



#BEPsinUA

**FORUM ON
INTERNATIONAL TAX
CO-OPERATION**

**Discussion panel. IMPLEMENTING THE
BEPS PACKAGE: INTERNATIONAL
EXPERIENCES SO FAR**



OUTLINE

- A. Overview on Inclusive Framework on BEPS
- B. BEPS Minimum Standards - implementation
- C. Other actions of particular relevance to Ukraine - implementation
- D. Support initiatives for implementation



Impact of BEPS

USD 100-240 billion CIT revenue lost to governments annually

The OECD/G20 BEPS package is the solution, offering the opportunity to:

- ✓ *Close loopholes*
- ✓ *Reinforce tax sovereignty*
- ✓ *Increase co-operation*
- ✓ *Realign value creation and the taxation of profits*
- ✓ *Improve domestic resource mobilisation*





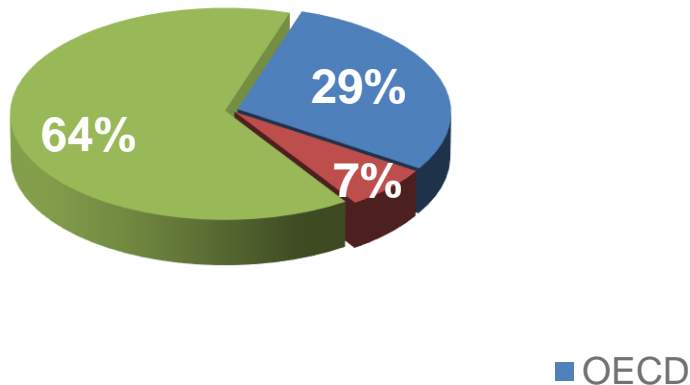
Overview of the BEPS Actions

Coherence	Substance	Transparency	
Action 2 Neutralise the effects of hybrid mismatch arrangements	Action 6 Prevent treaty abuse	Action 11 Data analysis	Action 1 Digital economy
Action 3 Strengthen CFC rules	Action 7 Prevent the artificial avoidance of PE status	Action 12 Mandatory disclosure rules	Action 15 Develop a multilateral instrument
Action 4 Limit interest deductibility	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 5 Counter harmful tax practices		Action 14 Dispute resolution	

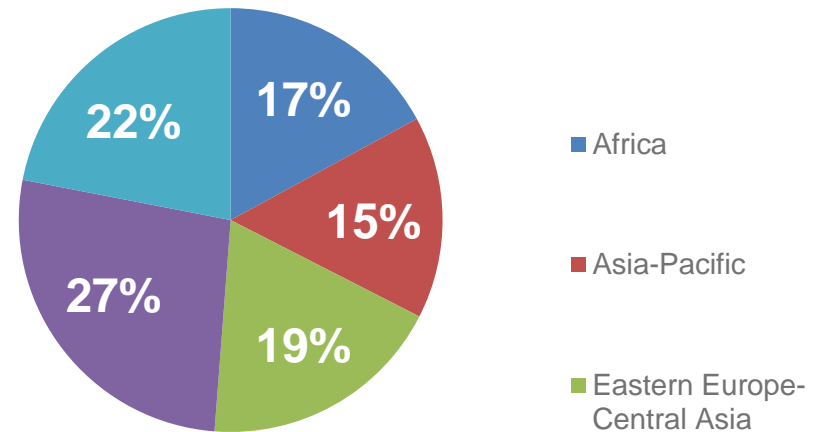


Implementation through Inclusive Framework on BEPS

123 Members of the Inclusive Framework



123 Members of the Inclusive Framework
Regional balance



BEPS MINIMUM STANDARDS - STATUS OF IMPLEMENTATION PER ACTION



The Minimum Standards

- Inclusive Framework Countries to shape the implementation of the **minimum standards** included in the following actions:
 - **Action 5** on Harmful Tax Practices
 - **Action 6** on Treaty Abuse
 - **Action 13** on Country-by-Country Reporting
 - **Action 14** on Dispute Resolution Mechanisms
- **Monitoring/ Peer review process**





Status of Implementation per action

BEPS Actions

Action 5

Counter harmful tax practices

Action 6

Prevent treaty abuse

Action 13

Country-by-country reporting

Action 14

Dispute resolution

Status and first results

- **Preferential tax regimes:**
 - As of today, about **180 preferential regime** has been reviewed by the FHTP in 2017 and 2018. **About 80** are in the process of being eliminated or amended.
- **Transparency framework for rulings:**
 - All **44 OECD and G20 jurisdictions** reviewed for the first time in 2017. In 2018, updates and responses to recommendations made.
 - **New IF members and jurisdictions of relevance** reviewed for the first time in 2018. A first report for those countries has been approved by the FHTP at its October 2018 meeting.
 - **10 developing countries** requested a deferral until 2019.



Status of Implementation per action

BEPS Actions

Action 5

Counter harmful tax practices

Action 6

Prevent treaty abuse

Action 13

Country-by-country reporting

Action 14

Dispute resolution

Status and first results

- The Action 6 minimum standard is implemented through changes to treaties (**preamble** on the purpose of tax treaties + addition of **anti-abuse rules** intended to prevent treaty shopping).
- Countries are taking steps to implement the standard through changes to their tax treaties – the **MLI** permits the rapid, effective and efficient introduction of these changes throughout a jurisdiction's tax treaty network.
- **Peer review:** All members of IF were required to prepare **self-assessment** with respect to all existing tax treaties.
- The **first report** will be presented and discussed at the **January 2019 IF meeting**.



Status of Implementation per action

BEPS Actions

Action 5

Counter harmful tax practices

Action 6

Prevent treaty abuse

Action 13

Country-by-country reporting

Action 14

Dispute resolution

Status and first results

- **Domestic framework:**
 - Over 45 jurisdictions already have primary and / or secondary legislation in place.
 - EU Directive already approved in 2016.
- **Exchange of information network:**
 - 74 signatories of the CbC MCAA, more to come.
 - Activations of bilateral relationships underway.
- **Guidance:**
 - Guidance published in November 2017 on the **implementation of CbC Reporting** and in September 2017 **on the appropriate use** of information contained in CbC Reports.
 - **Handbooks on Effective Implementation and on Effective Tax Risk Assessment** published in September 2017.
 - **CbC Reporting implementation** - update December 2017.
- **Peer review:**
 - First annual peer review carried out from February 2017 to February 2018. **First annual peer review report** approved by the Inclusive Framework in April 2018 and published on May 2018.
 - Second annual peer review launched in April 2018 and expected to be completed in the second quarter of 2019.



Status of Implementation per action

BEPS Actions

Action 5
Counter harmful tax practices

Action 6
Prevent treaty abuse

Action 13
Country-by-country reporting

Action 14
Dispute resolution

Status and first results

1 st batch By December 2016	2 nd batch By April 2017	3 rd batch By August 2017	4 th batch By December 2017	5 th batch By April 2018	6 th batch By August 2018	7 th batch By December 2018	8 th batch By April 2019	9 th batch By August 2019	10 th 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			



Status of Implementation per action

BEPS Actions

Action 5

Counter harmful tax practices

Action 6

Prevent treaty abuse

Action 13

Country-by-country reporting

Action 14

Dispute resolution

Status and first results

- The Action 14 minimum standard is implemented through changes to treaties and to domestic procedures and practices.
- **Peer review process** ongoing.
- **Batches 1- 4 reports:** approved by the IF and published.
- On-going peer input.
- Countries are taking steps to implement the standard through tax treaty changes (for example, using the **MLI**) and changes to domestic procedures.
- Developing countries without significant numbers of MAP cases can **opt for deferral** of peer review.

OTHER BEPS ACTIONS OF PARTICULAR RELEVANCE TO UKRAINE – IMPLEMENTATION STATUS



Status of Implementation per action

BEPS Actions

Action 1

Digital economy

Action 3

CFC rules

Action 4

Interest deductibility

Action 7

Permanent establishment

Status and first results

- **The 2018 Interim Report – Key messages:**
 - Global engagement on the work in the IF..
 - Technically complex questions on **tax jurisdiction** and **profit allocation**.
 - Diverse positions: 3 broad groups of countries.
 - Seek a consensus-based solution.
 - No consensus on the need for, or merit of, **interim measures** and no recommendation for the introduction of such measures.
 - Countries that are in favour of interim measures have agreed a **framework** for the design of any such measures to avoid multitude of different unilateral measures and limit potential adverse side-effects of the measure.



Status of Implementation per action

BEPS Actions

Action 1

Counter harmful tax practices

Action 3

CFC rules

Action 4

Interest deductibility

Action 7

Permanent establishment

Status and first results

- Ongoing survey on implementation.
- CFC rule changes for a number of countries since 2015 (i.e. Argentina, Chile, Japan, Poland, South Africa).
- All 28 EU members have to ensure they have CFC rules consistent with EU Anti Tax Avoidance Directive (ATAD1).



Status of Implementation per action

BEPS Actions

Action 1

Digital economy

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CFC rules

Action 4

Interest deductibility

Action 7

Permanent establishment

Status and first results

- Ongoing survey on implementation.
- A number of countries have already implemented action 4, i.e. Botswana, Germany, Greece, Italy, Portugal, Senegal, Spain, Uganda, the United Kingdom, the United States and Viet Nam.
- All 28 EU members committed to apply rules from 1/1/2019 (deferral to 1/1/2024 if country has rules that are at least as effective as Action 4).
- A number of other countries have plans to introduce Action 4.



Status of Implementation per action

BEPS Actions

Action 1

Digital economy

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CFC rules

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Interest deductibility

Action 7

Permanent establishment

Status and first results

- Recommendations regarding tax treaty definition of Permanent Establishment (PE) will be implemented through Multilateral Instrument (MLI) or bilateral tax treaty negotiations.
- **MLI now covering 84 jurisdictions**
 - 39 adopt new dependent agent PE definition.
 - 50 adopt either option of Special Activities Exemption.
 - 30 adopt specific rules against Splitting up of Contracts.

SUPPORT INITIATIVES FOR IMPLEMENTATION



Support initiatives for Inclusive Framework Members

- **Bespoke Induction Programmes**
- Bilateral capacity building
- Twinning
- Toolkits
- **Tax Inspectors Without Borders (TIWB)**

Induction Programme process

High-level OECD delegation meets with Minister of Finance and staff

Technical workshop for Ministry of Finance senior representatives and Revenue Administration

Roadmap developed and approved by the country and other partners

Action Plan detailing actions needed to implement relevant BEPS measures elaborated and agreed.

Goal:

*Support the timely **implementation of the minimum standards** while keeping pace with peer review mechanisms*



Tax Inspectors Without Borders (TIWB) By the Numbers

- TIWB Secretariat **annual report**: Significant activity in 2017/18 towards meeting its objective to undertake **100 deployments by 2020**.
- TIWB programmes:
 - **34** currently operational
 - **10** completed
 - **22** upcoming including Ukraine
- UNDP **TIWB Roster of experts** established in 2017 to supplement the pool of experts already provided through partnerships with revenue authorities.
- **USD 414 million in additional revenues to date** to date as a result of TIWB assistance and TIWB-style support offered through technical assistance programmes by ATAF, the OECD, and the WBG.
- Increased **South-South co-operation** in TIWB programmes
- Expanding TIWB: **Pilot programme on Tax & Crime**

Questions for panelists

- *What has been done by your country to implement the BEPS Package and has this already had an impact? What remains to be done and which are the lessons learnt?*
- *Did your country have to go through organisational restructuring to supplement legislative amendments? For panelists from the private sector: What are you seeing in the market? Is business also changing how they behave or make arrangements in response to anti-BEPS measures? If so, in what way?*
- *How is your country ensuring an adequate engagement with relevant stakeholders? Should a consultation process be a common practice? For panelists from the private sector: Have you been involved in consultation processes? If so, what was your experience? How should governments balance the need to address BEPS and tax avoidance (to ensure a level playing field) with the potential it creates for additional compliance/ administrative burdens for business?*



OECD

BETTER POLICIES FOR BETTER LIVES

MORE INFORMATION

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