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

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BUENOS AIRES, ARGENTINA

JULY 2018

This report contains two parts. Part I is a report on the activities and achievements of the OECD's tax agenda, and is made of two subparts: looking back at significant achievements and looking ahead at the further progress needed, in particular through the OECD/G20 Inclusive Framework on BEPS. Part II is a Progress Report to the G20 by the Global Forum on Transparency and Exchange of Information for Tax Purposes.

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Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

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PART I

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

Overview

Since 2008, the G20 has made the fight against international tax fraud and avoidance a priority. Thanks to the support of Leaders and Finance Ministers, major progress has been achieved, which has demonstrated that international cooperation, in a multilateral framework, can support and strengthen national sovereignty. Transparency has been improved and rules have been changed to realign the location of profits with the place where value is created. The time where multinational enterprises (MNEs) could use tax planning based on a lack of transparency, a lack of substance or the exploitation of cross-border loopholes is over. **More needs to be done, and is being done, in particular to address the challenges of the digitalisation of the economy**. Meanwhile, you demanded that countries **automatically exchange financial account information** – almost 50 jurisdictions started to do so in September 2017 and another 50 more will begin this September. You urged countries to join multilateral conventions to facilitate international cooperation and to implement parts of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project. Almost 120 jurisdictions now participate in the Mutual Administrative Assistance Convention and the **BEPS multilateral instrument** counts 82 signatories and has just this month entered into force. To counter harmful tax practices you insisted that countries **amend or abolish harmful preferential tax regimes** – 175 regimes have been reviewed by the OECD/G20Inclusive Framework on BEPS and more than 130 regimes have already been amended or abolished or are in the process of being amended or abolished. The G20 insisted that countries be transparent about the types of agreements their tax administrations strike with their taxpayers and now **information on 17 000 tax rulings** have already been identified and exchanged. **Country-by-Country Reporting**, requiring the largest multinational enterprises to provide tax administrations with a complete and coherent picture of their tax situation, has started.

As a direct result of all this, **taxpayers are changing their behaviour.** A significant number of MNEs have already reported taking pro-active steps aimed at aligning their tax structures with their real economic activity. In addition and as a result of voluntary compliance mechanisms and other offshore investigations put in place since 2009 thanks to the improvements in international tax cooperation, particularly the onset of automatic exchange of information, taxpayers have come forward and disclosed formerly concealed assets and income. By June 2018, jurisdictions around the globe have identified **EUR 93 billion in additional revenue** (tax, interest, penalties) from such initiatives.

There is much more work to do. Crucially, the leadership and collegiality of the G20 will be essential in solving one the most urgent issues in the international tax agenda. In my last report to you in March of 2018, I delivered the OECD's *Interim Report on the Tax Challenges Arising from Digitalisation*. The OECD/G20 Inclusive Framework **agreed to revisit the profit allocation and nexus** rules and is now working towards a consensus-based solution. The OECD/G20 Inclusive Framework's Task Force on the Digital Economy met on 11 July, allowing countries to refine their positions, with a view to bridging the gap between them. The Secretariat is now in a good position to identify a clear way forward and provide you with an **update in June 2019**. The final report would be prepared for 2020. We have received a number of requests to advance the final report to 2019. Clearly, this would only be possible if there were a higher level of convergence on the path forward and on the possible ways to achieve what is clearly a shared objective.

1. Implementing the Base Erosion and Profit Shifting Project

1.1. Progress in implementing BEPS

The OECD/G20 Inclusive Framework on BEPS met recently in Lima, **Peru** to review progress on the implementation phase of the OECD/G20 BEPS Project. The size of the OECD/G20 Inclusive Framework is already an accomplishment, with **116 members representing over 95 percent of global GDP**. In the past year, the OECD/G20 Inclusive Framework welcomed 15 new members – Anguilla, Bahamas, Bahrain, Barbados, Maldives, Mongolia, Oman, Qatar, Saint Kitts and Nevis, Saint Lucia, Serbia, Trinidad and Tobago, Tunisia, United Arab Emirates and Zambia.

The OECD/G20 BEPS Project is comprised of 15 separate action points to fight tax avoidance. Of these, four are minimum standards and all OECD/G20 Inclusive Framework members must implement them. To ensure that this happens, the OECD/G20 Inclusive Framework is conducting peer reviews and the first results are now available. For **Action 5 (Harmful Tax Practices), 175 preferential tax regimes have been reviewed, and more than 130 regimes have already been amended or abolished** or are in the process of being amended or abolished. In addition, Action 5 requires tax administrations to have transparency in respect of the agreements they make with taxpayers. **Over 17 000 rulings have already been identified and information is now being sent to the tax administrations that need it**.

A key component of ensuring that taxation is aligned with value creation is the ability of tax administrations to understand where Multinational Enterprises have their activities and where the revenues are generated. **The first annual peer review report of Action 13 (Country-by-Country reporting (CbC reporting)), contains a comprehensive examination of 95 jurisdictions**. This first peer review focusses mainly on their domestic legal and administrative frameworks. The second annual peer review, which will cover all members of the OECD/G20 Inclusive Framework, will examine the practices for collecting and exchanging this information as well. The outcomes will be released in 2019.

Countries are making significant progress in implementing the BEPS Actions even beyond the minimum standards. Perhaps most importantly, MNEs have already reported taking pro-active steps aimed at aligning their corporate structures with their real economic activity, which ultimately is the goal the G20 has set for the world.

When the OECD/G20 BEPS Project was started **we estimated that the cost of tax avoidance was between USD 100 billion to USD 240 billion per year**. Action 11 (Measuring and Monitoring BEPS) aims to provide policy-makers with the on-going information they need on the scale of base erosion and profit shifting activities and the impact that the OECD/G20 BEPS Project is having to counter these. A series of new data collection processes and analytical tools have been developed and are now being put in place, including data in respect of Country-by-Country reports.

1.2. The tax challenges of the digitalisation of the economy

The interim report on the Tax Challenges Arising from Digitalisation that I presented to you in March 2018 took stock of the issues and contained an agreement to work on a consensus-based long-term solution. The different perspectives on these issues among the members of the OECD/G20 Inclusive Framework can generally be described as falling into three groups: those that consider the issue is generally confined to certain highly digitalized businesses; those that think that digitalization is challenging the tax rules even beyond BEPS, and finally those that consider that the OECD/G20 BEPS package has largely addressed the concerns of double non-taxation and do not currently see the need for any significant reform of the international tax rules. Despite their differences, all members of the OECD/G20 Inclusive Framework agreed to examine the concepts of nexus and profit allocation with a view to reaching consensus by 2020. Work is being carried out with a view to agreeing on the sense of direction on which I would present an interim report in 2019.

Since your last meeting, **the OECD/G20 Inclusive Framework's Task Force on the Digital Economy met on 11 July to take this forward.** While the 3 general categories remain, members have all recognised the need for a long-term solution and have also further refined their positions in an effort to bridge gaps. Technical work will be conducted by the Secretariat by the end of the year for the TFDE to meet again in December and explore whether a common position could emerge. Different perspectives would have to be taken into account (from a revision of transfer pricing rule, to the role of a minimum tax approach, with the consideration of user contribution) which may not be incompatible among themselves.

It was also recognised that, in the meantime, technology is providing opportunities as well as new challenges to BEPS and tax policy and administration. For example, blockchain gives rise to both new, secure methods of record-keeping while also facilitating crypto-currencies which can pose risks to the gains made on tax transparency in the last decade. Work is already underway to better understand and

address these developments, including on the appropriate tax treatment of crypto-currencies, both for income tax and VAT/GST purposes and how to investigate tax crimes involving crypto-currencies.

An interim Report, prepared by the Secretariat, will be presented to you on these developments in June 2019 while we are confident that the 2020 Report should bring a common position to solve long-term challenges.

The 2nd *Annual Progress Report of the OECD/G20 Inclusive Framework on BEPS* is attached as Annex 1 to this report.

2. Tax Transparency

Tax administrations have more access to information from around the world than could have been imagined just a few years ago. Bank secrecy is no longer an impediment to exchange of information for tax purposes. The Global Forum's standards for exchange of information on request apply to each of its more than 150 members. Automatic exchange of financial account information began in earnest in 2017 and another 50 jurisdictions will begin this year. The Global Forum is right now working on the framework for the in-depth reviews of the implementation of the AEOI standard by committed jurisdictions.

Great progress has been made in the implementation of the tax transparency standards because of the strong support from the G20. Establishing a level playing field has been a key strategic objective in this area since the OECD first sought commitments to implement the standard almost 20 years ago. In 2015, the G20 asked that objective criteria with respect to tax transparency be established to ensure a level playing field. The criteria that the OECD developed were a vital tool to push jurisdictions over the finish line as the first round of reviews for exchange of information on request and the commitment process for automatic exchange of information were coming to a close.

As circumstances have evolved, with a second round of reviews underway for exchange of information on request and the implementation of the automatic exchange of information, **the G20 has asked the OECD to provide recommendations on how the criteria can be strengthened to ensure that they remain a lever for progress, including the successful delivery of the commitments made**.

Annex 2 contains the proposal of the OECD to respond to your request. The basic criteria are the same as the OECD established in 2016 – compliance with the tax transparency standards of the exchange of information on request (EOIR) and the standard for automatic exchange of financial account information (AEOI) as well as participation in the multilateral Convention for Mutual Administrative Assistance in Tax Matters. However, **the proposal would see the benchmarks strengthened – for AEOI the focus would be on what countries have done to implement rather than just on committing to do so and for the multilateral Convention it would no longer be satisfactory merely to sign it, the Convention must be in force**. The general rule is that jurisdictions must meet 2 out of the 3 criteria, and **as before a jurisdiction receiving a Non-Compliant rating for EOIR would automatically lead to a jurisdiction being listed. Now, failing to meet the AEOI criterion would also lead to the same result**.

Benchmarks for the Objective Criteria to Identify Jurisdictions that have not Satisfactorily Implemented the Tax Transparency Standards:

- a "Largely Compliant" overall rating with respect to the EOIR standard, taking into account the Global Forum's second round of reviews on an ongoing basis and provided jurisdictions (other than those that received a provisional rating in the first round) have had an opportunity to respond to any downgrades in rating through a supplementary report,
- with respect to the implementation of the AEOI standard, all necessary legislation is in place and exchanges commenced by the end of 2018; and agreements activated with substantially all interested and appropriate partners by the end of 2019; and
- having the multilateral Convention in force or having a sufficiently broad exchange network of bilateral agreements in force permitting both EOIR and AEOI.

In order for a jurisdiction to be considered to comply with respect to international tax transparency, it would need to meet the benchmarks of at least two of the three above-mentioned criteria. However, a jurisdiction will be considered as failing to comply notwithstanding that it may have met the benchmarks of two of the three criteria if: a) it is determined to be "non-compliant" overall for its implementation of the EOIR standard; or b) it has, contrary to its commitment to the Global Forum to implement the AEOI Standard by 2018, not met the AEOI benchmark set out above.

At the G20 Summit **this November, the OECD will report to the G20 Leaders on the number of jurisdictions that are at risk** of being considered as having not satisfactorily implemented the internationally agreed tax transparency standards. The efforts of jurisdictions to comply with tax transparency standards will be monitored and **a report on progress will be delivered to the Leaders' Summit in 2019, along with the identity of those jurisdictions (if any) that still do not comply**. The list would be updated at the end of 2019 to take into account the requirement to have agreements with substantially all interested and appropriate partners.

3. Update on Tax Certainty

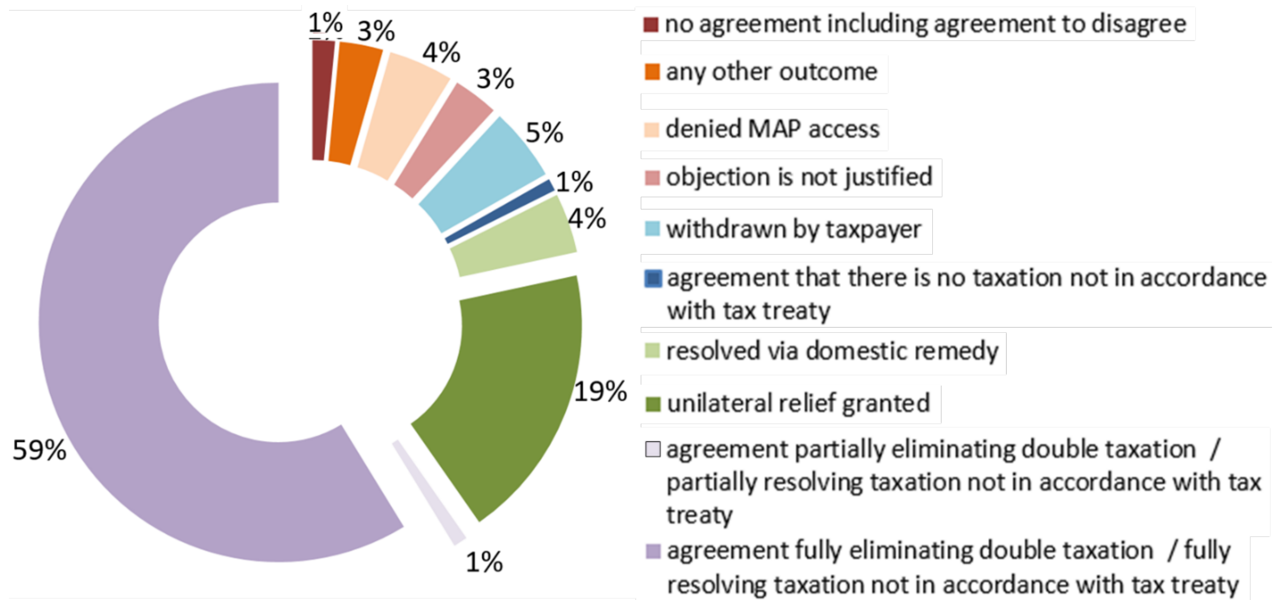
In March 2017 and in response to the call from G20 Leaders, the OECD and the IMF produced a comprehensive report identifying the sources of uncertainty in tax matters and the various tools that taxpayers and governments could use to reduce it from the perspective of businesses and tax administrations in G20 and OECD countries. The G20 has asked for a follow-up report to be delivered in 2018.

To enhance tax certainty, the 2018 report identifies a set of concrete and practical approaches and solutions. These range from improving the clarity of legislation, increasing predictability and consistency of tax administration practices, effective dispute prevention, and robust dispute resolution mechanisms. While the 2017 report focused on tax certainty in G20 and OECD countries, it is also of particular importance for developing countries, although the tools to enhance tax certainty in those countries need to be assessed against their own enforcement capacities.

One of the key tools to ensure tax certainty for taxpayers is the availability of mutual agreement procedures, where jurisdictions disagree on the tax treatment of a particular transaction, leading to double taxation. On BEPS Action 14 dealing with the improvement of mutual agreement procedures (MAP), a total of 72 jurisdictions have been scheduled for review, 21 reviews have already been published and 16 are currently under way. The jurisdictions that have received recommendations are addressing the deficiencies, by increasing resources in the MAP function, publishing MAP guidance or amending their tax treaties. These actions will be monitored and followed up in stage 2 of the peer review process (starting in the second half of 2018).

The first results are encouraging. Over 85% of MAPs concluded in 2016 resolved the issue. Almost 60% of MAP cases closed were resolved with an agreement fully resolving the taxation not in accordance with the tax treaty and almost 20% of them were granted a unilateral relief while almost 5% were resolved via domestic remedy. Finally, 5% of the MAP cases closed were withdrawn by taxpayers.

Figure 1. MAP Outcomes



As well as providing an update on these important tools, the 2018 Report also shows new initiatives, such as the OECD work to mitigate uncertainty in tax treaties, the IMF initiative to address international taxation issues in its surveillance, and the FTA initiative to improve risk assessment and audit processes.

For this update, the data obtained from the OECD business survey of 2017 was re-analysed to try and understand the importance of tax certainty for developing countries. Also, a workshop held in Tanzania in 2017 highlighted the importance of tax certainty for governments in developing countries. Several initiatives are discussed in the 2018 Report that aim to enhance tax certainty in developing countries, such as toolkits by the Platform for Collaboration on Tax, Medium-Term Revenue Strategies, the wide array of IMF technical assistance work in revenue mobilization (tax policy design, legal drafting, and tax administration), and the progress made with the tax administration diagnostic assessment tool (TADAT).

The work done in 2017 and this year's update show that the concept of tax certainty and its importance to stakeholders is well embedded in the work of both the OECD and the IMF. Indeed, the Chair of OECD's Committee on Fiscal Affairs wrote to each of the CFA's working parties to encourage them to seek ways to support tax certainty as an inherent aspect of their policy initiatives. I look forward to updating you on developments related to tax certainty in the context of our work program.

The *Update on Tax Certainty: IMF/OECD Report for G20 Finance Ministers and Central Bank Governors* is attached as an Annex 3 to this report.

4. Capacity Building – A New Tax Academy in Argentina

Tackling tax crimes and other financial crimes is another important area where capacity building is increasing. In the context of the Oslo Dialogue, launched in 2011 to promote a 'whole of government' approach to tackle financial crimes, capacity building has been identified as a key pillar. The OECD International Academy for Tax Crime Investigation in Ostia has trained over 400 financial crime investigators from more than 75 countries, including from almost 50 developing countries. The OECD, with the contributions of G20 countries (Germany, Italy and the United Kingdom) launched in 2017 and 2018 two successful pilot programmes for a second Academy hosted by Kenya. This Africa Academy for Tax and Financial Crime Investigation is expected to be formally established in the coming months, thus reinforcing the capacity of tax and financial crime investigators in tackling illicit financial flows.

Argentina decided to host an OECD International Academy for Tax Crime Investigation in Buenos Aires, following the success of the Academy launched in Ostia, Italy in 2014.

The OECD continues to provide capacity-building support to developing countries through a variety of activities, and works together with the IMF, the UN and the WBG to better coordinate support and services to developing countries through the Platform for Collaboration on Tax (PCT) established in 2016. The PCT is working on practical toolkits to address issues related to BEPS and beyond, identified as priorities by developing countries. The first toolkit, on *Options for Low Income Countries' Effective and Efficient Use of Tax Incentives for Investment* was published in 2015, followed by a toolkit for *Addressing Difficulties in Accessing Comparable Data for Transfer Pricing Analyses* in 2017, which included a supplementary report on information gaps on prices of minerals. Two more toolkits will be released in 2018, on *Indirect Offshore Transfers of Interests* and on *Implementing Effective Transfer Pricing Documentation*.

In February 2018, the PCT held its first Global Conference on Tax and the Sustainable Development Goals at the UN headquarters in New York. The final statement reaffirmed the common objectives of the four partner international organisations in relation to the tax agenda, including: how to mobilise domestic resources for development; tax policies to support sustainable economic growth, investment and trade; the social dimensions of taxation (income and gender inequality, human development); as well as capacity development and international tax cooperation.

In addition, the OECD/UNDP Tax Inspectors Without Borders (TIWB) initiative continues to provide hands-on audit support to tax administrations in developing countries, engaging tax audit experts to transfer skills to strengthen capacity in auditing Multinational Enterprises. Following the successful "South-South" experience of the Kenya-Botswana TIWB programme in 2017, South Africa has launched in June 2018 a new programme with Zambia. Since 2012, TIWB completed 7 projects, 31 are currently operational, and there are 23 in the pipeline in Africa, Asia Pacific, Latin America and Caribbean, and Eastern Europe. TIWB is now branching out from general audit support to more specific sector audits mainly in mining, financial sector, commodities and telecommunications; as well as from tax avoidance issues to tax evasion issues supporting investigations for tax and crime. **The target is 100 deployments by 2020. To date, 414 million USD of additional revenues have been raised with costs of less than 4 million USD. TIWB represents good value for money with over 100 USD in additional revenues recovered for every 1 USD spent on operating costs.**

PART II

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES PROGRESS REPORT TO THE G20 FINANCE MINISTERS

Executive Summary

More and more jurisdictions are engaging in the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) with its membership reaching 150. Members are making constant progress towards a more effective implementation of the internationally agreed standards on tax transparency and exchange of information, are being subject to rigorous assessment and monitoring processes, as well as providing their feedback and participating in the evaluation of peers. Multilateralism proves its effectiveness both at the institutional level, which continues to attract new members, and through legal instruments facilitating cross-border tax cooperation. Today, 123 jurisdictions participate in the Convention on Mutual Administrative Assistance in Tax Matters (the multilateral Convention) and 102 jurisdictions have signed the OECD's Multilateral Competent Authority Agreement for the Common Reporting Standard which provides the basis for automatic exchange relationships.

In 2017, around 50 jurisdictions started exchanging financial account information automatically. In more than 50 further jurisdictions preparatory work is entering its final stage with exchanges due to commence in September 2018. While a majority of these jurisdictions already have everything in place to deliver on their commitment, a few of them have not completed all the necessary steps and are therefore facing the increasing pressure to comply. With around 100 jurisdictions expected to be participating in automatic exchange of information (AEOI) on financial accounts of non-residents in just a couple of months, the environment in which taxpayers and tax administrations operate will change dramatically. The first evidence of increasing tax compliance is already available. Nearly 93 billion euro in additional tax revenue has been identified as a result of voluntary compliance mechanisms and offshore investigations. Members are also observing an increase in the number of foreign accounts and the income from these accounts being declared by taxpayers through tax returns.

The work on delivering peer-led evaluations of the progress made by jurisdictions in the effective implementation of the transparency and exchange of information on request (EOIR) standard continues according to the schedule. In the second round of peer reviews, 24 new ratings have been assigned, of which 10 overall ratings are "Compliant", 12 "Largely Compliant" and 2 "Partially Compliant". Where any gaps are identified, recommendations are made on the steps necessary for addressing them. The new peer reviews demonstrate the successful progress made in the implementation of the recommendations made in the first round, as well as improved practice and frequency of exchanges. The number of requests between tax authorities continues to grow.

The Global Forum also makes a valuable contribution in advancing the global agenda on beneficial ownership along with Financial Action Task Force (FATF) and other international actors. This report contains an update on the actions taken by the Global Forum in response to the 2016 G20 call to advance its work in this field. Much has been delivered already, including the inclusion of the beneficial ownership requirement in the 2016 Terms of Reference (ToR) for the second round of EOIR peer reviews which will ensure the scrutiny of the availability of, and access to, beneficial ownership information in all member jurisdictions, as well as the provision of technical assistance through numerous capacity-building trainings and support in drafting laws.

Technical assistance facilitating the effective implementation of the tax standards continues to expand. In 2018 alone, more than 50 jurisdictions have received tailored support. Whilst much has been done, there is more work to come. Developing countries remain behind more advanced economies with respect to tax transparency. Many have not yet signed and/or ratified the multilateral Convention and are yet to implement the AEOI standard. Technical assistance has been offered to all developing country members to enable more effective participation in tax cooperation and the progress is now largely dependent on the domestic political leadership and willingness to benefit from such support. A spike of political interest is observed in Africa, where nearly 20 jurisdictions have already signed the Yaoundé Declaration, made at the ministerial meeting alongside the 2017 Global Forum annual plenary, which calls on all African countries to fully benefit from the most recent improvements in global tax transparency.

For the remainder of 2018, the Global Forum will maintain its focus on ensuring the full and timely delivery of the AEOI commitments. It will continue its assessments of the timeliness and quality of AEOI implementation under the "Staged Approach", whilst delivering a framework for the full peer reviews which will take a close look at the effectiveness of AEOI implementation in practice. Further progress is anticipated with respect to the participation of developing country members in this new standard. The EOIR peer reviews will continue, including with respect to the jurisdictions which obtained a provisional rating under the Fast-Track reviews in 2017. The work on beneficial ownership information will remain a priority. Capacity-building support to developing countries will continue with an increased focus on engagement with political leadership in developing countries, and further efforts will be put in the assessment of the impact of increased tax transparency.

Introduction

Tax transparency and exchange of information continue to expand. In the first six months of 2018, three jurisdictions have joined the Global Forum, i.e. Mongolia, Montenegro and Serbia, taking the membership to 150. The growing number of Global Forum members, as well as a wide range of participating jurisdictions, demonstrate the universal value of transparency and cooperation in tax matters and their truly global recognition. This report seeks to take stock of the progress made with respect to the EOIR and AEOI standards, highlighting the key successes and remaining challenges.

Automatic Exchange of Information

The automatic exchange of information on financial accounts of non-residents dramatically changes the landscape of tax transparency by providing tax authorities with additional tools to identify tax evasion. Along with the implementation of this new standard, the existing tax administration instruments and techniques are being adjusted to fit better the needs of globalised economies and integrated financial systems, and are more fully exploiting the possibilities created by digital technologies and data analysis.

Delivering the Global Network of AEOI

Nearly 50 jurisdictions successfully commenced exchanges in 2017. A further 53 jurisdictions are due to start sending financial account information by September 2018. In the last two months before this major milestone, preparation is at full speed. The up-to-date status of AEOI commitments can be found in Table 1 below.

Table 1. The Status of AEOI Commitments*

JURISDICTIONS UNDERTAKING FIRST EXCHANGES IN 2017 (49)
Anguilla, Argentina, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Cyprus**, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Turks and Caicos Islands, United Kingdom
JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018 (53)
Andorra, Antigua and Barbuda, Aruba, Australia, Austria, Azerbaijan***, The Bahamas, Bahrain, Barbados, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Curacao, Dominica, Ghana***, Greenland, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Kuwait, Lebanon, Macau (China), Malaysia, Marshall Islands, Mauritius, Monaco, Nauru, New Zealand, Niue, Pakistan***, Panama, Qatar, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Trinidad and Tobago, Turkey, United Arab Emirates, Uruguay, Vanuatu

* The United States has undertaken automatic information exchanges pursuant to FATCA from 2015 and entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.

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*** Developing countries that do not host a financial centre were not asked to commit to 2018 but these jurisdictions have done so voluntarily.

To monitor, assess and assist its members in the implementation of the AEOI Standard, the Global Forum has put in place the “Staged Approach”. It includes monitoring key milestones, i.e. assessments of whether each jurisdiction correctly put in place the domestic and international legal requirements; assessing the confidentiality and data safeguard standards applied, including the legal and operational confidentiality framework in place; and monitoring of the technical requirements. The “Staged Approach”, which as demonstrated in Table 2 is fully underway, seeks to support members in the process of implementation as well as identifying issues early in the process, rather than waiting until exchanges were fully up and running.

Table 2. The Progress of Reviews under the “Staged Approach”

1) Legislative assessments: (i) legislative framework, and (ii) lists of non-reporting Financial Institutions and excluded accounts	(i) The domestic legislative frameworks of more than half of the jurisdictions committed to implement the AEOI Standard by 2018 have already been assessed (55) with recommendations issued whenever required, and (ii) Over 126 Financial Institutions and financial products excluded by the jurisdictions have been assessed to ensure they are in line with the requirements of the AEOI Standard.
2) Monitoring of international framework	The process of putting the international framework in place is ongoing and is being monitored on a continuing basis.
3) Expert confidentiality assessments	98% completed, with assistance offered where gaps are identified.

The vast majority of committed jurisdictions are demonstrating their readiness to commence exchanges by September 2018 in line with the commitments made, with a remaining few facing the challenge of completing the steps which remain to be taken in the next two months (see Table 3 “AEOI Implementation Update”). The Global Forum will continue to monitor closely the progress made by the 2018 jurisdictions to ensure that their commitments are delivered fully and timely.

Table 3. AEOI Implementation Update

For all jurisdictions
(i.e. those having commenced exchanged in 2017 and those committed to exchange by 2018*)

The domestic and international legal frameworks

- 95% of the jurisdictions have the necessary domestic legal framework in place to ensure Financial Institutions collect and report the information.
- Data collection covers 90% of all potential partners, showing widespread coverage of the scope of information Financial Institutions are required to collect, with some – albeit limited – gaps.
- 94% of the jurisdictions have put in place the full international legal framework to actually exchange the information.

Activating and operationalising exchanges

- Activation of the international agreements, which is done on a bilateral basis, is underway. As of 26 June 2018, 75% of the possible exchange relationships have already been activated and more might completed before the date of exchange.
- All the jurisdictions which have the domestic and international legal framework in place have already signed on to the CTS for the transmission of the information.

* Excludes the developing countries without financial centres (Azerbaijan and Pakistan) which were not asked to commit to 2018 but have done so voluntarily.

The “Staged Approach” is just the beginning of Global Forum’s peer review process in relation to AEOI. The work on the framework for full AEOI peer reviews is underway and will be presented at the upcoming plenary meeting of the Global Forum which is scheduled to take place in Uruguay in November 2018 . The Terms of Reference and Methodology for the full AEOI reviews will built upon the ongoing monitoring and assessment carried out as part of the “Staged Approach”; however, the new process will go beyond the elements which could have been assessed prior to the commencement of actual exchanges and will look more closely into the effectiveness of AEOI implementation in practice.

The added value delivered by AEOI has already been felt by many. Whilst only the early adopters which commenced exchanges in 2017 can benefit from the data matching and analysis, the preventive effect which incentivises taxpayers to declare their foreign income and assets voluntarily has a wider circle of beneficiaries. Many jurisdictions have put in place and benefitted from voluntary disclosure programmes prior to the commencement of first exchanges. Nearly 93 billion euro in additional tax revenue has been identified as a result of voluntary compliance mechanisms and offshore investigations. Furthermore, members are also observing an increase in the number of foreign accounts and the income from foreign accounts declared by taxpayers through tax returns.[1] The AEOI Standard supports a more robust compliance framework. This in turn also strengthens the perceived fairness of the tax system by providing additional reassurance to compliant taxpayers that tax administrations have the necessary tools to identify the taxpayers who do not comply.

Engaging Developing Countries

The *Global Forum's Plan of Action for Developing Countries Participation in AEOI*, which was adopted in November 2017, has reinforced the work carried out in developing country members with respect to AEOI. Under a step-by-step approach envisaged by this plan of action, all developing country members have been invited to undergo preliminary assessment for AEOI purposes to identify a practicable date of commitment by which the jurisdiction in question can reasonably expect to start sending and receiving information. One of the key components of such assessment is the analysis of confidentiality and data safeguards already in place. The preliminary assessment helps developing country members to prepare a realistic delivery plan, including the necessary technical assistance and timeline.

In just a few months since the publication of this plan of action, 13 preliminary capacity assessments have commenced and several more have already been lined up. There are now 7 developing countries which have declared their intention to commence exchanges by a specific date, with more commitments expected in the near future (see Table 4 "Intended Date of AEOI Implementation by Developing Country Members"). Six bilateral pilot projects, which allow more experienced countries to support their peers in the implementation of AEOI, are currently in place, namely between Albania and Italy; Georgia and Germany; Ghana and the United Kingdom; Morocco and France; Pakistan and the United Kingdom; and the Philippines and Australia.

[1] The 2017 Global Forum Survey "Assessing the Impact of Exchange of Information".

Table 4. Intended Date of AEOI Implementation by Developing Country Members

JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018 (3)
Azerbaijan, Ghana, Pakistan
JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2019/2020 (4)
Albania (2020)*, Maldives (2020), Nigeria (2019), Peru (2020)
DEVELOPING COUNTRIES HAVING NOT YET SET THE DATE FOR FIRST AUTOMATIC EXCHANGE (44)
Armenia, Benin, Botswana, Burkina Faso, Cambodia, Cameroon, Chad, Côte d'Ivoire, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Former Yugoslav Republic of Macedonia, Gabon, Georgia, Guatemala, Guyana, Haiti, Jamaica, Kazakhstan, Kenya, Lesotho, Liberia, Madagascar, Mauritania, Moldova, Mongolia, Montenegro, Morocco, Niger, Papua New Guinea, Paraguay, Philippines, Rwanda, Senegal, Serbia, Tanzania, Thailand, Togo, Tunisia, Uganda, Ukraine

* Albania had initially committed voluntarily to first AEOI exchanges in 2018 and then delayed the date to 2020.

Exchange of Information on Request

The Global Forum continues to deliver peer-led evaluations of the effective implementation of the EOIR Standard according to the schedule.

Making Progress in the Second Round of EOIR Peer Reviews

In the second round of EOIR peer reviews, which commenced in 2016, 24 new ratings have already been published as of 26 June 2018, of which 10 overall ratings are "Compliant", 12 "Largely Compliant" and 2 "Partially Compliant" (see Table 5 "Overall Ratings Following Peer Reviews against the EOIR Standard"). Seven new reports are expected to be published in July 2018[2] and a further 26 reviews have already been launched and are on-going,[3] including many jurisdictions which were assigned provisional ratings through the Fast-Track review process in 2017.

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[2] Guernsey, Indonesia, Japan, Kazakhstan, the Philippines, San Marino and the United States.

[3] Anguilla, Aruba, Austria, Bahrain, Botswana, Brazil, Croatia, Federated States of Micronesia, Former Yugoslav Republic of Macedonia (FYROM), Guatemala, Hong Kong (China), Lebanon, Liechtenstein, Luxembourg, Macao (China), Malaysia, Nauru, Netherlands, Saudi Arabia, Singapore, Spain, Saint Kitts and Nevis, Trinidad and Tobago, Turks and Caicos Islands, United Kingdom and Vanuatu.

Table 5. Overall Ratings Following Peer Reviews against the EOIR Standard (as of 26 June 2018)

Ratings based on First round of reviews	Ratings based on Second round of reviews	Overall rating
China (People's Republic of), Colombia, Finland, Iceland, Japan, Korea, Lithuania, Mexico, Slovenia, South Africa, Spain, Sweden	Estonia, France, Ireland, Isle of Man, Italy, Jersey, Mauritius, Monaco, New Zealand, Norway	**Compliant**
Albania, Argentina, Aruba, Austria, Azerbaijan, Bahrain, Barbados, Belize, Botswana, Brazil, British Virgin Islands, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Chile, Cook Islands, Cyprus, Czech Republic, El Salvador, Former Yugoslav Republic of Macedonia, Gabon, Georgia, Gibraltar, Greece, Grenada, Guernsey, Hong Kong (China), Israel, Kenya, Latvia, Lesotho, Liechtenstein, Luxembourg, Macao (China), Malaysia, Malta, Mauritania, Montserrat, Morocco, Netherlands, Nigeria, Niue, Pakistan, Philippines, Poland, Portugal, Romania, Russia, San Marino, Senegal, Singapore, Slovak Republic, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Seychelles, Switzerland, Turks and Caicos Islands, Uganda, United Kingdom, United States, Uruguay	Australia, The Bahamas, Belgium, Bermuda, Canada, Cayman Islands, Denmark, Germany, Hungary, India, Jamaica, Qatar	**Largely Compliant**
Andorra, Antigua and Barbuda, Costa Rica, Dominica, Dominican Republic, Guatemala, Federated States of Micronesia, Lebanon, Nauru, Panama, Samoa, United Arab Emirates, Vanuatu		**Provisionally* Largely Compliant**
Anguilla, Indonesia, Sint Maarten, Turkey	Curaçao, Ghana	**Partially Compliant**
Marshall Islands		**Provisionally* Partially Compliant**
Trinidad and Tobago**		Non-Compliant

* These jurisdictions have been reviewed under the Fast-Track review procedure and assigned a provisional overall rating. Their full reviews under the strengthened 2016 Terms of Reference have been launched or are due to be launched in 2018.
** This jurisdiction applied for the Fast-Track review, but the progress it demonstrated was not sufficient to justify an upgrade of its rating beyond Non-Compliant.

Recognising Enhanced Effectiveness and Remaining Challenges

The 2016 ToR have been enhanced through the inclusion of several new requirements, including that on the availability of, and access to, beneficial ownership information in respect of all relevant legal entities and arrangements. Most of the new deficiencies identified in the second round reviews relate to the availability of beneficial ownership information. In many cases, where the legal framework is there, the laws are newly-adopted and the effectiveness of their implementation is not yet adequately tested in practice. The Global Forum will continue to monitor the progress made by its members in response to the recommendations produced through the peer review process.

The significant broadening of parties to the multilateral Convention has had evident positive impact on tax cooperation. It has significantly broadened the exchange of information network and ensured that exchange of information relationships are in line with the standard. The number of exchange requests has been constantly rising since 2009. The average number of requests sent has more than tripled between 2009 and 2016. The number of bulk requests (in other words, a request which concerns more than one taxpayer and sometimes as many as a few hundred or thousands of them) and group requests (whereby information is requested with respect to taxpayers not individually identified but which have certain characteristics in common) has also surged.[4] The practice of exchange of information has also

[4] The 2017 Global Forum Survey "Assessing the Impact of Exchange of Information".

improved, including the timing of responses; however, some jurisdictions continue to face difficulties in providing timely responses.

Engaging with Non-Members to Deliver a Level Playing Field

The Global Forum has an established process in place which allows its members to nominate and scrutinise non-members to ensure a level playing field, in particular at the regional level. At the 2017 plenary, the Global Forum members agreed that Bosnia and Herzegovina, Montenegro and Serbia are of relevance for EOIR purposes. Serbia and Montenegro have since joined the Global Forum, whilst Bosnia and Herzegovina is completing the necessary internal procedures to proceed with membership.

The multilateral Convention

The participation in the multilateral Convention is growing. As of 26 June 2018, 123 jurisdictions participate in this powerful instrument facilitating cross-border tax cooperation by creating a network equivalent to over 5000 bilateral agreements. Participants include a broad range of countries including all G20 countries, all OECD countries, major financial centres and an increasing number of developing countries.

Since the Global Forum's last report to the G20 Finance Ministers and Central Bank Governors in March 2018, 4 jurisdictions have signed the multilateral Convention, namely Grenada, Liberia, Paraguay and Vanuatu. In May 2018, the People's Republic of China extended the territorial scope of the Convention to the Hong Kong and Macau Special Administrative Regions pursuant to Article 29. As such, the Convention will enter into force for both Hong Kong (China) and Macau (China) on 1 September 2018. Six countries, i.e. the Bahamas, Bahrain, Grenada, Peru, Turkey and United Arab Emirates, have deposited the instrument of ratification, acceptance or approval, and for these jurisdictions the multilateral Convention will enter into force in the near future.

Whilst the progress has been considerable, the number of developing countries which have not yet signed the multilateral Convention remains high.

Progress on Beneficial Ownership

In 2016, G20 called on the FATF and the Global Forum to propose certain "ways to improve the implementation of the international standards on transparency, including on the availability of beneficial ownership information, and its international exchange".[5] The initial proposals of the Global Forum were developed through consultation with its membership and the FATF and then presented to the G20 Finance Ministers in October 2016.[6] A brief status update on these actions is provided below and is presented under three main pillars.

Pillar 1. Improving effective implementation of beneficial ownership through peer reviews

Under the first pillar, the effective implementation of the beneficial ownership requirements is integrated into the new reviews being carried out by the Global Forum against both the EOIR and AEOI standards. The ongoing EOIR peer reviews closely examine a jurisdiction's legal framework and practices to ensure that beneficial ownership information is available and accessible to tax authorities for the purposes of exchange with treaty partners. Further, the assessment of the domestic implementing legal framework for AEOI, carried out under the "Staged Approach", offers initial checks on the rules relating to the identification of the beneficial owners of entity account holders (or the "Controlling Persons" in the AEOI Standard).

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[5] Communiqué of the G20 Finance Ministers and Central Bank Governors Meeting (15 April 2016).

[6] OECD Secretary-General Report to G20 Finance Ministers (October 2016).

Pillar 2. Ensuring closer institutional cooperation between the FATF and the Global Forum

Cooperation between the FATF and the Global Forum has been enhanced to further ensure the coherence and mutual reinforcement of work to improve transparency in relation to beneficial ownership. Following an invitation from the FATF, the Global Forum Secretariat has been attending the FATF Plenary Meetings and various working groups meetings. The FATF has become an observer to the Global Forum and an arrangement is in place to enable its Secretariat to be invited to PRG and AEOI Group meetings on an ad hoc basis. In addition, a mapping of the FATF beneficial ownership requirements which could be relevant for the EOIR assessments under the 2016 ToR has been approved by the Global Forum. A similar mapping is also being developed in consultation with the FATF Secretariat with respect to the AEOI Standard.

Pillar 3. Facilitating effective implementation through examples of effective implementation and technical assistance

As further progress is made in the second round of EOIR peer reviews, the work on compiling the best examples of effective implementation in relation to the beneficial ownership requirement is being advanced. Also, to facilitate effective implementation by its members, in particular developing countries, the Global Forum has begun offering specialised seminars on beneficial ownership on a regional basis. Since 2016, over 300 participants from more than 50 jurisdictions have attended seminars in Uganda, the Philippines, Mexico, Senegal and South Africa. Aspects of beneficial ownership relating to the 2016 ToR are also explained in general trainings for EOIR assessors: four assessor training events were organised in 2016 (France, Singapore, the United Kingdom and the United States) and 2 trainings in 2017 (Chile and Romania). In addition, the Global Forum supports its members in drafting legislation and reviewing administrative guidance related to beneficial ownership.

Technical Assistance

The demand for technical assistance provided by the Global Forum remains high. In 2018 alone, more than 50 developing countries have been covered by tailored support provided either as part of a structured Induction Programme (ongoing in more than 20 new member countries) or through ad hoc assistance offered on request to eliminate various gaps, including but not limited to addressing the recommendations made through the peer review process. The focus remains on the delivery of the EOIR and AEOI standards, as well as beneficial ownership.

Much has already been achieved but there is still more work to come. Particular concerns are raised by the fact that developing countries remain behind more advanced economies with respect to the implementation of tax transparency standards and the use of tax cooperation tools; as reported above, this most notably concerns their participation in the multilateral Convention and the implementation of the AEOI Standard. Technical assistance has been offered by the Global Forum to all developing country members to address these gaps. As such help becomes more readily available, it is the political will and commitment of domestic leadership what defines the ultimate progress and success.

In this respect, a surge of domestic political interest in making concrete steps towards greater tax transparency and exchange of information is observed in Africa. The Yaoundé Declaration, which was made at the ministerial meeting alongside the 2017 Global Forum annual plenary in Cameroon, called on all African countries to fully benefit from the most recent improvements in global tax transparency.[7] It also invited the African Union to begin a high level discussion on tax cooperation, fighting tax evasion which forms part of illicit financial flows and their link to domestic resource mobilisation. The number of signatories under this Declaration is rapidly growing; as of 26 June 2018, 20 African jurisdictions

[7] The Yaoundé Declaration (2017) www.oecd.org/tax/transparency/yaounde-declaration.pdf.

adhered to its text.[8] This rapidly growing push from the African countries seeks to put the fight against tax evasion at the forefront of the African policy agenda. The declaration was also endorsed by France and the United Kingdom.

Next Steps

The remainder of 2018 will be an intense period with the Global Forum fast-approaching one of the key milestones on the delivery of the AEOI commitments by over 100 jurisdictions. The focus on ensuring the full and timely delivery of the AEOI commitments will therefore be maintained. The assessment of AEOI implementation under the "Staged Approach" will continue with the 2018 AEOI Implementation Report to be delivered by the end of 2018. The development of the framework for the full peer reviews of the effectiveness of AEOI implementation is the next challenge to be met in 2018. Further progress is anticipated with respect to the participation of developing country members in this new standard.

The EOIR peer reviews will continue, including with respect to the jurisdictions which obtained a provisional rating under the Fast-Track reviews in 2017. Whilst these reviews will be launched in 2018, the ratings will be published in 2019. The work on beneficial ownership information will remain a high priority. Capacity-building support to developing countries will continue with an increased focus on engagement with political leadership in developing countries, and further efforts will be put into the assessment of the impact of increased tax transparency.

[8] Benin, Burkina Faso, Cameroon, Chad, Comoros, Congo, Côte d'Ivoire, Gabon, Ghana, Guinea Bissau, Madagascar, Mali, Mauritania, Mauritius, Liberia, Niger, Senegal, Seychelles, Togo and Uganda.

Appendix 1

Jurisdictions participating in the Convention on Mutual Administrative Assistance in Tax Matters (as of 26 June 2018)*

	Jurisdictions	Current status regarding the Convention
100	Albania, Andorra, Anguilla[1], Argentina, Aruba[2], Australia, Austria, Azerbaijan, Barbados, Belgium, Belize, Bermuda[1], Brazil, British Virgin Islands[1], Bulgaria, Cameroon, Canada, Cayman Islands[1], Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao[3], Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands[4], Finland, France, Georgia, Germany, Ghana, Gibraltar[1], Greece, Greenland[4], Guatemala, Guernsey[1], Hungary, Iceland, India, Indonesia, Ireland, Isle of Man[1], Israel, Italy, Japan, Jersey[1], Kazakhstan, Korea, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat[1], Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Poland, Portugal, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Sint Maarten[4], Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turks and Caicos Islands[1], Uganda, Ukraine, United Kingdom, Uruguay, United States[5]	Convention entered into force
8	The Bahamas, Bahrain, Grenada, Hong Kong (China)[6], Macau (China)[6], Peru, Turkey, United Arab Emirates	Instrument of ratification, acceptance or approval deposited
15	Armenia, Brunei Darussalam, Burkina Faso, Dominican Republic, El Salvador, Gabon, Jamaica, Kenya, Kuwait, Liberia, Morocco, Paraguay, Philippines, Qatar, Vanuatu	Protocol/amended Convention signed

* This table includes State Parties to the Convention as well as other Global Forum members, including jurisdictions that have been listed in its Annex B naming a competent authority, to which the application of the Convention has been extended pursuant to Article 29 of the Convention. It also includes participating jurisdictions that are not Global Forum members.

(1) Extension by the United Kingdom.

(2) Extension by the Kingdom of the Netherlands.

(3) Extension by the Kingdom of the Netherlands. Curacao and Sint Maarten used to be constituents of the "Netherlands Antilles", to which the original Convention applied as from 1 February 1997.

(4) Extension by the Kingdom of Denmark.

(5) The United States have signed and ratified the original Convention which has been in force since the 1st April 1995. The Amending Protocol was signed the 27 May 2010 but is awaiting ratification.

(6) In May 2018, the People's Republic of China extended the territorial scope of the Convention to the Hong Kong and Macau Special Administrative Regions pursuant to Article 29. As such, The Convention will enter into force for both Hong Kong (China) and Macau (China) on 1 September 2018.

Annex 1

2nd Annual Progress Report of the OECD/G20 Inclusive Framework on BEPS

Executive Summary

This document contains the second annual progress report of the OECD/G20 Inclusive Framework on BEPS (the Report). The Report describes the progress made to deliver on the mandate of the OECD/G20 Inclusive Framework, covering the period from July 2017 to June 2018. The Report contains an overview and four sections of substantive content. Section 1 is an introduction describing in broad strokes how the BEPS policy objectives are being achieved. Section 2 describes the major developments consisting of the work on addressing the tax challenges of the digitalisation of the economy and the coming into force of the BEPS multilateral instrument. Section 3 describes the progress in respect of the peer reviews of the BEPS minimum standards. Section 4 describes the wider BEPS implementation. These are followed by three annexes (Annex A, showing the membership of the OECD/G20 Inclusive Framework on BEPS, Annex B, cataloguing the BEPS Actions and Annex C, which describes the use of Country-by-Country Reporting data to measure BEPS).

The information in this report is based on work conducted in the various working parties, task forces and other bodies that are mandated through the OECD's Committee on Fiscal Affairs (CFA) in its Inclusive Framework format to work on BEPS-related issues. Please note that the figures in the Report that are based on objective data (such as signatories or ratifications of the BEPS multilateral instrument or the number of MAP profiles published on the OECD website) are highlighted and will be updated with the latest information available at publication.

Overview

1. In November 2015, two years after the G20 Leaders endorsed the ambitious Action Plan on Base Erosion and Profit Shifting (BEPS), the BEPS package of 15 measures to tackle tax avoidance was agreed by all OECD and G20 countries and endorsed by G20 Leaders. It was designed to stop countries and companies from competing on the basis of a lack of transparency, artificially locating profit where there is little or no economic activity, or the exploitation of loopholes or differences in countries' tax systems. The OECD/G20 BEPS Project is focused on preventing double non-taxation without creating double taxation and it was meant to be as inclusive as possible so that all countries and jurisdictions can benefit from a multilateral approach to tackling tax avoidance and harmful tax practices.

2. That is what the OECD/G20 BEPS Project is achieving. It is making tax planning more transparent to all tax authorities concerned, requiring substance from both companies and countries (i.e. restoring taxation to the place where economic activities and value creation occur), and closing off cross-border tax loopholes. It is doing so within a multilateral forum – the OECD/G20 Inclusive Framework on BEPS – that now has 116 members representing over 95 percent of global GDP. In the past year, the OECD/G20 Inclusive Framework on BEPS welcomed 15 new members – Anguilla, Bahamas, Bahrain, Barbados, Maldives, Mongolia, Oman, Qatar, Saint Kitts and Nevis, Saint Lucia, Serbia, Trinidad and Tobago, Tunisia, United Arab Emirates and Zambia.

3. It is almost trite at this point to say that globalisation has made the world a smaller, interconnected place and one in which things happening on one side of the globe have an impact around the world. Unilateral action is no longer a practical, first best solution. This is nowhere more true than in the international tax world, where a patchwork of uncoordinated rules and procedures would be anathema to a smoothly operating global financial system. The OECD/G20 Inclusive Framework members have come together to develop and put into practice the collective, consensus-based solutions that only a global approach can deliver.

4. The past year has also been witness to major developments in the OECD/G20 BEPS Project, including the delivery of an interim report to the G20 Finance Ministers in March 2018 on the tax challenges arising from the digitalisation of the economy, taking stock of the issues and agreeing to work on a consensus-based long-term solution.

5. The Multilateral Instrument to Implement Tax Treaty Related Measures to Prevent BEPS ("the MLI") already covers 82 jurisdictions and more than 1,360 tax agreements. Following ratification by five countries – Austria, Jersey, Isle of Man, Poland, and Slovenia – the MLI entered into force on 1 July 2018, with the first MLI modifications having effect as from 1 January 2019. Serbia, Sweden, New Zealand and the United Kingdom have also ratified the MLI and many more ratifications are expected through the year. Ultimately, the MLI will make its mark on a network of more than 2,500 bilateral agreements worldwide.

6. Crucially, the past year has seen delivery of the first results of the peer reviews of the BEPS minimum standards:

- Action 5 – preferential tax regimes: 175 regimes have been considered by the FHTP against the standard for harmful tax regimes, of which 31 have already been changed; 81 require legislative changes which are in progress; 47 do not pose any BEPS risks in practice; 4 have harmful or potentially harmful features and 12 regimes are still under review.
- Action 5 – tax rulings: Over 17 000 rulings have already been identified and information is now being exchanged between OECD/G20 Inclusive Framework

members, on the key issues contained in such rulings, which can then be used by tax authorities for risk assessment.

- Action 13 – Country-by-Country reporting (CbC reporting): The first annual peer review report, released in May 2018, contains a comprehensive examination of the implementation of the minimum standard by 95 jurisdictions, focusing mainly on their domestic legal and administrative frameworks. The second annual peer review, covering all members of the OECD/G20 Inclusive Framework, was launched in April 2018 and will focus on the exchange of information aspects of CbC reporting, as well as compliance with the confidentiality and appropriate use conditions.
- Action 14 – improvement of mutual agreement procedures (MAP): 21 jurisdictions have already been subject to peer reviews with reports published that identify areas for improvement, 16 are currently underway, and 35 more have been scheduled through December 2019. In addition, MAP country profiles for more than 80 countries have been published to increase transparency of the MAP processes in those countries.

7. More broadly, countries are making significant progress in implementing the BEPS Actions, even beyond the minimum standards. A number of US tax reform measures encompass areas covered by the BEPS recommendations, including provisions against hybrid mismatch arrangements (addressed by BEPS Action 2), and limitation of interest deductibility (addressed by BEPS Action 4). In particular, it also includes enhanced controlled foreign corporations rules (CFC addressed by BEPS Action 3), through a tax on excess foreign profits, which provides that US multinational enterprises (MNEs) will pay a current combined foreign and US tax rate on such foreign source income of at least 13.125 percent. The Netherlands has also recently proposed a major reform that is aimed at upending its reputation as a facilitator of tax avoidance strategies and that would implement a number of BEPS measures, in some cases going beyond the minimum requirements. The EU has agreed important anti-avoidance directives (ATAD 1 and 2) that incorporate BEPS measures including on branch mismatch arrangements and limitation to interest deductibility and that are being put into effect by all the EU Member States with deadlines starting in 2019.

8. Developing countries have much to gain from implementation of the BEPS measures to protect their tax bases. The past year has also seen significant advances in the OECD/G20 Inclusive Framework's capacity building and collaboration efforts to ensure that developing countries have the tools and resources needed to implement the OECD/G20 BEPS package and to benefit from its global reach. The first global conference of the Platform for Collaboration on Tax (PCT) took place in New York in February 2018, where high level delegates agreed an ambitious program of work for the IMF, OECD, UN and World Bank to take forward including in relation to BEPS, with the continued work on toolkits to implement BEPS-related issues that are of priorities for developing countries.

9. Taken together, these developments show great progress. However, the implementation of the BEPS measures is still at an early stage, and more tangible results are yet to come. As recognised in the BEPS Action 11 Report on Measuring and Monitoring BEPS, a major challenge of assessing the scale and impact of BEPS is the scarcity of relevant data and the significant limitations of existing data sources. As a step towards addressing this challenge and with a view towards providing more accurate monitoring of the impact of BEPS and the effect of the BEPS package over time, a series of new data collection processes and analytical tools have been developed and are now being put in place, including data in respect of Country-by-Country reports.

10. The OECD/G20 BEPS Project is the most ambitious multilateral international tax policy initiative ever undertaken. Ensuring fairness, coherence, transparency and

that taxation is aligned with where economic activity takes place in the vastly complex space of international tax provisions covering virtually all of the world's economic activity requires an enormous effort and commitment. The work to transform these ambitions into reality has begun and is already having an important impact, but even deeper change is underway.

1. Introduction

11. Base Erosion and Profit Shifting (or BEPS) refers to tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax jurisdictions where there is little or no economic activity (i.e. no substance). BEPS practices undermine the fairness and integrity of tax systems because businesses that operate across borders can use these gaps and mismatches to gain a competitive advantage over enterprises that operate only domestically. Moreover, when other taxpayers see MNEs legally avoiding income tax, it undermines voluntary compliance and trust in the tax system as a whole.

12. The OECD, with the support and mandate of the G20, developed the BEPS Action Plan in 2013 and agreed, in collaboration with the G20 members on an equal footing, a package of 15 actions just two years later. When the BEPS package was delivered by the OECD Secretary-General to the G20 Leaders in Antalya, Turkey in 2015, the speed with which policymakers at the highest level could agree clear, concrete actions to address these urgent problems surprised many, but this was a testament to the efficacy of multilateralism and the importance of fairness in tax matters in the global agenda.

1.1. A Comprehensive Agenda

13. The BEPS Action Plan identified 15 action items along the following three fundamental pillars: (1) introducing coherence in the domestic rules that affect cross-border activities; (2) reinforcing substance requirements in the existing international standards so that taxation occurs where economic activities take place and where value is created; and (3) improving transparency as well as certainty for businesses that do not take aggressive positions.

Table 1.1. BEPS Actions per objectives

Coherence	Substance	Transparency	Horizontal
Action 2 Neutralise the effects of hybrid mismatch arrangements	**Action 5** - *1st component* Preferential tax regimes	**Action 5** – *2nd component* Exchange of information on tax rulings	**Action 1** Digital economy
Action 3 Strengthen CFC rules	**Action 6** Prevent treaty abuse	**Action 11** Data analysis	**Action 15** Multilateral instrument
Action 4 Limit interest deductibility	**Action 7** Prevent the artificial avoidance of PE status	**Action 12** Mandatory disclosure rules	
	Actions 8 - 10 Aligning transfer pricing outcomes with value creation: Intangibles; Risk and capital; and Other high-risk transactions	**Action 13** Re-examine transfer pricing documentation	
		Action 14 Dispute resolution	

14. The BEPS measures range from new minimum standards to a revision of pre-existing international standards, and to common approaches which will facilitate the convergence of national rules and guidance drawing on best practices. Four mandatory minimum standards have been agreed to tackle issues in cases where no action by some countries would have created negative spillovers (including adverse impacts on competitiveness) on other countries, for example on dispute resolution and for combatting harmful tax practices. Pre-existing standards have been updated, in particular on tax treaties and on transfer pricing. Common approaches have been agreed

regarding hybrid mismatch arrangements and interest deductibility. In these areas, there is an expectation that countries will converge over time. Guidance based on best practices was also proposed to support countries intending to act in the areas of mandatory disclosure initiatives and controlled foreign company (CFC) rules. In other areas such as Action 11, the focus is put on analysing and measuring results.

Table 1.2. BEPS Actions per outcomes

Minimum standards	Reinforced international standards	Common approaches & best practices	Horizontal work
Action 5 - *1st component* Preferential tax regimes	**Action 7** Prevent the artificial avoidance of PE status	**Action 2** Neutralise the effects of hybrid mismatch arrangements	**Action 1** Digital economy
Action 5 – *2nd component* Exchange of information on tax rulings	**Actions 8 - 10** Aligning transfer pricing outcomes with value creation: Intangibles; Risk and capital; and Other high-risk transactions	**Action 3** Strengthen CFC rules	**Action 11** Data analysis
Action 6 Prevent treaty abuse		**Action 4** Limit interest deductibility	**Action 15** Multilateral instrument
Action 13 Re-examine transfer pricing documentation		**Action 12** Mandatory disclosure rules	
Action 14 Dispute resolution			

1.2. An Inclusive Institution

15. In recognition of the truly global nature of BEPS, and to continue the development of standards as well as monitoring the effective implementation of the BEPS actions, the OECD and G20 established the Inclusive Framework on BEPS**.** With an initial membership of 82 countries and jurisdictions in 2016, the OECD/G20 Inclusive Framework has continued to expand, and now brings together 116 countries and jurisdictions, and includes several international and regional organisations as observers.[9] The OECD/G20 Inclusive Framework allows all participating jurisdictions to work on an equal footing to develop standards on BEPS related issues, and to review and monitor the implementation of the whole BEPS package. Embodied in the Committee on Fiscal Affairs, the OECD/G20 Inclusive Framework makes use of a consensus-based mechanism whereby all members have the same rights.

[9] The full list of OECD/G20 Inclusive Framework's members and observers is available in Annex A.

16. The OECD/G20 Inclusive Framework's mandate is to:

- Finalise the remaining technical work to address BEPS challenges, including with respect to the tax challenges of the digitalised economy;
- Ensure the implementation of the 4 BEPS minimum standards through a robust peer review process;
- Gather data to monitor the other aspects of implementation, including under BEPS Actions 1 (on the tax challenges of the digitalised economy) and 11 (on measuring and monitoring BEPS); and
- Support jurisdictions in their implementation of the BEPS package, including by providing further guidance on the standards, through direct bilateral support and regional capacity building.

17. The OECD/G20 BEPS Project has set the bar high in terms of the goals it seeks to achieve, and stakeholders are understandably eager to see results. This second progress report shows the advances made on many fronts, including through the peer reviews of the minimum standards, development of further guidance and in supporting BEPS implementation by governments and taxpayers.

18. The OECD/G20 BEPS Project set ambitious targets in terms of both the legislative frameworks and the administrative cooperation needed. Despite the speed with which the BEPS actions were agreed, putting these policies into practice takes time. Introducing legislation can be a lengthy process, and once legislation enters into force there is generally a lead time for the law to enter into effect. Tax administrations need to adjust their procedures and develop guidance as appropriate. Taxpayers and other stakeholders need to understand what the new requirements are and how they affect existing and future transactions.

19. The remainder of this section provides a high-level description of the major developments over the past year. Greater detail on the individual items is available in the body of the report.

1.3. The Tax Challenges of Digitalisation

20. The world has changed significantly over recent decades. In addition to globalisation, new technologies have facilitated new business models that have been putting the existing international tax rules under pressure. The OECD/G20 BEPS Project identified that some of the specific BEPS behaviours that were of concern had been exacerbated by the rapid and continuing evolution of digital technologies – the process of digitalisation. As part of the work of Action 1 under the OECD/G20 BEPS Project, it was recognised that, as a result of the pervasive nature of digitalisation, it would be difficult, if not impossible, to ring-fence the "digital economy".

21. Beyond the BEPS issues, the 2015 Action 1 report also concluded that digitalisation was giving rise to some broader tax challenges, including in the areas of data, nexus and characterisation. Of course, it is always a challenge for policy makers to stay ahead of the latest developments. This is especially the case in the context of digitalisation.

22. The Action 1 Report set out a number of potential options for addressing the broader tax challenges of digitalisation; however, none of these options was recommended to be implemented. However, it was concluded that the countries could introduce any of the options in their domestic laws as additional safeguards against BEPS, provided they respect the existing treaty obligations or in their bilateral treaties. In the absence of agreement, members of the OECD/G20 Inclusive Framework on BEPS agreed to continue working on tax and digitalisation with the objective of producing a

final report in 2020. In March 2017, the G20 called on the OECD to produce an interim report in 2018.

23. In March 2018, the OECD/G20 Inclusive Framework on BEPS delivered the Report, *Tax Challenges Arising from Digitalisation – Interim Report 2018*. The Interim Report shows the complexity of the issue and preliminary evidence suggests that the implementation of the BEPS actions is already having an impact. The Interim Report also embodies a commitment from all members of the OECD/G20 Inclusive Framework to undertake a coherent and concurrent review of the nexus and profit allocation rules that would consider the impacts of digitalisation on the economy, relating to the principle of aligning profits with underlying economic activities and value creation. These concepts, which have largely been based on notions of physical presence, have been challenged by digitalisation.

24. Whilst there is agreement among OECD/G20 Inclusive Framework members to review the nexus and profit allocation rules, the Interim Report also highlights that there are clear points of divergence between countries over the future direction of the international tax rules. While some countries are not convinced of the need for change, others believe that change should be targeted at the notion of "user participation", which is often observed as a key characteristic of many highly digitalised businesses. For other countries, any future change should not be limited to "digital firms", but should also apply to the economy more broadly.

25. The most pressing challenge for the OECD/G20 Inclusive Framework – and the international tax community more generally – is how to bridge the divide among the various points of view so that coherence of the international tax system is maintained.

1.4. Transparency

26. When taxpayers have complex operations that span the globe, the ability of tax administrations to effectively enforce their tax laws will depend on the nature and extent of information that they have at their disposal. The OECD/G20 BEPS Project envisioned, and is delivering, a new and unprecedented level of tax transparency to tax administrations around the world.

- BEPS Action 5 requires tax administrations in all OECD/G20 Inclusive Framework jurisdictions that issue rulings to exchange information on certain rulings with all other member jurisdictions where the jurisdictions have an exchange agreement in force and such rulings may be relevant. To date, over 17 000 rulings have been identified and information on these has been exchanged with the relevant exchange partners. Previously, such information may have only come to light through unofficial and often unauthorized disclosures. Now, countries are able to rely on their exchange partners to obtain such information, which can be vital to understanding the nature of a taxpayer's affairs, and the transparency introduced globally through Action 5 also ensures that rulings regimes can no longer operate in a secretive and non-transparent manner which itself creates a positive deterrent effect.

- BEPS Action 12 on mandatory disclosure regimes contains rules that allow jurisdictions to obtain early information on the tax compliance and policy risks raised by aggressive tax planning. Action 12 seeks to balance the need for early information on aggressive tax planning schemes with the need that disclosure requirements be appropriately targeted, enforceable and avoid over-disclosure or placing undue compliance burden on taxpayers. Several countries are considering the introduction of rules based on Action 12 and in May 2018, the European Council adopted a directive that will require Member States to introduce mandatory disclosure rules for cross-border aggressive tax planning, offshore structures and CRS avoidance schemes. The directive incorporates the model rules set out in the OECD Report on Model Mandatory Disclosure

Rules for CRS Avoidance Arrangements and Opaque Offshore Structures issued in February this year.

- BEPS Action 13: The implementation of Action 13 on CbC reporting, supported by the introduction of improved transfer pricing documentation requirements and the OECD's wider work on tax co-operation, provides tax administrations with a new level of information on the global operations of MNE groups with activities in their jurisdiction. Information contained in an MNE group's CbC report includes the amount of unrelated party and related party revenue reported, profit before income tax, and income tax paid and accrued, as well as stated capital, accumulated earnings, number of employees and tangible assets, broken down by jurisdiction. More than 1400 bilateral relationships for the exchange of CbC reports are already in place, with more to come throughout the year. With a view to support countries, guidance on implementation have been released on the implementation of CbC Reporting and on the appropriate use of the information contained in CbC reports.

- BEPS Action 14 on improving dispute resolution mechanisms also helps increasing transparency as it aims at ensuring that taxpayers have access to MAP, that MAP are conducted in an efficient and timely manner and that agreements are implemented. A total of 21 jurisdictions have been reviewed so far (with 370 recommendations made), 16 more reviews are currently underway and 35 more have been scheduled through December 2019. Jurisdictions are already working to address the recommendations made in the peer reviews, and others are improving their procedures in anticipation of their reviews. Publishing countries' profiles and data on MAP also promotes the transparency towards taxpayers.

27. As a result of the OECD/G20 BEPS Project, tax administrators today have more information on the global picture than they ever had. Moreover, this is already changing behaviour among MNEs. With the exchange of CbC reports beginning in 2018 for the 2016 tax year, further evidence of the impact of the BEPS measures is anticipated in the coming years.

1.5. Certainty

28. The work on dispute prevention and resolution holds great promise for improving tax certainty and a much enhanced level of cooperation and coordination between taxpayers and tax administrations. The focus of this work is on dispute prevention and to ensure that where disputes do arise the systems are in place to provide taxpayers with an efficient, predictable and transparent avenue to resolution. The advent of CbC reporting is providing tax administrations with a much clearer view of the activities and organisational structures of MNEs and therefore a more refined ability to measure risks and target audit activity accordingly. This in turn feeds cooperative compliance programs such as the International Compliance Assurance Program (ICAP), launched this year by tax administrations in eight countries, and which aims to deliver earlier tax certainty for taxpayers wishing to be transparent and compliant as well as providing greater assurance for the tax administrations involved.

29. Tax certainty continues to be enhanced by the ongoing peer review process for the BEPS Action 14 minimum standard on improving MAP (as discussed above). MAP was ranked as the second most important tool for dispute resolution in the 2017 OECD/IMF report on tax certainty. An update to that 2017 report is being published in 2018.

30. At request of the Chair of the CFA, the CFA's subsidiary bodies reviewed and discussed the 2017 report on tax certainty presented by the OECD and the IMF to the

G20 Finance Ministers and its recommendations. The subsidiary bodies came to the conclusions that several recommendations and ideas of the report could provide a useful and valuable basis to integrate the concept of tax certainty into their work and output and therefore significantly contribute to the G20's request to enhance tax certainty.

1.5.1. Substance

31. The philosophy behind the OECD/G20 BEPS Project was to eliminate the artificial shifting of profits and to realign taxation with the location of economic activity and value creation and this is what the implementation of the BEPS package is doing on a number of fronts. For example, the MLI is an important tool to prevent treaty shopping, and is expected to modify a third of existing tax treaties once ratified by all signatories. As signatories deposit additional ratification instruments in the coming months, the MLI will modify a growing number of covered tax agreements with effects as from 2019 and 2020. The OECD/G20 Inclusive Framework members are also introducing or revising their national guidance on transfer pricing to make it consistent with BEPS Actions 8-10, and amending their preferential tax regimes where necessary to make them consistent with Action 5 on harmful preferential tax regimes. A significant number of MNEs have taken pro-active measures to realign their tax arrangements with their real economic activity, including by reconsidering their transfer pricing positions or by relocating and on-shoring valuable assets, such as intangibles (see the Tax Challenges Arising from Digitalisation - Interim Report 2018, Chapter 3 Implementation and Impact of the BEPS Package for more information).

1.5.2. Coherence

32. One of the pillars of the OECD/G20 BEPS Project was to ensure international coherence of certain aspects of corporate income taxation, by complementing existing standards and by addressing cases of no or low taxation associated with practices that artificially segregate taxable income from the activities that generate it. Three main areas were identified for that purpose, including neutralising the effects of hybrid mismatch arrangements (Action 2), strengthening CFC rules (Action 3), and limiting base erosion via interest deductions and other financial payments (Action 4). Since the BEPS package was released in 2015, countries and jurisdictions have started to implement these measures. For instance, within the EU, all three actions have become enshrined in EU law, and the United States has also included changes in these areas in its recent tax reform.

1.5.3. Inclusiveness and Technical Assistance

33. In the past year, the OECD/G20 Inclusive Framework on BEPS welcomed 15 new members – Anguilla, Bahamas, Bahrain, Barbados, Maldives, Mongolia, Oman, Qatar, Saint Kitts and Nevis, Saint Lucia, Serbia, Trinidad and Tobago, Tunisia, United Arab Emirates and Zambia. The OECD/G20 Inclusive Framework, now with 116 members many of them developing countries, is building capacity in developing countries through a comprehensive menu of activities including induction programs for new members, regional training events, twinning programmes and bespoke training.

34. The Platform for Collaboration on Tax (PCT), established in 2016 by the IMF, the OECD, the UN and the WBG to improve the co-ordination of their capacity building activities on tax, works to support developing countries including through the development of BEPS-related toolkits to address key priorities identified by these countries. The next toolkit on indirect transfer of assets will be delivered by the end of 2018.

35. On 14-16 February 2018, the PCT held its first Global Conference on Taxation and the Sustainable Development Goals (SDGs) at the UN headquarters in New York,

reaffirming the common objectives of the four partner international organisations in relation to the tax agenda, including: how to mobilise domestic resources for development; tax policies to support sustainable economic growth, investment and trade; the social dimensions of taxation.

1.6. Conclusion

36. The BEPS Actions are designed to stop countries and companies from competing on the basis of a lack of transparency, a lack of substance or the exploitation of loopholes or differences in countries' tax systems. They are focused on avoiding double non-taxation without creating double taxation. The remainder of this report provides further details on the achievements over the past year, focussing on the major developments in dealing with the tax challenges of the digitalised economy and the entry into force of the MLI (Part I), peer reviews of the BEPS minimum standards (Part II), and broader BEPS implementation (Part III). The annexes provide information on the membership of the OECD/G20 Inclusive Framework on BEPS (Annex A), a list of the BEPS actions and a guide to where this work is done within the OECD (Annex B), and a detailed description of how CbC data will be used to measures BEPS (Annex C).

2. Major Developments

37. The two major developments in advancing the BEPS agenda in the past year are the publication of the OECD/G20 Inclusive Framework's *Tax Challenges Arising from Digitalisation – Interim Report 2018* and the coming into force of the MLI. After the release of the BEPS package the OECD/G20 Inclusive Framework agreed to renew the mandate of the Task Force on the Digital Economy (TFDE) and continue to monitor developments in respect of digitalisation with a further report to be delivered by 2020. In March 2017, the G20 called on the OECD to deliver an interim report by the 2018 IMF/World Bank Spring Meetings. The request that was reiterated by the G20 Leaders at their July 2017 Hamburg Summit. The report was delivered to the G20 Finance Ministers in March 2018.

38. The MLI entered into force on 1 July 2018, marking a significant step in international efforts to update the existing network of bilateral tax treaties and reduce opportunities for tax avoidance by multinational enterprises.

2.1. Tax Challenges Arising from Digitalisation

39. The 2015 BEPS Action 1 Report on the digital economy noted that the digital economy is characterised by an unparalleled reliance on intangibles, the massive use of data (notably personal data), and the widespread adoption of multi-sided business models. Further, it found that it would be difficult, if not impossible, to ring-fence the digital economy. The report went on to highlight the ways in which digitalisation had exacerbated BEPS issues, but also noted that the measures proposed under the other BEPS Actions were likely to have a significant impact in this regard.

40. The Action 1 Report also noted that beyond BEPS, digitalisation raised a series of broader tax challenges, which it identified as data, nexus and characterisation. These challenges chiefly relate to the question of how taxing rights on income generated from cross-border activities in the digital age should be allocated among countries. While identifying a number of options to address these concerns, none were ultimately recommended. The Action 1 Report however noted that countries could introduce any of these options in their domestic laws as an additional safeguard against BEPS, provided they respect their existing international obligations including obligations under bilateral tax treaties.

2.1.1. Digitalisation, Business Models and Value Creation

41. A robust understanding of how digitalisation is changing the way businesses operate and how they create value is fundamental to ensuring that the tax system responds to these challenges. In particular, looking at new and changing business models in the context of digitalisation, the Interim Report describes the main features of digital markets and how these shape value creation. It also identifies three characteristics that are frequently observed in certain highly digitalised business models: scale without mass, heavy reliance on intangible assets, and the role of data and user participation, including network effects. It was noted, however, that countries have different views on whether, and to what extent, these features represent a contribution to value creation by the enterprise.

2.1.2. BEPS Implementation and Relevant Tax Policy Developments

42. The Interim Report also takes stock of progress made in the implementation of the BEPS package, which is curtailing opportunities for double non-taxation. Country-level implementation of the wide-ranging BEPS package is already having an impact,

with evidence emerging that some MNEs have already changed their tax arrangements to better align with their business operations in some countries and regions. In the area of indirect taxes, the success and impact of the BEPS implementation process is also evident, with the OECD International VAT/GST Guidelines having been endorsed by over 100 countries, jurisdictions and international organisations. A large majority of OECD and G20 countries have adopted rules for the VAT treatment of business-to-consumer (B2C) supplies of services and intangibles by foreign suppliers in accordance with the OECD International VAT/GST Guidelines.

43. The implementation of these agreed measures also levels the playing field between domestic and foreign suppliers because foreign suppliers are required to charge VAT on sales to local customers as domestic suppliers do. The measures are already delivering increased revenues for governments, for example, as reported last year, over 3 billion euros in the EU alone as a result of the implementation of the new OECD International VAT/GST Guidelines. Moreover, this regime has also allowed businesses to achieve a notable reduction in their compliance burden, which according to estimates is 95 percent lower than what it would have been without such simplification measures.[10]

44. On the corporate income tax front, significant recent reforms have been passed to implement aspects of the BEPS package relevant to digitalisation. For instance several EU directives have been enacted.

45. Also, a significant number of MNEs, including some highly digitalised ones, have taken pro-active measures to realign their tax arrangements with their real economic activity, either by reconsidering their transfer pricing positions or by relocating and on-shoring valuable assets, such as intangibles. With the exchange of CbC reports beginning in 2018 for the 2016 fiscal year, further evidence of the impact of the BEPS measures is anticipated in the coming years.[11]

46. Recent years have also seen the introduction by some countries of a range of unilateral measures, which appear to reflect a discontent among some countries with the outcomes produced by certain aspects of the current international tax system. These measures, designed and implemented in various countries, can be grouped into four categories: alternative applications of the PE threshold, withholding taxes, turnover taxes, and specific regimes targeting large MNEs. Such measures have aimed at protecting and/or expanding the tax base in countries where the customers or users are located. Many of them have included elements linked to a market in the design of the tax base (e.g. sales revenue, place of use or consumption).

2.1.3. Towards a Global, Consensus-Based Solution

47. There is general acknowledgement that the digital transformation continues to be an ongoing process and that there is a need to monitor how these changes may be impacting value creation. The broader tax challenges of digitalisation raise very complex technical questions. Members of the OECD/G20 Inclusive Framework have different views on the question of whether, and to what extent, the features identified as being frequently observed in certain highly digitalised business models should result in changes to the international tax rules. In particular, with respect to data and user participation, there are different views on whether, and to what extent, they should be

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[10] Deloitte (2016), *VAT Aspects of cross-border e-commerce - Options for modernisation*

[11] Some examples of interesting articles reporting on these moves: Harpaz, J. (2015), BEPS Rears Its Head In Amazon European Tax Policy Shift, Forbes ; Johnston, S. (2018), Google to Book Ad Sales in New Zealand Due to Global Tax Debate.

considered as contributing to a firm's value creation, and therefore, what impact they should have on the international tax rules.

48. The different perspectives on these issues among the members of the OECD/G20 Inclusive Framework can generally be described as falling into three groups. The first group considers that the reliance on data and user participation may lead to misalignments between the location in which profits are taxed and the location in which value is created. However, the view of this group of countries is that these challenges are confined to certain business models and they do not believe that these factors undermine the principles underpinning the existing international tax framework. Consequently, they do not see the case for wide-ranging change.

49. A second group of countries takes the view that the ongoing digital transformation of the economy, and more generally trends associated with globalisation, present challenges to the continued effectiveness of the existing international tax framework for business profits. Importantly, for this group of countries, these challenges are not exclusive or specific to highly digitalised business models.

50. Finally, there is a third group of countries that considers that the BEPS package has largely addressed the concerns of double non-taxation, although these countries also highlight that it is still too early to fully assess the impact of all the BEPS measures. These countries are generally satisfied with the existing tax system and do not currently see the need for any significant reform of the international tax rules.

51. Acknowledging these divergences, members agreed to undertake a coherent and concurrent review of the "nexus" and "profit allocation" rules that would consider the impacts of digitalisation on the economy, relating to the principle of aligning profits with underlying economic activities and value creation – two fundamental concepts relating to how taxing rights are allocated between jurisdictions and how profits are allocated to the different activities carried out by multinational enterprises, and seek a consensus-based solution. While it is a challenging objective, the OECD/G20 Inclusive Framework has agreed to work towards a consensus-based solution by 2020.

2.1.4. Interim Measures to Address the Tax Challenges Arising from Digitalisation

52. Developing, agreeing and implementing a global, consensus-based solution will take time, and, in some countries, there are pressing calls for governments to take more immediate action to address the tax challenges arising from digitalisation. There is no consensus on the need for, or the merit of, interim measures, with some countries opposing them. The risks and adverse consequences that these countries believe would arise as a result of such measures include negative impacts on investment, innovation and growth, the possibility of over-taxation, distortive impacts on production and increasing the economic incidence of tax on consumers and businesses, and increased compliance and administration costs.

53. The countries considering interim measures recognise these challenges, but consider there is a strong imperative to act, pending a global solution which may take time to develop, agree and implement. They take the view that there is a sound conceptual basis for an interim measure, that value is being generated within their jurisdiction that would otherwise go untaxed challenging the fairness, sustainability and public acceptability of the system. They think the challenges need to be weighed against the policy challenges of not acting in the interim and consider that at least some of the possible adverse consequences can be mitigated through the design of the measure.

54. The report therefore reflects the framework of design considerations, identified by countries in favour of introducing interim measures, which should be taken into account when considering introducing such measures. This framework takes into

account some constraints, including that any such measures should be in compliance with existing international obligations, temporary, targeted and balanced, minimise over-taxation, as well as designed to limit the compliance costs and not to inhibit innovation. The Interim Report considers an interim measure in the form of an excise tax on the supply of certain e-services within their jurisdiction that would apply to the gross consideration paid for the supply of such e-services.

2.1.5. Beyond the International Tax Rules: the Impact of Digitalisation on Tax Policy and Tax Administration

55. Digitalisation is offering new opportunities as well as some challenges to tax policy and administration beyond the international tax system. These include the growth of the gig and sharing economy and how this is affecting tax compliance and revenues as a result of the rise of non-standard work. At the same time, technologies like blockchain give rise to both new, secure methods of record-keeping while also facilitating crypto-currencies which can pose risks to the gains made on tax transparency in the last decade. Some work is already underway to better understand and address these developments, but further work is required to ensure that governments can harness the opportunities these changes bring while ensuring the ongoing effectiveness of the tax system. It will also be important to give specific consideration to how advances can be implemented in developing countries to take into account their particular circumstances.

56. The impact of widespread implementation of the BEPS package, including recent EU directives as well as certain aspects of the US tax reform, should result in neutralising the very low effective tax rates of some companies. Nonetheless, BEPS measures do not necessarily resolve the question of how rights to tax are shared between jurisdictions. The OECD/G20 Inclusive Framework will continue working towards a consensus-based long-term solution.

2.2. The MLI Enters into Force

57. The MLI, negotiated by more than 100 countries and jurisdictions under a mandate from G20 Finance Ministers, will modify existing bilateral tax treaties to swiftly implement the tax treaty measures developed in the course of the OECD/G20 BEPS Project. Treaty measures that are included in the MLI include those on hybrid mismatch arrangements, treaty abuse and permanent establishment. The MLI also strengthens provisions to resolve treaty disputes, including through mandatory binding arbitration, which has been taken up by 28 signatories.

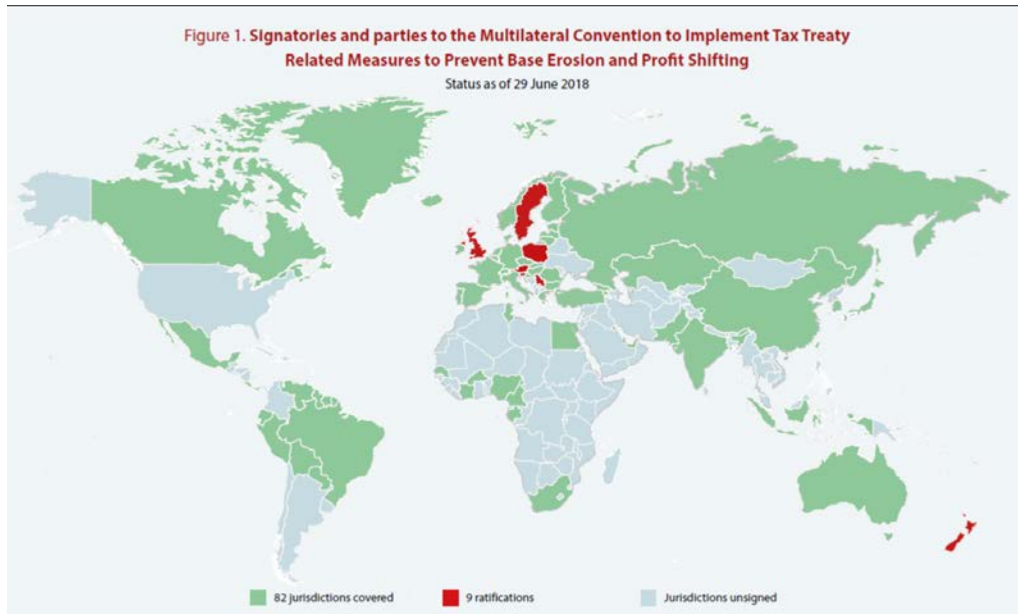
58. The entry into force of the MLI follows the deposit of the fifth instrument of ratification by Slovenia on 22 March 2018. Earlier, Austria, the Isle of Man, Jersey, and Poland deposited their instruments with the OECD. Since then Serbia, Sweden, New Zealand and the United Kingdom have deposited their instruments of ratification.

59. The entry into force of the MLI, just one year after the first signing ceremony, underlines the strong political commitment to a multilateral approach to fighting BEPS by multinational enterprises and translating commitments into concrete measures to combat aggressive tax planning arrangements creating BEPS that will be included in more than 1,360 tax treaties worldwide. The entry into force of the MLI on 1 July 2018 will bring it into legal existence the jurisdictions that have ratified it. In accordance with the rules of the MLI, its provisions will start having effect for tax treaties as from 2019.

60. The effects of the provisions of the MLI on a specific bilateral tax agreement can easily be analysed by using the MLI Matching Database. The MLI Matching Database is a tool developed by the OECD, as Depositary of the MLI. It provides tabulated data extracted from the list of reservations and notifications (the "MLI

Position") provided by each Party to the MLI. The MLI Matching Database can automatically generate information on the likely matching of MLI Positions and on the likely modifications made by the MLI to a specific tax agreement that is covered by the MLI (a "Covered Tax Agreement"). The main interface of the MLI Matching Database allows users to select jurisdiction pairs to analyse the possible matching outcome. It is a valuable tool for both taxpayers and governments.

61. The MLI already covers 82 jurisdictions, and additional jurisdictions are expected to join in the coming year. In the meantime, existing Signatories are making progress in their ratification processes; it is expected that over 30 Signatories will deposit their instruments of ratification before year-end.



3. Peer Reviews of the Minimum Standards

62. Peer reviews of the BEPS minimum standards are an essential tool to ensure the effective implementation of the BEPS package. These are well underway. Results are already available for Action 5, Action 13 and Action 14, while the peer review of Action 6 has recently started. The present section summarises the key outcomes of the peer review processes. Results by country are available on the interactive map presenting key indicators and outcomes of the OECD work on international tax matters, in relation to both BEPS and exchange of information.

3.1. Action 5 on Harmful Tax Practices

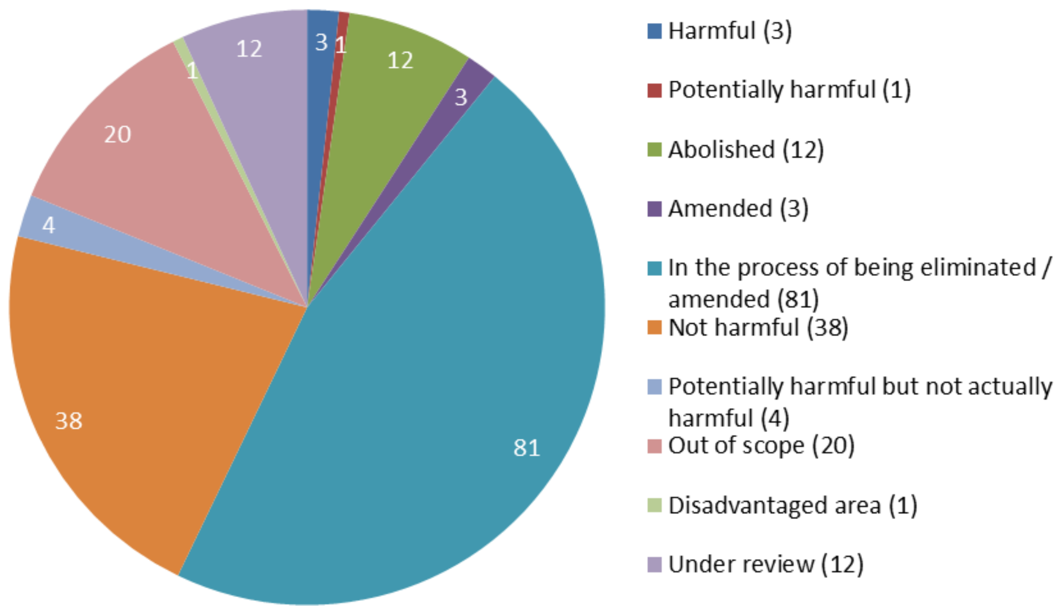
63. In-depth evaluations have been completed to assess the implementation of BEPS Action 5, covering both the exchange of tax ruling information and the identification of harmful preferential regimes. These reviews ensure that tax competition can occur in a way that is fair and requires substantial business activity; in a way that is transparent; and in a way that provides a globally consistent standard for taxpayers. The first peer review reports on Action 5 were published in October 2017 (*Harmful Tax Practices – 2017 Progress Report on Preferential Regimes*) and in December 2017 (*Harmful Tax Practices – Peer Review Reports on the Exchange of Information on Tax Rulings*).

64. The work on preferential tax regimes continues at a fast pace: 175 regimes have been considered by the FHTP against the standard for harmful preferential tax regimes, of which 31 have already been changed; 81 require legislative changes which are in progress; 47 are out of scope of the regimes being reviewed or otherwise have specific features which do not pose any BEPS risks in practice; 4 have harmful or potentially harmful features and 12 regimes are still under review. Importantly, in order for regimes that impose no or low effective tax rates on geographically mobile income to be found not harmful they must comply with the "substantial activities" requirement, meaning that tax benefits are granted only where the core activities required to earn the income are undertaken by the taxpayer with the necessary employees and operating expenditure, or undertaken in the jurisdiction. This requirement upholds the principles of the OECD/G20 BEPS Project, ensuring that value creation and taxation are aligned, and the effectiveness of this requirement is being closely monitored.

65. To date, 112 regimes are in the process of or have already been modified or abolished. Consequently, there are only three remaining regimes where this is not the case and which have been found to cause actual harm, all of which are IP regimes: France, Italy and Turkey. In the case of Italy and Turkey, amendments have already been made so that the determination of actual harmfulness only relates to certain grandfathering aspects of the regime as it existed previously. In the case of France, the finding of harmfulness extends to the regime as a whole. However, France has now announced its intention to amend its regime to comply with the Action 5 nexus approach. The process will continue, and further regimes will be reviewed as and when identified by members.

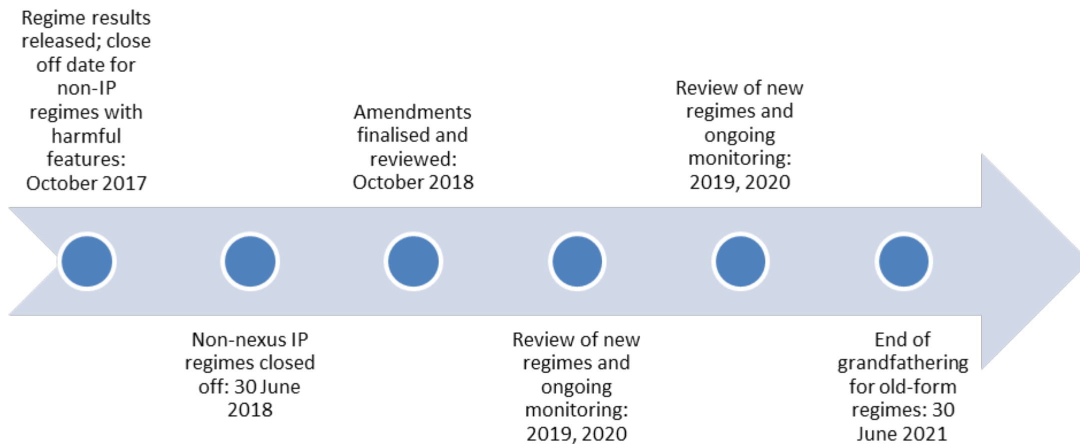
Figure 3.1. Preferential Tax Regimes

All regimes (175) – results as at 9 May 2018



66. Ambitious timelines apply for preferential regimes which have harmful features, and OECD/G20 Inclusive Framework members are taking swift legislative steps to meet them. For regimes reviewed in 2017, jurisdictions generally agreed to amend or abolish the harmful features of the regimes within 12 months – by October 2018. Furthermore, the scope of benefits that can continue under the existing regimes with harmful features is strictly limited, with those regimes to be closed off to new entrants by October 2017 (or 30 June 2018 for IP regimes) and limited grandfathering generally permitted until 30 June 2021 at the latest. The below chart illustrates these timelines:

Figure 3.2. Timelines for Preferential Regimes



67. At the same time, the Action 5 standard on compulsory spontaneous exchange on tax rulings is providing significant information to tax administrations around the world. Over *17 000 rulings* have already been identified and information is now being exchanged between OECD/G20 Inclusive Framework members, on the key issues contained in tax rulings which can be used for risk assessment. In many cases, information on one ruling will be exchanged with more than one jurisdiction, meaning the number of exchanges occurring is far greater than 17 000.

68. The first peer review took place in 2017, covering the 44 original BEPS Associates. Almost 50 recommendations were issued to enhance the effective implementation of the standard on exchange of information on rulings. Common issues identified included the timeliness of the exchanges and the additional requirements to exchange specific information on IP regimes. In many cases, these issues were resolved in anticipation of the peer review process. The response to these recommendations, and the first review of other OECD/G20 Inclusive Framework members, is taking place in this year's peer review, with results to be released in late 2018.

3.2. Action 6 on Treaty Abuse

69. The compliance with the Action 6 minimum standard requires members of the OECD/G20 Inclusive Framework to include in their tax treaties (1) a new preamble statement that the common intention of the parties to the treaty is to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including through treaty shopping arrangements, and (2) an anti-abuse treaty provisions (one of the alternatives: the Principal Purposes Test (PPT); the PPT + a simplified Limitation on Benefits (LOB) provision; or a detailed LOB + anti-conduit rules) if requested to do so by another jurisdiction member of the OECD/G20 Inclusive Framework.

70. Many jurisdictions have already joined the MLI which covers over 80% of the bilateral treaties in force between those jurisdictions. From the country positions (on covered tax agreements and on reservations) - also known as "MLI Positions" - that have been deposited so far, all Covered Tax Agreements will at least include the new preamble language and the PPT provisions, bringing those 1,360 agreements up to the Action 6 minimum standard. At the same time, jurisdictions are actively renegotiating treaties on a bilateral basis to bring the remaining agreements up to standard. Consequently, more than half of the 2,500 bilateral tax treaties in force and listed by the MLI signatories in their country positions will have been updated to implement the Action 6 minimum standard when the bilateral agreements and the MLI enter into force and effect in respect of all signatories.

Table 3.1. MLI and the Implementation of the Action 6 Minimum Standard

Jurisdictions covered	82
Covered Tax Agreements (CTA)	1,360
Ratification Instruments Deposited	9
Projected % CTA's including new preamble language	100%
Projected % CTA's including PPT	100%
Projected % CTA's including additional S-LOB	3%

71. The core output of the Action 6 peer monitoring process will be an annual report on the implementation of the minimum standard on treaty shopping, based on a self-assessment process with the assistance of the Secretariat and approved by consensus by members of the OECD/G20 Inclusive Framework on BEPS. The report will state whether and how the minimum standard has been incorporated in all the existing bilateral treaties of each jurisdiction of the OECD/G20 Inclusive Framework and what actions the jurisdiction is taking in respect of those that do not. The report will also describe any implementation issues on which guidance is requested and a description of any case where it considers that a jurisdiction is unwilling to respect its commitment to implement the minimum standard on treaty-shopping. The first report will be finalised in January 2019.

3.3. Action 13 on Country-by-Country Reporting

72. On BEPS Action 13, Country-by-Country (CbC) Reporting, jurisdictions have taken significant steps to introduce a framework for the filing and exchange of reports with respect to MNE groups with consolidated group revenues of at least EUR 750 million (or near equivalent amount in domestic currency, as of January 2015),with measures being implemented rapidly, consistently and globally. The information collected is valuable for tax administrations, and includes the amount of revenue reported, profit before income tax, and income tax paid and accrued, as well as the stated capital, accumulated earnings, number of employees and tangible assets. This will be particularly useful for developing countries that will be able to better assess the transfer pricing risks posed by some MNEs in their tax jurisdiction and make informed decisions on deploying audits – leading to a more efficient allocation of resources. Fifty-seven jurisdictions either required the ultimate parent entities of MNE groups to file a CbC report for 2016, or allowed them to do so on a voluntary basis. This included the headquarter jurisdictions of substantially all MNE groups above the revenue threshold. Over 60 jurisdictions now have a comprehensive domestic legal framework for CbC reporting in place, including those with rules commencing after 2016. Jurisdictions are also implementing mechanisms for the exchange of CbC reports. By the deadline for the first exchange of CbC reports, starting in June 2018, over 1400 exchange relationships were activated, comprising those between the 70 signatories to the CbC reporting multilateral competent authority agreement (CbCR MCAA), between the 28 EU Member States, and under bilateral competent authority agreements for exchanges under double tax conventions, Convention on Mutual Administrative Assistance in Tax Matters, or tax information exchange agreements.

73. The first annual peer review report on the implementation of the Action 13 minimum standard was released in May 2018. This focused primarily on the domestic legal and administrative framework for the filing of CbC reports, but also reviewed the status of a jurisdiction's exchange framework and the measures it has in place to ensure the appropriate use of CbC reports. The report contains an assessment of the implementation of CbC reporting in 95 OECD/G20 Inclusive Framework members. Based on information provided up to 12 January 2018 (the deadline for the first annual peer review), the report found that, in addition to the information set out above:

- Where legislation is in place, the implementation of CbC reporting has been found largely consistent with the Action 13 minimum standard. Where inconsistencies with the minimum standard were identified, the report includes recommendations to address these. 28 jurisdictions received one or more recommendations for improvement on specific areas of their domestic legal and administrative framework. A further 33 jurisdictions received a general recommendation to put in place or finalise their domestic legal and administrative framework (noting that the vast majority of these jurisdictions do not apply CbC Reporting requirements for 2016).

- 58 jurisdictions have multilateral or bilateral competent authority agreements in place, effective for fiscal periods starting on or after 1 January 2016, or on or after 1 January 2017.
- 39 jurisdictions provided detailed information relating to appropriate use, providing sufficient assurance that measures are in place to ensure the appropriate use of CbC reports.

74. A number of OECD/G20 Inclusive Framework members were not included in the first annual peer review report. This is due to a variety of reasons, including capacity constraints, the impact of natural disasters, the fact that jurisdictions joined the OECD/G20 Inclusive Framework after the start of the peer review process or had opted-out of the peer review, as they do not currently have any MNE groups headquartered in their jurisdiction. The OECD is engaging with these jurisdictions in order for them to participate in the CbC Reporting framework including the peer review process as soon as possible. The second annual peer review, which will place a greater focus on the exchange and use of CbC reports, commenced in April 2018.

75. Following the first exchanges of CbC reports, work will begin on analysing how CbC reports are used by tax administrations for high-level transfer pricing risk assessment, the assessment of other BEPS-related risks and for economic and statistical analysis, where appropriate. Building on the CbC Reporting: Handbook on Effective Tax Risk Assessment, prepared by the OECD Forum on Tax Administration and released in September 2017, this work will support countries in the effective use of CbC reports, enabling them to better identify areas where tax risk is low and to instead focus resources on those issues where risk is greater. Analyses of data from CbC reports will also feed the work on Action 11, aiming at measuring the impact of the BEPS measures.

3.4. Action 14 on Dispute Resolution

76. On BEPS Action 14 dealing with the improvement of mutual agreement procedures (MAP), a total of 72 jurisdictions have been scheduled for review, 21 reviews have already been published and 16 are currently under way.

Table 3.2. Mutual Agreement Procedures (MAP) Jurisdictions

Published			Ongoing		Not yet started				
1st batch 5 December 2016	2nd batch 7 March 2017	3rd batch 7 July 2017	4th batch December 2017	5th batch April 2018	6th batch By August 2018	7th batch By December 2018	8th batch By April 2019	9th batch By August 2019	10th batch By December 2019
Belgium	Austria	Czech Republic	Australia	Estonia	Argentina	Brazil	Brunei	Andorra	Barbados
Canada	France	Denmark	Ireland	Greece	Chile	Bulgaria	Curacao	Bermuda	Kazakhstan
Netherlands	Germany	Finland	Israel	Hungary	Colombia	China	Guernsey	British Virgin Islands	Oman
Switzerland	Italy	Korea	Japan	Iceland	Croatia	Hong Kong (China)	Isle of Man	Cayman Islands	Qatar
United Kingdom	Liechtenstein	Norway	Malta	Romania	India	Indonesia	Jersey	Macau (China)	Saint Kitts and Nevis
United States	Luxembourg	Poland	Mexico	Slovak Republic	Latvia	Papua New Guinea	Monaco	Turks and Caicos Islands	Thailand
	Sweden	Singapore	New Zealand	Slovenia	Lithuania	Russia	San Marino		
		Spain	Portugal	Turkey	South Africa	Saudi Arabia			

77. Some of the OECD/G20 Inclusive Framework members requested more time to implement the Action 14 requirements and received a deferral of their review to 2020.[12]

78. The main issues identified so far are: a considerable portion of tax treaties need to be amended (which may be addressed by the Multilateral Instrument), improvements in MAP guidance are necessary (particularly for those jurisdictions that do not currently have any such guidance), resolution of cases within 24 months on average, especially for transfer pricing cases and finally implementation of MAP agreements after a given period of time, for example because of domestic time limits. On the positive side, the reviews also show access to MAP is granted in eligible cases, MAP guidance is generally clear and available, some competent authorities have adequate resources, and some competent authorities take a pragmatic and principled approach, MAP agreements are implemented on time and roll-back of bilateral APAs is mostly available.

79. The jurisdictions that have received recommendations are addressing the deficiencies, including by adding additional resources to the MAP function, publishing MAP guidance or amending their tax treaties. These actions will be monitored and followed up in stage 2 of the peer review process (starting second half of 2018 for the jurisdictions in the first batch).

80. The Action 14 minimum standard also requires countries to publish their specific "MAP profiles", meaning public information on their competent authority details, links to their domestic MAP guidelines and to other useful information regarding the MAP process, pursuant to an agreed template. Publishing MAP profiles promotes the transparency and dissemination of jurisdictions' MAP programmes. In this respect, around 75 MAP profiles have been published on the OECD website. Furthermore, jurisdictions reported their MAP statistics under the new MAP Statistics Reporting Framework and the statistics for the year 2016 have been published. 2017 MAP statistics are due by the end of May 2018 and will be published in the second semester of 2018, for the first time with a country-by-country break down.

81. The 2016 statistics show that in comparison with the 2015 MAP statistics, both the number of MAP cases in start-of-the-year inventory and the number of started MAP cases have increased, which results from both an increase in the number of reporting

[12] Namely: Angola, Belize, Benin, Burkina Faso, Cameroon, Congo, Costa Rica, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Gabon, Georgia, Haiti, Jamaica, Kenya, Liberia, Malaysia, Mauritius, Nigeria, Pakistan, Panama, Paraguay, Peru, Senegal, Seychelles, Sri Lanka, Ukraine and Uruguay.

jurisdictions and modified counting rules. Approximately 8,000 cases were in the inventory of the reporting jurisdictions as of 1 January 2016 and almost 25% of them were closed during 2016. Almost 1,500 cases started on or after 1 January 2016, and approximately 25% of them were already closed in 2016. The following illustrates some highlights from these statistics:

- Transfer pricing cases account for slightly more than half of the MAP cases in inventory.
- Transfer pricing cases take more time on average than other cases: approximately 30 months are needed for transfer pricing cases and 17 months for other cases.
- Over 85% of MAPs concluded in 2016 resolved the issue. Almost 60% of MAP cases closed were resolved with an agreement fully resolving the taxation not in accordance with the tax treaty and almost 20% of them were granted a unilateral relief while almost 5% were resolved via domestic remedy. Finally, 5% of the MAP cases closed were withdrawn by taxpayers while approximately 10% were not resolved for various reasons.

Figure 3.3. MAP Outcomes

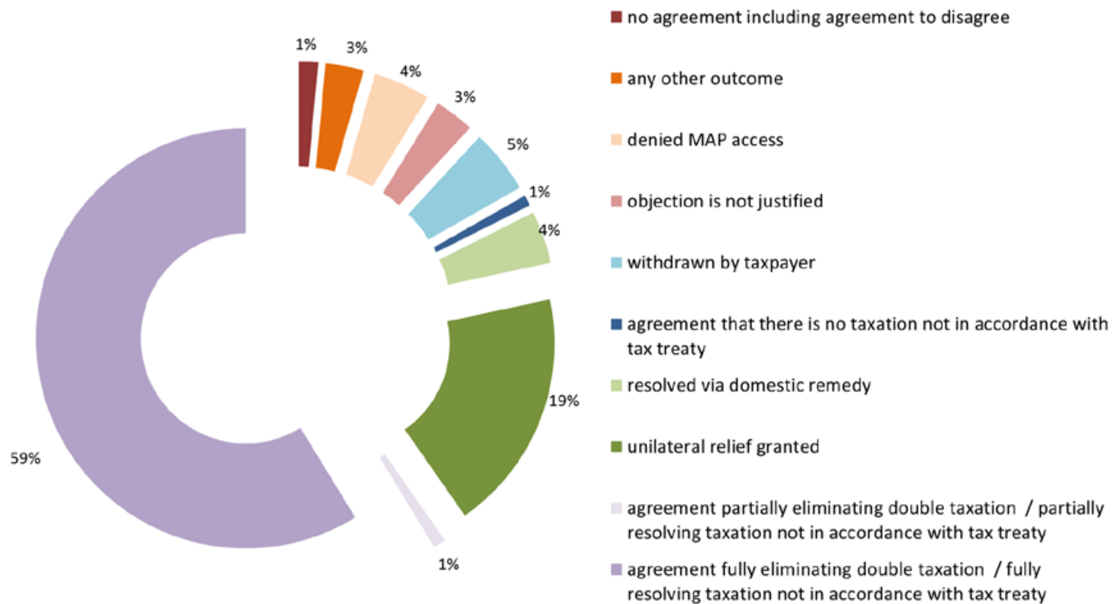
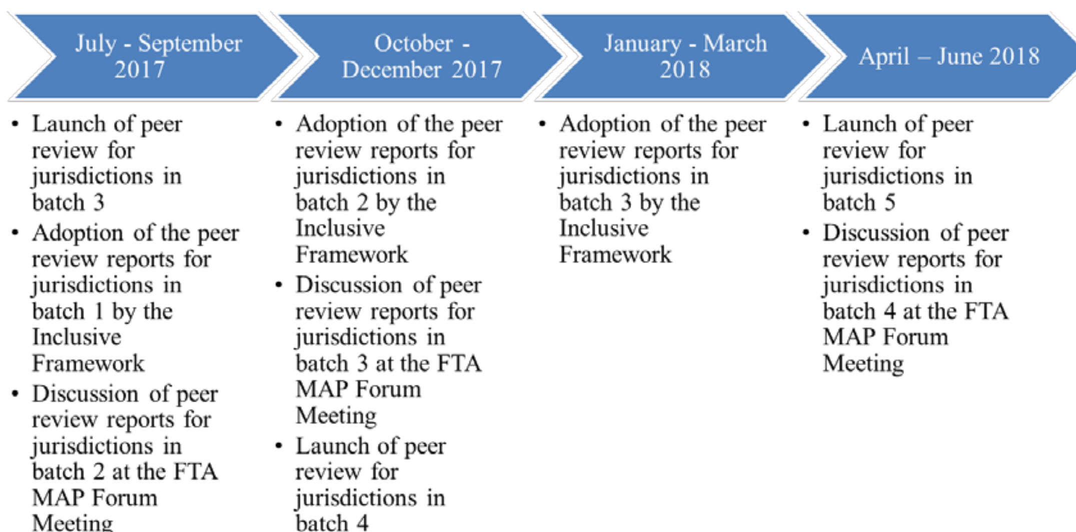


Figure 3.4. Timeline July 2017 – June 2018 for Action 14



Box 3.1. Induction Programmes

Induction Programmes were introduced in 2017 to provide assistance to developing countries through tailor made programmes for the implementation of the BEPS package.

After an initial request, Induction Programmes begin with a meeting with the Minister of Finance (or minister otherwise responsible for taxation), fostering political buy-in for legislative changes, particularly the four BEPS minimum standards. This ensures key decision makers are informed of the advantages of policy change, international developments and can monitor progress.

Induction Programmes are provided based on demand from countries/jurisdictions and their specific priorities. They can be tailored to include wider stakeholder engagement such as with parliamentarians or the judiciary.

Based on these initial meetings, as well as a technical-level workshop with tax policy and revenue administration staff, a roadmap for BEPS implementation is developed. This document also identifies the responsibilities of different stakeholders supporting the country (including, for example, WBG, IMF, regional organisations), thereby acting as an important tool to strengthen co-ordination and avoid duplication. Wherever possible, country visits are carried out jointly by the Secretariats of the OECD/G20 Inclusive Framework and the Global Forum on Transparency and Exchange of Information for Tax Purposes, given the strong linkages between the two agendas (this is particularly the case on confidentiality assessments).

11 Induction Programmes were initiated in 2017 (Botswana, Cameroon, Georgia, Kazakhstan, Nigeria, Paraguay, Peru, Thailand, Ukraine, Uruguay and Viet Nam) and 12 have been launched in 2018 (Barbados, Burkina Faso, Cameroon, Egypt, Jamaica, Liberia, Mauritius, Mongolia, Papua New Guinea, Trinidad and Tobago, Tunisia, Zambia).

4. Broader BEPS Implementation

82. Beyond the minimum standards, the BEPS package also included common approaches to facilitate the convergence of country practices on domestic legislation and treaty provisions to neutralise hybrid mismatches (Action 2), on building blocks of effective CFC rules (Action 3), on limitation of the deductibility of interest expenses via intra-group and third party loans (Action 4), and on domestic legislation relating to mandatory disclosure by taxpayers of aggressive arrangements or structures (Action 12). Some countries have started to implement these measures, including at regional level such as in the EU.

83. In addition, as part of the revision of existing standards, transfer pricing rules have been clarified and progress has been made in the course of 2018 where further work was needed post-2015.

84. Finally, the horizontal work dedicated to the economic analysis of the impact of BEPS and BEPS counter-measures, fed by the first results of countries' implementation, is underway. The latest developments on Action 11 are also described in Part III.

4.1. Action 2, Action 3 and Action 4

85. The BEPS package included recommendations for domestic law measures to address the BEPS risks posed by aggressive tax planning. These included a common approach to limiting excessive interest deductions (Action 4) and neutralising hybrid mismatches (Action 2) as well as best practices in the design of effective controlled foreign company (CFC) rules (Action 3). The interest limitation and hybrid mismatch rules, set out in the Action 4 and 2 Reports, prevent multinationals from using excessive interest expenses to erode a country's tax base and restrict their ability to engineer double non-taxation outcomes through the use of artificial cross-border arrangements. The best practices for the design of CFC rules in the Action 3 Report reduce the incentive for multinationals to shift their profits into low-tax jurisdictions by imposing a minimum level of tax on certain categories of income. The response to aggressive tax planning under the BEPS Action Plan was not intended to prevent MNEs from taking proper advantage of differences in tax rates between countries or to limit the deduction of reasonable business expenses incurred under ordinary arrangements between related parties but rather to improve the coherence of the international tax system and encourage multinationals to adopt more transparent structures that would bring tax outcomes into line with value creation.

4.1.1. Action 2 on Neutralising the Effects of Hybrid Mismatch Arrangements

86. The 2015 Action 2 recommendations targeted mismatches resulting from differences in the tax treatment of instruments or entities but they do not directly deal with mismatches that arise through the use of branch structures. These 'branch mismatches' occur where the head office and branch jurisdiction take a different view as to the allocation of income and expenditure between the branch and head office and they include situations where the branch jurisdiction does not treat the taxpayer as having a taxable presence in that jurisdiction.

87. The OECD/G20 Inclusive Framework considered that branch mismatch arrangements offer multinationals opportunities to reduce their overall tax burden by exploiting differences in the rules governing the allocation of payments between two jurisdictions, thereby raising the same issues as hybrid mismatches in terms of competition, transparency, efficiency and fairness. Given the similarity between hybrid and branch mismatches, both in terms of structure and outcomes, the OECD/G20

Inclusive Framework issued a further report on Neutralising the Effect of Branch Mismatch Arrangements in July 2017, setting out recommendations for branch mismatch rules that would bring the tax treatment of these arrangements into line with the approach set out in the Action 2 Report. The adoption of branch and hybrid mismatch rules as a single package supports the integrity of the common approach set out in Action 2 by preventing taxpayers shifting from hybrid mismatch to branch mismatch arrangements in order to secure the same tax advantages.

88. Although not a minimum standard, Action 2 has been rapidly adopted by a number of members of the OECD/G20 Inclusive Framework. EU Member States adopted hybrid and branch mismatch rules in Council Directive (EU) 2017 ("ATAD 2") and hybrid mismatch rules were also included as part of the US tax reform legislation, which passed into law at the end of last year. In addition, both the Australian and New Zealand governments have introduced legislative proposals for neutralising the hybrid and branch mismatches that are in line with the Action 2 recommendations.

4.1.2. Action 3 on Designing Effective Controlled Foreign Company Rules

89. A substantial number of Inclusive Framework countries have either adopted or made improvements to their CFC regimes following the release of the Action 3 Report.[13] While the nature of these changes vary from one country to the next, some of these recent CFC reforms (including those in Japan and the United States) include a tax on the excess profits of CFCs, which ensures an effective minimum level of tax on MNEs headquartered in that jurisdiction.

4.1.3. Action 4 on Limiting Base Erosion Involving Interest Deductions and Other Financial Payments

90. A number of OECD/G20 Inclusive Framework members have also adopted interest limitations rules or are in the process of aligning their domestic legislation with the recommendations of Action 4.[14] For example, under the US tax reform legislation, US taxpayers are not permitted to deduct net interest expense on loans from third parties and related parties in excess of 30% of their adjusted taxable income, an amount which approximates EBITDA. As part of Council Directive (EU) 2016/1164 ("ATAD 1") EU Member States have agreed to adopt an interest cap that will restrict a taxpayer's deductible borrowing costs (including on third party debt) to 30 percent of the taxpayer's earnings before interest, tax, depreciation and amortisation (EBITDA).

4.2. Transfer pricing: Actions 8-10

91. The objective of the 2015 BEPS Report on Actions 8, 9 and 10 was to ensure that the profits of MNEs better align with economic activity and value creation. In addition, expanded guidance on an approach for tax administrations to ensure appropriate pricing of hard-to-value intangibles in situations of information asymmetry was included in the Guidelines. Through this work, the OECD Transfer Pricing Guidelines have been modernised, and a new edition was published in July 2017. In June 2018, additional guidance addressed to tax administrations was approved on the application of the approach to hard-to-value intangibles, which has been incorporated into the OECD Transfer Pricing Guidelines as an annex to Chapter VI.

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[13] These countries include Argentina, Australia, Colombia, Denmark, Iceland, Japan, Romania, Russia, Slovak Republic, South Africa and the United States. Under Council Directive (EU) 2016/1164 ("ATAD 1"), all 28 EU Member States are required to have CFC rules in place by the beginning of next year.

[14] These countries include Argentina, India, Japan, Malaysia, South Korea, South Africa, Turkey and Viet Nam.

92. When the BEPS package was released in 2015, it was agreed that OECD/G20 Inclusive Framework members would continue work on some key issues, including finalising transfer pricing guidance on the application of transactional profit split method and on financial transactions. Beyond this work, the objective was to improve clarity and certainty in the application of the transfer pricing rules.

4.2.1. Revised guidance on Profit Split

93. BEPS Action 10 mandated clarifications on the application of the profit split method in the context of global value chains. After extensive consultation with stakeholders, and detailed discussions, the revised guidance was approved by the Inclusive Framework in June 2018. The revised guidance, which will be incorporated into the OECD Transfer Pricing Guidelines, has particularly benefitted from the significant input of developing country members of the OECD/G20 Inclusive Framework. The guidance provides the following indicators on when the profit split method is likely to be the most appropriate transfer pricing method:

i. Each party makes unique and valuable contributions;

ii. The business operations are highly integrated such that the contributions of the parties cannot be reliably evaluated in isolation from each other;

iii. The parties share the assumption of economically significant risks, or separately assume closely related risks.

94. The revised text also expands the guidance on how the profit split method should be applied, including determining the relevant profits to be split, and appropriate profit splitting factors.

95. Sixteen examples, including some contributed by developing country members of the OECD/G20 Inclusive Framework, are included to illustrate the principles discussed in the text, and demonstrate how the method should be applied in practice.

4.2.2. Financial Transactions

96. Financial transactions have traditionally represented a complex issue from a transfer pricing perspective. As a result of the OECD/G20 BEPS Project, financial transactions were identified as an area of concern for which specific guidance in the OECD Transfer Pricing Guidelines was missing.

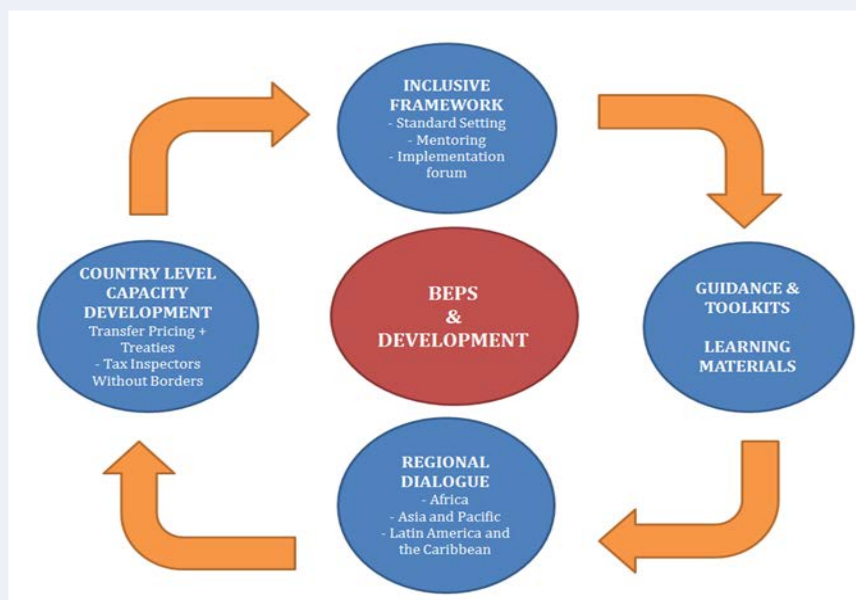
97. Accordingly, under the specific mandate of the Report on Actions 8-10 of the BEPS Action Plan Aligning Transfer Pricing Outcomes with Value Creation, the OECD/G20 Inclusive Framework is currently undertaking further work to provide guidance on transfer pricing for financial transactions, to provide both tax administrations and practitioners with the required tools to address transfer pricing issues involved in intragroup financial transactions. The project, started in 2016, is close to producing a discussion draft that will be released for public consultation before the end of 2018. That discussion draft will address the interaction between existing transfer pricing rules and the particularities of financial transactions, and will provide guidance on a specific set of activities of particular complexity such as intragroup funding, guarantees and the use of so-called “captive” insurance companies.

Box 4.1. Ensuring Developing Country Participation and Action to Combat BEPS

There are three main objectives in helping countries combat BEPS and thereby increase domestic resource mobilisation by developing countries. These are: the effective participation of developing countries in BEPS standard-setting and policy solutions; the effective implementation of the BEPS minimum standards and other priority actions (e.g.

on transfer pricing) by developing countries; and enhanced legislative, organisational, and human resource capabilities in developing countries.

To achieve these objectives requires a theory of change. Evidence suggests there can be a high degree of confidence in meeting these objectives if activities are combined into a coherent package of assistance to developing countries.



In particular, bringing developing countries into BEPS standard setting and implementation ensures they can influence norms and standards in their favour. Developing country involvement has meant making the convening body – the OECD/G20 Inclusive Framework on BEPS – as accessible as possible, whilst supporting this with regional events to maintain momentum and reach those countries yet to join (or unable to participate in) the main OECD/G20 Inclusive Framework meetings and technical working parties.

This enhanced access is supported by technical assistance to country officials through a combination of regional and country level capacity development. But outreach and assistance needs to extend beyond just tax officials, to ensure ministers, parliamentarians and other senior decision makers are aware of the BEPS risks their countries face. In doing so, these key stakeholders can also take ownership of implementing the BEPS responses.

In 2018, the OECD launched a new project on blended learning. Courses are currently offered on various BEPS actions and implementation using a combination of on-line training (delivering reading materials, Presentations, videos, self-assessment tests and email tutoring) to supplement traditional face-to-face workshops under the guidance of an event leader and experts at the six OECD multilateral tax centres.

BEPS and Transfer Pricing

At the request of developing countries, and in partnership with ATAF, the EU Commission and the WBG, the Secretariat helped build capacity in 23 developing countries in 2017/2018, supporting the application of the OECD's BEPS and transfer pricing norms and standards through tailored country-level assistance.

The programmes have raised awareness of the BEPS Actions (and related transparency initiatives) and the benefits of the OECD/G20 Inclusive Framework on BEPS, and have supported countries with their BEPS implementation plans. 90% of the recipient countries or jurisdictions are in the process of, or have followed

recommendations on legislative changes. These recommendations have led to the approval of primary or secondary legislation, as well as the issuance of guidance for taxpayers and tax administrations in some cases.

The work delivered by the Secretariat - including meetings with senior Ministry of Finance and tax administration officials on the BEPS outcomes and the OECD/G20 Inclusive Framework - provided countries such as Tunisia and Zambia the knowledge and confidence they needed to join the OECD/G20 Inclusive Framework in the second half of 2017.

Audit support through Tax Inspectors Without Borders (TIWB)

TIWB is a tool which supports audit capacity on a wide range of international tax issues and helps in the correct application of the BEPS standards levelling the playing field for all governments in a way that ensures fair taxation of profits in the countries where the economic value is created. Developing countries report benefits in terms of improved capacities and confidence to conduct quality audits, and better compliance by taxpayers.

Since its launch in 2015, TIWB has already established a global footprint with 38 ongoing or completed projects and 22 more upcoming projects in Africa, Asia Pacific, Latin America and Caribbean as well as parts of Eastern Europe. The target is to get to 100 deployments by 2020. To date, 328 million USD additional revenues have been raised.

TIWB is now branching out from general audit support to more specific sector audits mainly in mining, financial sector, commodities and telecommunications; as well as from tax avoidance issues to tax evasion issues supporting investigations for tax and crime.

Box 4.2. International and Regional Organisations Involved in the OECD/G20 BEPS Project

International and regional organisations are playing a key role in supporting their membership in the implementation of BEPS, as well as feeding in the experiences of their membership into the work of the OECD/G20 Inclusive Framework.

International Organisations

The IMF, the UN and the WBG are permanent observers to the OECD/G20 Inclusive Framework. They are collaborating with the OECD through the Platform for Collaboration on Tax (the Platform), to strengthen their co-operation on tax issues and in particular on capacity-building support to developing countries, such as the delivery of toolkits to translate the complexity of some of the BEPS Actions for low capacity countries and to deliver reports on other international tax priorities.

In February 2018, the Platform held its first Global Conference on Tax and the Sustainable Development Goals at the UN headquarters in New York. The final statement reaffirmed the common objectives of the four partner international organisations in relation to the tax agenda, including: how to mobilise domestic resources for development; tax policies to support sustainable economic growth, investment and trade; the social dimensions of taxation (income and gender inequality, human development); as well as capacity development and international tax cooperation.

Toolkits

The Platform is also working to develop toolkits aimed at supporting low capacity, low income countries in countering key base erosion and profit shifting issues. The first of these toolkits, on Effective and Efficient Tax Incentives for Development, was released in 2015. The second, on Addressing Difficulties in Accessing Comparables Data for Transfer Pricing Analyses, which included a supplementary report on Information Gaps on Prices of Minerals, was released in June 2017. The toolkit was used as the basis of a pilot workshop targeting developing country tax administrations held in September 2017, and in events hosted by the UN. Feedback from these events has been extremely positive. Three additional workshops will be held during 2018 to disseminate and discuss this toolkit.

A draft toolkit on Indirect Offshore Transfers of Interests was released for public consultation in 2017, with further consultation in mid-2018 and expected finalisation by the end of the year. Further toolkits, including on Implementing Effective Transfer Pricing Documentation Regimes, Treaty Negotiation, BEPS Risk Assessment, Base Eroding Payments and Supply Chain Restructures, are also under development or in the earlier stages of planning.

Regional Organisations

Regional tax organisations also actively participate in the OECD/G20 Inclusive Framework with the status of observers, as well as they support their members to implement the BEPS measures.

- *African Tax Administration Forum (ATAF)*

ATAF provided extensive input into the revision of the transfer pricing guidance on profit splits, including an example that primarily reflects developing country circumstances. ATAF also provided capacity building support to its members in collaboration with the OECD Secretariat and other partners.

- *Centro Interamericano de Administraciones Tributarias (CIAT)*

CIAT provided technical assistance for its members on the implementation of BEPS and transfer pricing, and dedicated its last Technical Conference in San José, Costa Rica to BEPS, in September 2017.

- *Centre de Rencontres et d'Études des Dirigeants des Administrations Fiscales (CREDAF)*

CREDAF organised - in collaboration with the OECD Secretariat, Le Pôle Stratégies de développement et finances publiques (UNDP/France joint initiative) and Benin Revenue Authority (Direction générale des Impôts) - a regional meeting of the IF on BEPS for French speaking countries in Cotonou including a MLI workshop, in July 2017. CREDAF also organised for its member countries - in collaboration with the OECD Secretariat - a Transfer Pricing Workshop in Ouagadougou, Burkina Faso, in February 2018.

- *Study Group on Asian Tax Administration and Research (SGATAR)*

Established in 1970, SGATAR is a forum for tax administrators to enhance cooperation, improve administration and discuss issues related to tax administration. During its 46th Annual Meeting in 2016, SGATAR adopted a transfer pricing competency roadmap and training curriculum. An agreement was likewise reached that two transfer pricing training programmes (one intermediate and one advanced) would be held each year for the next five years, to ensure sustained momentum in the development of transfer pricing expertise. One of the three Working Group topics of the 47th Annual SGATAR Meeting was dedicated to transfer pricing, specifically

with regard to issues on high-risk transactions common in the Southeast Asian Region and other developing countries.

4.3. Economic Analysis of BEPS: Action 11

98. As recognised in the BEPS Action 11 Report on Measuring and Monitoring BEPS, a major challenge of assessing the scale and impact of BEPS was the scarcity of relevant data and the significant limitations of existing data sources. As a step towards addressing this challenge and with a view towards providing more accurate monitoring of the impact of BEPS and the effect of the BEPS package over time, a series of new data collection processes and analytical tools have been developed and are now being put in place.

99. Work is currently underway to compile a new Corporate Tax Statistics dataset, which is scheduled to be released for the first time in November 2018. The Corporate Tax Statistics dataset will bring together, in an internationally consistent format, a range of data relevant to the analysis of BEPS and the taxation of corporations more generally. Improving the quality of available corporate tax statistics will be a critical step towards improving the quality and accuracy of the OECD/G20 Inclusive Framework's ongoing efforts to measure and monitor BEPS and the impact of the BEPS package. Therefore, the dataset will gather numerous types of data and analyses that can provide new insights into corporate taxation and the incentives corporate tax systems create for firms. Three main categories of data will be included in the first release: data on tax revenues; data on tax rates; and data on tax incentives. In addition, future editions, from 2019 onwards, will also include some statistics from CbC Reports based upon countries' aggregated and anonymised data.

4.3.1. Data on Tax Revenues

100. A number of indicators of corporate income tax revenue will be presented in the Corporate Tax Statistics dataset. This information will be compiled from the OECD's Global Revenue Statistics dataset. The indicators of corporate tax revenues included will be: the level of corporate tax revenue in local currency; corporate tax revenue as percentage of GDP; and corporate tax revenue as a percentage of total tax revenue. This information will generally be available from 1965 for OECD countries and from 1990 for those non-OECD countries that are included in the Global Revenue Statistics dataset. By the end of 2018, it is expected that the Global Revenue Statistics dataset will include 90 countries. These data are important for researchers and policy makers interested in corporate taxation.

4.3.2. Data on Tax Rates

101. Information on statutory CIT rates is an integral part of the new dataset. Statutory CIT rates are currently presented in the OECD Tax Database for OECD countries, and the new Corporate Tax Statistics dataset will expand coverage of this information to members of the OECD/G20 Inclusive Framework. Statutory CIT rates at the central and sub-central government levels will be reported for the years 2000 to 2018. The data is currently being collected from OECD/G20 Inclusive Framework members through a survey of members and the data collection and verification process is ongoing.

102. Among the new data to be included in the Corporate Tax Statistics are forward-looking corporate effective tax rates. The chief difference between effective tax rates and statutory corporate tax rates is that effective tax rates account for the tax base as defined by country-specific corporate tax provisions, such as fiscal depreciation rules, interest deduction limitation rules, investment tax credits, R&D tax incentives and other provisions such as, e.g., group-level consolidation regimes. In this way, effective tax

rates are a more accurate measure of the effects of the tax system on investment incentives allowing for cross-country comparisons as well as analyses of specific industries or business types. The development of this new data series will allow empirical research to better control for changes in corporate tax bases over time and across countries, thereby improving macroeconomic studies related to BEPS.

103. As part of this work, both effective marginal tax rates (EMTRs) and effective average tax rates (EATRs) are being calculated. EMTRs measure the extent to which taxation increases the pre-tax rate of return required by investors to break even, which may be used to assess how taxes affect the incentive to expand investment. EATRs measure the effect of taxation on investment projects earning economic rents, which may be used to assess choice along the extensive margin, such as a firm's location decision or technology choice. The dataset will include both EMTRs and EATRs as well as two additional variables: the net present value (NPV) of capital allowances, expressed as a percentage of investment, and the cost of capital.

104. The scope of countries and jurisdictions covered will include all willing OECD/G20 Inclusive Framework members. A survey was circulated in April 2018 to collect information on relevant corporate tax provisions in force in July 2017. The development of these ETRs will also involve cooperation with the European Union Commission (EC) to reduce response burdens and ensure methodological alignment with ETRs published by the EC.

4.3.3. Data on Tax Incentives

105. The Corporate Tax Statistics dataset will also include two indicators on research and development (R&D) tax incentives, both compiled by the OECD's Science, Technology and Innovation (STI) directorate. This will cover all OECD/G20 Inclusive Framework members that wish to participate. Governments worldwide increasingly rely on tax incentives in addition to direct support measures (e.g., grants) to promote R&D in firms and encourage innovation and economic growth. In 2017, 30 out of the 35 OECD countries offered tax relief on R&D expenditures. While expenditure-based R&D tax incentives are not an item of investigation within BEPS, evidence on the incidence and generosity of these provisions is important and can help inform better policy decisions on the use of public funds.

106. The first set of R&D tax incentive indicators – implied tax subsidy rates on R&D expenditures – measure the notional level of tax support per additional unit of R&D to which firms with certain characteristics are in principle entitled. The types of tax support schemes taken into account include R&D tax credits and allowances, payroll withholding taxes, social security contributions and accelerated depreciation of capital assets used for R&D. The Corporate Tax Statistics dataset will include four variables related to this indicator spanning four firm types: large, profitable firm; SME, profitable firm; large, loss-making firm; and SME, loss-making firm.

107. The second set of R&D tax incentive indicators reflects tax expenditures for business R&D as reported by countries in the OECD data collection on tax incentive support for R&D expenditures. These estimates of the cost of R&D tax incentives can be combined with data on direct R&D funding, as compiled by National Statistical Offices based on reports from firms, in order to provide a more complete picture of government efforts to promote business R&D. Reporting such tax support can facilitate transparency and more balanced international comparisons of public support for innovation.

108. The final set of information included in the first release of the Corporate Tax Statistics dataset will relate to Intellectual Property (IP) regimes. Many jurisdictions have implemented IP regimes which allow income from the exploitation of IP to be taxed at a lower rate than the headline corporate statutory tax rate. As agreed as part of

the BEPS Action 5 minimum standard, peer reviews are being undertaken to identify features of such regimes that can facilitate BEPS, and therefore have the potential to unfairly impact the tax base of other jurisdictions. The FHTP collects the detailed information necessary for these reviews. The Corporate Tax Statistics dataset will draw on the data collected by the FHTP and will report information on IP regimes' rates and qualifying assets as well as the status of IP regimes per the FHTP's review.

4.3.4. Country-by-Country Reports

109. While they will not be available for the first release of the Corporate Tax Statistics dataset, an additional set of analyses planned to be included in future versions of the Corporate Tax Statistics dataset are aggregated and anonymised statistics from CbC Reports. The aim of gathering and analysing statistics derived from CbCRs is to provide governments with a more complete view of the largest MNEs' global activities and to improve the economic and statistical analysis of BEPS. Up until now, one of the greatest difficulties in the measurement and analysis of BEPS has been the lack of available data on the income, taxes, and business activity of MNE groups on a jurisdiction by jurisdiction basis. CbCRs are expected to be a step forward in measuring BEPS since they will provide jurisdiction-specific information.

110. The first aggregated and anonymised CbCR statistics for 2016 are expected to be available for compilation in an internationally consistent format in 2019. These statistics are expected to be valuable in supporting future assessment of the effectiveness of the changes recommended as part of the BEPS package in conjunction with other available data, including that collected in the Corporate Tax Statistics dataset. A detailed description of the CbCR statistics that are being collected and analysed is provided in Annex C.

111. While data constraints remain a challenge, progress is continuing on tracking the scale and economic impact of BEPS over time. As recommended in the Action 11 Report, continued work has been undertaken on updating the BEPS indicators and exploring new data sources that may be used to refine the indicators. While data from more recent years that may shed light on the impact of the BEPS measures is not yet available, the indicators can provide a baseline against which future assessments of BEPS may be compared. Work has already commenced on updating the estimate of the net global revenue lost due to BEPS published in the Action 11 Report. This will assist in providing a global view of the scale of BEPS and how it has evolved since the analysis performed in the Action 11 Report and is expected to be updated in 2020.

4.4. Model Disclosure Rules for CRS Avoidance Arrangements

112. Several countries are considering the introduction of rules based on Action 12 and in May 2018, the European Council adopted a directive that will require Member States to introduce mandatory disclosure rules for cross-border aggressive tax planning, offshore structures and Common Reporting Standard (CRS) avoidance scheme.

113. Responding to a request of the G7, the OECD has issued model mandatory disclosure rules that would require promoters and service providers, such as lawyers, accountants, financial advisors, and banks, to inform tax authorities of any arrangements they design, market, or provide services in respect of, to avoid reporting under the OECD/G20 Common Reporting Standard (CRS) or prevent the identification of the beneficial owners of passive offshore vehicles.

114. As the reporting and automatic exchange on offshore financial accounts pursuant to the CRS becomes a reality in over 100 jurisdictions this year, many taxpayers that held undeclared financial assets offshore have come clean to their tax

authorities in recent years, which has already led to the identification of close to 85 billion euros of additional tax revenue.

115. In the meantime, individuals, often with the help of advisers and financial intermediaries, continue to try hiding their offshore assets and fly under the radar of CRS reporting. The design of these model rules draws extensively on the best practice recommendations in the BEPS Action 12 Report while being specifically targeted at these types of arrangements and structures. While not mandatory, the new model rules provide an effective tool to target these persons and their advisers, by introducing an obligation on a wide range of intermediaries in the jurisdictions that adopt the rules to disclose arrangements to circumvent CRS reporting to the tax authorities or conceal the beneficial owners of passive offshore vehicles.

Annex A. Membership of the OECD/G20 Inclusive Framework on BEPS

Complete list of Members of the OECD/G20 Inclusive Framework on BEPS as of 20 June 2018

1. Andorra
2. Angola
3. Anguilla
4. Argentina
5. Australia
6. Austria
7. The Bahamas
8. Bahrain
9. Barbados
10. Belgium
11. Belize
12. Benin
13. Bermuda
14. Botswana
15. Brazil
16. British Virgin Islands
17. Brunei Darussalam
18. Bulgaria
19. Burkina Faso
20. Cameroon
21. Canada
22. Cayman Islands
23. Chile
24. China (People's Republic of)
25. Colombia
26. Congo
27. Costa Rica
28. Côte d'Ivoire
29. Croatia
30. Curaçao
31. Czech Republic
32. Democratic Republic of the Congo
33. Denmark
34. Djibouti
35. Egypt
36. Estonia
37. Finland
38. France
39. Gabon
40. Georgia
41. Germany
42. Greece
43. Guernsey
44. Haiti
45. Hong Kong (China)
46. Hungary
47. Iceland
48. India
49. Indonesia
50. Ireland
51. Isle of Man
52. Israel
53. Italy
54. Jamaica
55. Japan
56. Jersey
57. Kazakhstan
58. Kenya
59. Korea
60. Latvia
61. Liberia
62. Liechtenstein
63. Lithuania
64. Luxembourg
65. Macau (China)
66. Malaysia
67. Maldives
68. Malta
69. Mauritius
70. Mexico
71. Monaco
72. Mongolia
73. Montserrat
74. Netherlands
75. New Zealand
76. Nigeria
77. Norway
78. Oman
79. Pakistan
80. Panama
81. Papua New Guinea
82. Paraguay
83. Peru
84. Poland
85. Portugal
86. Qatar
87. Romania
88. Russia
89. Saint Kitts and Nevis
90. Saint Lucia
91. San Marino
92. Saudi Arabia
93. Senegal
94. Serbia
95. Seychelles
96. Sierra Leone
97. Singapore
98. Slovak Republic
99. Slovenia
100. South Africa
101. Spain
102. Sri Lanka
103. Sweden
104. Switzerland
105. Thailand
106. Trinidad and Tobago
107. Tunisia
108. Turks and Caicos Islands
109. Turkey
110. Ukraine
111. United Arab Emirates
112. United Kingdom
113. United States
114. Uruguay
115. Viet Nam
116. Zambia

List of Observers of the OECD/G20 Inclusive Framework on BEPS
as of 20 June 2018

1. International Monetary Fund (IMF)
2. United Nations (UN)
3. World Bank Group (WBG)
4. African Tax Administration Forum (ATAF)
5. Centro Interamericano de Administraciones Tributarias (CIAT)
6. Centre de Rencontre et d'Etudes des Dirigeants des Administrations Fiscales (CREDAF)

Annex B. BEPS Actions and the Subsidiary Bodies of the OECD/G20 Inclusive Framework on BEPS

116. The OECD's Committee on Fiscal Affairs in its Inclusive Framework on BEPS format is the decision making body of the OECD/G20 Inclusive Framework. Subsidiary bodies of the OECD/G20 Inclusive Framework carry out the technical work on each of the BEPS Actions, as set out in the table below.

117. All members of the OECD/G20 Inclusive Framework participate on an equal footing in the decision-making body, as well as in the technical working groups.

BEPS Action	Relevant subsidiary bodies and ad hoc groups of the OECD/G20 Inclusive Framework
Action 1 – Addressing the Tax Challenges of the Digital Economy This action analyses BEPS risks exacerbated in the digital economy and shows the expected impact of the measures developed across the OECD/G20 BEPS Project. It concludes that the digital economy cannot be ring-fenced as it is increasingly the economy itself and proposes technical options to deal with the tax challenges of the digital economy.	Task Force on the Digital Economy
Action 2 - Neutralising the Effects of Hybrid Mismatch Arrangements This action provides a common approach which facilitates the convergence of national practices through domestic and treaty rules to neutralise such arrangements. It helps to prevent double non-taxation by eliminating the tax benefits of mismatches and to put an end to costly multiple deductions for a single expense, deductions in one country without corresponding taxation in another, and the generation of multiple foreign tax credits for one amount of foreign tax paid.	Working Party No. 11 on Aggressive Tax Planning
Action 3 - Designing Effective Controlled Foreign Company Rules This action sets out recommendations in the form of building blocks of effective CFC rules, while recognising that the policy objectives of these rules vary among jurisdictions. It identifies the challenges to existing CFC rules posed by mobile income such as that from intellectual property, services and digital transactions, and allows jurisdictions to reflect on appropriate policies in this regard.	Working Party No. 11 on Aggressive Tax Planning
Action 4 - Limiting Base Erosion Involving Interest Deductions and Other Financial Payments This action provides a common approach to facilitate the convergence of national rules in the area of interest deductibility. It aims at ensuring that an entity's net interest deductions are directly linked to the taxable income generated by its economic activities and fostering increased co-ordination of national rules in this space.	Working Party No. 11 on Aggressive Tax Planning
Action 5 - Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance This action sets out a minimum standard based on an agreed methodology to assess whether there is substantial activity in a preferential regime. In the context of IP regimes such as patent boxes, consensus was reached on the "nexus" approach. In the area of transparency, a framework has been agreed for mandatory spontaneous exchange of information on rulings that could give rise to BEPS concerns in the absence of such exchange.	Forum on Harmful Tax Practices
Action 6 - Preventing the Granting of Treaty Benefits in Inappropriate Circumstances This action includes a minimum standard on preventing abuse including through treaty shopping and new rules that provide safeguards to prevent treaty abuse. Other changes	Working Party No. 1 on Tax Conventions and Related Questions

to the OECD Model Tax Convention have been agreed to ensure that treaties do not inadvertently prevent the application of domestic anti-abuse rules. It also contains the policy considerations to be taken into account when entering into tax treaties with certain low or no-tax jurisdictions.	
Action 7 - Preventing the Artificial Avoidance of Permanent Establishment Status This action includes changes to the definition of permanent establishment in Article 5 of the OECD Model Tax Convention. These changes address techniques used to inappropriately avoid the tax nexus, including via replacement of distributors with commissionaire arrangements or via the artificial fragmentation of business activities.	Working Party No. 1 on Tax Conventions and Related Questions
Actions 8-10 - Aligning Transfer Pricing Outcomes with Value Creation Action 8 looked at transfer pricing issues relating to controlled transactions involving intangibles, since intangibles are by definition mobile and they are often hard-to-value. Under Action 9, contractual allocations of risk are respected only when they are supported by actual decision-making and thus exercising control over these risks. Action 10 has focused on other high-risk areas. The combined report contains revised guidance which responds to these issues and ensures that transfer pricing rules secure outcomes that better align operational profits with the economic activities which generate them. It also contains guidance on transactions involving cross-border commodity transactions as well as on low value-adding intra-group services.	Working Party No. 6 on the Taxation of Multinational Enterprises
Action 11 - Measuring and Monitoring BEPS This action assesses currently available data and methodologies and concludes that significant limitations severely constrain economic analyses of the scale and economic impact of BEPS and improved data and methodologies are required. Noting these data limitations, a dashboard of six BEPS indicators has been constructed. These indicators provide strong signals that BEPS exists and suggest it has been increasing over time.	Working Party No. 2 on Tax Policy Analysis and Tax Statistics

Action 12 - Mandatory Disclosure Rules This action provides a modular framework of guidance drawn from best practices for use by countries without mandatory disclosure rules which seeks to design a regime that fits those countries' need to obtain early information on aggressive or abusive tax planning schemes and their users. The recommendations provide the necessary flexibility to balance a country's need for better and more timely information with the compliance burdens for taxpayers.	Working Party No. 11 on Aggressive Tax Planning
Action 13 - Transfer Pricing Documentation and Country-by-Country Reporting This action contains a three-tiered standardised approach to transfer pricing documentation, including a minimum standard on Country-by-Country Reporting. First, the guidance on transfer pricing documentation requires multinational enterprises (MNEs) to provide tax administrations with high-level information regarding their global business operations and transfer pricing policies in a "master file" that is to be available to all relevant tax administrations. Second, it requires that detailed transactional transfer pricing documentation be provided in a "local file" specific to each country, identifying material related-party transactions, the amounts involved in those transactions, and the company's analysis of the transfer pricing determinations they have made. Third, large MNEs are required to file a Country-by-Country Report that will provide annually and for each tax jurisdiction in which they do business the amount of revenue, profit before income tax, income tax paid and accrued and other indicators of economic activities. The "master file" and "local file" are not part of the minimum standard.	Ad Hoc Group on Country-by-Country Reporting, consisting of members of both Working Party No. 6 and Working Party No. 10
Action 14 - Making Dispute Resolution Mechanisms More Effective Recognising the importance of removing double taxation as an obstacle to cross-border trade and investment, countries have committed to a minimum standard with respect to the resolution of treaty-related disputes. In particular, this includes a strong political commitment to the effective and timely resolution of disputes through the mutual agreement procedure.	Forum on Tax Administration – Mutual Agreement Procedures Forum/ Working Party 1 on Tax Treaties
Action 15 - Developing a Multilateral Instrument to Modify Bilateral Tax Treaties This action explored the technical feasibility of a multilateral instrument to implement the BEPS treaty-related measures and amend bilateral tax treaties. This led to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS, which was adopted in November 2016.	Ad Hoc Group on the Multilateral Instrument for BEPS tax treaty measures

Annex C. Using Country-by-Country Reporting Data to Measure BEPS

118. The collection of aggregated and anonymised data from the Country-by-Country Reports (CbCRs) was a key recommendation of the BEPS Action 11 final report and will play an important role in supporting the OECD/G20 Inclusive Framework's ongoing work on the measurement and monitoring of BEPS. The aim of collecting these data is to provide governments with a more complete view of the global activities of the largest MNEs and to improve the analysis of BEPS and the effect of BEPS countermeasures in conjunction with other data available to governments. At present, one of the major challenges associated with measuring BEPS is that only limited information is available on the location of MNE groups' income, taxes, and business activities CbCRs represent a step forward in supporting the measurement of BEPS since they will provide jurisdiction-specific information.

119. CbCRs provide information on income, taxes, and business activities of MNEs on a tax jurisdiction-by-tax jurisdiction basis. This is very important information for tax administrations in order to assess high-level transfer pricing and other BEPS-related risks of specific MNEs. It may also be a valuable source of information that can contribute to the measurement and monitoring of BEPS at a macro level. Consequently, the OECD/G20 Inclusive Framework members have agreed to provide three main data tables summarising the information reported on CbCRs according to the jurisdictions where MNEs operate and the tax rates faced by MNEs.

Table 1: Where do the business activities of MNEs take place?

120. The first table to be provided by the OECD/G20 Inclusive Framework members will include an overview of MNE activities based on the jurisdictions of their operations. It will contain aggregated tabulations of the data provided on CbCRs grouped by the jurisdictions reported on the CbCRs. Stateless entities will be considered as a separate jurisdiction though there will be variation across jurisdictions as to which entities are considered stateless. For each jurisdiction, the total of each of the variables (i.e., income, taxes and business activities) pertaining to that jurisdiction on all CbCRs filed will be reported. Two separate panels will be reported for this table: one panel that contains only data from jurisdictions where MNE groups have reported positive profits, and one panel that contains only data from jurisdictions where MNE groups have reported losses. This will be important for the calculation of tax rates and to provide an overview of the geographic distribution of profits and losses. If necessary to preserve the confidentiality of the data, OECD/G20 Inclusive Framework members can aggregate jurisdictions for which information cannot be released individually into broad geographic groupings.

Table 2: What are the tax rates paid by MNEs?

121. The second table will provide an overview of MNE activities based on the tax rate faced by MNEs. MNEs will be categorised according to the overall tax rate they face, and MNEs with total profits that are negative or zero will be included in a separate category. For each category of MNEs, the total of each of the variables recorded on the CbCRs filed by the MNEs in that category will be reported. Within each category of MNE, information will also be broken down at the jurisdiction level. The OECD/G20 Inclusive Framework members may aggregate jurisdictions into geographic groupings where this is necessary to preserve the confidentiality of the data.

Table 3: What is the relationship between tax rates and the business activities of MNEs?

122. The third table will provide an overview of MNE activities based on the tax rate faced by MNEs in the jurisdictions where they operate. In order to create this table, a tax rate will first be calculated for operations in each jurisdiction listed on an MNE group's CbCR. That is, for each MNE, jurisdiction-specific tax rates will be calculated. The operations in each jurisdiction will then be categorised according to their tax rate. In Table 3, the total of each of the variables recorded on CbCRs will be reported broken down by this tax rate category. In this table, no jurisdictions will be specifically listed by name.

123. After these data tables are prepared, the OECD/G20 Inclusive Framework members have agreed that ratios can be computed from the variables reported on the tables to examine the relationships among MNEs' income, taxes, and business activities. These ratios will be grouped into three categories. The first category will include measures of tax burden, such as the ratio of income tax to profits and the ratio of income tax to total revenues. The second category will include measures of profits relative to economic activity, such as the ratio of profits to total revenue and profits to the number of employees. The third category will contain other measures, such as the ratio of related party revenues to total revenues.

Preserving the Confidentiality of CbCRs

124. CbCRs contain confidential information regarding MNEs, and preserving the confidentiality of this information and the anonymity of MNE groups reporting this information will be of paramount importance. In order to preserve the confidentiality of individual CbCRs, governments will perform the analyses and then provide the aggregated and anonymised data to the OECD. Governments will only provide these analyses for CbCRs filed directly in their jurisdictions in order to avoid disclosing any information from CbCRs obtained through exchange agreements. It will be critical that these analyses be performed and presented by OECD/G20 Inclusive Framework members in as consistent a way as possible in order to improve comparability of the data and to facilitate the study of BEPS behaviour. Some flexibility in the level of aggregation is provided to ensure that the reported statistics are anonymised and preserve the confidentiality of the filing taxpayers.

Monitoring BEPS through CbCR Data

125. By gathering and publishing these aggregated analyses, governments and the public will have an overview of global MNE activity that was not be available otherwise. The aggregated analyses of CbCR data may provide indications of the extent of the misalignment of taxes, income, and business activity. However, it is important to note, that due to the aggregated nature of the CbCR analyses and the limited number of items on the CbCR itself, definitive conclusions about BEPS will not be able to be drawn from the analyses alone. The analyses will be made publicly available.

Annex 2

Updating the OECD Criteria to Identify Jurisdictions that have not Satisfactorily Implemented the Tax Transparency Standards

Strong progress has been made in the implementation of the tax transparency standards, in large part due to the strong support from the G20 for this important pillar of the global financial system. Establishing a level playing field has been a key strategic objective in this area since the OECD first sought commitments to implement the standard almost 20 years ago. In 2016, responding to the G20's call, the OECD established objective criteria to identify jurisdictions that have not satisfactorily implemented the tax transparency standards. The establishment and application of these criteria were a vital tool to accelerate progress by jurisdictions towards meeting the standards as the Global Forum's first round of reviews for exchange of information on request and the commitment process for automatic exchange of information were coming to a close. In 2017, the G20 welcomed the progress made and looked forward to "an updated list by the OECD by our next Summit reflecting further progress made towards implementation".

As the circumstances have evolved, with a second round of reviews underway and the implementation of the automatic exchange of information, in March 2018 the G20 Finance Ministers and Central Bank Governors stated:

> *We look forward to the OECD's recommendations on how to further strengthen the criteria for assessing jurisdictions compliance with internationally agreed tax transparency standards.*

At the meeting of the CFA in June, OECD and G20 members discussed this issue, leading to agreement on criteria as follows. Jurisdictions would continue to be assessed against three objective criteria:

- implementation of the Exchange of Information on Request (EOIR) standard,
- implementation of the Automatic Exchange of Information (AE OI) standard and
- participation in the multilateral Convention on Mutual Administrative Assistance in Tax Matters (multilateral Convention) or a sufficiently broad network of exchange agreements permitting both AEOI and EOIR.

Benchmarks for the second assessment against the above criteria would be:

- a "Largely Compliant" overall rating with respect to the EOIR standard, taking into account the Global Forum's second round of reviews on an ongoing basis and provided jurisdictions (other than those that received a provisional rating in the first round) have had an opportunity to respond to any downgrades in rating through a supplementary report,
- with respect to the implementation of the AEOI standard, all necessary legislation is in place and exchanges commenced by the end of 2018; and agreements activated with substantially all interested and appropriate partners by the end of 2019; and
- having the multilateral Convention in force or having a sufficiently broad exchange network of bilateral agreements in force permitting both EOIR and AEOI.

In order for a jurisdiction to be considered to comply with respect to international tax transparency, it would need to meet the benchmarks of at least two of the three above-mentioned

criteria. However, a jurisdiction will be considered as failing to comply notwithstanding that it may have met the benchmarks of two of the three criteria if: a) it is determined to be "non-compliant" overall for its implementation of the EOIR standard; or b) it has, contrary to its commitment to the Global Forum to implement the AEOI Standard by 2018, not met the AEOI benchmark set out above.

All Global Forum member jurisdictions except developing countries without financial centres would be assessed on their compliance with the transparency standards, as well as non-member jurisdictions that are identified by the Global Forum as relevant for the purposes of its work.

An assessment based on this approach would identify the number of jurisdictions that are at risk of being identified as a jurisdiction that has not satisfactorily implemented the tax transparency standards (*i.e.*, those that have not yet satisfied 2 out of the 3 criteria or fail to meet the special criteria) and reported to the G20 Leaders in December 2018. Progress would then be reported to the G20 Leaders' Summit in 2019, along with the identity of those jurisdictions (if any) that still do not comply. The list would be updated at the end of 2019 to take into account the requirement to have agreements with substantially all interested and appropriate partners.

Annex 3

Update on Tax Certainty: IMF/OECD report to G20 Finance Ministers and Central Bank Governors

UPDATE ON TAX CERTAINTY

IMF/OECD Report for the G20 Finance Ministers and Central Bank Governors

July 2018

Executive summary

We emphasize the effectiveness of tax policy tools in supply-side structural reform for promoting innovation-driven, inclusive growth, as well as the benefits of tax certainty to promote investment and trade and ask the OECD and IMF to continue working on the issues of pro-growth tax policies and tax certainty.

G20 Leaders, Hangzhou Summit Communique, September 2016

1. In response to the call from G20 Leaders, the OECD secretariat and IMF staff produced a comprehensive report on tax certainty (OECD/IMF Report on Tax Certainty, the "2017 Report"). This report identified the sources of uncertainty in tax matters and the various tools that taxpayers and governments could use to reduce it from the perspective of businesses and tax administrations in G20 and OECD countries. The G20 has asked for an update of the 2017 Report to be delivered in 2018.

2. The 2017 report highlighted that tax uncertainty creates a risk of discouraging investment. The OECD survey, for example, suggests that businesses find tax certainty in corporate tax and VAT important for investment and location decisions. The major drivers of tax uncertainty for businesses relate to uncertain tax administration practices, inconsistent approaches of different tax authorities in applying international tax standards, and issues associated with dispute resolution mechanisms. To enhance tax certainty, the report identifies a set of concrete and practical approaches and solutions. These include improving the clarity of legislation, increasing predictability and consistency of tax administration practices, effective dispute prevention, and robust dispute resolution mechanisms. While the 2017 report focused on tax certainty in G20 and OECD countries, it was recognized that it is important also for developing countries, even though the tools to enhance tax certainty in those countries would need to be assessed against their weaker enforcement and lower implementation capacities.

3. This update discusses what has happened since the 2017 report. It elaborates first on developments in OECD and G20 countries. Progress is reported on, for example, implementation of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project and developments in dispute resolution, such as mutual agreement procedures (MAP) and arbitration. The update also reports on new initiatives, such as the OECD initiatives to mitigate uncertainty in tax treaties, the IMF initiative to address international taxation issues in its surveillance, developments in the treaty relief and compliance enhancement (TRACE) project, and the Forum on Tax Administration (FTA) initiative to improve risk assessment and audit processes. Finally, some initiatives are discussed that were not explicitly mentioned in the 2017 report, but which do matter for tax certainty, such as exchange of information, country-by-country reporting and OECD International VAT/GST Guidelines.

4. The importance of tax certainty for developing countries is reflected in some of the more granular data obtained from the OECD business survey of 2017. Moreover, a workshop in Tanzania in 2017 highlighted the importance of tax certainty for governments in developing countries. Several initiatives are discussed in this update that aim, among others, to enhance tax certainty in developing countries, such as toolkits by the Platform for Collaboration on Tax, Medium-Term Revenue Strategies, the wide array of IMF technical assistance in revenue mobilization (tax policy design, legal drafting, and tax administration), progress made with the tax administration diagnostic assessment tool (TADAT) and the joint OECD/UNDP program on Tax Inspectors Without Borders (TIWB).

1. Introduction

5. The work conducted by the IMF and OECD in 2017 on tax certainty (the "2017 Report") reflects the concerns of taxpayers and governments in G20 and OECD countries on the issue, especially in the context of international taxation. These concerns come amid the spread and emergence of new business models and increased internationalization of business activities; heightened concern with aggressive tax planning; some fragmented and unilateral policy decisions; certain court decisions; and updates to the international tax rules, such as through the G20/OECD Base Erosion and Profit Shifting (BEPS) Project.

6. The 2017 report explores various dimensions of tax certainty, such as the nature of tax uncertainty, its main sources, and the effects on business decisions. It also outlines a set of concrete and practical approaches to help policymakers and tax administrations shape a more certain tax environment. These include issues in tax policy and legislation, such as development of a robust principles-based tax law design coupled with measures to improve clarity and reduce complexity. In tax administration, it discusses timely issuance of rulings and technical interpretations, proactive taxpayer engagement and education to improve understanding of the legislation and its requirements. In the international tax context, the 2017 report outlines approaches to enhance tax certainty through dispute prevention (such as cooperative compliance programs, advance pricing agreements (APAs), and simultaneous and joint audits), robust and effective international dispute resolution mechanisms such as mutual agreement procedures (MAP) and arbitration, and consistent implementation of international standards and guidance.

7. The present report provides an update of the 2017 report in two dimensions: first, it reports on developments in the approaches in G20/OECD countries to enhance tax certainty. The update partly mirrors the approaches that were identified in the 2017 report, such as progress on implementation of the BEPS action items, and progress in dispute prevention and dispute resolution. Other and new initiatives are also discussed, such as tax transparency initiatives and initiatives related to IMF surveillance on international taxation.

8. A second component of this update relates to the issue of tax certainty in developing countries. The 2017 report focused on tax certainty in G20 and OECD countries. Yet, it did recognize that tax certainty is important for developing countries as well, even though the approaches to enhance it might differ due to weaker enforcement and implementation. This report first identifies some of the distinct issues related to tax certainty in developing countries, based on specific results from the 2017 OECD survey (see also appendix A) and a workshop conducted in Tanzania. It then elaborates on initiatives that, among others, contribute to enhancing tax certainty in developing countries, such as toolkits developed by the Platform for Collaboration on Tax, Medium-Term Revenue Strategies, the wide array of IMF technical assistance in revenue mobilization, the tax administration diagnostic assessment tool (TADAT) and the joint OECD/UNDP program on tax inspectors without borders (TIWB).

2. Update on tax certainty in G20/OECD countries

9. The 2017 Report identifies several practical tools for enhancing tax certainty in G20 and OECD countries. These include issues in tax policy design and legislation as well as issues in tax administration (such as avoiding and resolving disputes). More specifically, the following list of possible areas of enhancement was identified in the 2017 report (p.41-60):

- Addressing complexity;
- Improving clarity;
- Anti-avoidance rules;
- Improved withholding tax collections and treaty relief procedures.
- Effective domestic dispute resolution regimes;
- Tax administration and programs for resolving international tax disputes;
- Mandatory disclosure;
- Advance pricing agreements;
- Simultaneous and joint audit;
- Mutual agreement procedure;
- Arbitration;

10. This section provides an update on the developments in a selection of these areas, with a focus on issues related to international taxation. It starts with measures in tax design and implementation (subsection 2.1). This subsection also elaborates briefly on some developments in areas that were not explicitly discussed in the 2017 report, but which are important for tax certainty, such as country-by-country reporting, exchange of information, and the OECD International VAT/GST Guidelines. Then, it analyses measures to prevent and resolve tax disputes (subsection 2.2).

2.1. Rule design and implementation

11. Tax certainty calls for clear and simple rules and regulations that minimise disputes. In the area of international taxation, several ongoing developments contribute to enhancing tax certainty, such as a consistent implementation of BEPS measures through the BEPS Inclusive Framework on which a brief update is provided. The OECD is also working specifically to address uncertainty in the application of tax treaties and is supporting the TRACE project. Finally, developments will be discussed in the minimum BEPS standard on country-by-country (CbC) reporting, automatic exchange of information, and implementation of the OECD International VAT/GST Guidelines. The IMF has a well-developed program of providing technical assistance (TA) and training to IMF member countries, which contributes to tax certainty. This includes drafting new laws or amendments to existing laws, which is discussed in more detail in subsection 3.5 (see also Box 2). In both advanced and developing countries, issues of international taxation and tax certainty are also dealt with in IMF surveillance on which this section reports.

2.1.1. Combatting Tax Avoidance

12. In November 2015, two years after the G20 Leaders endorsed the ambitious OECD/G20 Action Plan on BEPS, the OECD/G20 BEPS package of 15 measures to tackle tax avoidance was agreed by all OECD and G20 countries. It was designed to stop countries and companies from competing on the basis of a lack of transparency, artificially locating profit where there is little or no economic activity, or the exploitation of loopholes or differences in countries' tax systems. The OECD/G20 BEPS Project is focused on preventing double non-taxation without creating double taxation and it was meant to be as inclusive as possible so that all countries and jurisdictions can benefit from a multilateral approach to tackling tax avoidance and harmful tax practices.

13. The ongoing peer-review monitoring of the BEPS minimum standards by the OECD/G20 Inclusive Framework on BEPS and its 116 member jurisdictions will help ensure consistent implementation of these international standards. The Tax Certainty 2017 Report noted that ensuring the consistent adoption, interpretation and implementation of these minimum standards could increase certainty in the international tax system, in particular with regard to instances of double taxation. Crucially, the past year has seen delivery of the first results of the peer reviews of the BEPS minimum standards.

Box 1. Peer review results of the BEPS minimum standards

- **Action 5 – preferential tax regimes**: **175 regimes have been considered by the OECD Forum on Harmful Tax Practices (FHTP)** against the standard for harmful tax regimes, of which 31 have already been modified; 81 require legislative changes which are in progress; 47 do not pose any BEPS risks in practice; 4 have harmful or potentially harmful features and 12 regimes are still under review.
- **Action 5 – tax rulings**: **Over 17 000 rulings have already been identified** and information is now being exchanged between Inclusive Framework members, on the key issues contained in such rulings, which can then be used by tax authorities for risk assessment.
- **Action 13 – Country-by-Country reporting (CbC reporting)**: **The first annual peer review report, released in May 2018, contains a comprehensive examination of the implementation of the minimum standard by 95 jurisdictions**, focusing mainly on their domestic legal and administrative frameworks. The second annual peer review, covering all members of the Inclusive Framework, was launched in April 2018 and will focus on the exchange of information aspects of CbC reporting, as well as compliance with the confidentiality and appropriate use conditions.
- **Action 14 – improvement of mutual agreement procedures (MAP)**: **21 jurisdictions have already been subject to peer reviews with reports published** that identify areas for improvement, 16 are currently underway, and 35 more have been scheduled through December 2019. In addition, MAP country profiles for more than 80 countries have been published to increase transparency of the MAP processes in those countries.

14. Additionally, the FHTP has considered a number of possible ways for jurisdictions to promote tax certainty, focussing on measures to ensure communication and consultation with taxpayers, particularly around rulings programs, noting that the appropriateness and effectiveness of the proposals to assist with tax certainty will depend on each jurisdiction's legal and administrative framework, as well as the approach to tax compliance in the jurisdiction and the need to effectively implement the BEPS minimum standards.

Box 2. IMF technical assistance and surveillance on anti-avoidance rules

The IMF supports its member countries with the design and drafting of anti-avoidance rules (below), including by reviewing the consistency of their existing rules against international standards in the context of IMF surveillance (see subsections 2.17 and 3.5).

The IMF also prepares a series of Tax Law IMF Technical Notes that are designed to provide information and analysis on comparative solutions to topical problems in tax law design and implementation. This has relevantly included a technical note on the design and drafting of a general anti-avoidance rule (GAAR) and guidance in relation to its application, which is also applied when delivering technical assistance.[1] The success of a GAAR and the level of tax certainty achieved is often dependent on it being applied by the tax administration in a measured, even handed and predictable way, particularly given that a GAAR is necessarily less rules-based by legal design and more discretionary in its application.

The tax law design and implementation issues which are dealt with by the Tax Law IMF Technical Notes are often identified in the course of providing TA to member countries, but selected because they are of relevance to a wider audience so as to warrant publication of a technical note. The technical notes are published regularly, and their target audience includes tax law drafters and legal design officers within the ministries of finance (MOF) and tax administrations of IMF member countries, as well as the tax law community more generally (e.g., public and private sector entities, academics, think tanks etc.). The notes provide sample legislative provisions in order to promote consistency, international comparability, and therefore enhance tax certainty.

2.1.2. Tax treaties

15. The OECD is working on a project that aims to address tax uncertainty related to court cases. The project will identify the most disputed articles of the OECD Model Tax Convention in courts and in the MAP cases (other than transfer pricing cases). Through a review of those court and MAP cases, it aims to provide additional Commentary and/or guidance for tax administrations and taxpayers to ensure a consistent tax treatment by tax authorities and courts.

[1] Waerzeggers, C. and C. Hillier, 2016, "Introducing a General Anti-Avoidance Rule (GAAR)," *Tax Law IMF Technical Note*, Vol.1(1), IMF Legal Department.

Box 3. OECD's project on the Principal Purposes Test

Another OECD project intends to provide more predictability in the interpretation and application of the Principal Purposes Test (PPT).

The PPT was developed as part of Action 6 (Preventing the Granting of Treaty Benefits in Inappropriate Circumstances) of the OECD/G20 BEPS Project and has been introduced in the 2017 OECD Model Tax Convention, in bilateral treaties and in the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (MLI).

The implementation of PPT rules in bilateral treaties, while effective in reducing aggressive tax planning, is perceived as potentially increasing tax uncertainty. Various stakeholders have in fact expressed concerns on the implementation of the PPT. These concerns are expressed notwithstanding the **extensive work already carried on by the OECD on tax conventions and related questions on the development on Commentary on the application of the PPT or on the work carried on the possible inadvertent effects of the PPT on the treaty entitlement of non-collective investment vehicles (CIVs) funds**.[2]

To increase tax certainty in the application of the PPT, the OECD has formed an informal group of interested delegates that would explore various areas where more tax certainty could be provided in the PPT, including best practices in the area of the general anti-avoidance rules and would report back with recommendations.

2.1.3. Treaty Relief and Compliance Enhancement

16. The Treaty Relief and Compliance Enhancement (TRACE) project will standardise the system for claiming withholding tax relief at source on portfolio investments through a self-contained set of agreements and forms to be used by any country that wants to implement the so-called Authorised Intermediary ("AI") system. It removes the administrative barriers that currently affect the ability of portfolio investors, including investors making use of pooled investment vehicles, to effectively claim the reduced rates of withholding tax to which they are entitled pursuant to tax treaties or to domestic law of the country of investment. Moreover, it minimises administrative costs for all stakeholders and enhances the ability of both source and residence countries to ensure proper compliance with tax obligations.

17. TRACE is designed to enhance tax certainty for:

- portfolio investors, by removing the administrative barriers that currently affect their ability to effectively claim treaty benefits with respect to investments held through custodians;
- investors making use of pooled investment vehicles (whether collective investment vehicles (CIV) or non-CIV funds), by addressing administrative challenges that may be associated with demonstrating their eligibility for treaty benefits and applying anti-abuse provisions (including those adopted under Action 6 of the OECD/G20 BEPS Project);
- governments, by improving compliance and reducing the risk of fraud and abuse related to refund systems.

18. The OECD is assisting interested countries with the implementation of TRACE.

[2] Para. 169-191, Commentary to Article 29, OECD (2017), *Model Tax Convention on Income and on Capital: Condensed Version 2017*, OECD Publishing.

2.1.4. Country-by-Country Reporting

19. Under the Action 13 BEPS Minimum Standard, jurisdictions have committed to foster tax transparency by requesting the largest multinational enterprise groups (MNE Groups) to provide the global allocation of their income, taxes and other indicators of the location of economic activity. This aims to boost tax authorities' risk-assessment capabilities. This can help reduce tax uncertainty for tax administrations.

20. A peer review process to ensure a consistent and timely implementation is proceeding in stages with three annual reviews in 2017, 2018 and 2019. They focus on three key areas: the domestic legal and administrative framework, the exchange of information framework, and the confidentiality and appropriate use of CbC reports. The first review on the domestic legal and administrative framework contained 95 jurisdictions.

21. More than 60 jurisdictions have now implemented an obligation for relevant MNE Groups to file a CbC report, of which more than 45 have completed all necessary domestic processes and have the full legal framework in place in respect of fiscal year 2016 (in addition, around 10 other jurisdictions have allowed MNE Groups to voluntarily file a CbC report in respect of fiscal year 2016 in the absence of legislation applying for such year). As a result, legislation is in place for around 95% of the groups expected to be affected by CbC Reporting requirements around the world and the first exchanges of CbC reports will take place in June 2018.

22. In order to achieve consistency and efficiency at international level, the OECD has developed guidance on interpretive questions, thus providing more clarity and certainty for tax administrations and taxpayers for the implementation of CbC Reporting requirements. It has also developed a series of guidance in relation to the appropriate use and effective use of CbC information, as well as handbooks on effective implementation and effective tax risk assessment, which will be of particular use for developing countries.

2.1.5. Automatic Exchange of Information

23. After maintaining an intense focus for several years to ensure delivery of the widespread commitments to the new OECD/G20 standard in the automatic exchange of financial account information (the AEOI Standard), the first exchanges took place in September 2017 amongst nearly 50 jurisdictions. This was a momentous occasion, with tax authorities currently utilising this new tool to strengthen their enforcement capacity—and reducing tax uncertainty. The next tranche of over 50 jurisdictions are now finalising their preparatory work with a view to commencing exchanges in September 2018. Whilst most jurisdictions are on track and have successfully met the implementation targets, some are experiencing delays: these jurisdictions are being closely monitored and offered assistance. Full and timely implementation will remain a core priority for the Global Forum over the coming months and further reports on the delivery of the commitments will be provided.

24. As the evidence of the benefits delivered through AEOI continue to emerge, the interest of developing countries is growing. At its plenary meeting, which took place on 15-17 November 2017 in Yaoundé (Cameroon), the Global Forum adopted the Plan of Action for Developing Country Participation in AEOI which draws a pathway for developing countries by offering a structured step-by-step approach to implementing the standard. Recognising that significant resources are required to support developing countries' efforts through the provision of technical assistance, the Global Forum plenary called on international development agencies, governments and other potential donors to support this agenda. With more than a dozen developing countries already receiving assistance under the step-by-step approach, this call for support is now also addressed to the G20 countries.

25. Many barriers which undermined tax transparency and prevented an effective exchange of information for tax purposes have now been removed. However, the challenges which still lie ahead should not be underestimated. In 2018, the Global Forum will focus on ensuring the full and timely delivery of the commitments to commence exchanges under the AEOI Standard in 2018, carrying out assessments of the key modules of its implementation around the world, developing the framework for the full peer reviews of the effectiveness of AEOI implementation, and facilitating the participation of developing country members in this new standard.

26. In an effort to ensure effective implementation of the AEOI standard, the OECD has issued new model disclosure rules that require lawyers, accountants, financial advisors, banks and other service providers to inform tax authorities of any schemes they put in place for their clients to avoid reporting under the Common Reporting Standard (CRS) or prevent the identification of the beneficial owners of entities or trusts.

27. As the reporting and automatic exchange on offshore financial accounts pursuant to the CRS becomes a reality in over 100 jurisdictions this year, many taxpayers that held undeclared financial assets offshore have come clean to their tax authorities. It is estimated that by June 2018, jurisdictions around the globe have identified EUR 93 billion in additional revenue (tax, interest, penalties) as a result of voluntary compliance mechanisms and other offshore investigations put in place since 2009.

28. At the same time, there are still persons that, often with the help of advisors and financial intermediaries, continue to try hiding their offshore assets and fly under the radar of CRS reporting. The model rules target these persons and their advisers, by introducing an obligation on a wide range of intermediaries to disclose the schemes to circumvent CRS reporting to the tax authorities. The model rules also require the reporting of structures that hide beneficial owners of offshore assets, companies and trusts.

2.1.6. OECD International VAT/GST Guidelines

29. The OECD International VAT/GST Guidelines provide a set of internationally agreed principles on neutrality of the VAT/GST and on the design and operation of consistent rules for determining the place of taxation of cross-border transactions, focusing in particular on trade in services and intangibles, including digital supplies. Implementation of these principles helps clarify VAT/GST systems and thus contributes to tax certainty.

30. To date, over 50 jurisdictions, including the overwhelming majority of OECD and G20 countries, have adopted rules for the VAT/GST treatment of Business to Consumer (B2C) supplies of services and intangibles by foreign suppliers in accordance with these Guidelines. The OECD has expressed an ambition to step up its efforts to enhance certainty in the VAT/GST area by further intensifying the involvement of countries and jurisdictions worldwide in this work through its Global Forum on VAT. Moreover, it has developed implementation packages to promote greater consistency in the international application of VAT/GST, including to address new challenges posed by the digital economy (e.g. the "sharing economy").

31. Enhanced international administrative cooperation is important to ensure consistency in the VAT/GST treatment of international trade and investment. Existing instruments for mutual administrative cooperation (such as the Multilateral Convention on Mutual Administrative Assistance in Tax Matters; the OECD Model Tax Convention Article 26 (Information Exchange); and the OECD Model Agreement on Exchange of Information) can enhance consistency in the application of VAT/GST in the international context and to address issues of evasion and avoidance.

2.1.7. IMF surveillance

32. The IMF undertakes country surveillance consisting of an ongoing process that culminates in regular (usually annual) comprehensive consultations with individual member countries. The consultations are known as "Article IV consultations" because they are required by Article IV of the IMF's Articles of Agreement. The IMF continues to give greater prominence to international tax issues in this surveillance, including in relation to tax certainty (Box 4). Complexity of tax legislation and frequency of tax law changes are commonly cited as sources of tax uncertainty for both taxpayers and tax administrations. This work draws on the IMF’s extensive TA experience with member countries at all levels of development. International tax issues are being assessed in Article IV consultations for 10 countries per year across all levels of development.

Box 4. Denmark - Tax certainty

Tax uncertainty was a concern among the business community—as in many other countries. It has been subject to a longstanding debate in Denmark, given that Denmark has historically been an early adopter of strong anti-avoidance rules.

Despite risks to tax certainty, various tax integrity or anti-avoidance rules were required in order to effectively counter tax avoidance practices and protect the integrity of the tax system. Denmark has a suite of anti-avoidance rules including a general anti-avoidance rule (or GAAR), various specific anti-avoidance rules (or SAARs), equivalent provisions to that of a GAAR or SAAR in tax treaties, as well as established judicial anti-abuse doctrines. Anecdotal evidence suggested that this had made the Danish tax system relatively more complex and uncertain for businesses when compared to other countries who have deferred adoption of new or tighter tax anti-avoidance rules, despite many of those rules being considered necessary to protect the local corporate income tax base.

Many of the stronger and more complex tax anti-avoidance rules that have been adopted early by Denmark now form part of the BEPS recommendations and the **EU’s Anti-Tax Avoidance Directive (ATAD).** Therefore, the Danish tax system could now benefit from relatively greater stability and predictability (and therefore reduced taxpayer compliance costs) when compared to other countries which need to implement more significant tax law reforms in order to comply with those measures.

Source: Denmark; Selected Issues; IMF Country Report (forthcoming)

2.2. Preventing and resolving international tax disputes

33. The 2017 report found that preventing and resolving tax disputes and improving the clarity and application of tax rules were two important ways in which tax certainty could be improved. Against this backdrop, the OECD is now moving forward on a comprehensive dispute resolution agenda. It is driven by the belief that prevention is better than cure and that ideally disputes should be resolved at the earliest point in time when information is readily available and positions have not yet become entrenched. There are several developments in this area, which are discussed in this section. The IMF has focused some of its TA program on examining the potential for the development of a regional approach to tax audits on the basis that multilateral approaches to audits contribute to improved tax certainty (Box 6). Moreover, the IMF’s Tax Administration Diagnostic Assessment Tool (TADAT) assesses, amongst other things, the effectiveness of a country’s tax dispute resolution framework. Results from recent assessments are discussed in this section.

2.2.1. *Improving risk assessment and audit process*

34. Modern risk assessment tools and techniques, sometimes coupled with the cooperative compliance arrangements, allow for more effective identification of higher risk taxpayers or higher risk crosscutting issues where administrations may wish to focus more of their compliance resource. More information and increased transparency can then also be translated into earlier tax certainty. Building on this, the OECD is working to further improve the effectiveness of tax risk assessment for MNEs through:

- Improvements in risk assessment documentation (BEPS Action 13);
- Work to enhance mutual understanding of domestic risk assessments that may lead to greater convergence and exchange of information; and
- The International Compliance Assurance Programme (ICAP), a pilot for a multilateral approach to risk assessment and assurance.

35. At the audit stage, which should become more targeted through better risk assessment, the FTA has agreed to work further on two projects on Joint Audit and Compliance Risk Assessment as part of the wider set of work on enhancing tax certainty and improving compliance effectiveness. The aim of the project on risk assessment is to enhance mutual understanding between tax administrations of the different risk factors used by different countries. This may lead to greater convergence between countries over time as well as increase auditors' understanding of the wider international picture. The project on joint audits will examine the experience of tax administrations to date on the use of joint audits and whether and where improvements can be made to make them easier to undertake and to obtain the benefits sought by administrations and MNEs.

36. As a result of the BEPS Action 13 (Country-by-Country (CbC) reporting) package, tax administrations will soon be able for the first time to work from the same dataset to assess international tax risks posed by MNE groups in their jurisdictions. This creates an opportunity for tax administrations to explore ways to work multilaterally to achieve a robust and considered basis for risk assessing large MNE groups, deliver earlier tax certainty for groups wishing to be transparent and compliant as well as providing greater assurance for tax administrations.

Box 5. International Compliance Assurance Programme

A number of FTA members have launched a pilot of the International Compliance Assurance Programme (ICAP). Participating tax administrations in the pilot are **Australia, Canada, Italy, Japan, the Netherlands, Spain, the UK and the US**. The ICAP pilot will use CbC reports and other Information to facilitate a coordinated risk assessment to help achieve earlier and stronger tax assurance.

The ICAP pilot will provide four key benefits to participating MNE groups and tax administrations:

- Fully informed and targeted use of CbC information;
- Efficient use of resources;
- A faster, clearer route to tax certainty; and
- Fewer disputes going into MAP.

Entry into the ICAP pilot involves an MNE group indicating to the tax administration in the jurisdiction where it is headquartered (the lead tax administration) which other jurisdictions it wishes to be included in a multilateral risk assessment.

Following agreement by the lead tax administration, the tax administrations in these jurisdictions will then be asked whether or not they wish to participate, taking into account factors such as:

- the presence of the group in their jurisdiction,
- its perceived risk profile,
- and the resources available.

An ICAP risk assessment will not cover all of an MNE group's tax issues but **will focus on those associated with transfer pricing, permanent establishments and any other material international issues agreed between the group and participating tax administrations.**

An ICAP risk assessment will begin when an MNE group willing to explain and secure its positions provides a package of documents, including its CbC report, master file and local file (or equivalent information), value chain analysis and tax reconciliations, which will be shared among participating tax administrations under existing tax information exchange agreements. This will be followed by a meeting involving the MNE group and the participating tax administrations to ensure a full and consistent understanding of the group's profile and activities.

An initial risk assessment will then be conducted by each participating tax administration. This may determine that the MNE group poses no or low risk in the relevant areas. If this is not the case, a more detailed and comprehensive risk assessment will be conducted, with the MNE group being kept informed via the lead tax administration. Following the conclusion of the risk assessment stage, a meeting will be held with the MNE group to discuss the outcomes of the assessment.

Where participating tax administrations conclude that an issue covered by ICAP represents no or a low tax risk, they will individually issue an assurance letter setting out these findings and providing multilateral certainty to the MNE group considered. The form of the assurance letter will vary by jurisdiction. The timeline for the ICAP will depend upon a number of factors, but in most cases the period from the initial meeting to the issuance of assurance letters should be within 12 months.

A multilateral assessment of specific **international** tax risks posed by each MNE group in the ICAP pilot will commence **during the first half of 2018 and is expected to be completed within a target timeframe of 12 months.**

37. The IMF, in its technical assistance, deals frequently with ways to improving risk assessment and audit processes. One innovation in this regard is the regional approach to tax audits in the Caribbean (Box 6).

Box 6. Caribbean: Developing a regional approach to tax audits

The IMF has a new TA program to strengthen fiscal management in the Caribbean. A key element of this program is to examine the potential for the development of a regional approach to tax audits on the basis that multilateral approaches to audits contribute to improved tax certainty. The regional audit team will operate in the Caribbean region, with a particular focus on the Eastern Caribbean Currency Union (ECCU) members.

The motivation behind this initiative is to help build regional audit capacity, develop a regional approach to conducting audits, and identify the means to share the expertise gained. Many countries in this region have very small tax administrations, small audit teams, and typically have a limited capacity to audit large taxpayers with complex operations. The project explored the feasibility of forming a regional tax audit team that could help build economies of scale in this area drawing from tax auditors from within the region, strengthen countries' tax audit capacity more visibly, and reduce their reliance on external TA to support their tax audit work.

The project entailed developing administrative and institutional arrangements to underpin the operations of the regional tax audit team**,** providing targeted training, and will involve conducting pilot audits in selected ECCU countries on large and high-risk taxpayers from the most complex industry sectors.

2.2.2. Diagnostic findings from TADAT

38. The Tax Administration Diagnostic Assessment Tool (TADAT) can be used to evaluate the tax dispute resolution process of countries (see Box 7). From an assessment of 51 countries, it appears the design of the systems is good overall. Generally, a three-tiered approach is adopted: (i) administrative management of disputes; (ii) appeal to a quasi-judicial body or committee at the second level; and (iii) appeal to a judicial level for interpretation of the law, and increasingly, considering facts of the dispute as well. However, systems seem to falter during implementation—evidence available suggests that it takes too long to address disputed cases even though the processes may be in place. Additionally, monitoring of case-status appears to be generally poor. Causes of delay may be a combination of issues that may include: caution exercised by tax officials who may perceive that quick resolution may result in errors and taxes given away; cases may be complex and take longer than anticipated; inadequate numbers or skill levels of tax administration staff; or the inadequacy of the facilities (and related infrastructure) necessary to dispense justice.

Box 7. TADAT – Dispute resolution scores across 51 countries

The Tax Administration Diagnostic Assessment Tool (TADAT)—discussed in greater detail in Section 3.6—assesses the health of a country's tax administration at a point in time. The framework comprises nine Performance Outcome Areas (POAs) and 28 high level indicators critical to tax administration performance that is linked to the POAs. Forty-seven measurement dimensions are taken into account in arriving at each indicator score. A four-point 'ABCD' rating scale is used with 'A' representing adherence to good international tax administration practice and 'D' suggesting that the fundamentals are either not in place or the evidence required is unavailable or unreliable.

POA7 deals with the process by which a taxpayer seeks an independent review, on grounds of facts or interpretation of the law, of a tax assessment resulting from an audit. A tax dispute resolution process must safeguard a taxpayer's right to challenge a tax assessment and get a fair hearing. The process should be: (i) based on a legal framework; (ii) known and understood by taxpayers; (iii) easily accessible and guarantee transparent independent decision-making; and (iv) able to resolve disputed matters in a timely manner. Three performance indicators (in Version 6 of the TADAT Field Guide)[3] are used to assess POA7:

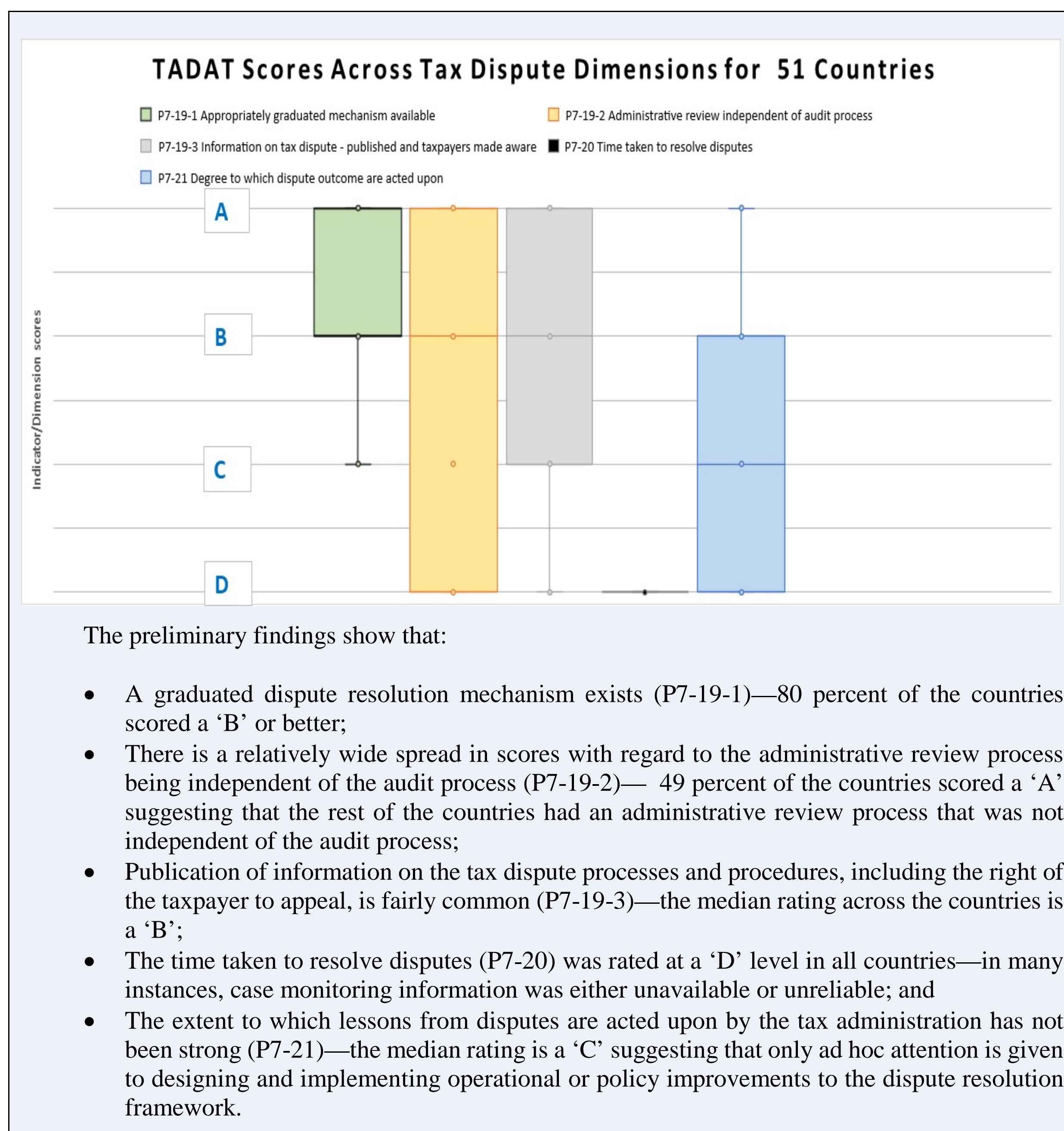
- P7-19: Existence of an independent, workable, and graduated resolution process. For this indicator three measurement dimensions assess (1) the extent to which a dispute may be escalated to an independent external tribunal or court where a taxpayer is dissatisfied with the result of the tax administration's review process; (2) the extent to which the tax administration's review process is truly independent; and (3) the extent to which taxpayers are informed of their rights and avenues of review.

- P7-20: Time taken to resolve disputes. This indicator assesses how responsive the tax administration is in completing administrative reviews. Assessed scores are shown in Table 21 followed by an explanation of reasons underlying the assessment.

- P7-21: Degree to which dispute outcomes are acted upon. This indicator looks at the extent to which dispute outcomes are taken into account in determining policy, legislation, and administrative procedure.

The next figure summarizes the preliminary findings for TADAT Performance Outcome Area (PAO) 7 from 51 assessed countries.

[3] There is a slight variation in the number of indicators between TADAT Field Guide Versions 3 and 5 on one hand, and Version 6 on the other. However, the assessment outcomes are consistent.



The preliminary findings show that:

- A graduated dispute resolution mechanism exists (P7-19-1)—80 percent of the countries scored a 'B' or better;
- There is a relatively wide spread in scores with regard to the administrative review process being independent of the audit process (P7-19-2)— 49 percent of the countries scored a 'A' suggesting that the rest of the countries had an administrative review process that was not independent of the audit process;
- Publication of information on the tax dispute processes and procedures, including the right of the taxpayer to appeal, is fairly common (P7-19-3)—the median rating across the countries is a 'B';
- The time taken to resolve disputes (P7-20) was rated at a 'D' level in all countries—in many instances, case monitoring information was either unavailable or unreliable; and
- The extent to which lessons from disputes are acted upon by the tax administration has not been strong (P7-21)—the median rating is a 'C' suggesting that only ad hoc attention is given to designing and implementing operational or policy improvements to the dispute resolution framework.

Mutual Agreement Procedure

39. The mutual agreement procedure (MAP) continues to be made more timely, effective and efficient as a result of the peer review process for the BEPS Action 14 minimum standard. The Action 14 peer reviews were officially launched in December 2016 and reports for the first six jurisdictions were published in September 2017. This was followed by seven more jurisdiction's reports in December 2017 and eight more in March 2018. In total, 51 more jurisdictions are scheduled for review through December 2019. The rest of the Inclusive Framework jurisdictions, some of which have opted for a deferral of their peer review, will be reviewed beginning in 2020 either because they are a developing country or because their MAP experience is limited.

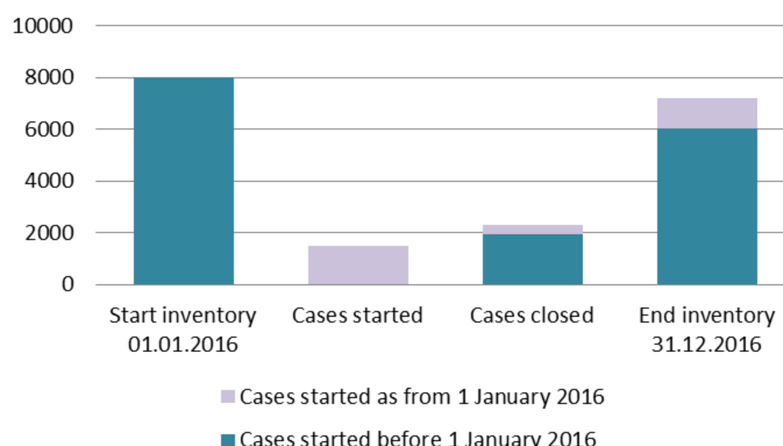
40. The 21 peer review reports contain a substantial number of targeted recommendations that assessed jurisdictions have already begun to address. Over 110 specific recommendations were made in the first batch of peer review reports. More than 170 recommendations were made in the second batch of peer review reports and over 215 targeted recommendations were made in batch 3 reports. As a result of these publications, anecdotal evidence suggests that even jurisdictions scheduled for review at a later date have already begun implementing changes to their tax treaty network with respect to the MAP article in their tax treaties. Such changes are being implemented both through the Multilateral Instrument and through direct bilateral tax treaty negotiations when the Multilateral Instrument will not modify a jurisdiction's tax treaty to bring it in line with the Action 14 minimum standard.

41. During stage 2 of the Action 14 peer review process the already assessed jurisdictions will be evaluated on the progress they have made on addressing each recommendation in the one year since its stage 1 report was approved by the Inclusive Framework. The 21 jurisdictions that have already been assessed are therefore already making changes to ensure that they achieve the three following general objectives that were set out in the BEPS Action 14 final report, all of which facilitate tax certainty:

- Treaty obligations related to MAP are fully implemented in good faith and MAP cases are resolved in a timely manner
- Administrative processes promote the prevention and timely resolution of treaty related disputes; and
- Taxpayers that meet the requirements to access to the MAP can do so.

42. It is clear that the peer reviews are having a real, tangible impact on enhancing tax certainty. The MAP Statistics Reporting Framework provides objective, measurable criteria against which a jurisdiction's commitment to resolve disputes in a timely manner can be judged. Reporting under this new framework began on 1 January 2016. As can be seen in Figure 1, more cases were closed than started in 2016 and total MAP caseload inventories decreased.

Figure 1. Total MAP caseload



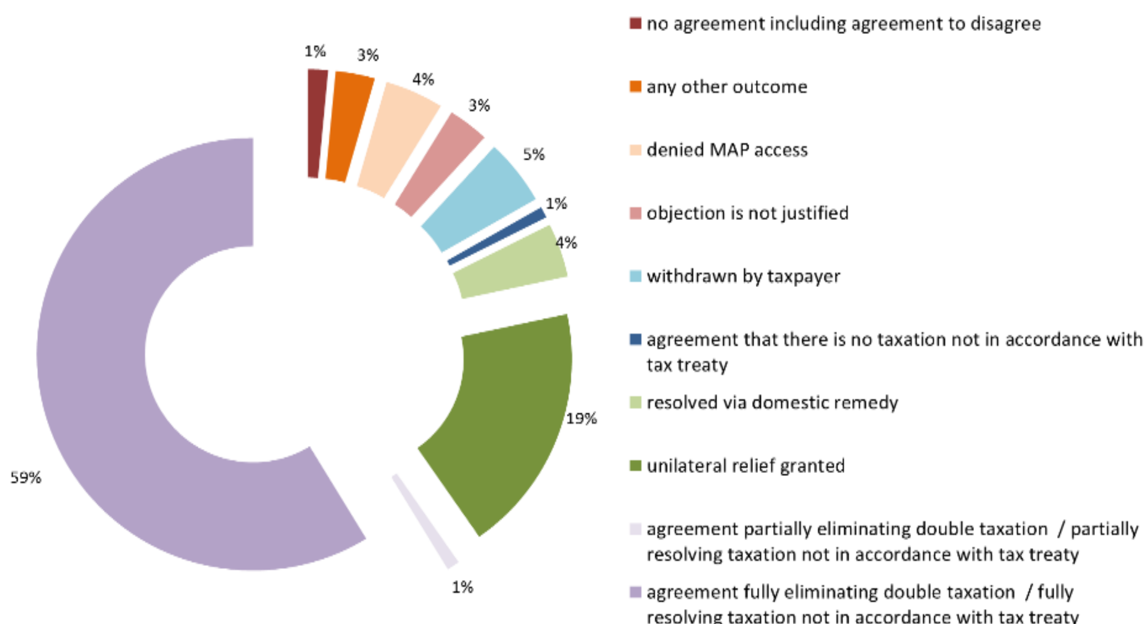
43. This new reporting framework ensures consistency as it requires each jurisdiction to use common definitions for a variety of criteria and eliminates the double counting of cases that previously made an objective evaluation of MAP statistics difficult. A distinction is also drawn between attribution/allocation cases and other cases. The continued monitoring

of both types of cases under the MAP Statistics Reporting Framework will help incentivize jurisdictions to seek to resolve their MAP cases within a 24 month time period. These efforts to ensure the timely resolution of MAP cases further help to increase tax certainty as taxpayers can now view detailed breakdowns of the average length of time it can expect to wait until its MAP case is resolved for a particular jurisdiction.

44. The following illustrates some highlights from the 2016 statistics:

- Transfer pricing cases account for slightly more than half of the MAP cases in inventory.
- Transfer pricing cases take more time on average than other cases: approximately 30 months are needed for transfer pricing cases and 17 months for other cases.
- Over 85% of MAPs concluded in 2016 resolved the issue. Almost 60% of MAP cases closed were resolved with an agreement fully resolving the taxation not in accordance with the tax treaty and almost 20% of them were granted a unilateral relief while almost 5% were resolved via domestic remedy. Finally, 5% of the MAP cases closed were withdrawn by taxpayers while approximately 10% were not resolved for various reasons (see Figure 2).

Figure 2. MAP outcomes



45. The Action 14 minimum standard also requires countries to publish their specific “MAP profiles”, meaning public information on their competent authority details, links to their domestic MAP guidelines and to other useful information regarding the MAP process, pursuant to an agreed template. Publishing MAP profiles promotes the transparency and dissemination of jurisdictions’ MAP programmes. In this respect, around 75 MAP profiles have been published on the OECD website.

Arbitration

46. While specific measures for preventing disputes will reduce the number of cases going through the MAP, mechanisms are also necessary to ensure that cases are resolved in a timely manner once they are being dealt with in this procedure. For this reason a mandatory and binding arbitration procedure was added as a final stage to the MAP of Article 25 of the OECD Model Tax Convention in 2008. Competent authorities involved are, pursuant to Article 25(5), given a two-year term to reach an agreement on how to resolve a situation of taxation not in accordance with the provisions of a tax convention. In the absence of such an agreement, taxpayers can request the initiation of the arbitration procedure for the unresolved issues of the case. The outcome of that procedure is binding for the competent authorities concerned.

47. Since 2008 approximately 100 treaties have incorporated this provision, although the number of countries that are signatories to these treaties is limited. Furthermore, the procedure was often not effective, where treaty partners did not agreed on rules to be applied during the arbitration procedure (e.g. appointment of arbitrators, timelines, etc.). Mandatory and binding arbitration is not a minimum standard of the OECD/G20 BEPS project, but an optional arbitration provision was developed as part of the Multilateral Instrument (MLI). Part VI of that instrument contains the optional provision setting out rules on timelines for the procedure, the appointment of arbitrators and type of arbitration process. In total 28 jurisdictions have so far opted for Part VI that will apply to a treaty only if both treaty partners to that treaty choose to apply it. Via the MLI, more than 150 treaties will incorporate this arbitration procedure, a number that is expected to increase over time. Although this may appear to be a limited number of treaty relationships, going forward a large percentage of the current MAP inventory will be covered.

48. And action has not only taken place at the global level but also at EU level. Since 1995, the EU Arbitration Convention has been applicable for transfer pricing disputes, which provides for an arbitration procedure if EU member states cannot resolve a case within a period of two years under the MAP. Following the developments at global level, the European Commission proposed a Directive on Dispute Resolution, which was adopted by the Council in October 2017. The procedures under this Directive are based on the EU Arbitration Convention. The convention's scope of application is extended to all disputes on the application/interpretation of tax conventions between EU member states. Furthermore, enforcement mechanisms have been introduced that allow taxpayers to appeal against denial of access to the Directive's procedures and/or the non-initiation of the arbitration procedure. The Directive is to be implemented by member states into their domestic legislation by June 30 2019, and will be applicable for disputes arising on or after January 1 2018.

49. Thus, there is a lot of concrete and targeted work taking place across the full spectrum of dispute prevention and dispute resolution. On the dispute resolution side a large part of the global MAP inventory is, or will soon be, covered by binding mandatory arbitration and practically the full global MAP inventory is now being assessed against a minimum standard in a published peer review process. This should significantly improve the MAP process, but it will also have knock on effects on the earlier stages of the process. At the same time, there is a renewed focus on the dispute prevention side consistent with the belief that the best dispute resolution mechanism is one that prevents a dispute from arising in the first place. Advancing further on this agenda will take commitment, dedication and persistence from both taxpayers and tax administrations, but this is an opportunity that they should seize together if they wish to further improve predictability.

2.3. Update on remaining issues

50. The 2017 report uses data for a selected group of countries on the frequency of tax changes and the gap between announcement and implementation—as indicators of tax uncertainty. The data were derived from a preliminary version of the IMF's tax reform database, which uses text mining techniques applied to country reports of the OECD and news clips of the IBFD. On April 26, 2018 this "Tax Policy Reform Database (TPRD)" was published by the IMF for public use (see www.imf.org/en/News/Seminars/Conferences/2018/03/08/evaluating-tax-reforms). The database reveals information about tax policy reforms in 23 countries, dating back often to the 1970s and sometimes even further. It can be used for research, including to derive indicators of tax uncertainty used in the 2017 report.

51. An important question is how tax uncertainty influences investment. The OECD survey suggests that businesses indicate that tax certainty is indeed important for investment. Yet, the question remains whether such a relationship s sustained by data on actual investment behavior. A recent IMF study sheds new light on this issue.[4] It uses an indicator developed by Mescall and Klassen (2014) on the perceived risk of countries related to transfer pricing regulation, derived from a survey among transfer pricing experts.[5] The study assesses how this perceived transfer pricing risk influences multinational investment. The identification strategy relies on a quasi-experimental approach, whereby affiliates of multinational groups are the treated group, while affiliates of purely domestic groups are the control group (not affected by transfer pricing regulation). The results indicate that higher transfer pricing risk (more tax uncertainty) systematically reduces investment in the multinational affiliates.

[4] R. de Mooij and L. Liu, 2018, At A Cost: the Real Effects of Transfer Pricing Regulations, IMF Working Paper 18/69, International Monetary Fund, Washington DC.
[5] Mescall, D., and K.J. Klassen, 2014, "How do tax and accounting policies affect cross-border mergers and acquisitions?" Working paper series, University of Saskatchewan.

3. Tax certainty in developing countries

52. Developing countries have an urgent need for domestic resource mobilization (DRM) to finance the 2030 Agenda for Sustainable Development. Against this backdrop, they are seeking to build and protect a sustainable revenue base to fund long-term development needs. The challenge is to balance this objective with the need to provide a fair, efficient, stable and predictable tax system that is conducive to investment and economic growth. In this context, tax certainty can play an important role.

53. The 2017 Report focused on G20 and OECD countries. Yet, it noted that the underlying concerns and suggested approaches have potential relevance to developing countries as well. However, it was also recognized that developing countries face challenges different from those in OECD countries, which could also require alternative tools, having regard to their enforcement capabilities and implementation capacity.

54. This section of the report elaborates further on tax certainty in developing countries. It reports on some of the specific results for developing countries obtained from the OECD Survey, and compares those with results for the OECD. It also presents outcomes of a consultative process undertaken in Tanzania in 2017. Finally, this section describes several initiatives undertaken by the OECD and the IMF that affect tax certainty in developing countries (along with other aspects of their tax system).

3.1. OECD Survey

55. The 2016 OECD business survey on tax certainty, discussed extensively in the 2017 report, provides valuable data on how views on tax certainty may differ between regions and between countries with different levels of economic development. This survey saw responses from 724 companies headquartered across 62 countries and jurisdictions, with regional headquarters in 107 countries and jurisdictions[6]. Overall, information on 115 jurisdictions across Africa, Asia, Latin America and the Caribbean and the OECD is available. While overall the survey was dominated by responses on OECD countries, the wide range of information gives the potential to disaggregate some of the data and identify some notable differences on how tax certainty is viewed between different regions, and so identify some findings that are more relevant to other regions composed predominately of developing countries.

56. As was emphasized in the 2017 report, the results of the OECD surveys need to be interpreted with caution. Being explicitly presented as relating to tax certainty, the surveys in themselves could signal to potential respondents that this is seen by the G20 as important enough to warrant particular study. This may bias the results towards attaching importance to the issue, and those within participating companies who respond are likely to be those particularly concerned about tax certainty and may not necessarily be those responsible for investment decisions. Moreover, a survey of tax experts may be biased toward finding

[6] See Annex A for regional breakdown of responses

taxation issues to be particularly important. Nonetheless, responses on the relative importance of various parts of the tax system, and various drivers of and solutions to tax uncertainty are likely to be informative.

57. Additional caveats to be noted are that, as the data is separated into its component parts, the sample size for each region is reduced. This was especially relevant for Africa where the sample size of respondents in some questions is as low as 41 (covering 12 African countries). There are also risks that overrepresented countries within regions will skew the results. Nonetheless, while these results are likely to be informative in helping regional groupings (such as the African Tax Administration Forum (ATAF), Inter-American Center of Tax Administrations (CIAT), and Commonwealth Association of Tax Administration (CATA), and those looking to support the development of tax certainty in developing regions, identify starting points for further work.

58. The results of the specific responses relating to developing countries indicate that there are likely to be different priorities for addressing tax certainty in developing countries, when compared to OECD countries, since some significant differences are seen once the results are disaggregated. The key results of the disaggregated survey data are:

Investment and Location Decisions: Tax certainty may be more significant in African and Latin America and Caribbean countries

- The tax system is reported as an important factor influencing investment and location decisions, but in no region is it the most important factor.
- Tax uncertainty appears to have a more frequent impact on investment decisions in Africa, Latin America and Caribbean (LAC) than in the OECD.
- Firms operating in Africa and LAC appear significantly more likely to exploit tax uncertainty to reduce their tax liability than in the OECD.
- Tax uncertainty appears more likely to increase the risk premium or hurdle rate for investment in Africa, Asia and LAC than in the OECD.

Non-profit taxes are a greater source of tax uncertainty in developing countries than OECD

- There are some significant differences in the sources of tax uncertainty between the regions; for example uncertainty about the ability to obtain withholding tax relief is identified as a much greater source of uncertainty in all developing regions than in the OECD, as is the inability to achieve early certainty through rulings or similar mechanisms.

Complexity and frequency of changes in the tax system are lower priority concerns in developing countries than OECD

- While the frequency of changes in the tax system is one of the leading sources of tax uncertainty in the OECD (4th), it is a much lower priority in LAC (15th), Africa (19th) and Asia (20th).
- Complexity in the tax system is a lower order concern source of tax uncertainty in Africa (16th) and Asia (12th) than LAC or OECD (both 3rd).

International tax dimensions are higher priority concerns

- International dimensions of tax are higher priority sources of tax uncertainty in developing regions. Inconsistencies or conflicts on interpretations of international tax and lack of expertise in tax administration on aspects in international tax were of higher priority across all three regions in comparison to the OECD.
- The availability of simplified approaches for tax compliance (e.g. safe harbours) seems to be a much higher priority in Africa than in other regions; this was identified as the 8th highest priority solution for addressing tax uncertainty in Africa, while it was 16th in Asia, 14th in LAC and 17th in the OECD.

59. Overall, the findings from the survey give some indications on why and how governments in developing countries may want to address tax certainty issues. Addressing issues on VAT and withholding, for example, appear of greater importance for developing countries. These areas thus might benefit from increased focus. Africa especially may gain from simplified approaches such as safe harbours. All regions may enjoy gains through adoption of international standards – this may especially be the case in Asia where domestic administration concerns were often of a lower magnitude than in Africa and LAC, but international dimensions were more comparable.

3.2. Consultative Workshops

60. An area missing in the survey analysis of the previous subsection is the views of tax authorities. Two consultative workshops on tax certainty held were in the last year, in Africa and Asia. The outcomes and proposed next steps from these workshops give an indication of what the priorities for developing country tax administrations are to addressing tax certainty.

3.2.1. Consultative Workshop on Tax Certainty, 25-27 October, Tanzania

61. A consultative workshop on Tax Certainty was held in Dar-es-Salam, Tanzania from 25th to 27th October 2017 under the auspices of ATAF and Gesellschaft für Internationale Zusammenarbeit (GIZ), attended by more than 50 delegates. Amongst the attendees were officials from Ministries of Finance and tax administrations of 21 African countries. Furthermore, representatives of the ATAF Secretariat, the German Federal Ministry for Economic Cooperation and Development, the German Federal Ministry of Finance, the Argentine Ministry of Finance, GIZ, IMF, OECD, as well as from the civil society, and business representatives participated in this meeting. It sought to discuss, from an African perspective, the concept of tax certainty and related challenges, as well as to share international experiences and to suggest practical approaches to implementing tax certainty on the continent and find practical solutions to issues related to tax certainty.

62. Discussion points at the workshop included the effectiveness of legislative procedures, the reliability and capacities of tax administrations, challenges in addressing BEPS in Africa, the role of international tax treaties, the targeted, transparent and effective use of investment tax incentives in African countries, open and transparent relations between tax administrations and taxpayers, the use of instruments such as dispute resolution mechanisms, capacity development support from ATAF, GIZ and other international institutions.

63. In these discussions, participants confirmed that tax certainty is required by African tax administrations to create a stable tax environment to encourage investment. Prominent issues contributing to tax uncertainty and which required urgent attention included

insufficient administrative capacities, aggressive tax planning especially by multinational enterprises, corruption, lack of leadership, political interference, poor information communications technology (ICT) within tax administrations and weak tax legislation. It was also noted that tax uncertainty in Africa was exacerbated by dependency on a few large taxpayers whilst a significant portion of a country's economy falls outside the tax net and contributes towards revenue losses and the destabilisation of a country's revenue base. According to the delegates, there is often a lack of coordination between e.g. between the Ministry of Finance and the tax administration, and between different institutions such as the Foreign Office, Ministry of Tourism, Ministry of Trade, and local authorities. As a result, there tends to be a mismatch between tax policy and tax administration and overall fiscal consequences of individual tax incentives and tax treaties are often ignored. The lack of coordination (or the absence of a 'whole-of-government approach') was an additional factor contributing to tax uncertainty in Africa.

64. Several good practises were discussed during the workshop. Delegates identified nine ideas to adapt tax policy, legislation processes as well as revenue administrations' capabilities in their countries:

- **Increase tax dialogue between relevant stakeholders.** 80 percent of delegates indicated that a relatively close relationship exists between the tax administration and businesses in their countries. Leveraging off this relationship was considered important to improving the tax administration's understanding of businesses and industry practices, and also to facilitate an intensification of the business sector's efforts towards full compliance, responsible tax behaviour and acknowledgment of the role of government in mobilising revenue. Individual country practices such as taxpayer appreciation initiatives for highly compliant taxpayers that are in effect in Benin, Rwanda and Uganda could also be considered.

- **Improve dispute resolution mechanisms.** Implement effective dispute resolution mechanisms as a means to enhance tax certainty for both taxpayers and tax authorities. Delegates concluded that dispute resolution mechanisms should be fair, independent from audit activities, accessible to taxpayers and effective in resolving disputes in a timely manner. This requires designing an independent, workable and graduated dispute resolution process comprising an administrative and judicial stage. The administrative stage could involve alternative dispute resolution mechanisms, while, on the judicial side, the issue of judicial capacity needs to be addressed as a matter of priority.

- **Develop more coherent and transparent (regional) processes for the granting of tax incentives.** The discretionary powers with regards to the introduction of tax incentives should be with the Ministries of Finance, supported by tax administrations. Delegates concluded that cost based incentives are preferred over profit based incentives, and that some regional cooperation is required (e.g. codes of conduct with guiding principles to prevent harmful tax competition).

- **Ensuring balanced and appropriate double taxation treaties.** Experts from Ministries of Finance and/or tax administrations should be part of African government teams negotiating new tax treaties that are aligned to domestic laws without having high revenue costs. Treaty negotiation skills for representatives of Ministries of Finance and tax administrations to develop a modern treaty network should be enhanced.

- **Improve tax policy design and legislation.** A reasonable degree of tax certainty can be derived from a well-developed tax law design, making and monitoring

process which can include addressing complexity, improving clarity and implementing anti-avoidance rules. Delegates concluded that sample legislative provisions can help achieve greater clarity, less complexity and better guidance. Delegates also indicated a preference to consult with internal and external stakeholders and experts before introducing new legislation and to announce legislative changes in a timely manner.

- **Use TADAT assessments to improve tax certainty and investment.** The Tax Administration Diagnostic Assessment Tool (TADAT) can be used to improve the performance of tax administrations. Several delegates indicated that a TADAT assessment is a "wake-up call" for tax administrations, and that cooperation and transparency with TADAT assessors makes the process more constructive and effective.
- **Formalise the informal sector to increase the tax base and tax certainty.** Developing countries should stabilise and widen their tax bases to mobilise domestic resources. Delegates considered that this would reduce reliance on a few large taxpayers.
- **Step up technical support to improve investment conditions** Development partners should provide capacity building support at the individual, organisational and institutional level which can either explicitly or implicitly contribute to tax certainty. Delegates agreed that development partners should increasingly provide "hands-on" technical assistance tailored to their respective needs. In cases where several development partners are active in the same country, coordination between them was considered crucial to achieve coherent recommendations and ensure quality of technical advice. It was also agreed that dissemination of developed tools (e.g. toolkits prepared by the Platform for Collaboration on Tax) needs to be intensified. Finally, delegates considered that Compact with Africa countries could also make tax certainty a case for attracting investment in their individual country compacts.
- **Increase developing countries' involvement in the international standard setting.** ATAF and its member states, and other developing countries must continue to influence new standards in international tax and participate in discussions and the development of such standards.

65. Delegates agreed that there was interest in future regional workshops on Tax Certainty. In Africa, follow-up events could delve deeper into individual aspects of tax certainty. ATAF and GIZ, with the assistance of development partners, will consider any medium to long-term impacts of the workshop and determine additional needs for consultation and exchange of views on the issue of tax certainty.

3.2.2. Improving Tax Certainty through Dispute Resolution Mechanisms - Singapore, 29 March 2018

66. Delegates from tax administrations from developing and developed countries met in Singapore from 26-28 March 2018 to discuss the importance of tax certainty for businesses and a sustainable global taxation framework and to highlight the various work streams of the OECD tax certainty agenda and BEPS Action 14, making dispute resolution mechanisms more effective.

67. Delegates from 12 jurisdictions participated in an interactive programme concerning tax certainty that included lectures and case studies on the topic. There was also time for the delegates to share experiences on the design of tax policy and legislation in the

context of providing tax certainty in domestic and international settings. All jurisdictions, including developing countries, are working to address some of the top 10 factors for tax uncertainty. Special attention was given by developing countries to increase the expertise in international taxation of their officials and to the creation or improvement of the guidance on domestic and international tax matters. During the event, the importance of dispute prevention and dispute resolution were recognised by all delegates as important tools to enhance tax certainty.

3.3. Platform for Collaboration on Tax – Toolkits

68. As highlighted by the business survey, inconsistent or unpredictable treatment by tax authorities, lack of expertise in international taxation, and inconsistencies or conflicts between tax authorities on their interpretations of international tax standards are all high priority concerns of businesses in relation to developing countries. In this context the toolkits being developed by the Platform for Collaboration on Tax (PCT), which consists of the IMF, OECD, UN, and WBG are potentially a useful tool. These toolkits, being delivered as part of a mandate from the G20 Development Working Group, are designed to help developing countries address eight issues in international corporation tax that they have identified as high priority.

69. Two toolkits have already been published, with the remaining six being developed over the next two years (Box 8). Each toolkit individually can help contribute to building tax capacity. This can in turn support tax certainty through providing clear options for developing countries to use, that are consistent with international standards.

Box 8. Platform for Collaboration on Tax - Toolkits

A report on **designing and implementing tax incentives for investment** in low income countries in ways that are efficient and effective was published in 2015. In addition to providing information on good practices for the design of incentives to encourage investment, the report also sets out the importance of good governance in their implementation: measures which would include greater transparency and certainty around the eligibility criteria and conditions which apply to incentive regimes.

Following this, a toolkit for **addressing difficulties in accessing comparable data for transfer pricing analyses** was completed in 2017. This toolkit provides step-by-step guidance on interpretation of the arm's length principle in accordance with international norms, including in cases where comparables are difficult to find. A lack of comparable data needed to apply transfer pricing rules is a common source of uncertainty and the toolkit aims to reduce the likelihood of inconsistent or arbitrary approaches in such scenarios. The toolkit also includes a supplementary report addressing **information gaps in pricing of minerals sold in an intermediate form**, which provides a solid analytical framework to help determine appropriate pricing for mineral products in the absence of directly applicable market prices.

A toolkit on **offshore indirect transfers of interests** was published for comment in 2017 and is expected to be finalised in 2018. This toolkit will address the legal and practical difficulties that may be involved in taxing the transfer of shares in foreign entities which hold, directly or indirectly, valuable local immovable property. A variety of domestic practices currently exist in relation to such scenarios and this toolkit will provide developing countries with practical solutions and international best practices.

A toolkit on **implementing effective transfer pricing documentation** is due to be released in 2018. The former will describe policy choices and rationales involved in developing a transfer pricing documentation regime as well as providing sample legislative provisions which would be effective and efficient in meeting those policy goals. It will facilitate the use of the standardised documentation package as recommended in the OECD Transfer Pricing Guidelines and the UN Practical Manual on Transfer Pricing by providing legislative models. The existence of coherent documentation rules in a country enhances tax certainty by ensuring tax administrations have access to necessary information in a timely fashion in order to conclude assessments.

Further toolkits on **treaty negotiation, base eroding payments and supply chain restructures** are also planned. As with the above, these toolkits will aim to provide developing countries with examples and best practices for addressing their international tax priorities in coherent and more standardised ways.

The toolkit on **BEPS risk assessment** will provide assistance to tax administrations in developing risk flags and risk assessment tools. It will discuss the merits of publishing certain risk flags to enable taxpayers to adjust their behaviour in order to ensure they are compliant, and provide examples of self-assessment risk tools which help to give compliant taxpayers greater certainty that they are unlikely to be audited on a particular issue if they accurately self-assess themselves as low risk.

3.4. Medium Term Revenue Strategies

70. Revenue mobilization efforts can be more effective with the formulation and implementation of medium-term revenue strategies (MTRS), an initiative proposed by the Platform for Collaboration on Tax and endorsed by the G20. An MTRS approach to tax system reform sets out a high-level road map for the tax system reform— covering policy, administration, and legal frameworks—over a four-to-six-year period. An MTRS is always government-led and country-owned. With strong country commitment to a steady and sustained implementation, an MTRS can achieve the revenue needed for critical spending needs to secure economic and social development. It will also help reduce uncertainty in tax matters through government commitment to implement the pre-announced reform agenda.

71. The IMF has in 2017 piloted the development of an MTRS in three countries:

- In **Uganda**—where tax-to-GDP ratio is at 13.5 percent in 2016/17—increasing domestic revenue is critical to implement the country's development strategy. Building on ongoing work, the IMF helped the authorities prepare a five-year MTRS framework, starting in FY2017/18, with the goal of achieving a tax-to-GDP of 16 percent in four years. It includes options for tax policy reform, key measures to raise tax and customs compliance, and selected tax law measures to support these compliance programs.
- The IMF helped **Papua New Guinea** develop a first comprehensive MTRS. In mid-2017, PNG faced a severe downturn in revenue and needed to revitalize the tax system and mobilize domestic revenue. The government developed and published its MTRS to modernize the tax system, aiming to increase the tax to GDP ratio, and ensuring reform plans were integrated across the main revenue agencies. The MTRS conveys the government's commitment to the revenue reform program and outlines a multi-agency roadmap for reforming tax policy, tax administration, and legal framework over the next 5 years.

- In **Indonesia**, with a tax-to-GDP ratio below 12 percent—the IMF supported the government in formulating an MTRS that aims to boost the tax-to-GDP ratio by 5 points over a 5-year horizon. Measures include a variety of policy reforms in VAT, income tax and property tax, as well as several administrative efforts to improve compliance in VAT, the taxation of professionals and high-wealth individuals. The authorities are currently reformulating their MTRS based on internal consultations.

3.5. IMF technical assistance

72. The IMF provides technical assistance (TA) and training in key tax system components—tax policy, revenue administration, and legal design and drafting of tax legislation—including in the taxation of natural resources. Fund revenue TA serves over 100 countries each year to support especially developing countries in capacity development. TA is provided directly from headquarters and through the Fund's 10 regional technical assistance centers. The focus is on developing an effective, efficient and fair, stable and predictable tax system, based on each country's context and capacity and a coherent medium-term strategy. Tax certainty plays a key role. Significant TA is provided in drafting new laws or amendments to existing laws. In over seventy countries, TA has been provided in the drafting of some 200+ laws and regulations dealing with tax (income tax, value added tax, and others), tax administration and procedures, and customs (Box 9).

Box 9. IMF technical assistance in tax law design and drafting

The IMF tax law design and drafting TA could consist of one or more of the following four elements, all contributing to enhanced tax certainty of rule design and implementation:

1. **Developing countries raise specific tax law problems with the IMF and make specific requests for TA to resolve those problems.** This could include a request to modernize and strengthen the income tax law of a developing country.
2. **Where TA is provided in response to the request, the IMF would typically benchmark the relevant developing country's tax law against international best practices for the purpose of providing legal design** and **drafting assistance in order to modernize and strengthen those laws.** A strengthened tax law framework will support greater domestic revenue mobilization, ensure international compatibility, minimize tax avoidance and achieve greater tax certainty.
3. **The IMF could also provide guidance in relation to the application of the legal framework developed to demonstrate how it is intended to be applied by the developing country.** This could take the form of technical notes or explanatory memoranda which accompany the legislative bill at the time of its enactment. Consistent and predictable application of the tax law achieves greater tax certainty.
4. **The IMF could identify common tax law design and drafting issues or trends faced by developing countries and publish a more general Tax Law IMF Technical Note (see earlier)**, so that information and analysis on comparative solutions can be made publicly available and, therefore, be of benefit to the broader membership base of the IMF.

73. The IMF has two donor trust funds for revenue capacity building, both of which have entered into their second 5-year phase.

- The **Revenue Mobilization Trust Fund** (RMTF) was launched in 2011 (as the 'Tax Policy and Administration TF') to help low-income and lower middle-income countries establish well designed and administered tax systems that generate sustainable revenue to pay for essential public services. Sound tax policy and administration also helps foster an environment of tax certainty where both small- and medium-sized businesses and large multinationals can flourish. By raising the tax-to-GDP ratio and supporting sustainable economic growth, the RMTF aims to help countries reduce dependency on foreign aid. This trust fund receives financial support from Australia, Belgium, Denmark, the European Commission, Germany, Japan, the Republic of Korea, Luxembourg, the Netherlands, Norway, Sweden, and Switzerland.

- The **Managing Natural Resource Wealth Trust Fund** (MNRW-TF) was also established in 2011. It aims to support low- and lower-middle income countries in strengthening the capacity to manage their natural resource wealth effectively. The fund provides capacity building in five key areas of natural resource revenue management: (i) designing and implementing fiscal regimes (tax policy); (ii) improving revenue administration and risk management; (iii) strengthening macro-fiscal frameworks and public financial management systems; (iv) advising on exchange rate regimes and macro-prudential policies; and (v) improving statistical reporting. Most country level technical assistance projects under the thematic fund combines policy advice with customized training. The MNTW-TF also supports analytical work, multi-country training and thematic conferences on natural resource revenue management. Recent key analytical outputs include two flagship publications on fiscal regimes for mining and petroleum, a handbook on revenue administration, publication of the Fiscal Analysis for Resource Industries (FARI) model, as well as development of a natural resource revenue template and technical guidance notes. The fund receives financial support from Australia, the Netherlands, Norway, and Switzerland.

74. The IMF also develops analytical and data-driven diagnostic tools to support capacity development efforts and to help identify key areas for improvement in tax systems. These include:

- A web-based platform to gather key country-specific indicators for revenue administration—RA-FIT—which powers a collaborative platform (called "ISORA", which is a joint initiative with the OECD) used by other international organizations.

- A public web-based tax policy assessment framework (TPAF), developed jointly by the IMF and the World Bank. It provides guidance on how to assess tax policy design and offers up-to-date data and comparative institutional information of tax systems.

- IMF's World Revenue Longitudinal Dataset (WoRLD) is publicly available and provides detailed cross-country tax revenue data. A new release with near-universal coverage with revenue data since 1990 will be available soon.

- The IMF framework for assessing resource revenue regimes ("FARI"), which is also available on line.

- IMF's RA-GAP program, which has helped more than 30 countries estimate VAT compliance gaps and is adding a framework for corporate tax gap analysis.

3.6. Tax administration Diagnostic Assessment Tool (TADAT)

75. The Tax Administration Diagnostic Assessment Tool (TADAT) Trust Fund was established in 2014 to support the implementation of the Tax Administration Diagnostic Assessment Tool. It finances the TADAT Secretariat, training of assessors, and implementation of the tool. It is supported by 'TADAT partners' who include the EU, the IMF, Germany, Japan, the Netherlands, Norway, Switzerland, the UK, and the World Bank. TADAT is designed to provide an objective and standardized assessment of the health of key components of a country's system of tax administration. This framework is focused on the nine key performance outcome areas (POAs) that cover most tax administration functions, processes and institutions. The assessment of these performance outcome areas is based on 28 high-level indicators that are each built on 1 to 4 dimensions that together add up to 47 measurement dimensions, making TADAT a comprehensive but practicable diagnostic tool. The TADAT assessments are particularly helpful in:

- Identifying the relative strengths and weaknesses in tax administration systems, processes, and institutions.
- Facilitating a shared view on the condition of the system of tax administration among all stakeholders (e.g., country authorities, international organizations, donor countries, and technical assistance providers).
- Setting the reform agenda, including reform objectives, priorities, initiatives, and implementation sequencing.
- Facilitating management and coordination of external support for reforms, and achieving faster and more efficient implementation.
- Monitoring and evaluating reform progress by way of subsequent repeat assessments.

76. TADAT focuses on the performance of the major national taxes: corporate income tax (CIT), personal income tax (PIT), value added tax (VAT) (or its indirect tax equivalent such as sales tax), and Pay As You Earn (PAYE) amounts withheld by employers (which, strictly speaking, are remittances of PIT). Social security contributions (SSCs) may also be included in assessments where SSCs are a major source of government revenue and are collected by the tax administration, as is the case in many European countries. Trained assessors apply the TADAT methodology and are guided by approved and standardized terms of reference, and standards set out in the TADAT Assessor Field Guide. The TADAT Secretariat reviews all performance assessment reports to ensure quality standards are met and consistency is maintained.

77. TADAT assessments are shedding light on tax certainty issues. More broadly, the 60 assessments to end-April 2018 (56 national- and four at subnational-level)[7] have identified key tax administration system strengths and weaknesses. Key strengths include: the use of modalities to expand the tax base, providing information that enables taxpayers to meet their obligations, the design of dispute resolution processes and procedures are sound, internal and external oversight frameworks are strong, and financial and operational results are generally published. On the other hand, general areas of weakness include: poor data quality, inaccuracies in the taxpayer registration database, compliance and institutional risk management practices, poor on-time filing of declarations and on-time payment of taxes, sub-optimal tax debt management practices, long dispute resolution wait times, and inefficient revenue accounting systems. It is encouraging to note that a number of TADAT

[7]Number of assessments by country income classification are: high income countries—4; upper middle income—22; lower middle income—18; and low income—17.

assessed countries are using the assessment results to review and refine their tax administration reform programs. Examples include Fiji, Georgia, Greece, Jamaica, Malaysia, the Philippines and Rwanda. The TADAT framework is now also being applied at subnational level.

3.7. Tax Inspectors Without Borders (TIWB)

78. The joint OECD/UNDP – TIWB initiative launched in Addis Ababa in July 2015 facilitates targeted, tax audit assistance programmes in developing countries across the globe. The TIWB Initiative (Box 10) is a strong response to effective and efficient mobilisation of domestic resources in achieving the Sustainable Development Goals.

Box 10. TIWB role in promoting tax certainty

Through **practical assistance in implementing legislation during audits** in the international tax area TIWB programmes help bridge the gap between the tax legislation and its application in developing countries through transfer of global best practices. TIWB experts often assist host administrations to develop audit manuals and practice notes that help clarify application of legislation in a clear and consistent manner.

TIWB experts audit support has proved very effective in enabling host administrations to undertake **effective risk assessments that ensure only deserving cases are subjected to audit**. Further, the experts transfer skills to auditors on correct application of law and principles thus ensuring that audits are concluded in the shortest time possible with coherent adjustments that limit disputes.

TIWB experts help host administrations **develop better comprehension of international business models**. TIWB focusses on providing industry experts to advise auditors on industry value chains, information that is critical to enabling correct application of the law to the facts and circumstances.

TIWB is levelling the playing field by supporting tax administrations that have fewer resources to **challenge taxpayers that are pursuing aggressive tax strategies**. This is designed to promote an overall change in taxpayer behaviour away from aggressive behaviour. In the short run changes in compliance behaviour such as filing and responses to requests for documentation have been noted following TIWB interventions.

In respect of the host administration taxpayers, **TIWB strives for openness, transparency, and collaboration**. In both respects, a TIWB expert fosters a culture of compliance and minimises the possibility of litigious conflict. Countries undertaking TIWB programmes are already witnessing improved relationships with their taxpayers.

Creating substantive and administrative certainty. Through **transfer of professionalism and consistency in the application of the relevant tax rules and regulations** TIWB empowers taxpayers to know what they can expect from the tax administration in respect of a particular type of conduct.

Box 10. TIWB role in promoting tax certainty *(condt.)*

Striking the balance between the need to raise domestic revenue and taxpayers' right to fairness (procedural and substantive). This has always been a very difficult exercise for most countries' revenue administrations, particularly in Africa due to lower capacity and expertise especially in international tax matters. As such, some countries including in Africa are said to abuse international tax principles and treaty provisions in their quest to achieve revenue targets. TIWB experts are well experienced and are able to assist the host countries in achieving revenue targets without unduly burdening the taxpayers and in a manner that is consistent with international tax principles and standards.

Status Update: There are currently 7 completed programmes, 31 ongoing and 22 upcoming TIWB programmes across the globe. The target by 2020 is to undertake 100 deployments. The growing demand for TIWB is driven by the positive feedback from countries already hosting TIWB experts.

3.8. Business engagement in technical assistance

79. Industry insight can help tax authorities better understand common industry practices, both altering them to tax base erosion risks, and helping improve the engagement between tax authorities and business. The OECD has sought to integrate industry expertise, where useful, across its technical assistance. Examples include Unilever providing industry experts to train Zimbabwe Revenue Authority officials on the value chain for fast-moving consumer goods; a diamond industry expert was included in the TIWB programme in Botswana (see Box 11); the OECD Global Relations training event on transfer pricing and mining in Korea included a visit to a steelworks to enable participants to gain a practical insight into how mineral products (especially iron ore) are used in steelmaking. Feedback is also sought from business in the development of the Platform for Collaboration on Tax toolkits. As a result of these efforts several developing countries have acquired an increased understanding of taxpayers' industries, enabling them to build a more collaborative relationship with business.

Box 11. Collecting tax revenue from rough diamonds

Rough diamonds present acute DRM challenges for many developing countries, particularly in Africa. Valuing rough and polished diamonds when they leave African countries is difficult, yet achieving value estimates as accurate as possible is essential to ensuring the diamond-producing country receives an appropriate share of the final price paid by jewellery buyers. While diamond jewellery buyers concern themselves with the "four C's" – cut, colour, clarity and carat – rough diamond values focus more on the potential of a rough stone and the value that can be achieved once it has been cut and polished. Other factors, including the shape of stones, become important, since shape determines how a stone can be cut to maximise yield. Assessing the value of rough diamonds for tax purposes is uniquely challenging – the traders of rough diamonds can monitor anything up to (and over) 11,000 pricing points, which can fluctuate daily.

Bringing diamond industry experts to meet directly with developing country tax revenue authorities can help overcome this valuation complexity, with mutual benefits: taxpayers can operate in a more certain tax environment if tax officials understand their business and its value drivers, and tax authorities can have greater confidence they are taxing local economic activity in accordance with BEPS principles.

In 2017, the Secretariat involved diamond industry experts in training events for African tax officials, which enabled tax officials to better understand the processes used by companies for sorting and aggregating rough diamonds for sale and the intellectual property involved. Based on feedback from tax officials in diamond-rich developing countries, the aim for 2018 will be to increase the number of industry experts providing insight locally to tax authorities in developing countries.

Annex A. Detailed findings of the business survey

80. The data used is the same as in the 2017 Report and so the design and methodology will not be repeated here[8]. A notable difference is the regional analysis, to enable these two approaches have been taken. Country-specific responses have been aggregated by region, namely Africa, Latin America and Caribbean, Asia and OECD.[9] This approach provides significantly different numbers of observations in each region, and also has significantly different numbers of observations per country, though in no region was the most frequent country chosen by respondents responsible for more than 35% of responses[10]. For the questions where respondents were asked to give answers without reference to a specific country, the approach taken has been to include for analysis for each region those respondents which have identified having either a global or regional headquarters in a region. This approach does mean that some responses will be included in multiple regions, reflecting the multi-regional nature of their companies' operations. Tables 1 and 2 provide more complete details on the regional breakdown.

Table 1. Regional breakdown of number of countries and firms included in data for Figures 3-5, 7, 9 and 10

(questions where responses were provided in relation to the views of the respondent generally, not in relation to a specific named country)

	Global HQs		Regional HQ		Total (GHQ+RHQ)	
	Countries	Firms	Countries (additional to GHQ)	Firms	Countries	Firms
Africa	7	24	5	25	12	49
Asia	7	25	21	192	28	217
LAC	10	78	11	84	21	162
OECD	33	456	0	59	33	515

Note: As many companies operate across multiple regions their responses will be recorded in multiple regions.

Table 2. Regional breakdown of number of countries and firms included in data for Figures 6 and 8

(questions where responses were in relation to a specific named country)

	Selected Countries	
	Countries	# Firms
Africa	26	92
Asia	33	299
LAC	23	231
OECD	33	587

[8] See IMF/OECD *Tax Certainty – IMF/OECD Report for the G20 Finance Ministers* (March 2017), especially pp27-29 and Annex B.

[9] Excluding Mexico and Chile, which have been included in LAC. Japan and the Republic of Korea are included in the OECD grouping rather than Asia.

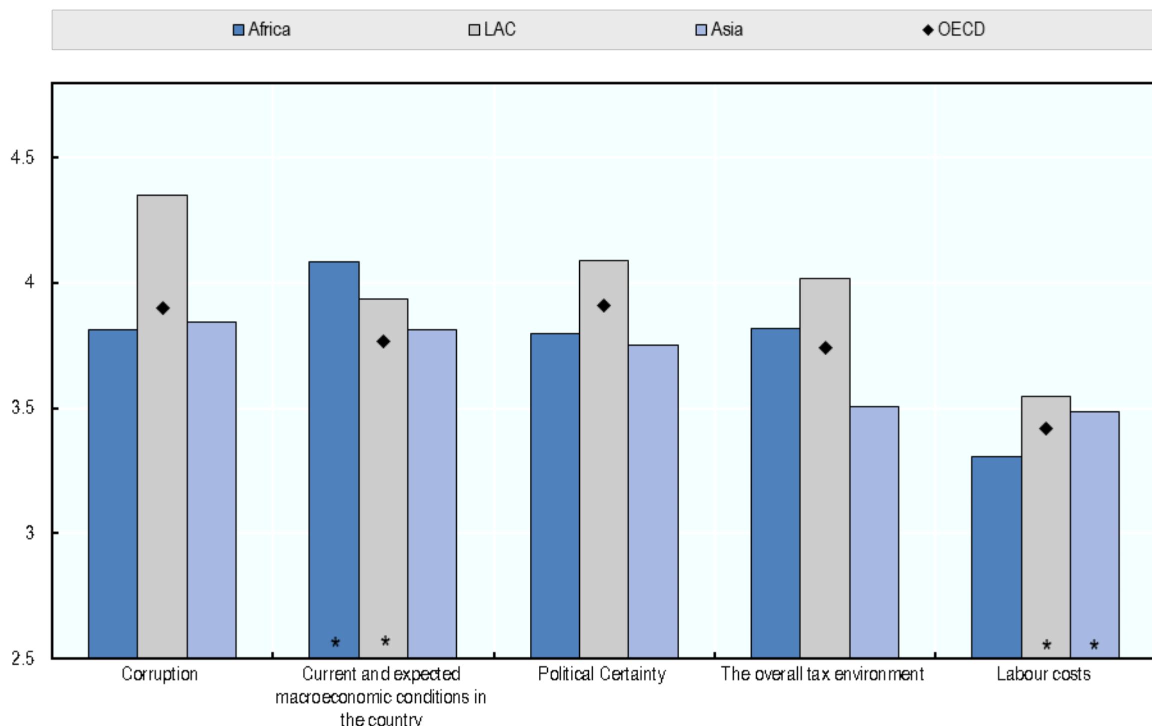
[10] Most frequent country represented 34% of all responses in LAC, 28% in Asia, 16% in OECD and 14% in Africa.

Factors driving investment

81. Whilst on average similar factors appear to drive investment decisions, there are some clear differences between regions. As in the overall survey findings reported in 2017[11] the top 5 most important factors in investment location decisions were: corruption, current and expected macroeconomic conditions in the country, political certainty, the overall tax environment and labour costs, though both the relative and absolute importance of these varies significantly between the regions (Figure 3). The much higher importance of corruption in LAC and lower importance of the tax environment in Asia being especially notable. As noted previously[12] the higher rating for the overall tax environment than in other surveys is likely to be driven by the fact the survey was promoted as a survey on taxation and targeted at tax specialists.

82. The difference in importance of factors such as exchange rate risk, presence of natural resources or regional customers are of statistical significance in some regions. Figure 4 shows the investment location factors that show the greatest difference between the highest and lowest absolute scores, and show that factors that are of minor concern in some regions are much more significant in others. The significance of exchange rate risks for companies with global or regional HQs in Africa and LAC for example, and the significance of a developed regional consumer base in Asia.

Figure 3. Top 5 business factors affecting investment or location decisions



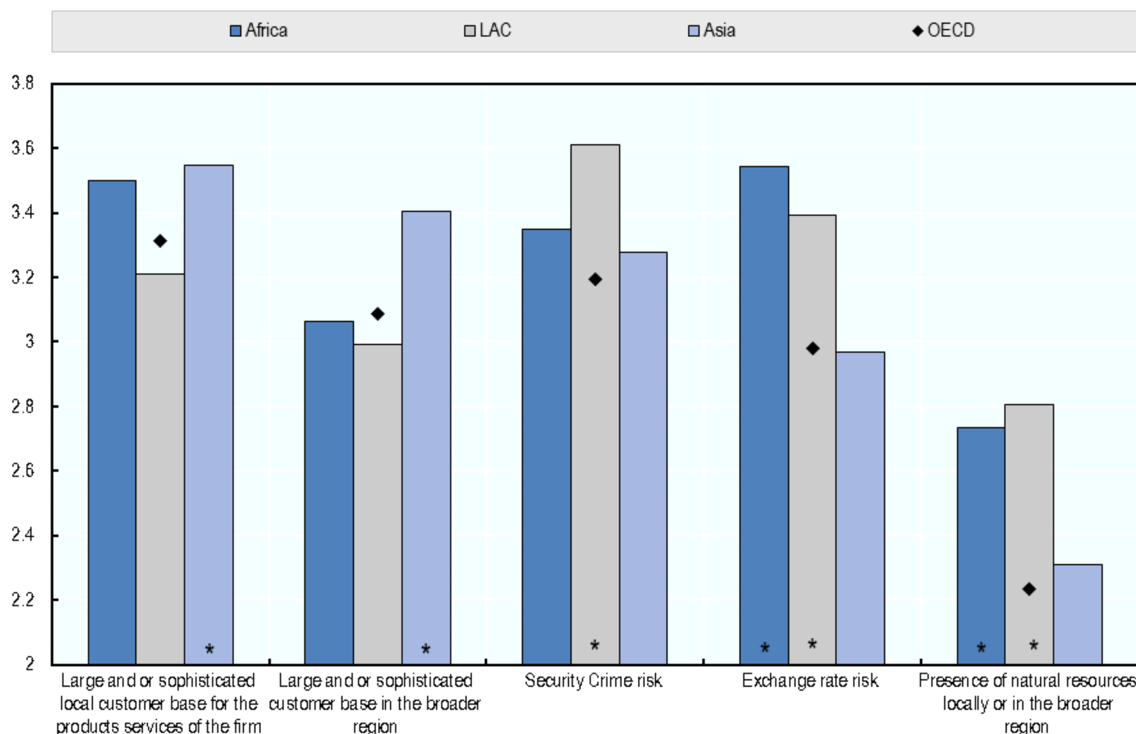
Note: Results for the question 'Based on your experience, please assess the importance of each of the following factors for your firm's investment and location decisions. Please use a scale from 5 to 1 where 5 are extremely important and lower numbers indicate that the factor is progressively less important. If a factor is not at all important, select 1. If you have no experience or do not know, select n/a'

* denotes significance at 5%, difference between the region and OECD

[11] See IMF/OECD 2017 pp29-30

[12] See ibid p29

Figure 4. Business factors affecting investment and location decision with greatest variation between regions



** denotes significance at 5%, difference between the region and OECD*

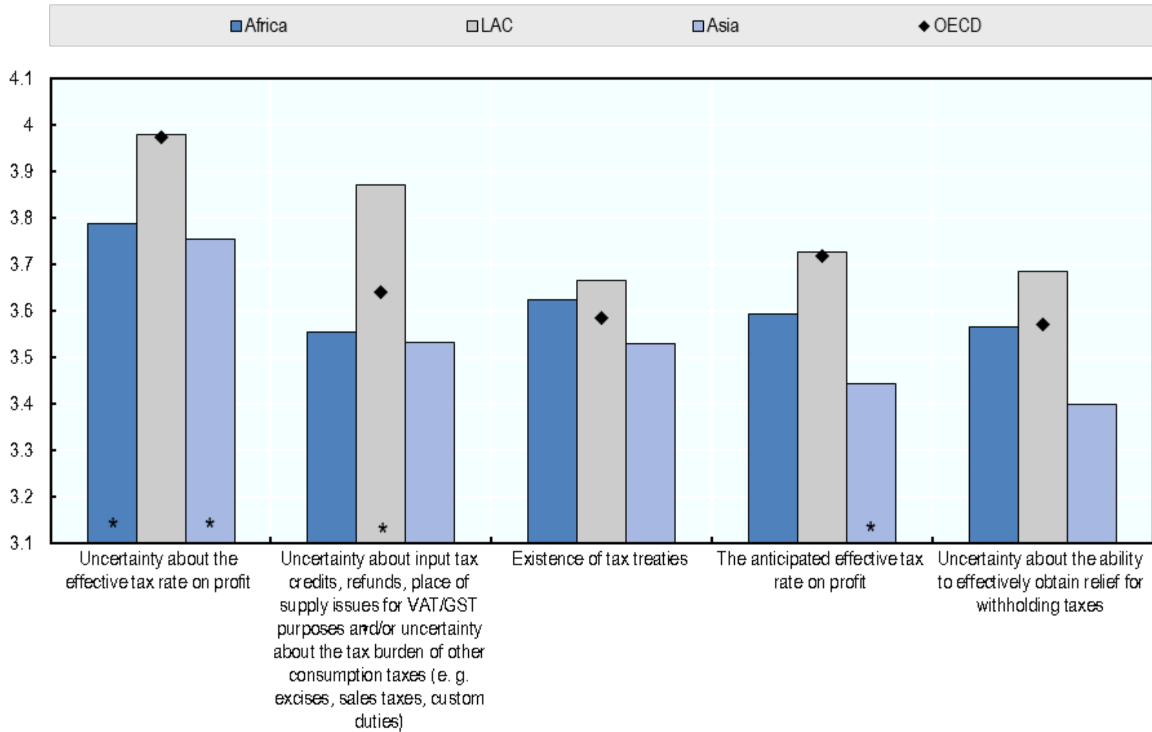
Tax factors affecting investment and location

83. While corporate income tax appears the most important tax factor affecting investment and location decisions, VAT, withholding taxes and tax treaties are all factors in some regions. Figure 5 shows the top five factors affecting investment and location decisions for companies with global or regional HQs Africa, LAC and Asia. Here again we see some similarity with the findings in the 2017 Report, though the existence of tax treaties appears more important (3rd vs 5th most important) and uncertainty about relief for withholding tax also appears, suggesting that issues around cross-border transactions are especially important for MNEs operating in the three regions. Tax incentives did not appear to be a major driver of investment and location, except in Latin America and the Caribbean where it was the third most important factor (out of 12)[13]. While it is notable that the uncertainty over rates is consistently rated as more important than the level of the tax itself, the note of caution for this finding from the 2017 Report should be reiterated, that this finding may be a result of bias from the respondents in knowing this survey was about tax certainty.[14]

[13] Tax incentives were identified as 7th most important factor for companies with global or regional HQs in Asia, and 8th most important for OECD and Africa.

[14] See IMF/OECD 2017 p 31

Figure 5. Top 5 tax factors affecting investment or location decisions



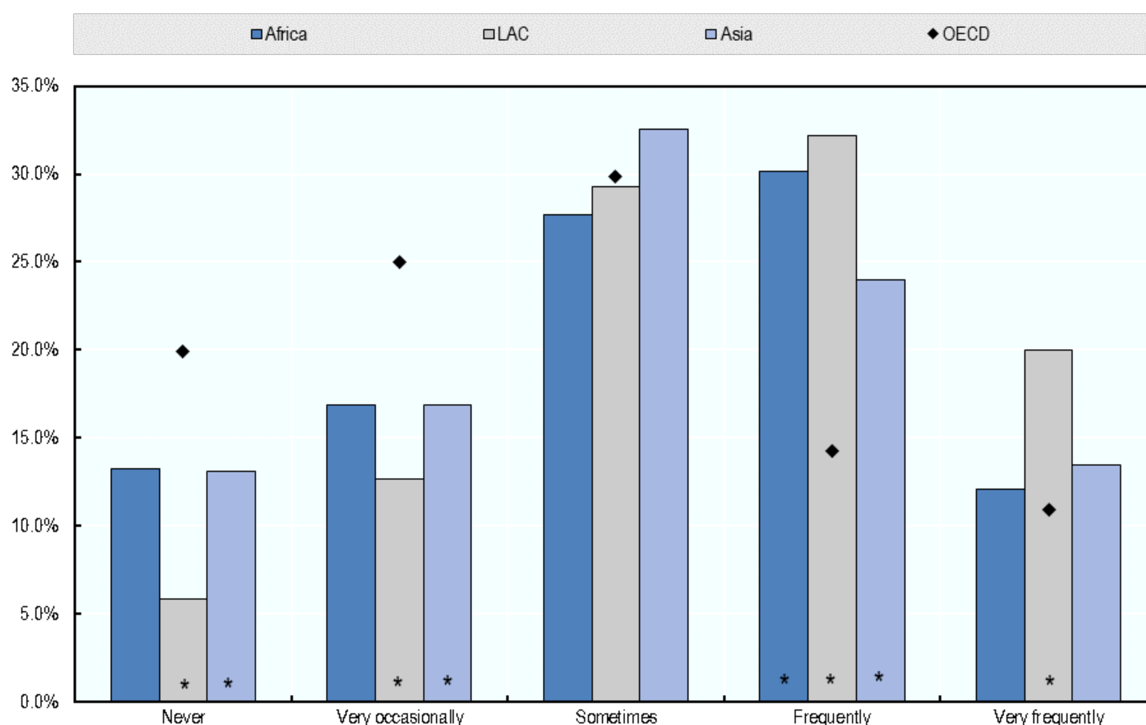
Note: Results for the question 'Which specific tax factors affect the investment and location decisions of your firm? Based on your experience, please assess the importance of each of the following factors.' The respondents could choose from a scale from 5 to 1, where 5 is extremely important and lower numbers indicate that the factor is progressively less important.

* denotes significance at 5%, difference between the region and OECD

Impact of tax uncertainty

84. Tax uncertainty appears to have a more frequent impact on investment decisions in the three regions than the OECD. Figure 6 shows responses on how frequently tax uncertainty has affected significant business decisions in relation to specific countries (aggregated to the regional level for the figure). From this figure there is a significant difference with tax uncertainty having a more frequent impact on significant business decisions in the three regions; this is especially pronounced for LAC where tax uncertainty having very frequent impacts on business decisions is also significantly higher than in the OECD.

Figure 6. Frequency that tax uncertainty has seriously affected business decisions



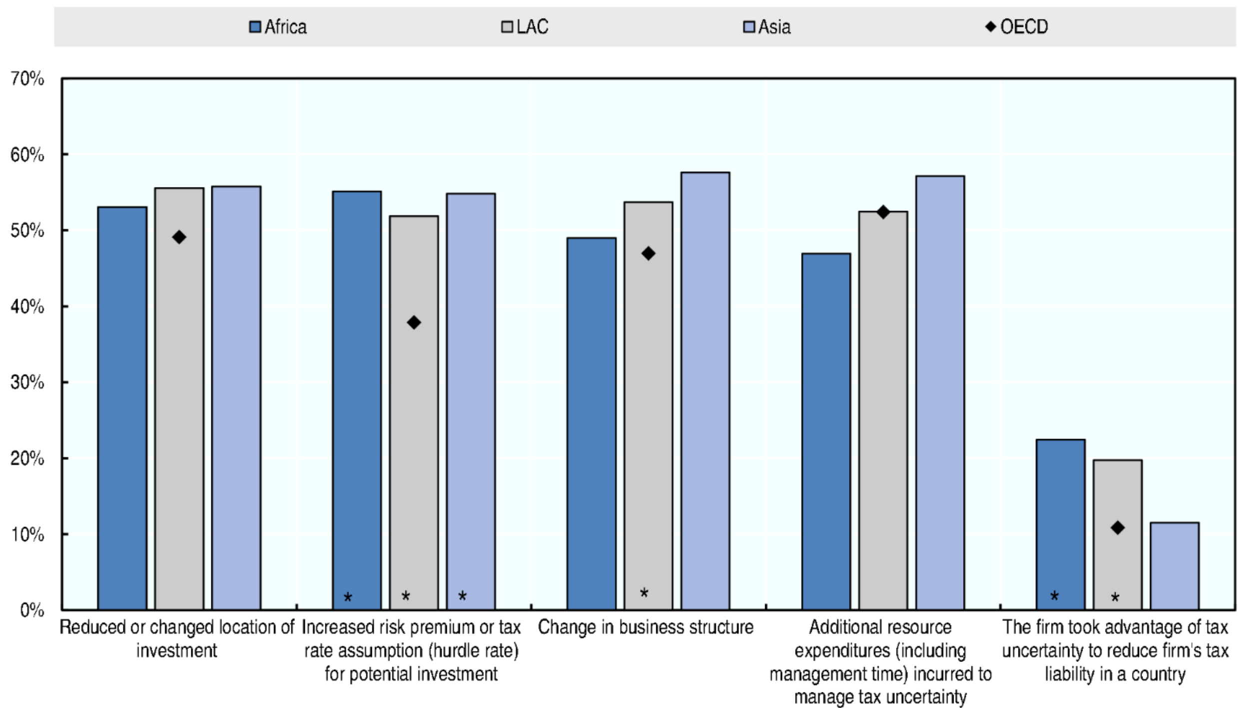
Note: Responses to the question, 'How frequently has uncertainty in the tax system has a serious impact on business decisions?' Respondents were asked to use a scale for 5 to 1 where 5 indicated very frequently, 4 frequently, 3 sometimes, 2 very occasionally, and 1 never.

The question represented in this table was asked separately for each country selected by the respondents, each respondent could select a maximum of 4 countries.

* denotes significance at 5%, difference between the region and OECD.

85. The impact of tax uncertainty also may be different in the three regions, with increasing risk premiums, and a greater (though still relatively low) likelihood of firms using tax uncertainty to reduce their tax liability. Figure 7 shows the percentage of companies operating in each region that identified specific consequences of tax uncertainty; these represent the top four consequences, plus one where the relative difference between regions was significant. From these results we can see that there may be some differences in the impact that tax uncertainty is having in different regions. Most notable is that companies operating in the three regions are significantly more likely than the OECD to report that tax uncertainty will increase the risk premium or hurdle rate for potential investment (i.e. the cost of risk for the investment, or the rate of return required for the investment to proceed is increased), indicating that tax uncertainty may be having a greater impact on the investment climate in the three regions than the OECD. Potentially more concerning is that companies operating in Africa and LAC are significantly more likely than those in the OECD to report that they have taken advantage of tax uncertainty to reduce a firm's tax liability in a country. While this is a relatively low percentage, this does represent a fifth of companies, and may indicate that tax uncertainty in Africa and LAC may not only affect the investment climate, but may also negatively impact the volumes of revenues raised from the investment that takes place.

Figure 7. Impact of tax uncertainty



Note: Results for the question, 'In your experience, in which of the following ways has tax uncertainty affected business operations?'

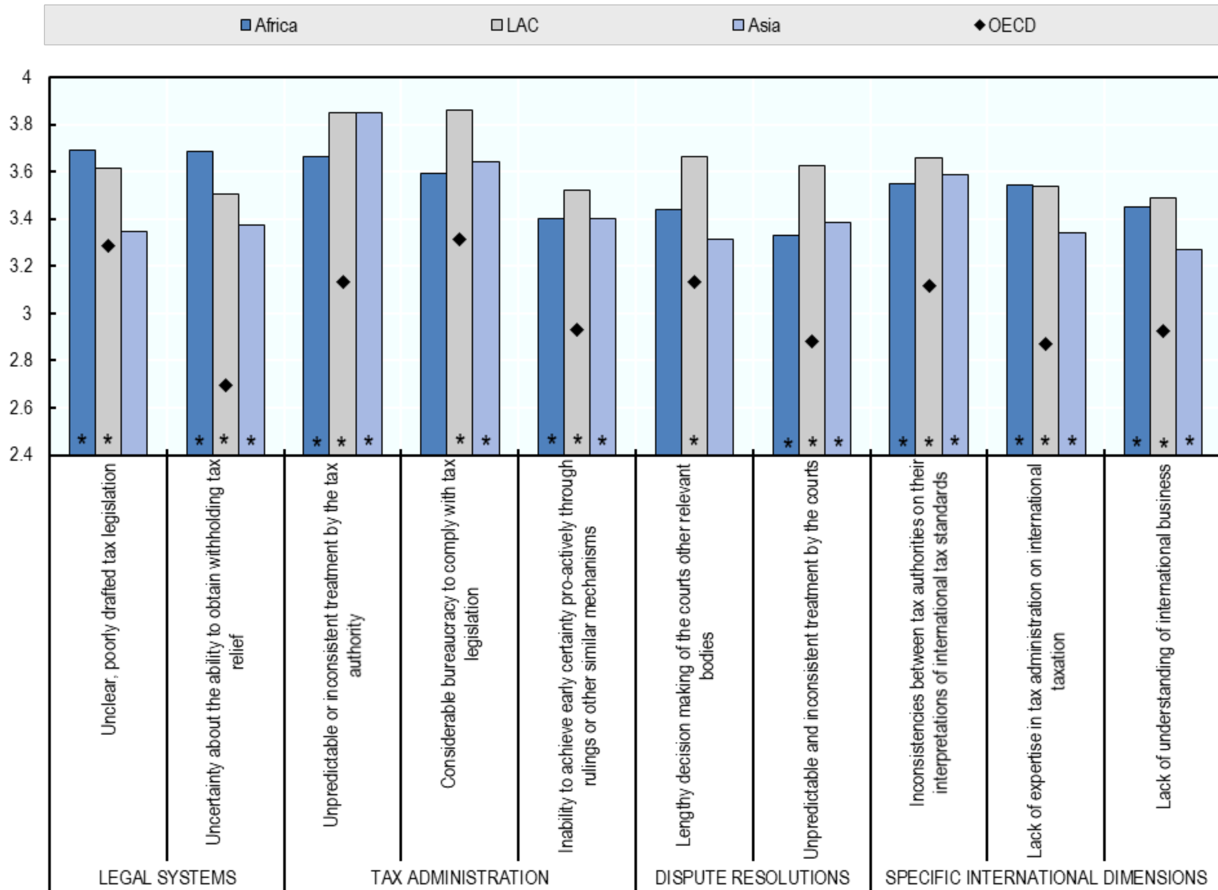
* denotes significance at 5%, difference between the region and OECD.

Sources of tax uncertainty

86. When we turn to look at the sources of tax uncertainty, we can also find some substantial differences between regions. In keeping with the global findings the sources of tax uncertainty are across multiple dimensions – legal, administrative, dispute resolution and international, however there is also some variation. Figure 8 shows the top 10 sources of tax uncertainty respondents identified for specific countries, aggregated by region and then averaged across the three emerging regions. In keeping with the greater prominence given to the uncertainty of both VAT and withholding taxes in investment decisions, respondents from the three regions give significantly greater prominence to withholding tax relief and VAT refunds than the OECD. Unpredictable or inconsistent treatment by the tax authority also shows a significant difference with the OECD, and in both Africa and Asia was of more importance than the overall level of bureaucracy. The general pattern is that absolute values are higher for the emerging regions than the OECD, which may indicate a generally higher perception of tax uncertainty in developing countries[15]. There is a notable exception to this rule however, in that in both Africa and Asia the frequency of changes in the tax system were ranked as less important than in the OECD in absolute terms (3.17 for OECD versus 3.08 for Africa and 2.95 for Asia).

[15] This distinction was not observable in earlier questions in the survey (e.g. Figure 3) where respondents were giving a single response for their company as a whole, but only in these questions where opinions were provided in relation to the situation in a named country.

Figure 8. Top 10 sources of tax uncertainty



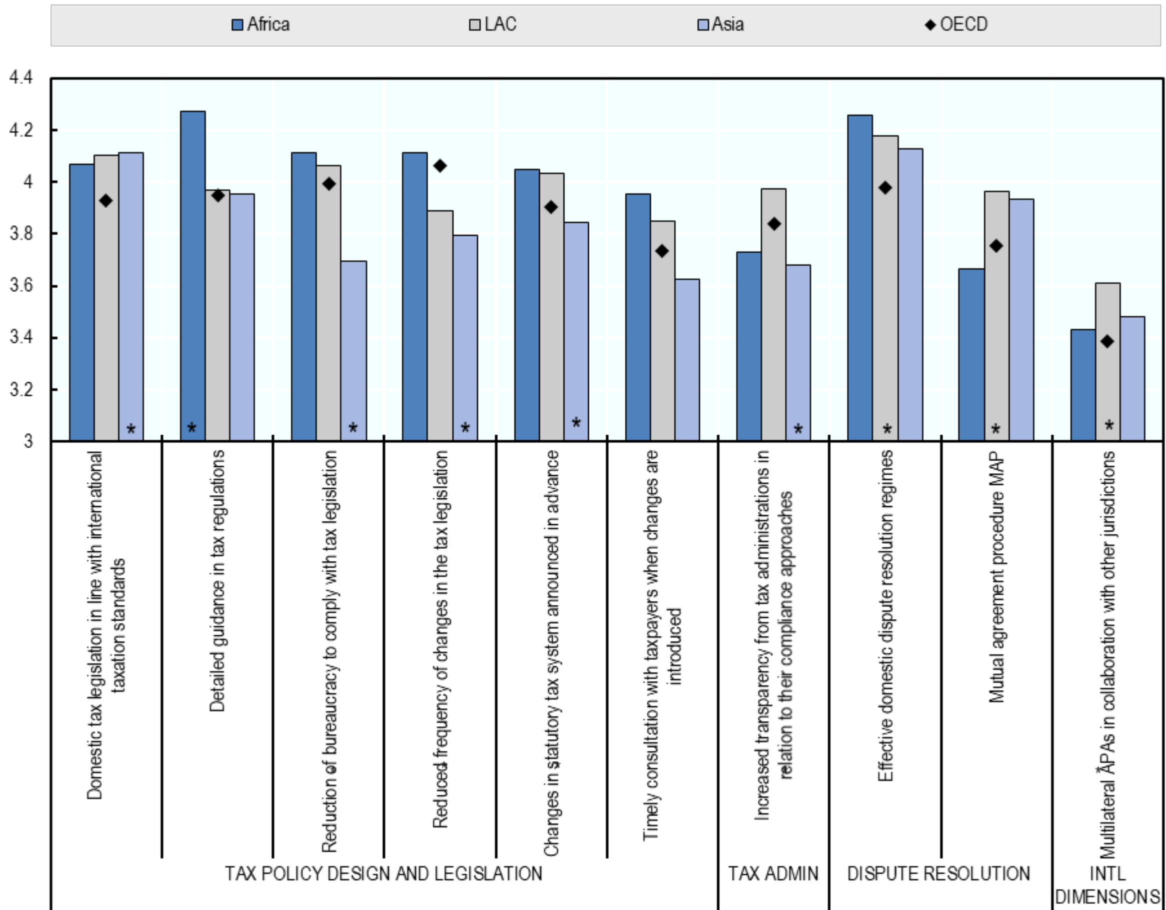
Note: Results for the question, 'Please identify in your experience how important each of the below factors has been in increasing the overall uncertainty on tax issues in the countries you have selected?' The respondents could choose from a scale from 5 to 1, where 5 are extremely important and lower number indicates the factor is progressively less important. The question represented in this table was asked separately for each country selected by the respondents, each respondent could select a maximum of 4 countries.

* denotes significance at 5%, difference between the region and OECD.

Tools to address tax uncertainty

87. There are also variations among the regions among the tools seen as most useful for improving tax certainty. Figure 9 shows the top 10 tools identified among the emerging regions as most important for addressing tax certainty. The importance of domestic dispute regimes is notable across all regions, as is alignment of domestic rules with international standards. Improved guidance appears especially important in Africa, while MAP issues appear to be relatively more important in Asia, and especially LAC than in Africa (or OECD). In keeping with the lower importance of frequency of changes as a source of tax uncertainty there appears to be less of a need to consider the frequency of changes to tax legislation in LAC and especially Asia than in the OECD (or Africa); indeed Asia shows a general pattern of having less focus placed on domestic tax policy and administration issues than all other regions.

Figure 9. Top 10 tools to foster tax certainty

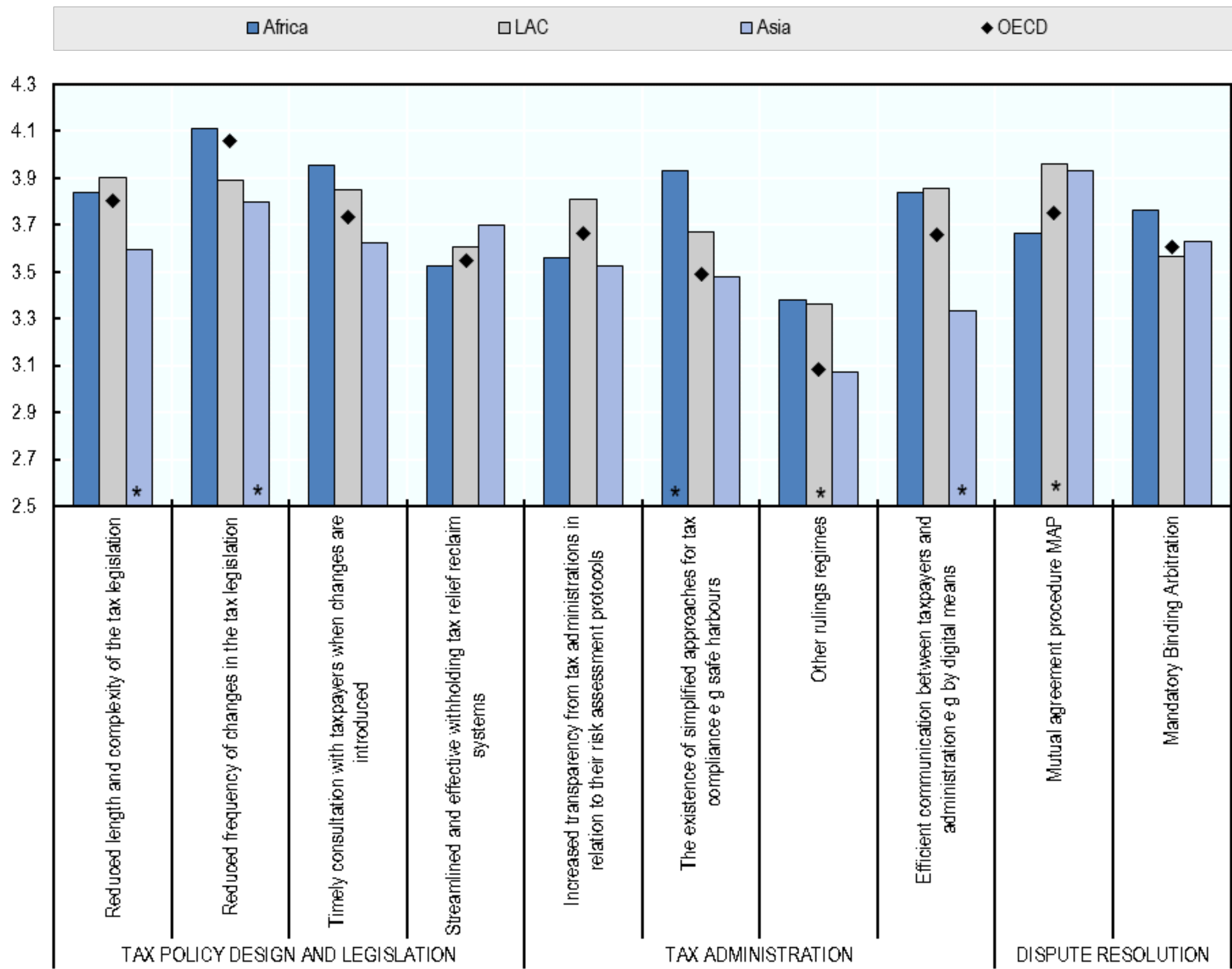


Note: Results for the question, 'Which of the following tools has enhanced or could enhance certainty in the tax system?' The respondents could choose from a scale from 5 to 1, where 5 is the specific tool has increased or could increase certainty substantially, and lower numbers where the tool is progressively less important.

* denotes significance at 5%, difference between the region and OECD.

88. These variations are even more pronounced when looking beyond the top 10. Figure 10 looks at the ten tools for fostering tax certainty that have the greatest difference in ranking of importance between regions. When taking this approach the potential impact of tools such as simplified approaches (e.g. safe harbours) in Africa can be seen, as well the greater priority given to other ruling regimes in LAC (and Africa, though the divergence is not statistically significant). Asia continues to show significant divergence in some aspects of tax administration, most notably through much less demand for increased efficiency of communication between taxpayers and administration, but also in less demand for reduced complexity of legislation, and reduced frequency of changes.

Figure 10. Greatest variation between regions in tools to foster tax certainty



** denotes significance at 5%, difference between the region and OECD*