



**Transparency and Exchange of
Tax Information: Overview**

**IMF-Japan High Level Tax Conference for
Asian and Pacific Countries**

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Structure of presentation

1. Background to the creation of the Global Forum
2. The Global Forum's role and what it does
3. Progress achieved by the Global Forum's work



Origins of Global Forum and its work

- 1998 OECD report on Harmful Tax Practices.
- Most OECD & some non-OECD countries committed to a standard of transparency & exchange of information for tax purposes.
- Original Global Forum established in 2001 to further promote the standard.
- By end-2008, around time of GFC, 15 of 84 jurisdictions that participated in GF's annual assessment of legislative frameworks had not endorsed the standard.



2009: Revolution in Tax Cooperation

- Level playing field with all countries committed to the EOI standard, including key financial centers (Switzerland, Luxembourg, Singapore, Hong Kong)
- The OECD Sec.General published a Progress Report in conjunction with the London G20 Summit, 2 April 2009.
 - « **We agree to take action against non-cooperative jurisdictions, including tax havens.....We note that the OECD has today published a list of countries assessed by the Global Forum against the international standard for exchange of information** » (G20 declaration, 2 April 2009)
- Global Forum restructured & given new mandate (Mexico, September 09).



Spotlight on Tax Co-operation in 2009

- What prompted the enhanced effort on tax co-operation?
 - Tax evasion cases had a very high profile (Liechtenstein case in February 2008, UBS case...).
 - The global financial crisis revealed the need for greater transparency... and, for many, improved tax collection.
 - Political focus on “tax havens” shifted from “no taxation” definition to “bank secrecy” jurisdictions (G20 Leaders)
 - Governments were not willing to bail out institutions which continued to operate in a climate of secrecy.
 - Environment offering greater opportunities for taxpayers to conceal funds in off-shore locations and evade taxes.



A PROGRESS REPORT ON THE JURISDICTIONS SURVEYED BY THE OECD GLOBAL FORUM IN IMPLEMENTING THE INTERNATIONALLY AGREED TAX STANDARD¹

Progress made as at 2nd April 2009

**PROGRESS REPORT
(2 APRIL 2009)**

JURISDICTIONS THAT HAVE SUBSTANTIALLY IMPLEMENTED THE AGREED STANDARD (40)

JURISDICTIONS THAT HAVE COMMITTED TO THE AGREED STANDARD BUT HAVE NOT YET SUBSTANTIALLY IMPLEMENTED (38)

JURISDICTIONS THAT HAVE NOT COMMITTED TO THE INTERNATIONALLY AGREED STANDARD (4)

Jurisdictions that have substantially implemented the internationally agreed tax standard			
Argentina	Germany	Korea	Seychelles
Australia	Greece	Malta	Slovak Republic
Barbados	Guernsey	Mauritius	South Africa
Canada	Hungary	Mexico	Spain
China ²	Iceland	Netherlands	Sweden
Cyprus	Ireland	New Zealand	Turkey
Czech Republic	Isle of Man	Norway	United Arab Emirates
Denmark	Italy	Poland	United Kingdom
Finland	Japan	Portugal	United States
France	Jersey	Russian Federation	US Virgin Islands

Jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented					
Jurisdiction	Year of Commitment	Number of Agreements	Jurisdiction	Year of Commitment	Number of Agreements
Tax Havens³					
Andorra	2009	(0)	Marshall Islands	2007	(1)
Anguilla	2002	(0)	Monaco	2009	(1)
Antigua and Barbuda	2002	(7)	Montserrat	2002	(0)
Aruba	2002	(4)	Nauru	2003	(0)
Bahamas	2002	(1)	Netherlands Antilles	2000	(7)
Bahrain	2001	(6)	Niue	2002	(0)
Belize	2002	(0)	Panama	2002	(0)
Bermuda	2000	(3)	St Kitts and Nevis	2002	(0)
British Virgin Islands	2002	(3)	St Lucia	2002	(0)
Cayman Islands ⁴	2000	(8)	St Vincent & Grenadines	2002	(0)
Cook Islands	2002	(0)	Samoa	2002	(0)
Dominica	2002	(1)	San Marino	2000	(0)
Gibraltar	2002	(1)	Turks and Caicos Islands	2002	(0)
Grenada	2002	(1)	Vanuatu	2003	(0)
Liberia	2007	(0)			
Liechtenstein	2009	(1)			
Other Financial Centres					
Austria ⁵	2009	(0)	Guatemala	2009	(0)
Belgium ⁵	2009	(1)	Luxembourg ⁵	2009	(0)
Brunei	2009	(5)	Singapore	2009	(0)
Chile	2009	(0)	Switzerland ⁵	2009	(0)

Jurisdictions that have not committed to the internationally agreed tax standard			
Jurisdiction	Number of Agreements	Jurisdiction	Number of Agreements
Costa Rica	(0)	Philippines	(0)
Malaysia (Labuan)	(0)	Uruguay	(0)

¹ The internationally agreed tax standard, which was developed by the OECD in co-operation with non-OECD countries and which was endorsed by G20 Finance Ministers at their Berlin Meeting in 2004 and by the UN Committee of Experts on International Cooperation in Tax Matters at its October 2008 Meeting, requires exchange of information on request in all tax matters for the administration and enforcement of domestic tax law without regard to a domestic tax interest requirement or bank secrecy for tax purposes. It also provides for extensive safeguards to protect the confidentiality of the information exchanged.

² Excluding the Special Administrative Regions, which have committed to implement the internationally agreed tax standard.

³ These jurisdictions were identified in 2000 as meeting the tax haven criteria as described in the 1998 OECD report.

⁴ The Cayman Islands has enacted legislation that allows it to exchange information unilaterally and has identified 11 countries with which it is prepared to do so. This legislation is being reviewed by the OECD.

⁵ Austria, Belgium, Luxembourg and Switzerland withdrew their reservations to Article 26 of the OECD Model Tax Convention. Belgium has already written to 48 countries to propose the conclusion of protocols to update Article 26 of their existing treaties. Austria, Luxembourg and Switzerland announced that they have started to write to their treaty partners to indicate that they are now willing to enter into renegotiations of their treaties to include the new Article 26.



Global Forum's new mandate (Mexico 2009)

- 3 year mandate to create strengthened Forum to promote rapid & consistent implementation of the standards.
- Conduct a two phase peer review of each jurisdiction's legal and regulatory framework (phase 1) and practical implementation (phase 2).
- Establish ongoing monitoring of legal instruments.
- Create Peer Review Group to oversee the process.

Supported by

- New funding model and greatly expanded resources.



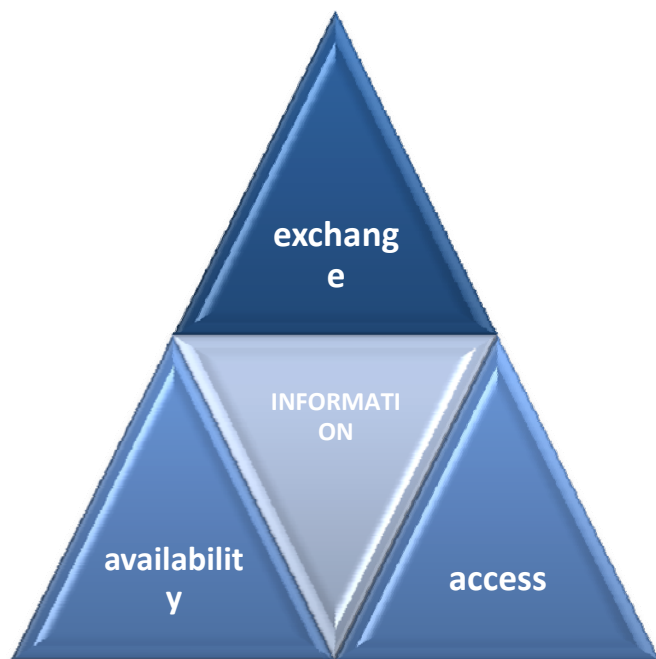
Part 2

- The Global Forum's role
- The Global Forum's operations
- The peer review process



What the Global Forum does

The Global Forum is mandated to ensure that all jurisdictions adhere to the same high standard of international co-operation in tax matters



- **Exchange** of information on request with safeguards to protect taxpayers' rights and confidentiality.
- **Access** to information and powers to obtain it.
- **Availability** of information, particularly accounting, bank and ownership information.



The sources of the standards

Primary authoritative sources

- Article 26 of the OECD and UN Model Conventions
- The 2002 Model Tax Information Exchange Agreement (TIEA)

Secondary sources

- The 2005 JAHGA Report on Accounting Practices
- The 2006 OECD Manual on Information Exchange
- 2004 Guidance Notes on Harmful Tax Practices
- Financial Action Task Force (FATF) Standards
- The 2008 and 2009 “framework” notes
- Global Forum annual assessments



Exchange of Information (EOI)

- The Internationally Agreed Standard: “EOI on request where the information is foreseeably relevant”:
 - ✓ On request
 - ✗ No fishing expeditions
 - ✗ No restrictions caused by bank secrecy or domestic tax interest requirements
 - ✓ Respect for taxpayers’ rights
- Confidentiality assured





Global Forum Membership (2009)

- All OECD, G20 and other jurisdictions covered by 2009 Assessment invited to be members
- Other jurisdictions will be invited to become members if:
 - They commit to the standard
 - They agree to be reviewed
 - They pay the fee
- Relevant international organisations invited as observers



Global Forum membership today

- 106 members to date, including from Asia/ Pacific:

Australia, Brunei Darussalam, China, Cook Islands, Hong Kong, India, Indonesia, Japan, Korea, Macau, Malaysia, Marshall Islands, Nauru, Niue, New Zealand, Philippines, Samoa, and Singapore).

- G20, all 34 OECD countries, offshore financial centres and expanding membership of developing countries (20 recently invited to join)
- All members equal – consensus decision making
- Relevant organisations are observers (incl. IMF, World Bank, UN, & Asian Development Bank)



Benefits of Global Forum membership

- Participation in unique Forum where financial centres are present; enhanced ability to negotiate EOI agreements.
- GF- a source of unique expertise on transparency; gives opportunities to garner improvements for own legal framework.
- Source of assistance to improve member's own legal framework.
- Provides international visibility and heightens member country as a reliable place to do business.
- A voice in the international decision-making process.



Global Forum operations

- Work of Global Forum is guided by an 18 member Steering Group (chaired by Australia).
- Global Forum Peer Review Group (chaired by France and comprising 30 member countries) oversees peer review process.
- Dedicated Secretariat (including administrators from non-OECD members) based in Paris supports all aspects of the Global Forum's work.



Peer review

- 2 Phases of peer review:
 - Phase 1 will focus on legal framework
 - Phase 2 will focus on practical implementation
- Phase 2 includes an on-site visit.
- All jurisdictions covered by 2009 assessment will be subject to peer review, as well as other relevant jurisdictions.



Peer review determinations/ratings

- Phase 1 reviews lead to a determination in respect of each element :
 - The element is in place.
 - The element is in place, but certain aspects of the legal implementation of the element need improvement.
 - The element is not in place

- In Phase 2, each element is rated:
 - **Compliant:** The essential element is, in practice, fully implemented.
 - **Largely compliant:** There are only minor shortcomings in the implementation of the essential element.
 - **Partially compliant:** The essential element is only partly implemented.
 - **Non-compliant:** There are substantial shortcomings in the implementation of the essential element.



Terms of Reference

- Based on Article 26: Exchange of information on request when information is foreseeably relevant, including bank and fiduciary information regardless of a domestic tax interest requirement.

- The Terms of Reference agreed by Peer Review Group define the standard in terms of 10 essential elements:
 - Availability of information (3 elements)
 - Access to information (2 elements)
 - Exchange of information (5 elements)



Terms of Reference

A. AVAILABILITY OF INFORMATION

- A.1.** Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.
- A.2.** Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.
- A.3.** Banking information should be available for all account-holders.

B. ACCESS TO INFORMATION

- B.1.** Competent authorities should have the power to obtain and provide information that is the subject of a request under an EOI agreement from any person within their territorial jurisdiction who is in possession or control of such information.
- B.2.** The rights and safeguards that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

C. EXCHANGING INFORMATION

- C.1.** EOI mechanisms should provide for effective exchange of information.
- C.2.** The jurisdictions' network of information exchange mechanisms should cover all relevant partners.
- C.3.** The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.
- C.4.** The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.
- C.5.** The jurisdiction should provide information under its network of agreements in a timely manner.



Handbook for Assessors: Implementing the standards



This handbook is intended to assist the assessment teams and the reviewed jurisdictions that are participating in the Global peer reviews and non-member reviews. It provides contextual background information on the Global Forum and the peer review process. It also contains relevant key documents and authoritative sources that will guide assessors and reviewed jurisdictions throughout the peer review process.



Peer reviews

- 59 Peer Reviews have been completed by November 2011



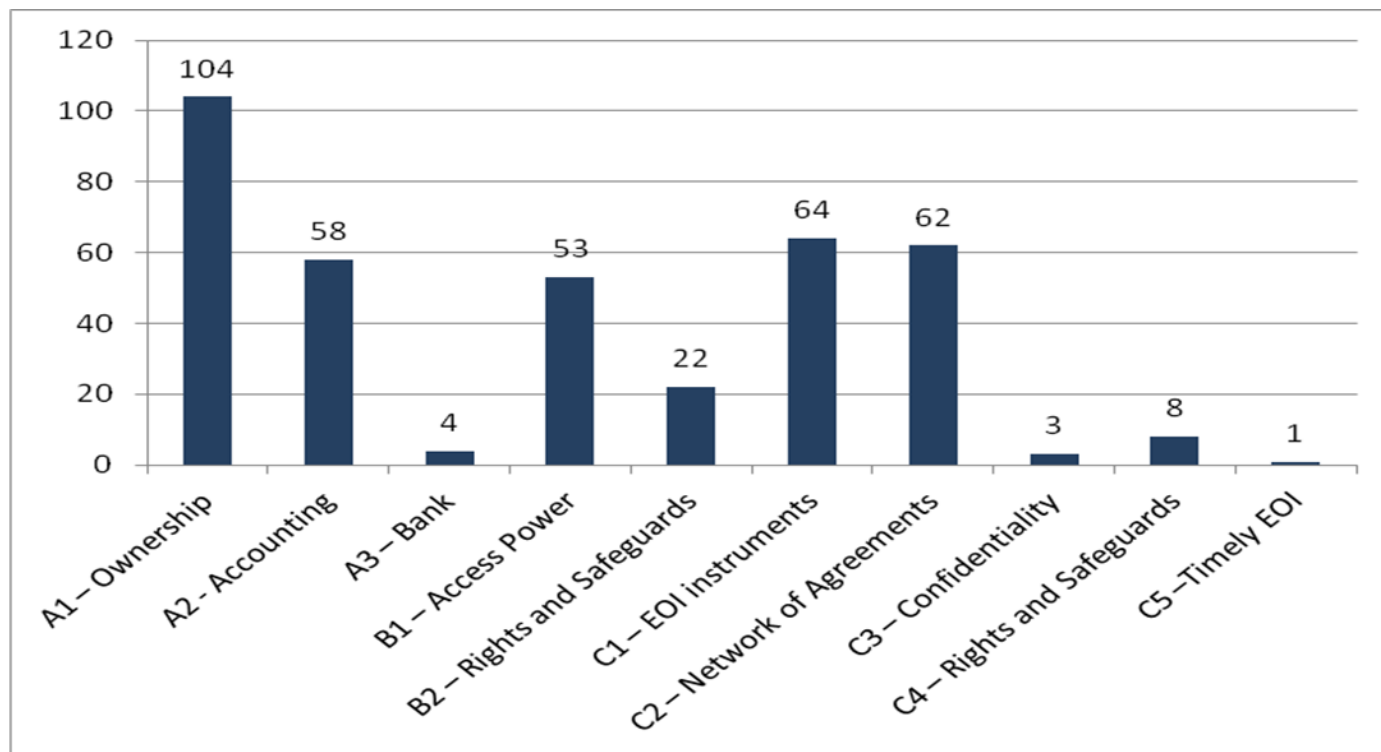
Global Forum Peer Reviews published in 2010 and 2011

- | | | |
|---|--------------------------------|--|
| Andorra 2011, Phase 1 | France 2011, Phases 1 & 2 | Monaco 2010, Phase 1 |
| Anguilla 2011, Phase 1 | Germany 2011, Phases 1 & 2 | Netherlands 2011, Phases 1 & 2 |
| Antigua and Barbuda 2011, Phase 1 | Ghana 2011, Phase 1 | New Zealand 2011, Phases 1 & 2 |
| Aruba 2011, Phase 1 | Gibraltar 2011, Phase 1 | Norway 2011, Phases 1 & 2 |
| Australia 2011, Phases 1 & 2 | Guernsey 2011, Phase 1 | Panama 2010, Phase 1 |
| Austria 2011, Phase 1 | Hong Kong, China 2011, Phase 1 | Philippines 2011, Phase 1 |
| Bahamas 2011, Phase 1 | Hungary 2011, Phase 1 | Qatar 2010, Phase 1 |
| Bahrain 2011, Phase 1 | India 2010, Phase 1 | San Marino 2011, Phase 1 |
| Barbados 2011, Phase 1 | Indonesia 2011, Phase 1 | Saint Kitts and Nevis 2011, Phase 1 |
| Belgium 2011, Phase 1 | Ireland 2011, Phases 1 & 2 | Seychelles 2011, Phase 1 |
| Bermuda 2010, Phase 1 | Italy 2011, Phases 1 & 2 | Singapore 2011, Phase 1 |
| Botswana 2010, Phase 1 | Isle of Man 2011, Phases 1 & 2 | Spain 2011, Phases 1 & 2 |
| British Virgin Islands 2011, Phase 1 | Jamaica 2011, Phase 1 | Switzerland 2011, Phase 1 |
| Brunei 2011, Phase 1 | Japan 2011, Phases 1 & 2 | Trinidad and Tobago 2011, Phase 1 |
| Canada 2011, Phases 1 & 2 | Jersey 2011, Phases 1 & 2 | Turks and Caicos Islands 2011, Phase 1 |
| Cayman Islands 2010, Phase 1 | Liechtenstein 2011, Phase 1 | United Kingdom 2011, Phases 1 & 2 |
| Curaçao 2011, Phase 1 | Luxembourg 2011, Phase 1 | United States 2011, Phases 1 & 2 |
| Denmark 2011, Phases 1 & 2 | Macao, China 2011, Phase 1 | Uruguay 2011, Phase 1 |
| Estonia 2011, Phase 1 | Malaysia 2011, Phase 1 | Vanuatu 2011, Phase 1 |
| Former Yugoslav Republic of Macedonia 2011, Phase 1 | Mauritius 2011, Phases 1 & 2 | |



Recommendations and determinations made in Phase 1 reviews

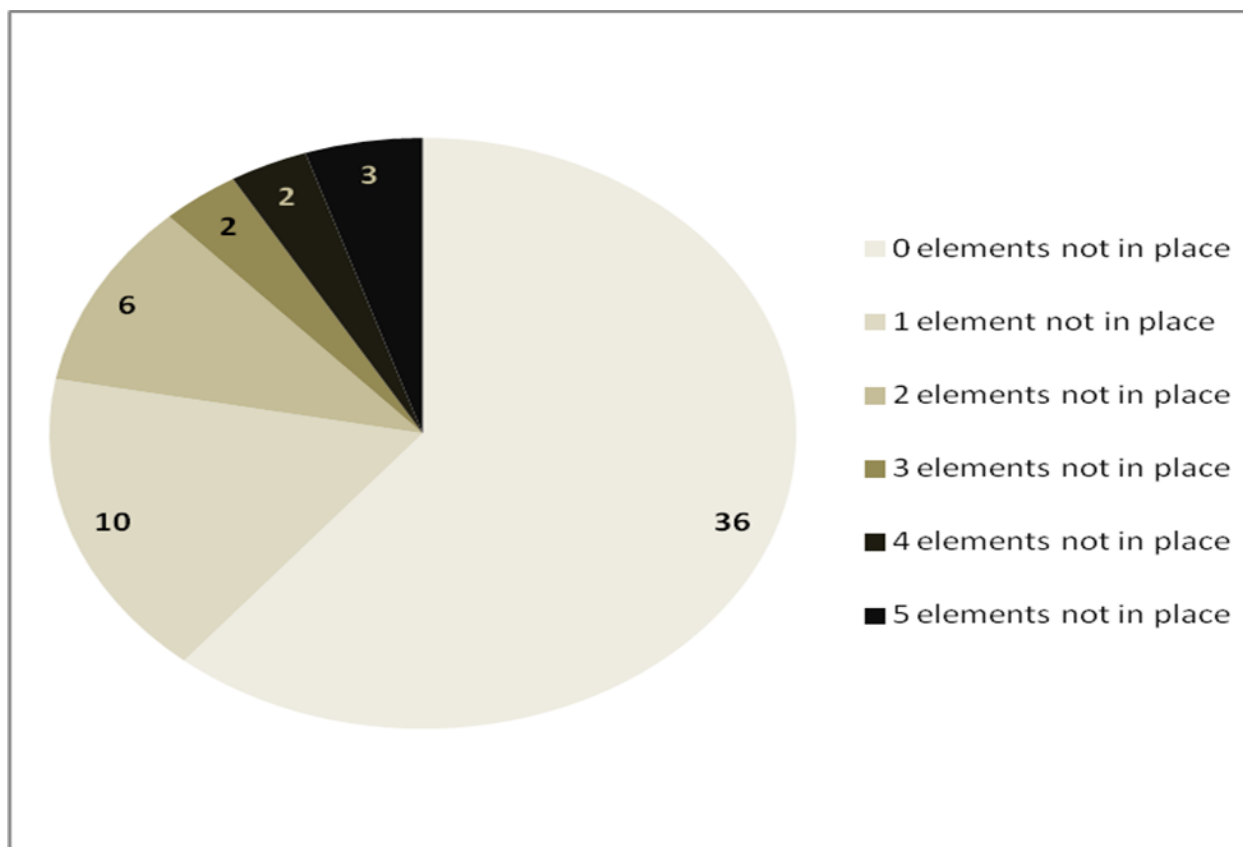
Table 1: Phase 1 recommendations





Recommendations and determinations made in Phase 1 reviews

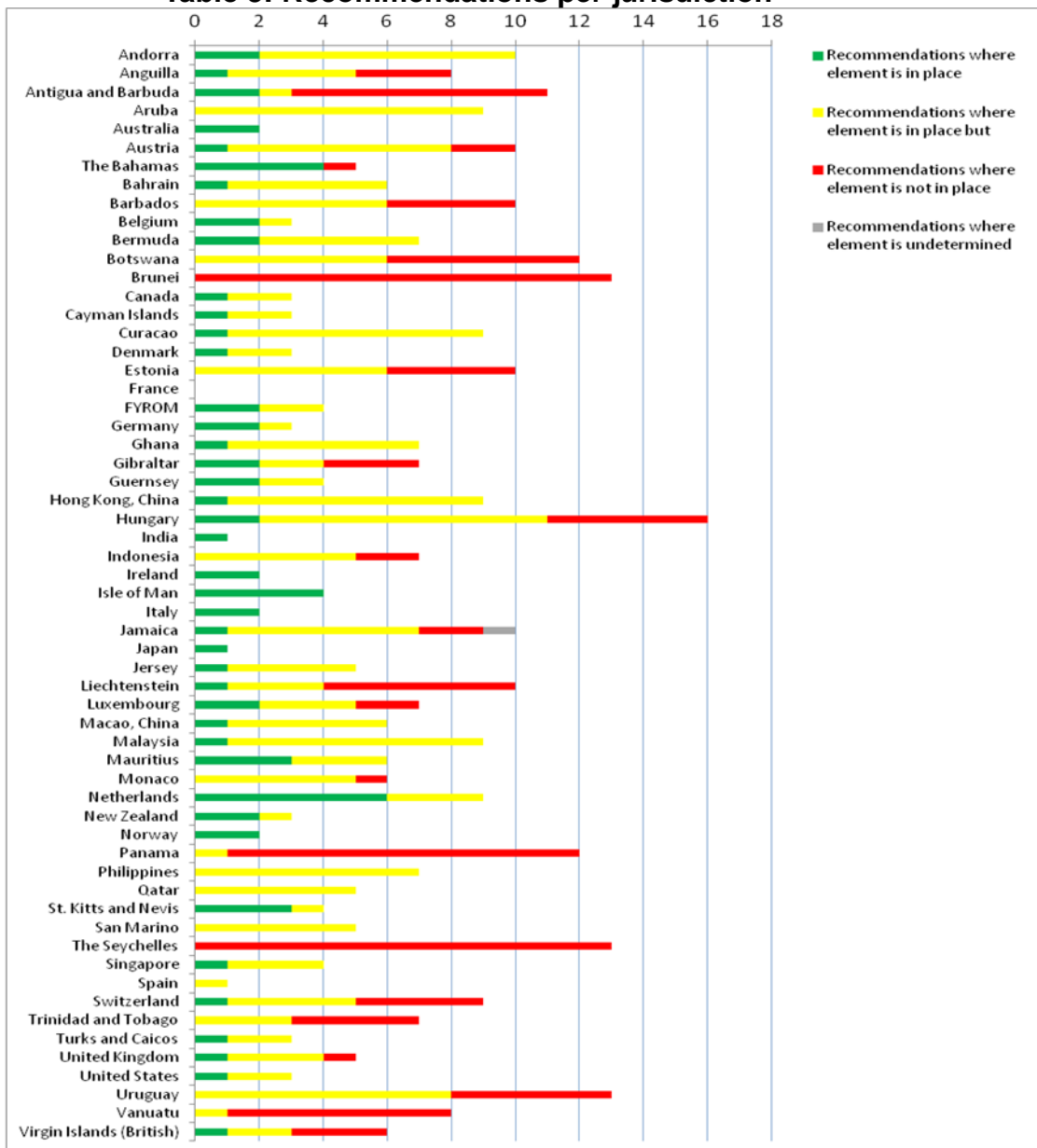
Table 2: Number of jurisdictions with elements not in place





Recommendations and determinations made in Phase 1 reviews

Table 3: Recommendations per jurisdiction





Schedule of peer reviews (2012 to 2014)

2012				2013				2014	
1 st Half		2 nd Half		1 st Half		2 nd Half		1 st Half	
Samoa	Turkey	Belgium	British Virgin Islands	Bahrain, Kingdom of	Malaysia	Anguilla	Andorra	Belize	Czech Republic
Argentina	Portugal	Bermuda	Austria	Estonia	Samoa	Antigua and Barbuda	Botswana	Dominica	Gibraltar
Belize	Finland	Cayman Islands	Hong Kong, China	Jamaica	Slovak Republic	Chile	Ghana	Marshall Islands	Hungary
Dominica	Sweden	Cyprus	India	Philippines	Slovenia	Former Yugoslav Republic of Macedonia	Grenada	Nauru	Curaçao
Israel	Iceland	Guernsey	Liechtenstein	Argentina	U. S. Virgin Islands	Costa Rica	Israel	Niue	Poland
Marshall Islands	Slovenia	Malta	Luxembourg	Turks and Caicos	Vanuatu	Guatemala	Liberia	Saudi Arabia	Sint Maarten
Nauru		Qatar	Monaco	United Arab Emirates	Indonesia	Mexico	Russian Federation	Cook Islands	
Niue		San Marino	Panama	Barbados	Colombia	Montserrat	Saint Kitts and Nevis	Portugal	
Poland	Brazil	Singapore	Switzerland	Brunei	Georgia	Trinidad and Tobago	Saint Lucia	Uruguay	
US Virgin Islands	Seychelles	The Bahamas		Macao, China	Nigeria		St. Vincent and the Gren.	Aruba	
				Kenya			Lebanon		

- Phase 1 review
- Phase 2 review
- Combined reviews



At a glance

GLOBAL FORUM FAST FACTS	
106	Number of Global Forum members
178	Number of reviews scheduled
+80	Number of reviews launched
59	Reviews adopted by the Global Forum
84	Assessors appointed from 42 different member jurisdictions
14	Languages spoken by Global Forum Secretariat staff



Report to the Cannes G20 (November 2011)

- At the G20's request, Global Forum delivered a Progress Report, which is based on 59 completed peer reviews to the Summit in Cannes on 3 November.
- The report shows a high level of co-operation & a good level of compliance, & identifies unresolved deficiencies.
- The G20 communiqué urges countries to tackle the deficiencies identified in the Forum's reviews.
- Since January 2009: Around 750 agreements signed to exchange information according to the standard.



OECD PROGRESS REPORT

A PROGRESS REPORT ON THE JURISDICTIONS SURVEYED BY THE OECD GLOBAL FORUM IN IMPLEMENTING THE INTERNATIONALLY AGREED TAX STANDARD¹

Progress made as at 2 November, 2011 ([Original Progress Report 2nd April 2009](#))

**** 40 JURISDICTIONS HAVE SUBSTANTIALLY IMPLEMENTED THE STANDARDS SINCE 2 APRIL 2009**

Jurisdictions that have substantially implemented the internationally agreed tax standard			
Andorra	Curacao	Japan	St Kitts and Nevis
Anguilla	Cyprus	Jersey	St Lucia
Antigua and Barbuda	Czech Republic	Korea	St Vincent and the Grenadines
Argentina	Denmark	Liberia	Samoa
Aruba	Dominica	Liechtenstein	San Marino
Australia	Estonia	Luxembourg	Seychelles
Austria	Finland	Macau, China	Singapore
The Bahamas	France	Malaysia	Sint Maarten
Bahrain	Germany	Malta	Slovak Republic
Barbados	Gibraltar	Marshall Islands	Slovenia
Belgium	Greece	Mauritius	South Africa
Belize	Grenada	Mexico	Spain
Bermuda	Guernsey	Monaco	Sweden
Brazil	Hong Kong, China	Montserrat	Switzerland
British Virgin Islands	Hungary	Netherlands	Turkey
Brunel	Iceland	New Zealand	Turks and Caicos Islands
Canada	India	Norway	United Arab Emirates
Cayman Islands	Indonesia	Panama	United Kingdom
Chile	Ireland	Philippines	United States
China	Isle of Man	Poland	US Virgin Islands
Cook Islands	Israel	Portugal	Vanuatu
Costa Rica	Italy	Qatar	
		Russian Federation	

Jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented					
Jurisdiction	Year of Commitment	Number of Agreements	Jurisdiction	Year of Commitment	Number of Agreements
Tax Havens⁴					
Nauru	2003	(0)	Niue	2002	(0)
Other Financial Centres					
Guatemala	2009	(0)	Uruguay	2009	(10)

**** CURRENTLY THERE ARE NO JURISDICTIONS IN THE NON-COMMITTED CATEGORY**

Jurisdictions that have not committed to the internationally agreed tax standard			
Jurisdiction	Number of Agreements	Jurisdiction	Number of Agreements
All jurisdictions surveyed by the Global Forum have now committed to the internationally agreed tax standard			



Thank you

Questions???

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