



Update on BEPS Project and Engagement with Developing Countries

The Sixth IMF-Japan High Level Tax Conference
Tokyo, Japan
April 9, 2015



What is BEPS and Why it is a problem?

- BEPS **arises** because under existing rules MNEs can **artificially separate** the allocation of their taxable profits from the jurisdictions in which they arise
- Consequence is **income untaxed** anywhere or taxed at very low rates and significant reduction of the corporate tax revenue in the jurisdictions where MNEs operate
- BEPS is due to the **interaction** of a number of rules (domestic laws, treaties, transfer pricing)
- BEPS distorts **competition** and **investment decisions**. In the current climate, it is an issue of **fairness** of the tax system



Need for a coordinated approach

- As the cause is often interaction of different rules, BEPS is a global issue that requires global solutions
- Unilateral and uncoordinated actions by Governments to tackle BEPS may be ineffective (shift the problem somewhere else) and counterproductive
- OECD/G20 Project designed as a collective international effort to ensure that loopholes are closed and that international tax standards catch up with globalisation



Overview of the work so far

Feb 2013

- **Diagnosis:** “*Addressing Base Erosion and Profit Shifting*”



July 2013

- **15 Actions:** “*Action Plan on Base Erosion and Profit Shifting*”

Sep 2014

- **First Set of Deliverables:** 3 Reports (*Digital Economy, Multilateral Instrument*) and 4 Instruments (*Hybrids, Treaty Abuse, TP Intangibles, TP Documentation and CBC Template*)



Sep 2015

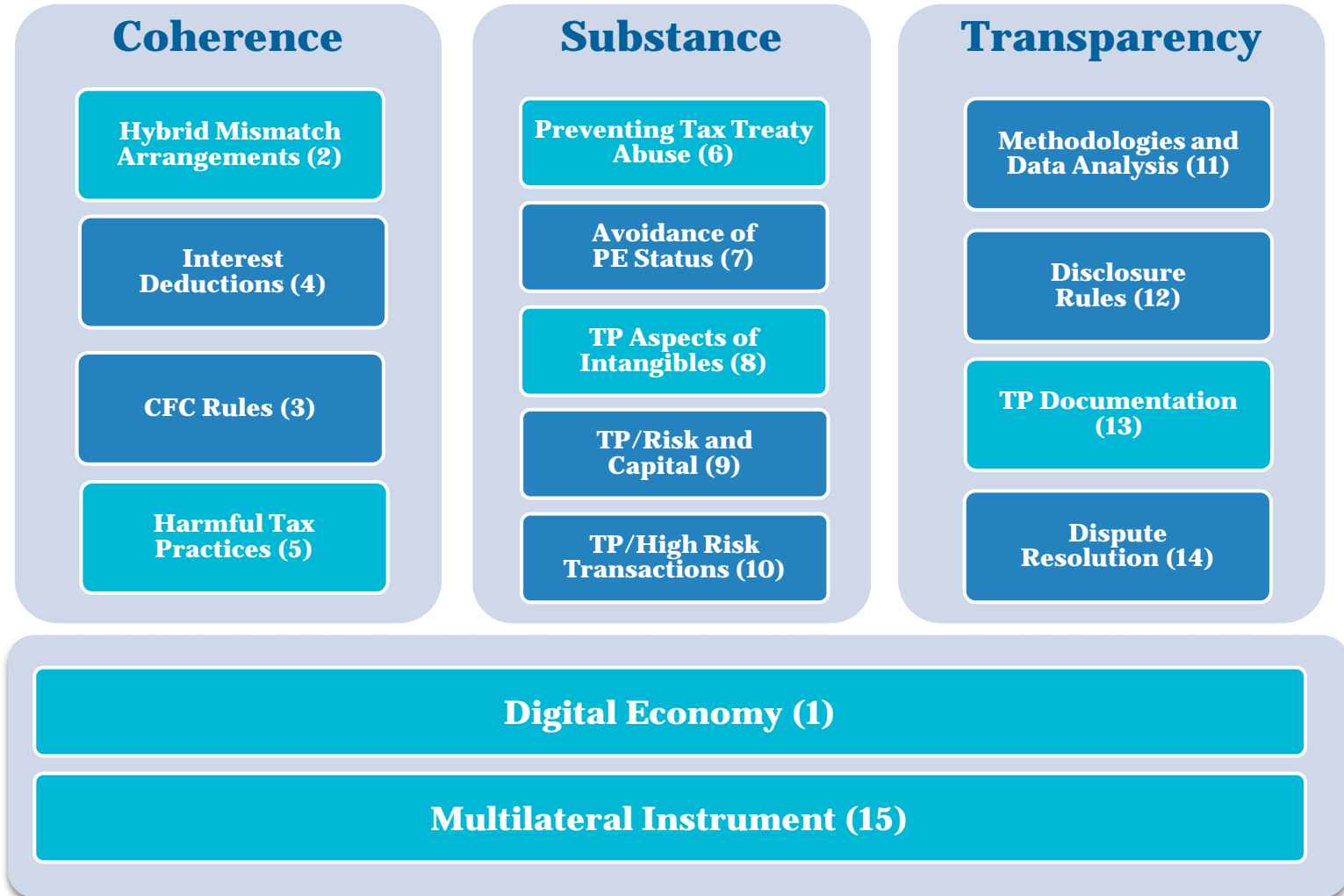
- **Second Set of Deliverables:** Action 3 (*CFC rules*), Action 4 (*Interest*), Action 5 (*HTP*), Action 7 (*PE Avoidance*), Action 8-10 (*TP*), Action 11 (*Economic Analyses*), Action 12 (*MDR*), Action 14 (*MAP*)

October
2015

- **Completion and Final Deliverables:** Completion of BEPS Project and delivery of all supplemental reports to the G20 Finance Ministers



The BEPS Action Plan – 15 Actions





2015 Deliverables – BEPS Action Plan

- Action 3 (CFC rules)
- **Action 4 (Interest deductibility)**
- Action 5 (HTP)
- **Action 7 (PE Avoidance)**
- **Action 8-10 (TP)**
- Action 11 (Economic Analyses)
- Action 12 (Mandatory Disclosure Rules)
- Action 14 (MAP)





ACTION ITEMS OF HIGH RELEVANCE FOR DEVELOPING COUNTRIES



Action 4: Interest Deductibility

- **Discussion draft** released to public 18 December 2014.
- Public consultation 17 February 2015.
- **Final Report to be delivered in October 2015.**
- Proposals address the following issues:
 - Develop recommendations for best practices in **design of rules to prevent base erosion through the use of interest expense.**
 - Rules limiting interest deductibility need to apply to inbound and outbound investment scenarios as well as both related and unrelated party debt.
 - Open issues generally include what is interest and interest equivalents, whether interest deductions should be limited with reference to a **fixed ratio** or **by reference to an entity's group** or a **combined approach**, and considerations for **specific sectors.**



Action 7: Avoidance of PE status

- **Discussion draft** was released on 31 October 2014.
- Public consultation was held on 21 January 2015.
- **Final report to be delivered in October 2015.**
- Discussion draft includes specific proposals for changes to the MTC. Proposals address the following issues
 - artificial avoidance of PE status through commissionaire arrangements (Art. 5(5) and (6) MTC)
 - (artificial) avoidance of PE status through specific activity exemptions (Art. 5(4) MTC) (e.g., preparatory and auxiliary extent of condition).
 - fragmentation of activities between related parties
 - splitting-up of contracts
 - insurance
 - issues related to attribution of profits to PEs and interaction with Action items on transfer pricing



Actions 8 / 9 / 10: Transfer Pricing Issues

- **Discussion drafts** released to public in November and December 2014.
- Public consultation held on 19 – 20 March 2015.
- **Final report** to be delivered in **October 2015**.
- **Technical work focused on the following areas:**
 - Chapter 1 Guidelines (Risk and Recharacterisation, Special Measures)
 - Intangibles
 - Cost Contribution Agreements
 - Transfer Pricing Aspects of Cross-Border Commodity Transactions
 - Use of Profit Splits in the Context of Global Value Chains
 - Low Value Adding Intra-Group Services
- Interactions with other strands of the BEPS work (e.g. Actions 1, 7, 14, 15) and follow up work in relation to TP documentation and CbC Reporting (Action 13).



BEPS PROJECT – ENGAGEMENT WITH DEVELOPING COUNTRIES



New Structured dialogue process

BEPS Project – Engagement with Developing Countries

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graph TD; A[BEPS Project – Engagement with Developing Countries] --- B[1. Direct participation in the Committee on Fiscal Affairs and its subsidiary bodies]; A --- C[2. Regional Networks of tax policy and administration officials]; A --- D[3. Capacity building support];
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1. Direct participation in the Committee on Fiscal Affairs and its subsidiary bodies

2. Regional Networks of tax policy and administration officials

3. Capacity building support



Engagement with Developing Countries

- **Direct Participation in Working Parties and CFA:**
 - 14 countries (Albania, Azerbaijan, Bangladesh, Croatia, Georgia, Jamaica, Kenya, Morocco, Nigeria, Peru, Philippines, Senegal, Tunisia, and Vietnam)
 - 2 Regional Tax Organisations - ATAF and CIAT
- **Regional consultations**
 - Asia-Pacific
 - Latin America
 - Africa
 - Eurasia





Engagement with Developing Countries

- **Global Forum on Transfer Pricing** in April 2015
- **Task Force on Tax & Development special meeting** in April 2015
- **UN** participation in the Committee on Fiscal Affairs (CFA).
- Ad hoc consultations on **toolkits** (in collaboration with IMF, WBG, UN and regional tax organisations).
- **Follow-up BEPS** consultation in Fall 2015.





Input received from RNMs

Key outcomes of the meetings

1. Need to **balance investment opportunities** with domestic resource mobilisation.
2. Need to ensure a **level playing field** between MNEs and domestic businesses.
3. Need to **engage all stakeholders** in looking for solutions to counter BEPS.
4. Importance of **developing capacity** in Partner economies in order to **implement BEPS**.
5. Need to have **access** to better and **useful tools** to implement BEPS measures effectively.
6. **Toolkits** need to be **practical** and effective.
7. Dialogue on BEPS presents a **resource challenge** for many of the countries.





Engagement with Developing Countries

- Next Steps

- Ad hoc consultations on **toolkits** (in collaboration with IMF, WBG, UN and regional tax organisations).
- **Follow-up BEPS regional consultations** in Fall 2015.





Questions and further information



Further information:

<http://www.oecd.org/tax/strategy-deepening-developing-country-engagement.pdf>

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