxation (CBDT) invited public comments on draft amendments to Rule Rule 44E, Form 34C, 34D and 34DA as per BEPS Action 5 to improve transparency in cross national transactions.⁵³⁰⁴

India has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, India has received a score of +1.

Analyst: Polina Sbtanko

Indonesia: +1

Indonesia has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

As of the compliance period, amendments to the Indonesian tax legislation or in place prior to committing to the BEPS Action Plan covered Action 3 (controlled foreign company provisions — already in place, not yet known if any additional amendments are planned), Action 4 (interest deduction — thin capitalization rule based on debt-to-equity approach), Action 6 (prevent treaty abuse — already in place), Actions 8-10 (transfer pricing — already in place, not yet known if any additional amendments are planned), Action 13 (transfer pricing documentation — three-tiered level of documentation introduced by Ministry of Finance effective for taxpayers with a tax year ending on or after 30 December 2016, with new thresholds for determining documentation); country-by-country (CbC) reporting — CbC report must be available within 12 months from the end of the tax year and must be filed with the annual corporate tax return for the subsequent tax year; Indonesia is also party to the Multinational Competent Authority Agreement on the exchange of CbC reports).⁵³⁰⁵

Indonesia has yet to address Action 1 (value-added tax on business to customers digital services — no indication of adopting recommendation), Action 2 (hybrids — no indication of adopting recommendation), Action 5 (harmful tax practices — no indication of adopting recommendation), Action 7 (permanent establishment status — no indication of adopting recommendation), Action 11 (methodology for data collection and analysis — no indication of adopting recommendation), Action

⁵³⁰³ Cabinet approves signing and ratification of protocol amending the Agreement between India and China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion. Access Date: 01 November 2018. <http://pib.nic.in/newsite/PrintRelease.aspx?relid=176361>

⁵³⁰⁴ CBDT invites comments on draft notification proposing amendment to Rule 44E, Form 34C, 34D and 34DA as per BEPS Action 5, for improving transparency in tax rulings. Access Date: 01 November 2018. <http://pib.nic.in/PressReleaseSelfFramePage.aspx?PRID=1529096>

⁵³⁰⁵ BEPS Actions implementation by country — Indonesia (by Deloitte). Access Date: 20 December 2017. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-indonesia.pdf>

12 (disclosure of aggressive tax planning — no indication of adopting recommendation), Action 14 (dispute resolution — no indication of adopting recommendation).⁵³⁰⁶

On 3 March 2017, Indonesia's Financial Services Authority announced it was preparing a number of regulations concerning adaptation of the financial services industry so that it could support the automatic exchange of tax information that is to be introduced by Indonesia from September 2018.⁵³⁰⁷

On 4 December 2017, the OECD released peer reviews assessing G20/OECD countries adherence to the BEPS standards for disclosing information on private tax rulings granted to multinational firms that might facilitate tax avoidance.⁵³⁰⁸ The peer review for Indonesia states its practices were in compliance with the BEPS standards.⁵³⁰⁹

In March 2018, the Directorate General of Taxation (DGT) published on its website a list of countries having an international agreement that provides for the exchange of information with Indonesia, as well as a list of Qualifying Competent Authority Agreements in place for each fiscal year. This information is relevant for determining whether an MNE group could be subject to local CbC report filing in Indonesia.⁵³¹⁰

Indonesia has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Indonesia has received a score of +1.

Analyst: Pavel Doronin

Italy: +1

Italy has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

⁵³⁰⁶ BEPS Actions implementation by country — Indonesia (by Deloitte). Access Date: 20 December 2017. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-indonesia.pdf>

⁵³⁰⁷ Press Release: OJK Issues Regulations to Support Automatic Exchange of Tax Information, Indonesia's Financial Services Authority 3 March 2017. Access Date: 17 April 2017. <http://www.ojk.go.id/en/berita-dan-kegiatan/siaran-pers/Pages/Press-Release-OJK-Issues-Regulations-to-Support-Automatic-Exchange-of-Tax-Information.aspx#sthash.wrtpanK4.dpuf>

⁵³⁰⁸ Peer review of OECD and G20 countries shows mixed progress on exchange of private tax ruling information, MNE Tax 4 December 2017. Access Date: 20 December 2017. <https://mnetax.com/peer-review-oecd-g20-countries-shows-mixed-progress-exchange-private-tax-ruling-information-24950>

⁵³⁰⁹ Harmful Tax Practices — Peer Review Reports on the Exchange of Information on Tax Rulings, OECD 4 December 2017. Access Date: 20 December 2017. http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/harmful-tax-practices-peer-review-reports-on-the-exchange-of-information-on-tax-rulings_9789264285675-en#page1

⁵³¹⁰ Global Tax Alert, Ernst&Young 26 March 2018. Access Date: 31 October 2018. [https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_26_March_2018/\\$FILE/2018G_01827-181Gbl_The%20Latest%20on%20BEPS%20-%2026%20March%202018.pdf](https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_26_March_2018/$FILE/2018G_01827-181Gbl_The%20Latest%20on%20BEPS%20-%2026%20March%202018.pdf)

Prior to the compliance period Italy has taken measures on several BEPS Actions: 1 (in force since 1 January 2015), 2 (in force since 1 January 2016), 5 (in force since 1 January 2015), 6 (in force since 1 January 2016), 13 and 14 (in force since 1 January 2016).⁵³¹¹

On 23 December 2017, the Italian Parliament approved the 2018 budget law which introduced a new tax on digital transactions and updated the concept of permanent establishment to make it more consistent with the OECD/G20 base erosion profit shifting (BEPS) report on Action 7.⁵³¹²

On 14 May 2018, the Italian Ministry of Economy and Finance issued a Ministerial Decree providing guidelines on the implementation of new domestic transfer pricing measures. The decree sets out general principles applied in the international practice making reference to the OECD Transfer Pricing Guidelines. Further guidance is expected to be provided by the Italian tax authorities.⁵³¹³

On 30 May 2018, the Italian Tax Authority issued the guidelines to activate the procedure to obtain a corresponding adjustment following a primary transfer pricing adjustment occurred in a foreign jurisdiction according to the arm's-length principle. The issued guidelines include implementation rules and some additional clarifications. Among others, the clarifications include information on where, when, by whom and how such procedure can be activated. For example, the clarifications mention that the procedure can be activated by Italian resident taxpayers belonging to a multinational group and/or carrying on their activity through a permanent establishment abroad, as well as by nonresident taxpayers carrying on their activity through a permanent establishment in Italy. Also, the procedure to request a corresponding adjustment can be requested in situations where the primary transfer pricing adjustment is final and in line with the arm's-length principle or where a double tax treaty providing an adequate exchange of information is in place with the jurisdiction in which the primary adjustment has been carried out. The request shall indicate the procedure for the international disputes to be activated. Furthermore, the additional clarifications explain that taxpayers are still free to directly apply for the MAP or for the Arbitration Convention rather than for the unilateral procedure at hand and they are also eligible to apply for the MAP in case the domestic procedure fails.⁵³¹⁴

Italy has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Italy has received a score of +1.

Analyst: Irina Popova

Japan: +1

Japan has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

⁵³¹¹ BEPS Actions Implementation by Country: Italy, Deloitte. Access Date: 28 March 2018. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-italy.pdf>

⁵³¹² Italy introduces web tax, updates PE definitions, Multinational Tax and Transfer Pricing News 7 January 2018. Access Date: 28 March 2018. <https://mnetax.com/italy-introduces-web-tax-updates-pe-definitions-25490>

⁵³¹³ Global Tax Alert, Ernst&Young 30 July 2018. Access Date: 31 October 2018. <https://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---30-july-2018>

⁵³¹⁴ Global Tax Alert, Ernst&Young 30 July 2018. Access Date: 31 October 2018. <https://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---30-july-2018>

The Japanese government has been showing its unchanged support to the BEPS initiative since 2013, being recognized as a “first mover in the Asia Pacific region in adopting BEPS-related changes.”⁵³¹⁵

Amendments to the Japanese tax legislation prior to the compliance period covered Action 1 (value-added tax on business to customers digital services), Action 2 (Hybrids), Action 13 (transfer pricing documentation — a de minimis exemption applies to certain non-material intercompany transactions; country-by-country (CbC) reporting — Japan is one of the countries that signed a multilateral competent authority agreement for the automatic exchange of CbC reports), Action 14 (dispute resolution — Japan is one of the countries committed to binding arbitration) of the BEPS Action Plan.⁵³¹⁶ Action 5 (harmful tax practices) is not applicable to Japan because Japan is considered to have no harmful tax practices.⁵³¹⁷

Ongoing as of the compliance period are deliberations with respect to Action 6 (prevent treaty abuse — the government is currently updating Japan’s tax treaties with various partners), Action 7 (permanent establishment status — Japan is committed to continue ongoing G20/OECD discussion on the issue), Actions 8 to 10 (transfer pricing — Japan is committed to continue ongoing G20/OECD discussion on the issue).⁵³¹⁸

With respect to Action 4 (interest deduction), it is currently not yet known if further reduction of the 50 per cent limitation of adjusted taxable income that can apply interest rate deduction will be introduced.⁵³¹⁹

Concerning Action 12 (disclosure of aggressive tax planning, voluntary disclosure), it is also being discussed in the Japanese government whether it is needed to introduce a mandatory disclosure rule for aggressive tax planning, as well as an item of legislation acting as a “General Anti-Avoidance Rule.”⁵³²⁰

Results are still to be yielded from the 2017 fiscal reform plan that makes certain non-active companies (such as cash boxes) subject to stricter tax rules from 1 April 2018 (Action 3 — controlled foreign company provisions).⁵³²¹

⁵³¹⁵ Japan’s approach to BEPS issues (by Deloitte). Access Date: 20 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/tw/Documents/tax/beps/tw-tp-board4-jp.pdf>

⁵³¹⁶ BEPS Actions implementation by country — Japan (by Deloitte). Access Date: 20 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-japan.pdf>

⁵³¹⁷ BEPS Actions implementation by country — Japan (by Deloitte). Access Date: 20 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-japan.pdf>

⁵³¹⁸ BEPS Actions implementation by country — Japan (by Deloitte). Access Date: 20 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-japan.pdf>

⁵³¹⁹ BEPS Actions implementation by country — Japan (by Deloitte). Access Date: 20 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-japan.pdf>

⁵³²⁰ BEPS Actions implementation by country — Japan (by Deloitte). Access Date: 20 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-japan.pdf>

⁵³²¹ BEPS Actions implementation by country — Japan (by Deloitte). Access Date: 20 December 2017.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-japan.pdf>

In September 2017, the Japanese National Tax Agency released Guidance for Taxpayers on the Mutual Agreement Procedure in response to the BEPS Action 14 (dispute resolution) final report recommendation to publish rules, guidelines and procedures to access and use the Mutual Agreement Procedure (MAP).⁵³²² The guidance provides detailed description of the outline of the MAP, as well as of common situations that a taxpayer might encounter when requesting MAP.⁵³²³

On 4 December 2017, the OECD released peer reviews assessing G20/OECD countries adherence to the BEPS standards for disclosing information on private tax rulings granted to multinational firms that might facilitate tax avoidance.⁵³²⁴ The peer review for Japan states its practices compliance with the BEPS standards (no recommendations for improvement were suggested).⁵³²⁵

With regards to assistance on tax issues to developing countries, Japan has demonstrated its commitment to provide this assistance through membership in the Inclusive Framework for BEPS Implementation, as well as becoming the party to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed on 7 June 2017.⁵³²⁶

On 18 May 2018 Japan's Diet approved the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, after which the Ministry of Finance started preparing the instruments of ratification; the convention will enter into force in Japan after instruments of ratification are deposited with OECD.⁵³²⁷

During and prior the compliance period Japan has taken resolute actions to promote the BEPS implementation at home and abroad.

Thus, Japan has received a score of +1.

Analyst: Pavel Doronin

Korea: +1

Korea has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 7 June 2017, Korea has signed Multilateral Convention to Implement Tax Treaty related Measures to Prevent BEPS. The purpose of the convention is to enable jurisdictions to swiftly

⁵³²² Guidance for Taxpayers on the Mutual Agreement Procedure (Q&A), Japan National Tax Agency September 2017. Access Date: 20 December 2017. http://www.nta.go.jp/foreign_language/03.pdf

⁵³²³ Guidance for Taxpayers on the Mutual Agreement Procedure (Q&A), Japan National Tax Agency September 2017. Access Date: 20 December 2017. http://www.nta.go.jp/foreign_language/03.pdf

⁵³²⁴ Peer review of OECD and G20 countries shows mixed progress on exchange of private tax ruling information, MNE Tax 4 December 2017. Access Date: 20 December 2017. <https://mnetax.com/peer-review-oecd-g20-countries-shows-mixed-progress-exchange-private-tax-ruling-information-24950>

⁵³²⁵ Harmful Tax Practices — Peer Review Reports on the Exchange of Information on Tax Rulings, OECD 4 December 2017. Access Date: 20 December 2017. http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/harmful-tax-practices-peer-review-reports-on-the-exchange-of-information-on-tax-rulings_9789264285675-en#page1

⁵³²⁶ 68 nations sign multilateral treaty on tax avoidance, dispute resolution, MNE Tax 7 June 2017. Access Date: 20 December 2017. <https://mnetax.com/67-nations-sign-multilateral-tax-treaty-tax-avoidance-dispute-resolution-21602>

⁵³²⁷ Japan approves the multilateral instrument for implementing BEPS in bilateral tax treaties, PwC Japan July 2018. Access Date: 11 October 2018. <https://www.pwc.com/jp/en/taxnews-beps/assets/beps-news-issue-54-en.pdf>

modify their bilateral tax treaties to implement measures under the BEPS project endorsed by the G20 summit in November 2015.⁵³²⁸

On 1 September 2017, package of tax reform proposals for 2018 were submitted to Korea's National Assembly. It contains the income tax rates for the top tax brackets for both corporations and individuals, as well as measures that would limit the deduction of interest expense in certain instances as part of Korea's commitment to the OECD BEPS project.⁵³²⁹

On 17 November 2017, the OECD Korea Policy Centre (Tax Programme) and the International Fiscal Association co-hosted a joint international tax conference in Seoul. It was mainly focused on the revised version of the Model Tax Convention and selected issues of the BEPS project.⁵³³⁰

On 19 December 2017, Korea enacted the 2018 tax reform bill (the 2018 Tax Reform) after Korea's National Assembly approved it on 5 December 2017. The 2018 Tax Reform includes provisions in line with the OECD's BEPS Action 2 (Neutralising the effects of Hybrid Mismatch Arrangements) and Action 4 (Limiting Base Erosion Involving Interest Deductions and Other Financial Payments), among others.⁵³³¹

On 30 July 2018, Korea's Ministry of Strategy and Finance announced the 2018 tax reform proposals (the 2018 Proposal), aimed at improving wealth distribution and sustaining growth. The 2018 Proposal includes provisions in line with the OECD's BEPS Action Plan 7, among others. As a commitment to implement the permanent establishment (PE) rules recommended by BEPS Action 7, the 2018 Proposal reflects contents of the updates to Article 5 (PE) of the OECD Model Tax Convention approved by the OECD Council on 21 November 2017, which includes: (i) more requirements to a non-PE definition; (ii) preventing misuse of specific exceptions to the PE rules; and (iii) expanded scope of agency PE.⁵³³²

Korea has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Korea has received a score of +1.

Analyst: Alexander Ignatov

Mexico: +1

Mexico has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

⁵³²⁸ Korea Signs Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS. Access Date: 12 January 2018. <https://www.lexology.com/library/detail.aspx?g=0d4a290c-1802-470c-9c03-c9f03b3a24ba>

⁵³²⁹ Korea: 2018 tax reform bill under consideration by National Assembly, Deloitte 8 September 2017. Access Date: 30 March 2018. http://newsletters.usdbriefs.com/2017/Tax/WTA/170908_6.pdf

⁵³³⁰ Experts' Meeting, OECD. Access Date: 28 March 2018.

<http://www.oecdkorea.org/user/nd89406.do?View&boardNo=00002433&itemShCd1=39>

⁵³³¹ Global Tax Alert, Ernst&Young 15 January 2018. Access Date: 28 March 2018.

http://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_15_January_2018/USDFILE/2018G_00249-181Gbl_The%20Latest%20on%20BEPS%20-%2015%20January%202018.pdf

⁵³³² Global Tax Alert, Ernst&Young 20 August 2018. Access Date: 31 October 2018

[https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_27_August_2018/\\$FILE/2018G_010940-18Gbl_The%20Latest%20on%20BEPS%20-%2027%20August%202018.pdf](https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_27_August_2018/$FILE/2018G_010940-18Gbl_The%20Latest%20on%20BEPS%20-%2027%20August%202018.pdf)

Prior the compliance period Mexico took actions on Actions 2 (hybrids), 6 (prevention of treaty abuse), 12 (disclosure of aggressive tax planning), 13 (transfer pricing documentation and country-by-country (CbC) reporting).⁵³³³

On 7 June 2017, Mexico and 67 other jurisdictions signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS during a signing ceremony hosted by the OECD in Paris.⁵³³⁴

On 26 October 2017, Mexico and the US agreed to exchange country-by-country tax reports on multinational firms, implementing 2015 OECD/G20 BEPS project agreements. The reports are designed to help tax administrations identify which multinationals operating in their country may be avoiding tax through transfer pricing or other means.⁵³³⁵

On 1 November 2017, the Mexican tax authority (Servicio de Administracion Tributaria) announced the start of its online platform and electronic forms for taxpayers to file their new transfer pricing documentation (i.e., CbC report, master file and local file).⁵³³⁶

Mexico has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Mexico has received a score of +1.

Analyst: Irina Popova

Russia: +1

Russia has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 20 May 2017, the government of the Russian Federation has signed an ordinance that marks Russia' joining to the multilateral convention on tax policy measures preventing BEPS. The convention applies to 63 double taxation treaties that Russia is a party to. The convention is still to be ratified.⁵³³⁷

⁵³³³ BEPS Actions Implementation by Country: Mexico, Deloitte. Access Date: 28 March 2018.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-mexico.pdf>

⁵³³⁴ Mexico signs Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS, Ernst&Young. Access Date: 28 March 2018.

[http://www.ey.com/Publication/vwLUAssets/Mexico_signs_Multilateral_Convention_to_Implement_Tax_Treaty_Related_Measures_to_Prevent_BEPS/\\$FILE/2017G_04281-171Gbl_MX%20signs%20MC%20to%20Tax%20Treaty%20Related%20Measures%20to%20Prevent%20BEPS.pdf](http://www.ey.com/Publication/vwLUAssets/Mexico_signs_Multilateral_Convention_to_Implement_Tax_Treaty_Related_Measures_to_Prevent_BEPS/$FILE/2017G_04281-171Gbl_MX%20signs%20MC%20to%20Tax%20Treaty%20Related%20Measures%20to%20Prevent%20BEPS.pdf)

⁵³³⁵ International News Bulletin, the Procurator's Office for the Defense of the Taxpayer. Access Date: 28 March 2018. https://www.prodecon.gob.mx/Documentos/boletines-internacionales/2017/agosto/international_news_bulletin_28th_augus_to_1st_september_2017_.pdf

⁵³³⁶ Presentan SAT y PRODECON plataforma y formatos digitales para nuevas declaraciones informativas de precio de transferencia, Mexican Government 31 October 2017. Access Date: 28 March 2018.

<https://www.gob.mx/sat/prensa/presentan-sat-y-prodecon-plataforma-y-formatos-digitales-para-nuevas-declaraciones-informativas-de-precios-de-transferencia?state=published>

⁵³³⁷ Multilateral convention on tax policy measures preventing base erosion and profit shifting, Government of the Russian Federation 20 May 2017. Access Date: 11 January 2018. <http://government.ru/docs/27781/>

On 28 November 2017, Russia published Federal Law No. 340-FZ, implementing the BEPS Action 13 documentation requirements including CbC reporting, master file, and local file. The measures entered into force on 27 November 2017, will apply from that date, and will be included in Article 105.16 of the Russian Tax Code.⁵³³⁸

On 25 June 2018, the order of the Federal Tax Service No. MMB-7-17/359@ of 30 May 2018, was registered with the Ministry of Justice of the Russian Federation. The order establishes the list of states and territories with which Russia will automatically exchange CbC reports. According to the list, Russia will exchange CbC reports with 49 states and 2 territories.⁵³³⁹

Russia has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Russia has received a score of +1.

Analyst: Alexander Ignatov

Saudi Arabia: +1

Saudi Arabia has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 17 July 2017, the Kingdom of Saudi Arabia issued a draft executive law and executive rules in preparation for the value-added tax, effective January 1, 2018. Moreover, it contains broad recommendations for the VAT regime, which has already been introduced in 2018 in all six members of the Gulf Co-operation Council. And the standard value-added tax (VAT) is 5 per cent, with a zero VAT for some products.⁵³⁴⁰

Saudi Arabia has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Saudi Arabia has received a score of +1.

Analyst: Pavel Doronin

South Africa: +1

South Africa has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development.

On 1 January 2016, CbC reporting requirements introduced by the government came into force.⁵³⁴¹

⁵³³⁸ Russia Implements BEPS Action 13 Recommendations, Reuters 14 December 2017. Access Date: 28 March 2018. <https://tax.thomsonreuters.com/blog/russia-implements-beps-action-13-recommendations/>

⁵³³⁹ Tax Alert, Ernst&Young 30 July 2018. Access Date: 31 October 2018.

<https://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---30-july-2018>

⁵³⁴⁰ Saudi Arabia To Be The First GCC Country to Implement VAT In 2018, TPA Global 17 July 2017. Access Date: 30 March 2018. <http://www.tp-associates.com/nieuws/2017-07-25/saudi-arabia-to-be-the-first-gcc-country-to-implement-vat-in-2018>

⁵³⁴¹ BEPS Actions implementation by country: South Africa, Deloitte. Access Date: 28 March 2018.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-south-africa.pdf>

On 28 July 2017, South Africa and Turkey signed a protocol amending the agreement between the two countries for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed.⁵³⁴²

On 28 July 2017, agreement between the government of South Africa and the government of Samoa for the exchange of information relating to tax matters was signed.⁵³⁴³

On 1 September 2017, convention between the government of the Republic of South Africa and the government of the Republic of Cameroon for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed.⁵³⁴⁴

South Africa has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period. Thus it receives a score of +1.

Analyst: Maxim Piskarev

Turkey: +1

Turkey has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

As of compliance period, Turkey has reached progress in a limited number of BEPS actions.⁵³⁴⁵

Action 1 (value-added tax (VAT) on business to customers digital services) has been partially covered by Turkey's earlier measures that require service providers, banks, internet advertising agencies and cargo and logistics service companies to submit monthly information about their transactions; and authorize the Council of Ministers to determine the extent of withholding tax for parties and intermediaries in taxable transactions (though tax rates have not been announced yet). However, the VAT rules are yet to be expanded to cover digital sales.

With respect to Action 4 (interest deduction), Turkey has previously introduced respective rules (such as thin capitalization and restrictions on the deduction of financing expenses), while a decree setting the percentage of the limitation is yet to be announced. Similarly, the existing rule on 30 per cent withholding tax on payments made to tax havens still cannot be applied since the Council of Ministers has not issued a list of harmful tax practices jurisdictions (Action 5, harmful tax practices).

Prevent treaty abuse (Action 6) clauses are being introduced in new and revised tax treaties that Turkey goes in to, and more are expected to be added through treaties or the multilateral instrument.

⁵³⁴² Income Tax Act: Agreement between South Africa and Turkey for avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income, Government of South Africa 28 July 2017. Access Date: 28 March 2017. <https://www.gov.za/documents/income-tax-act-agreement-between-south-africa-and-turkey-avoidance-double-taxation-and-1>

⁵³⁴³ Agreement between the government of the Republic of South Africa and the government of Samoa for the exchange of information relating to tax matters, Government of South Africa 28 July 2017. Access Date: 28 March 2017. https://www.gov.za/sites/default/files/41009_gon756.pdf

⁵³⁴⁴ Convention between the government of the Republic of South Africa and the government of the Republic of Cameroon for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, Government of South Africa 1 September 2017. Access Date: 28 March 2017. https://www.gov.za/sites/default/files/41082_gon936.pdf

⁵³⁴⁵ BEPS Actions implementation by country — Turkey (by Deloitte). Access Date: 21 December 2017. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-turkey.pdf>

Amendments on Action 7 (permanent establishment status) were introduced through the draft Tax Procedures Code (still pending), as well as revisions of Turkey's Corporation Tax Law and Individual Income Tax Law.

Concerning Actions 8 to 10 (transfer pricing) and Action 13 (transfer pricing documentation, country-by-country (CbC) reporting), elaborations on Draft Transfer Pricing General Communiqué announced by Turkey's government in 2016 are still ongoing. Moreover, Turkey is yet to join the Multilateral Competent Authority Agreement for the automatic exchange of CbC reports.

The same refers to Action 12 (disclosure of aggressive tax planning), with continuing discussion of the concepts of "tax planning" and "aggressive tax planning."

As regards Action 2 (hybrids), Action 3 (controlled foreign company provisions) and Action 14 (dispute resolution), it is not clear so far if Turkey's government is working on new measures in these domains.

On 28 November 2017, Turkey amended Article 9 of the Turkish VAT Law on the "Party Liable for Tax." The amendment stipulates that VAT arising from services provided electronically by those without a residence, workplace, headquarters, or business centre in Turkey to individuals in Turkey who are not VAT taxpayers, must be declared and paid by the non-resident e-service providers.⁵³⁴⁶

On 4 December 2017, the OECD released peer reviews assessing G20/OECD countries adherence to the BEPS standards for disclosing information on private tax rulings granted to multinational firms that might facilitate tax avoidance.⁵³⁴⁷ The peer review for Turkey recommended that Turkey take steps to ensure that information on new entrants to the grandfathered intellectual property regime are swiftly identified and exchanged.⁵³⁴⁸

On 5 December 2017, the Turkish Government published, in the Official Gazette, Law No.7061 approved by the Turkish Parliament, introducing among others Value Added Tax (VAT) as of 1 January 2018 with respect to nonresident persons (real or legal) who engage in e-commerce activities with Turkish resident individuals who are not VAT taxpayers in Turkey.⁵³⁴⁹

Turkey has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, Turkey has received a score of +1.

Analyst: Pavel Doronin

⁵³⁴⁶ OECD BEPS Action 1: Taxation of Digital Economy — New VAT Practices in Turkey, *Quantera Global* 1 February 2018. Access Date: 28 March 2017. <https://www.quanteraglobal.com/Oecd-Beps-Action-1-Taxation-Digital-Economy-New-Vat-Practices-Turkey/>

⁵³⁴⁷ Peer review of OECD and G20 countries shows mixed progress on exchange of private tax ruling information, *MNE Tax* 4 December 2017. Access Date: 20 December 2017. <https://mnetax.com/peer-review-oecd-g20-countries-shows-mixed-progress-exchange-private-tax-ruling-information-24950>

⁵³⁴⁸ Harmful Tax Practices — Peer Review Reports on the Exchange of Information on Tax Rulings, *OECD* 4 December 2017. Access Date: 20 December 2017. http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/harmful-tax-practices-peer-review-reports-on-the-exchange-of-information-on-tax-rulings_9789264285675-en#page1

⁵³⁴⁹ Tax Alert, *Ersnt&Young* 26 february 2018. Access Date: 31 October 2018. <https://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---26-february-2018>

United Kingdom: +1

The United Kingdom has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 25 April 2016, the UK's Revenue and Customs published an International Exchange of Information Manual to provide guidance on transfer pricing documentation according to OECD definitions.⁵³⁵⁰

On 17 October 2016, Her Majesty's Revenue and Customs (HMRC) released updated guidance on Disclosure of tax avoidance schemes (DOTAS). The guidance supplements the DOTAS rules which determine whether arrangements relating to tax need to be disclosed, how to make the disclosure, how to notify HMRC of the disclosure etc.⁵³⁵¹

On 1 July 2017, the United Kingdom introduced hybrid mismatch rules, with effect from 1 July 2017, largely based on the OECD recommendations. The OECD released a draft report in relation to branch mismatch arrangements in August 2016 which was finalized in July 2017.⁵³⁵²

On 16 August 2017, HMRC released guidance stating that HMRC requires that transfer pricing documentation should be retained to support the arm's-length pricing.⁵³⁵³ Such documentation should be proportionate to the size and complexity of the transactions or business involved and should be the same as that specified in Annexes I and II of the Action 13 report.⁵³⁵⁴ HMRC does not require a master file or local file to be filed with the country-by-country report. Transfer pricing documentation does not need to be filed with HMRC but will be requested during an audit. It is recommended that documentation prepared from this date conforms to the master file requirements.⁵³⁵⁵

On 7 December 2017, HMRC released updated guidance on disclosure of tax avoidance schemes regarding what to do if a person promotes or uses arrangements (including any scheme, transaction or series of transactions) that will or are intended to provide the user with a tax or national insurance contribution advantage when compared to adopting a different course of action.⁵³⁵⁶

On 26 September 2017, the OECD released the UK's peer review report relating to the implementation of the BEPS minimum standards on Action 14 on improving tax dispute resolution mechanisms. The UK had also requested that the OECD provided feedback concerning their

⁵³⁵⁰International Exchange of information Manual, HM Revenue and customs 25 April 2016. Access: 2 December 2017. <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim30003133>

⁵³⁵¹Disclosure of tax avoidance schemes: guidance, HM Revenue and customs 17 October 2016. Access: 2 December 2017. <https://www.gov.uk/government/publications/disclosure-of-tax-avoidance-schemes-guidance>

⁵³⁵²Draft law on Australia's hybrid mismatch rules, Lexology, 27 November 2017. Access Date: 12.12.2017. <https://www.lexology.com/library/detail.aspx?g=f49c7478-6d92-4500-8cec-a16e3a8ac9e6>

⁵³⁵³International Exchange of information Manual, HM Revenue and customs 16 August 2017. Access: 2 December 2017. <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim30003133>

⁵³⁵⁴International Exchange of information Manual, HM Revenue and customs 16 August 2017. Access: 2 December 2017. <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim30003133>

⁵³⁵⁵International Exchange of information Manual, HM Revenue and customs 16 August 2017. Access: 2 December 2017. <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim30003133>

⁵³⁵⁶Disclosure of tax avoidance schemes: guidance, HM Revenue and customs 7 December 2017. Access: 19 December 2017. <https://www.gov.uk/government/publications/disclosure-of-tax-avoidance-schemes-guidance>

adoption of the Action 14 best practices, and therefore, the OECD also released an accompanying best practices report.⁵³⁵⁷

On 29 November 2017, Bermuda and the UK signed a Country-by-Country Competent Authority Agreement that will enable the automatic reporting of corporate income for UK-related transfer pricing enforcement purposes.⁵³⁵⁸ In a statement, the Bermuda Government said the agreement will complete the OECD BEPS tax transparency package between Bermuda and the UK.⁵³⁵⁹

On 13 March 2018, the UK Government released an update on the Government's thinking in respect of the taxation of companies operating in the digital economy which builds on the original paper published as part of the Autumn Budget 2017. The updated paper reiterates the Government's view that: • The participation and engagement of users is an important aspect of value creation for certain digital business models and is likely to be reflected through several channels, such as the provision of user-generated content or as a contribution to certain intangibles such as brand. • The preferred and most sustainable solution to the tax challenges of digitalization is a multilateral reform of the international corporate tax framework to reflect the value of user participation. The paper sets out some of the Government's initial thinking on developing multilateral solutions.⁵³⁶⁰

On 2 July 2018, the UK signed three new tax treaties (the Treaties) with Guernsey, Jersey and the Isle of Man. The new agreements are based, broadly, on the OECD Model Tax Convention, and take into account the recent BEPS recommendations in relation to treaties. These treaties are expected to come into force once each jurisdiction has completed their parliamentary processes and exchanged written notes, currently expected to be early in 2019.⁵³⁶¹

On 6 July 2018, the UK published draft clauses intended to form part of the Bill that will eventually become Finance Act 2019. Other clauses may be published separately, possibly in advance of or as part of the Bill that will be published as Finance (No. 3) Bill in the autumn. The draft clauses are open for consultation until 31 August 2018.⁵³⁶²

The United Kingdom has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, the UK has received a score of +1.

Analysts: Nikita Efremov and Angelina Khudoleeva

⁵³⁵⁷ Inclusive framework on BEPS: Action 14, Best Practices, United Kingdom, OECD 26 September 2017. Access: 3 December 2017. <http://www.oecd.org/tax/beps/beps-action-14-peer-review-best-practices-united-kingdom.pdf>

⁵³⁵⁸ Bermuda and UK agreement on income reporting, The Royal Gazette, 29 November 2017. Access Date: 11.12.2017. <http://www.royalgazette.com/business/article/20171129/bermuda-and-uk-agreement-on-income-reporting>

⁵³⁵⁹ Bermuda and UK agreement on income reporting, The Royal Gazette, 29 November 2017. Access Date: 11.12.2017. <http://www.royalgazette.com/business/article/20171129/bermuda-and-uk-agreement-on-income-reporting>

⁵³⁶⁰ Tax Akert, Ernst&Young 20 March 2018. Access Date: 31 October 2018.

[https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_16_March_2018/\\$FILE/2018G_01827-181Gbl_The%20Latest%20on%20BEPS%20-%2026%20March%202018.pdf](https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_16_March_2018/$FILE/2018G_01827-181Gbl_The%20Latest%20on%20BEPS%20-%2026%20March%202018.pdf)

⁵³⁶¹ The Latest on BEPS – 16 July 2018. Access Date: 01 November 2018.

[https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_16_July_2018/\\$FILE/2018G_010294-18Gbl_The%20Latest%20on%20BEPS%20-%2016%20July%202018.pdf](https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_16_July_2018/$FILE/2018G_010294-18Gbl_The%20Latest%20on%20BEPS%20-%2016%20July%202018.pdf)

⁵³⁶² The Latest on BEPS – 16 July 2018. Access Date: 01 November 2018.

[https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_16_July_2018/\\$FILE/2018G_010294-18Gbl_The%20Latest%20on%20BEPS%20-%2016%20July%202018.pdf](https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_16_July_2018/$FILE/2018G_010294-18Gbl_The%20Latest%20on%20BEPS%20-%2016%20July%202018.pdf)

United States: +1

The United States has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 17 February 2016, the US Treasury Department released a revised US model income tax treaty. The revisions are designed to respond to changes in US treaty partners' tax regimes that the Treasury Department believes may encourage BEPS. The changes include provisions aimed at inversion transactions, 'special tax regimes', and so-called "exempt permanent establishments." The new model includes provisions requiring mandatory binding arbitration to resolve disputes between tax authorities.⁵³⁶³

On 7 June 2017, the competent authorities of the United States and Canada signed a competent authority agreement to exchange country-by-country (CbC) reports. According to the agreement, the US and Canada will exchange annually, on an automatic basis, the CbC report received from each reporting entity that is resident for tax purposes in its jurisdiction, provided that, on the basis of the CbC report, one or more constituent entities of the reporting entity's group is resident for tax purposes in the other jurisdiction, or is subject to tax with respect to the business carried out through a permanent establishment in the other jurisdiction.⁵³⁶⁴

On 29 June 2016, the US Treasury and the Internal Revenue Service (IRS) published a rule, which will become final tomorrow, requiring the U.S. parent company of large, public and privately held multinational companies to provide certain financial data to the IRS on a country-by-country basis. The information is meant to provide tax authorities with better tools to identify where a company might be artificially shifting profits into tax havens — a red flag for tax evasion and tax avoidance that may warrant further investigation.⁵³⁶⁵

On 26 September 2017, the OECD published a report on the US implementation of BEPS Action 14. It stated that "all of the United States" tax treaties include a provision relating to the Mutual Assessment Program (MAP), which generally follow paragraphs 1 through 3 of Article 25 of the Model Tax Convention on Income and on Capital 2014 (OECD Model Tax Convention, OECD 2015). Its treaty network is largely consistent with the requirements of the Action 14 Minimum Standard, whereby under 11 treaties taxpayers are already allowed to submit a MAP request to the competent authorities of either state in line with the new text of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015), as amended by the final report on Action 14.

⁵³⁶³ PREAMBLE TO 2016 U.S. MODEL INCOME TAX CONVENTION, U.S. Department of the Treasury 17 February 2016. Access Date: 20 December 2017. <https://www.treasury.gov/resource-center/tax-policy/treaties/Documents/Preamble-US%20Model-2016.pdf>

⁵³⁶⁴ Making Dispute Resolution More Effective - MAP Peer Review Report, United States. Inclusive framework on BEPS: Action 14, OECD 26 September 2017. Access Date: 20 December 2017. http://www.keepeek.com/Digital-Asset-Management/oced/taxation/making-dispute-resolution-more-effective-map-peer-review-report-united-states-stage-1_9789264282698-en#.WIKNUGWTIU

⁵³⁶⁵ U.S. Treasury, IRS Move Quickly to Implement OECD BEPS Agreement, Finalizing Rule Requiring Country-by-Country Reporting by Multinationals, Global Financial Integrity. Access Date: 29 June 2016. <http://www.gfintegrity.org/press-release/u-s-treasury-irs-move-quickly-implement-oecd-beps-agreement-finalizing-rule-requiring-country-country-reporting-multinationals/>

However, not all treaties are consistent with the requirements of the Action 14 Minimum Standard.⁵³⁶⁶

On 11 October 2017, the US took a further step to implement CbC reporting in accordance with the BEPS Action 13 minimum standard, by activating the automatic exchange relationships under the Multilateral Competent Authority Agreement on the Exchange of CbC Reports.⁵³⁶⁷ Over 1,000 automatic exchange relationships have now been established among jurisdictions committed to exchanging CbC reports as of mid-2018.⁵³⁶⁸ It is expected that more jurisdictions will nominate partners with which they will undertake the automatic exchange of CbC reports in the coming weeks. In addition, the United States has now signed 27 bilateral competent authority agreements for the exchange of CbC Reports under Double Tax Conventions or Tax Information Exchange Agreements, with more under negotiation.⁵³⁶⁹

On 9 November 2017, the US Senate Finance Committee released policy highlights outlining its goals for tax reform. Later that evening, Senate Finance Committee Chairman Orrin Hatch also released the details of the Senate Republicans' tax reform plan, in the form of a Joint Committee on Taxation description of the Chairman's Mark, which is scheduled for markup by the Committee on 13 November 2017. In addition to lowering the U.S. corporate tax rates to 20 per cent starting with the 2019 tax year, the Senate Plan contains the following BEPS Action 2, 3, and 4 measures.⁵³⁷⁰

On 22 December 2017, the Tax Cuts and Jobs Act (TCJA) was signed by President Trump. The bill introduced several significant changes for corporate tax payers in the US, such as a new Base Erosion and Anti-Abuse Tax adding back base erosion payments, a new Participation Exemption and Transition Tax containing tax exemptions for future cash distributions to the U.S. parent of a multinational corporation, etc.⁵³⁷¹

On 14 and 16 May 2018, the Internal Revenue Service (IRS) added Liechtenstein and Mauritius respectively to the list of countries with which the United States has signed a Competent Authority Agreement (CAA) for the automatic exchange of CbC reports. The IRS maintains a website that includes an up-to-date listing of the jurisdictions with which the US Competent Authority has entered into CAAs and the jurisdictions that are in negotiations for a CAA. The IRS is in the process

⁵³⁶⁶ Making Dispute Resolution More Effective - MAP Peer Review Report, United States (Stage 1), OECD 26 September 2017. Access Date: 20 December 2017. http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/making-dispute-resolution-more-effective-map-peer-review-report-united-states-stage-1_9789264282698-en#page11

⁵³⁶⁷ BEPS Action 13: OECD releases CbC reporting implementation status and exchange relationships between tax administrations, OECD. Access Date: 11 October 2017. <http://www.oecd.org/ctp/beps/beps-action-13-oecd-releases-cbc-reporting-implementation-status-and-exchange-relationships-between-tax-administrations.htm>

⁵³⁶⁸ BEPS Action 13: OECD releases CbC reporting implementation status and exchange relationships between tax administrations, OECD. Access Date: 11 October 2017. <http://www.oecd.org/ctp/beps/beps-action-13-oecd-releases-cbc-reporting-implementation-status-and-exchange-relationships-between-tax-administrations.htm>

⁵³⁶⁹ BEPS Action 13: OECD releases CbC reporting implementation status and exchange relationships between tax administrations, OECD. Access Date: 11 October 2017. <http://www.oecd.org/ctp/beps/beps-action-13-oecd-releases-cbc-reporting-implementation-status-and-exchange-relationships-between-tax-administrations.htm>

⁵³⁷⁰ BEPS and Other Notable Int'l Measures in Draft Senate GOP Tax Reform Plan, Thompson Reuters. Access Date: 16 November 2017. <https://tax.thomsonreuters.com/blog/beps-and-other-notable-intl-measures-in-draft-senate-gop-tax-reform-plan/>

⁵³⁷¹ Tax Cuts and Jobs Act of 2017. Access Date: 31 October 2018. <http://uscode.house.gov/statviewer.htm?volume=131&page=2054>

of negotiating CAAs with another nine countries and is expected to update this database as other agreements are concluded.⁵³⁷²

The US has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, the US has received a score of +1.

Analysts: Anastasia Kataeva and Svetlana Shapovalova

European Union: +1

The European Union has fully complied with the commitment on implementing the Action Plan on Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD).

On 8 December 2015, the Council of the European Union adopted two sets of Council conclusions on BEPS in the EU context, and on the future of the code of conduct on business taxation. These conclusions provided the basis for further work by the Council in the area of BEPS in 2016 and endorsed a new Work Package for the Code of Conduct Group.⁵³⁷³

On 8 March 2016, a second set of Council conclusions on the Future of the Code of Conduct (Business Taxation) was adopted by the Council of the European Union.⁵³⁷⁴

On 25 May 2016, the Council of the European Union adopted conclusions on the Commission Communication on an External Strategy for Effective Taxation.⁵³⁷⁵

On 25 October 2016, the Commission produced a Proposal for a Council Directive amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries, as part of the Anti-Tax Avoidance Package. The Slovak Presidency carried out extensive work on this proposal. During the meeting of the Economic and Financial Affairs Council (ECOFIN) on 6 December 2016 the text was generally agreed to except on two items i.e. Articles 9(4) (b) and (c), and the date of entry into force.⁵³⁷⁶

On 8 November 2016, the Council of the European Union adopted Conclusions on the criteria for and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes.⁵³⁷⁷

On 8 December 2015, the Council invited the Code of Conduct Group “to assess the opportunity of developing EU guidance for implementing OECD BEPS conclusions on Action 12 (disclosure of aggressive tax planning), notably with a view to facilitate exchange of such information between tax

⁵³⁷² Tax Alert, Ernst&Young 21 May 2018. Access Date: 31 October 2018.

<https://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---21-may-2018>

⁵³⁷³ BEPS: Presidency roadmap on future work, the Council of the European Union 6 February 2017. Access Date: 23 November 2017. <http://data.consilium.europa.eu/doc/document/ST-5988-2017-INIT/en/pdf>.

⁵³⁷⁴ BEPS: Presidency roadmap on future work, the Council of the European Union 6 February 2017. Access Date: 23 November 2017. <http://data.consilium.europa.eu/doc/document/ST-5988-2017-INIT/en/pdf>.

⁵³⁷⁵ BEPS: Presidency roadmap on future work, the Council of the European Union 6 February 2017. Access Date: 23 November 2017. <http://data.consilium.europa.eu/doc/document/ST-5988-2017-INIT/en/pdf>.

⁵³⁷⁶ BEPS: Presidency roadmap on future work, the Council of the European Union 6 February 2017. Access Date: 23 November 2017. <http://data.consilium.europa.eu/doc/document/ST-5988-2017-INIT/en/pdf>.

⁵³⁷⁷ BEPS: Presidency roadmap on future work, the Council of the European Union 6 February 2017. Access Date: 23 November 2017. <http://data.consilium.europa.eu/doc/document/ST-5988-2017-INIT/en/pdf>.

authorities.” Apart from that, there were significant advances at the EU level in the area of tax transparency, notably through amendments to the Directive on Administrative Cooperation implementing the common reporting standard (CRS) (under the Italian presidency), the exchange of rulings (under the Luxembourg presidency) and country by country (CbC) reporting (under the Dutch presidency), and access to anti-money laundering information (under the Slovak presidency).⁵³⁷⁸

On 28 January 2016, the Commission presented its proposal for an Anti-Tax Avoidance Directive. On 20 June 2016, the Council adopted the directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market. In order to provide for a comprehensive framework of anti-abuse measures the Commission presented its proposal on 25th October 2016, to complement the existing rule on hybrid mismatches. The rule on hybrid mismatches aimed to prevent companies from exploiting national mismatches to avoid taxation. The Anti-Tax Avoidance Directive contained five legally-binding anti-abuse measures, which all Member States should apply against common forms of aggressive tax planning. Member States should apply these measures as from 1 January 2019. It created a minimum level of protection against corporate tax avoidance throughout the EU, while ensuring a fairer and more stable environment for businesses.⁵³⁷⁹

On 23 May 2017, the Council agreed on a new system for resolving double taxation disputes within the EU. The proposal set out to improve the mechanisms used for resolving disputes between member states when disputes arise from the interpretation of agreements on the elimination of double taxation. It built on convention on the elimination of double taxation in connection with the adjustments of profits of associated enterprises. The draft directive required dispute resolution mechanisms to be mandatory and binding, with clear time limits and an obligation to reach results. It thereby set out to secure a tax environment where compliance costs for businesses are reduced to a minimum. The text allowed for a ‘mutual agreement procedure’ to be initiated by the taxpayer, under which member states must reach an agreement within two years. If the procedure fails, an arbitration procedure is launched to resolve the dispute within specified timelines. For this, an advisory panel of three to five independent arbitrators was appointed together with up to two representatives of each member state. The panel (‘advisory commission’) issued an opinion for eliminating the double taxation in the disputed case, which is binding on the member states involved unless they agree on an alternative solution.⁵³⁸⁰

On 10 October 2017, the European Commission welcomed EU members’ formal green light for new rules to better resolve tax disputes.⁵³⁸¹ The decision taken by EU finance ministers at the ECOFIN Council meeting in Luxembourg will ensure that businesses and citizens can resolve disputes related to the interpretation of tax treaties more swiftly and effectively.⁵³⁸² It will also cover issues related to double taxation - a major obstacle for businesses, creating uncertainty, unnecessary

⁵³⁷⁸ BEPS: Presidency roadmap on future work, the Council of the European Union 6 February 2017. Access Date: 23 November 2017. <http://data.consilium.europa.eu/doc/document/ST-5988-2017-INIT/en/pdf>.

⁵³⁷⁹ The Anti-Tax Avoidance Directive, European Commission 13 September 2016. Access Date: 25 November 2017. https://ec.europa.eu/taxation_customs/business/company-tax/anti-tax-avoidance-package/anti-tax-avoidance-directive_en.

⁵³⁸⁰ Double Taxation: Council Agrees Its Position On Dispute Resolution Procedures, the Council of the European Union 23 May 2017. Access Date: 25 November 2017. <http://www.consilium.europa.eu/en/press/press-releases/2017/05/23/double-taxation>.

⁵³⁸¹ Fair Taxation: Commission welcomes new rules to resolve tax disputes, European Commission 10 October 2017. Access Date: 19 December 2017. http://europa.eu/rapid/press-release_IP-17-3727_en.htm.

⁵³⁸² Fair Taxation: Commission welcomes new rules to resolve tax disputes, European Commission 10 October 2017. Access Date: 19 December 2017. http://europa.eu/rapid/press-release_IP-17-3727_en.htm.

costs and cash-flow problems.⁵³⁸³ These improvements to the current rules will give taxpayers much more certainty when it comes to seeking resolution to their interpretation of tax treaties or double taxation problems.⁵³⁸⁴ In particular, a wider range of cases will be covered and Member States will have clear deadlines to agree on a binding solution, and citizens and companies will have more timely decisions.⁵³⁸⁵ Members will have a legal duty to take conclusive and enforceable decisions under the improved dispute resolution mechanism. If not, the national courts will do this for them. This agreement will ensure that taxpayers faced with tax treaty disputes can initiate a procedure whereby the members in question must try to resolve the dispute amicably within two years. If at the end of this period, no solution has been found, the members must set up an advisory commission to arbitrate.⁵³⁸⁶ If Members fail to do this, the taxpayer can bring an action before the national court to do so. This advisory commission will be composed of three independent members and representatives of the competent authorities in question. It will have six months to deliver a final, binding decision.⁵³⁸⁷ This decision will be immediately enforceable and must resolve the dispute.⁵³⁸⁸

On 5 December 2017, the first ever EU list of non-cooperative tax jurisdictions was agreed by members.⁵³⁸⁹ This list was part of the EU's work to fight tax evasion and avoidance and aimed to create a stronger deterrent for countries that consistently refused to play fair on tax matters.⁵³⁹⁰ The overall goal of the EU list was to improve tax good governance globally, and to ensure that the EU's international partners respected the same standards as EU members do.⁵³⁹¹ The list was a result of a thorough screening and dialogue process with non-EU countries, to assess them against agreed criteria for good governance.⁵³⁹² These criteria related to tax transparency, fair taxation, the implementation of OECD BEPS measures and substance requirements for zero-tax countries. The criteria were agreed by Member States and used as the basis for a .⁵³⁹³ The EU listing process also had a very positive impact as most jurisdictions engaged constructively with the EU during the listing process. Many made concrete, high level commitments to improve their standards, as a result of the

⁵³⁸³ Fair Taxation: Commission welcomes new rules to resolve tax disputes, European Commission 10 October 2017. Access Date: 19 December 2017. http://europa.eu/rapid/press-release_IP-17-3727_en.htm.

⁵³⁸⁴ Fair Taxation: Commission welcomes new rules to resolve tax disputes, European Commission 10 October 2017. Access Date: 19 December 2017. http://europa.eu/rapid/press-release_IP-17-3727_en.htm.

⁵³⁸⁵ Fair Taxation: Commission welcomes new rules to resolve tax disputes, European Commission 10 October 2017. Access Date: 19 December 2017. http://europa.eu/rapid/press-release_IP-17-3727_en.htm.

⁵³⁸⁶ Fair Taxation: Commission welcomes new rules to resolve tax disputes, European Commission 10 October 2017. Access Date: 19 December 2017. http://europa.eu/rapid/press-release_IP-17-3727_en.htm.

⁵³⁸⁷ Fair Taxation: Commission welcomes new rules to resolve tax disputes, European Commission 10 October 2017. Access Date: 19 December 2017. http://europa.eu/rapid/press-release_IP-17-3727_en.htm.

⁵³⁸⁸ Fair Taxation: Commission welcomes new rules to resolve tax disputes, European Commission 10 October 2017. Access Date: 19 December 2017. http://europa.eu/rapid/press-release_IP-17-3727_en.htm.

⁵³⁸⁹ Common EU list of third country jurisdictions for tax purposes, European Commission 5 December 2017. Access Date: 19 December 2017. https://ec.europa.eu/taxation_customs/tax-common-eu-list_en.

⁵³⁹⁰ Common EU list of third country jurisdictions for tax purposes, European Commission 5 December 2017. Access Date: 19 December 2017. https://ec.europa.eu/taxation_customs/tax-common-eu-list_en.

⁵³⁹¹ Common EU list of third country jurisdictions for tax purposes, European Commission 5 December 2017. Access Date: 19 December 2017. https://ec.europa.eu/taxation_customs/tax-common-eu-list_en.

⁵³⁹² Common EU list of third country jurisdictions for tax purposes, European Commission 5 December 2017. Access Date: 19 December 2017. https://ec.europa.eu/taxation_customs/tax-common-eu-list_en.

⁵³⁹³ Common EU list of third country jurisdictions for tax purposes, European Commission 5 December 2017. Access Date: 19 December 2017. https://ec.europa.eu/taxation_customs/tax-common-eu-list_en.

EU screening exercise.⁵³⁹⁴ The EU list will be updated at least once a year and listed jurisdictions will be removed from the list once they have addressed EU concerns.⁵³⁹⁵

On 25 May 2018, the Council of the European Union formally adopted the Directive amending Directive 2011/16/EU with respect to the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements. The content of the adopted Directive corresponded to that agreed by the Economic and Financial Affairs Council of the European Union (ECOFIN) on 13 March 2018. The scope of the cross-border arrangements to be reported was established to be relatively broad and might lead to extensive reporting obligations by both intermediaries and – mainly corporate, but also individual – taxpayers. Reporting obligations for cross-border arrangements was set to be triggered by certain hallmarks (or characteristics). These hallmarks targeted a relatively wide range of cross-border arrangements.⁵³⁹⁶

On 22 October 2018, the Joint Transfer Pricing Forum agreed the coordinated approach to transfer pricing. The report established best practices by issuing various recommendations for both taxpayers and tax administrations, and encouraged closer cooperation in the field of transfer pricing controls.⁵³⁹⁷

The EU has shown progress in introducing BEPS measures before and has taken steps towards implementing BEPS package during the compliance period.

Thus, the EU has received a score of +1.

Analyst: Karina Khasanova

⁵³⁹⁴ Common EU list of third country jurisdictions for tax purposes, European Commission 5 December 2017. Access Date: 19 December 2017. https://ec.europa.eu/taxation_customs/tax-common-eu-list_en.

⁵³⁹⁵ Common EU list of third country jurisdictions for tax purposes, European Commission 5 December 2017. Access Date: 19 December 2017. https://ec.europa.eu/taxation_customs/tax-common-eu-list_en.

⁵³⁹⁶ Global Tax Alert: the Latest on BEPS, *Ernst & Young 4 June 2018*. Access Date: 26 October 2018. [https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_4_June_2018/\\$FILE/2018G_03383-181Gbl_The%20Latest%20on%20BEPS%20-%204%20June%202018.pdf](https://www.ey.com/Publication/vwLUAssets/The_Latest_on_BEPS_-_4_June_2018/$FILE/2018G_03383-181Gbl_The%20Latest%20on%20BEPS%20-%204%20June%202018.pdf).

⁵³⁹⁷ Joint Transfer Pricing Forum, European Commission 26 October 2018. Access Date: 29 October 2018. https://ec.europa.eu/taxation_customs/business/company-tax/transfer-pricing-eu-context/joint-transfer-pricing-forum_en.