



OECD Tax Update

Andrew Auerbach

Counsellor, Centre for Tax Policy and Administration

Vienna University, 29 January 2018



Outline

- **BEPS implementation**

I. the state of play

II. the digitalised economy

- **Tax transparency**

- **Tax certainty**

- **Tax administration & capacity building**



BEPS IMPLEMENTATION

I. THE STATE OF PLAY



The Inclusive Framework on BEPS (1)

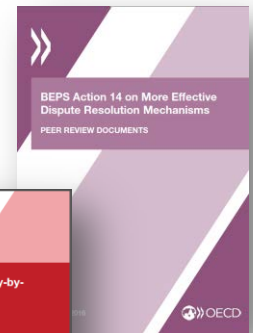
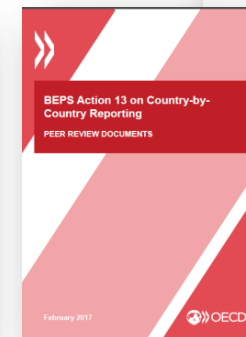
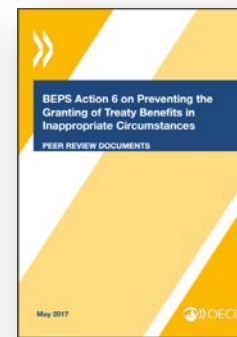
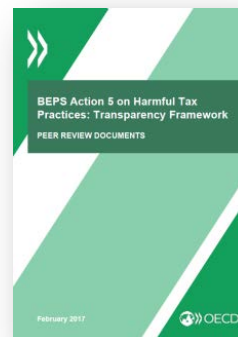
- Following the release of the BEPS package in October 2015, G20 Leaders urged its timely implementation and called on the OECD to develop an **Inclusive framework** with the involvement of interested non-G20 countries and jurisdictions, including developing economies
- The **Inclusive Framework on BEPS** brings together 111 countries and jurisdictions on an equal footing, to work on the **implementation** of the BEPS Package





The Inclusive Framework on BEPS (2)

- Monitoring the peer reviews of the 4 minimum standards, developing standards on BEPS related issues and reviewing and monitoring the implementation of the other elements of the BEPS package
- The Inclusive Framework helps to **ensure a level playing field**: countries of relevance are reviewed even if they do not join
- First **progress report published in July 2017**





Peer review results

- **Action 5: preferential regimes: 164 regimes reviewed**, including patent boxes. Impact: regimes abolished or amended.
- **Action 5: exchange of tax rulings: more than 6 500 tax rulings have been exchanged**
- **Action 6**: review to start in 2018, which will partly be done with the BEPS multilateral instrument
- **Action 13**: first report to be published in June 2018
- **Action 14**: first 13 country reports **published** in September and in December 2017

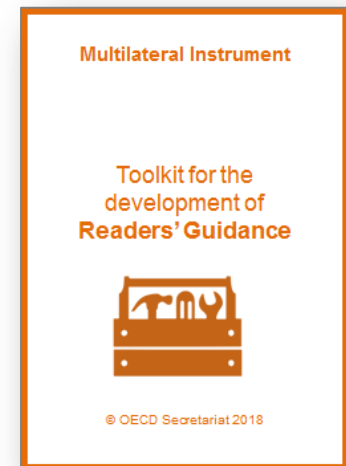


BEPS Multilateral Instrument

- **“Convention to Implement Tax Treaty Related Measures to Prevent BEPS”**, first signing ceremony in June 2017, second in January 2018
- **Matching database** available on the OECD website to facilitate the use of the multilateral instrument
- **Readers’ Guidance Toolkit** under development to facilitate interpretation
- **Ratification** by 5 signatories required to come into force, 3 ratifications completed (Austria, Isle of Man and Jersey)

72 Jurisdictions covered

1,136
Matched
Agreements





BEPS IMPLEMENTATION

II. THE DIGITALISED ECONOMY



BEPS Action 1 report - 2015



- Action 1 concluded that the digitalised economy was the economy itself – it is **impossible to ring-fence the digitalised economy** for tax purposes
- Digitalised business models do not generate unique BEPS issues but its **key features** exacerbate BEPS risks
- **Other BEPS actions** are addressing tax challenges posed by digitalisation, e.g. Action 7 changes to the PE definition and the introduction of an anti-fragmentation rule, and the changes to the TP Guidelines resulting from Actions 8-10 and Action 13



Key features to consider

- Long-term solutions will have to take into account:
 - The role that **IP** plays in the new business models
 - The fact that businesses can now have a great scale, but comparatively little mass (“**scale without mass**”)
 - The role that **users** play in creating value
- **Some countries are under pressure to act quickly.**
Looking for short term, intermediary measures.
- Whatever temporary measures governments employ, these will have to be crafted to be **consistent with** existing rules, including **tax treaties, EU law and WTO** trade rules



Interim report - 2018



- The **OECD Task Force on the Digital Economy** will deliver an interim report to the G20 Finance Ministers in **April this year**
 - Analysing how digitalisation has changed the way companies do business
 - What the consequences are in terms of value creation
 - What long term solutions could emerge
- The aim is to identify a **consensual sense of direction** and discuss downsides of short term measures while identifying how to limit damage on economic growth
- The report will show the **impact the implementation of the BEPS Project** has had, as we already see major companies change the way they do business as a result



TAX TRANSPARENCY



Automatic exchange of information



- The AEOI has successfully started.
- Only some delays in Caribbean due to the hurricanes.
- The 1st AEOI Implementation Report published.
- Strong focus remains on implementation in 2018.

1. The legal framework

- 93% with full domestic laws, 7 not collecting information
- 90% coverage in data collection but some gaps remain
- 86% with full international legal framework, 14% in progress

2. Activating and operationalising exchanges

- 59% of possible 2018 exchange relationships activated
- 91% jurisdictions signed on to CTS, others to follow shortly





Exchange of information on request

- First reports of the second round of EOIR reviews (2016-2020) released in August and in November 2017
- Enhanced process with new **focus on the availability of beneficial ownership information** and its access by tax authorities
- **6 “compliant”**: Ireland, Isle of Man, Italy, Jersey, Mauritius, Norway
- **8 “largely compliant”**: Australia, Bermuda, Canada, Cayman Islands, Denmark, Germany, India, Qatar
- **2 “partially compliant”**: Curaçao, Jamaica





Identification of non-cooperative jurisdictions (1)

- In April 2016 call by G20 to encourage progress by establishing criteria to identify non-cooperative jurisdictions
- **OECD sets 3 criteria:**
 - Largely Compliant for EOIR
 - Commitment to AEOI
 - Signature of the Convention on Mutual Administrative Assistance in Tax Matters - MAC (or equivalent)
- Jurisdictions must meet **2 out of 3 criteria**
- Applies to all GF members except developing countries without financial centres
- List issued for G20 Leaders July 2017



Way Forward

- G20 requested revised criteria:
 - Consider **how 2nd round EOIR ratings** should be taken into account
 - Move from AEOI **commitment** to reflect **implementation** knowing there are a number of aspects possible (legislation, network of partners, confidentiality) and the terms of comprehensive reviews are not finalised
 - How to encourage **full participation in the MAC**



Identification of non-cooperative jurisdictions (2)

- EU issued list of non-cooperative jurisdictions in December 2017
- **EU sets 3 criteria:**
 - compliant on tax transparency;
 - compliant on fair taxation;
 - anti-BEPS (tax base erosion and profit shifting) measures being implemented
- **Until mid 2019**, jurisdictions must meet **2 out of 3 criteria**. After this point, they'll have to **meet all 3 criteria**.
- EU identified **17 non-cooperative jurisdictions** (American Samoa Bahrain Barbados Grenada Guam Korea (Republic of) Macao SAR Marshall Islands Mongolia Namibia Palau Panama Saint Lucia Samoa Trinidad and Tobago Tunisia United Arab Emirates),
- **8 of these jurisdictions** (Barbados, Grenada, Macau, Mongolia, Panama, South Korea, Tunisia, and the United Arab Emirates) have been moved from the blacklist to a separate category of jurisdictions "**subject to close monitoring**", according to a 23 January release.

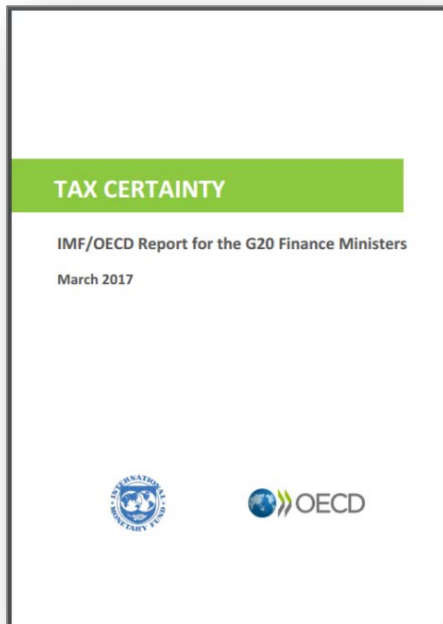


TAX CERTAINTY



2017 Report on tax certainty

- In March 2017, the OECD and the IMF submitted a **report to the G20 on the sources of tax certainty** and made **recommendations** including:
 - Reducing complexity and improving clarity through improved tax policy design
 - Improving tax dispute prevention and resolution including through MAP and arbitration
 - Promoting cooperative compliance programmes, APAs and joint audits
- We will **report back in April 2018** on progress made





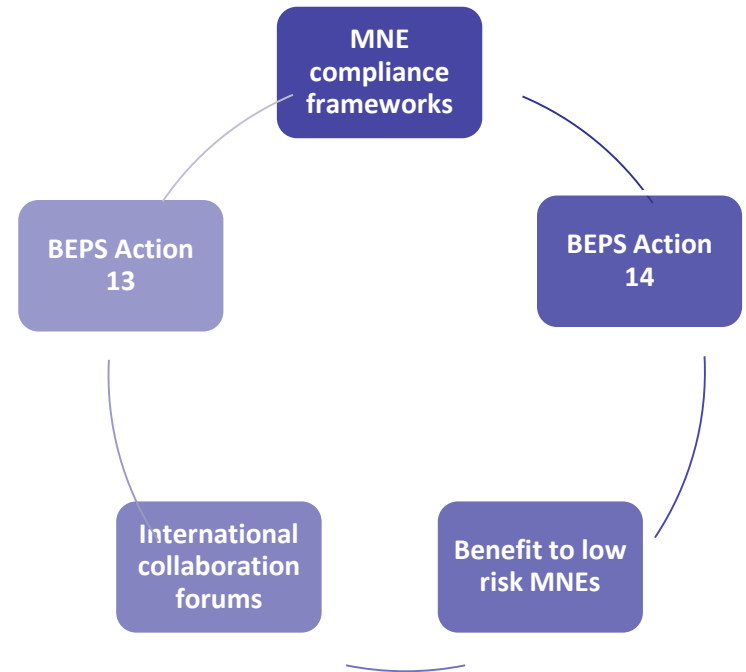
2018 Follow-up report on tax certainty

- **Update** on the 2017 report to be provided to G20 in 2018
 - Outlines the findings of the Tax Certainty Report,
 - Provides an analysis of the issue of tax certainty as it relates to developing countries, and
 - Updates the **OECD's comprehensive efforts to enhance tax certainty**, in particular by improving dispute prevention and resolution and through better rule design, implementation and application.



International Compliance Assurance Programme - ICAP

- A multilateral risk assessment and assurance process for “not high risk” MNE groups
- **Voluntary programme using CbC reports** and other information to facilitate open multilateral engagements between MNE groups and multiple tax administrations simultaneously
- **Timely** process (no more than 12 months)
- Aiming to **prevent disputes**
- **Pilot ICAP will start in January 2018 with 7 countries**



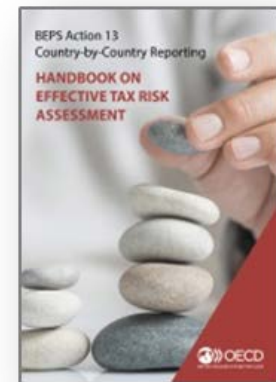


TAX ADMINISTRATION & CAPACITY BUILDING



Forum on Tax Administration (FTA)

- Key topics and orientations for future work:
 - **Implementation of AEOI, BEPS** and actions to enhance tax certainty
 - **Improving compliance** through work on the shadow economy, focus on the effective use of Common Reporting Standard data
 - Building the tax administration of the future through **digital services and delivery**, supporting capacity building in developing countries
- In **October 2017, release of 2 handbooks** on CbC reporting: on effective implementation and effective tax risk assessment





Knowledge Sharing Platform and capacity building

- The development of the Knowledge Sharing Platform for Tax Administrations helps **delivering e-learning and training materials** for tax administrations worldwide
- Still a prototype tool, expected to be finalised in 2018
- The OECD/UNDP **Tax Inspectors Without Borders** initiative
- Programmes have been launched in **25 countries**, and between 2012 and 2017 **more than USD 328 million was collected** in additional tax revenues



MORE INFORMATION

Andrew Auerbach

Counsellor to the Director and Deputy Director,
OECD Centre for Tax Policy and Administration

andrew.auerbach@oecd.org

WEBSITE

<http://www.oecd.org/tax/beps/>