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G20 Research Group  
at Trinity College at the Munk School of Global Affairs  
in the University of Toronto  
presents the

## **2016 G20 Hangzhou Summit Interim Compliance Report**

6 September 2016 to 17 February 2017

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“The University of Toronto ... produced a detailed analysis to the extent of which each G20 country has met its commitments since the last summit ... I think this is important; we come to these summits, we make these commitments, we say we are going to do these things and it is important that there is an organisation that checks up on who has done what.”

— *David Cameron, Prime Minister, United Kingdom, at the 2012 Los Cabos Summit*

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## 15. Tax: Base Erosion and Profit Shifting

“We will continue our support for international tax cooperation to achieve a globally fair and modern international tax system and to foster growth, including advancing on-going cooperation on base erosion and profits shifting (BEPS)”

*G20 Leaders' Communiqué: Hangzhou Summit*

### Assessment

Country	No Compliance	Work in Progress	Full Compliance
Argentina		0	
Australia			+1
Brazil		0	
Canada		0	
China		0	
France			+1
Germany			+1
India		0	
Indonesia		0	
Italy		0	
Japan			+1
Korea			+1
Mexico			+1
Russia			+1
Saudi Arabia		0	
South Africa		0	
Turkey		0	
United Kingdom			+1
United States			+1
European Union			+1
Average		+0.50	

### Background

On 19 July 2013, the Organization for Economic Co-operation and Development (OECD) issued the Action Plan on Base Erosion and Profit Shifting (BEPS). On 6 September 2013, at the St Petersburg summit, the G20 Leaders committed to automatic exchange of information as the new global standard and fully supported the OECD's work. Implementation details of the BEPS Action Plan developed thereafter constitute a BEPS Package with 15 Actions that equip governments with the domestic and international instruments needed to tackle BEPS. Countries now have the tools to ensure that profits are taxed where economic activities generating the profits are performed and where value is created. These tools also give businesses greater certainty by reducing disputes over the application of international tax rules and standardizing compliance requirements.

To expand the coverage of measures to tackle BEPS, the inclusive framework was developed, bringing together over 100 countries and jurisdictions to collaborate on the implementation of the OECD/G20 BEPS Package.<sup>2157</sup>

<sup>2157</sup> About BEPS and the inclusive framework., OECD. Access date: 12 January 2017.  
<http://www.oecd.org/tax/beps/beps-about.htm>.

### **Commitment Features**

This commitment requires G20 members to support international tax cooperation, including on BEPS.

According to the OECD, its members and G20 countries along with developing countries that participated in the development of the BEPS Package are establishing a modern international tax framework under which profits are taxed where economic activity and value creation occur. Work will be carried out to support all countries interested in implementing and applying the rules in a consistent and coherent manner, particularly those for which capacity building is an important issue.<sup>2158</sup> Thus, in order to fully comply with this commitment, G20 members should take measures in two areas:

One: lead by example in implementing OECD recommendations on BEPS embodied in 15 BEPS Actions. BEPS action focus on the following issues:

Action 1 addresses the tax challenges of the digital economy and identifies the main difficulties that the digital economy poses for the application of existing international tax rules.

Action 2 develops model treaty provisions and recommendations regarding the design of domestic rules to neutralise the effects of hybrid instruments and entities (e.g. double non-taxation, double deduction, long-term deferral).

Action 3 sets out recommendations to strengthen the rules for the taxation of controlled foreign corporations (CFC).

Action 4 outlines a common approach based on best practices for preventing base erosion through the use of interest expense, for example through the use of related-party and third-party debt to achieve excessive interest deductions or to finance the production of exempt or deferred income.

Action 5 revamps the work on harmful tax practices with a focus on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for preferential regimes, such as IP regimes.

Action 6 develops model treaty provisions and recommendations regarding the design of domestic rules to prevent treaty abuse.

Action 7 contains changes to the definition of permanent establishment to prevent its artificial circumvention, e.g. via the use of commissionaire structures and the likes.

Actions 8 – 10 contain transfer pricing guidance to assure that transfer pricing outcomes are in line with value creation in relation to intangibles, including hard-to-value ones, to risks and capital, and to other high-risk transactions.

Action 11 establishes methodologies to collect and analyse data on BEPS and the actions to address it, develops recommendations regarding indicators of the scale and economic impact of BEPS and ensure that tools are available to monitor and evaluate the effectiveness and economic impact of the actions taken to address BEPS on an ongoing basis.

Action 12 contains recommendations regarding the design of mandatory disclosure rules for aggressive tax planning schemes, taking into consideration the administrative costs for tax

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<sup>2158</sup> The BEPS Package, OECD. Access date: 12 January 2017. <http://www.oecd.org/tax/beps/beps-about.htm#BEPSPackage>.

administrations and business and drawing on experiences of the increasing number of countries that have such rules.

Action 13 contains revised guidance on transfer pricing documentation, including the template for country-by-country reporting, to enhance transparency while taking into consideration compliance costs.

Action 14 develops solutions to address obstacles that prevent countries from solving treaty-related disputes under MAP, via a minimum standard in this area as well as a number of best practices. It also includes arbitration as an option for willing countries.

Action 15 provides an analysis of the legal issues related to the development of a multilateral instrument to enable countries to streamline the implementation of the BEPS treaty measures, as well as the mandate to carry out that work in 2016. Thus, no actions at national level are expected from G20 members in this particular area.<sup>2159</sup>

Two: Support countries interested in applying anti-BEPS rules. Particular elements of each of the BEPS Actions are described in relevant reports<sup>2160</sup> and summarized in the special Explanatory Statement.<sup>2161</sup> Measures to support countries interested in applying anti-BEPS rules may include: membership in the Inclusive Framework on BEPS;<sup>2162</sup> organizing different events on BEPS issues, for instance regional meetings and seminars, and public consultations; implementing programs aimed at capacity-building and exchange of experience.<sup>2163</sup>

Full compliance requires member's actions in line with both parts of the commitment. Actions in only one area indicate partial compliance

#### Scoring Guidelines

-1	G20 member neither makes progress in implementing domestic reforms consistent with the BEPS Package, nor supports countries interested in applying anti-BEPS rules
0	G20 member either makes progress in implementing domestic reforms consistent with the BEPS Package, or supports countries interested in applying anti-BEPS rules
+1	G20 member makes progress in implementing domestic reforms consistent with the BEPS Package and supports countries interested in applying anti-BEPS rules

#### Argentina: 0

Argentina has partially complied with the commitment on taxes.

On 11 November 2016, the Government of Argentina stated that it was planning to develop its economy in accordance with the BEPS Package.<sup>2164</sup>

On 16 November 2016, Argentina and Switzerland signed in Buenos Aires a joint agreement on automatic exchange of tax information, addressing, inter alia, BEPS issues.<sup>2165</sup>

<sup>2159</sup> BEPS Actions, OECD. Access date: 12 January 2017. <http://www.oecd.org/tax/beps/beps-actions.htm>.

<sup>2160</sup> BEPS Actions, OECD. Access date: 12 January 2017. <http://www.oecd.org/tax/beps/beps-actions.htm>.

<sup>2161</sup> BEPS 2015 Final Reports Executive Summaries, OECD. Access date: 12 January 2017. <http://www.oecd.org/ctp/beps-reports-2015-executive-summaries.pdf>.

<sup>2162</sup> BEPS Inclusive Framework Composition, OECD 31 October 2016. Access date: 12 January 2017. <http://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf>.

<sup>2163</sup> Background Brief: Inclusive Framework for BEPS Implementation. March 2016. URL: <http://www.oecd.org/tax/background-brief-inclusive-framework-for-beps-implementation.pdf>.

<sup>2164</sup> Pese a la fuerte presión impositiva, no habrá una reforma tributaria en 2017, La Nación, 5 November 2016. Access date: 25 December 2016. <http://www.lanacion.com.ar/1953604-pese-a-la-fuerte-presion-impositiva-no-habra-una-reforma-tributaria-en-2017>.

Argentina has made progress in supporting other countries interested in applying anti-BEPS rules, but no facts of implementing domestic reforms consistent with the BEPS Package have been registered. Thus, it receives a score of 0.

*Analyst: Angelina Khudoleeva*

### **Australia: +1**

Australia has fully complied with the commitment on taxes.

Tax Laws Amendment (GST Treatment of Cross-border Transactions) Bill 2015 Draft is to ensure that digital products and other imported services supplied to Australian consumers by foreign entities (offshore intangible supplies to Australian consumers) are subject to goods and services tax (GST) in a similar way to equivalent supplies made by Australian entities.<sup>2166</sup>

According to Deloitte, “no action will be taken regarding Australia’s CFC regime, which is considered to be stronger than OECD standards.”<sup>2167</sup>

Australia had its Thin Capitalisation rules tightened before compliance period.<sup>2168</sup>

While Australia already includes anti-abuse rules in its tax treaties, its government pledged to incorporate relevant OECD’s recommendations into the treaty practice of the state.<sup>2169</sup>

On 1 January 2016, the Multinational Anti-Avoidance Law (MAAL),<sup>2170</sup> which aims to tackle the artificial avoidance of Australian permanent establishments, came into effect.<sup>2171</sup>

In March 2016, the government released the Board of Taxation’s (BoT) final report on the implementation of anti-hybrid rules<sup>2172</sup> and confirmed that it will introduce rules that are broadly in

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<sup>2165</sup> ¡Atención evasores! Se firmó el acuerdo fiscal entre Argentina y Suiza, *elEconomista*, 17 November 2016. Access date: 25 December 2016. <http://www.economistaamerica.com.ar/politica-eAm/noticias/7965029/11/16/Argentina-y-Suiza-firman-un-acuerdo-para-luchar-contr-la-evasion-fiscal.html>.

<sup>2166</sup> Exposure Draft Tax Laws Amendment (GST Treatment of Cross-border Transactions) Bill 2015, Australian Treasury. Access date: 28 December 2016.

<http://www.treasury.gov.au/~media/Treasury/Consultations%20and%20Reviews/Consultations/2015/GST%20treatment%20of%20cross-border%20transactions/Key%20Documents/PDF/Exposure%20draft%20-%20Bill.ashx>.

<sup>2167</sup> BEPS Country Scorecards, Deloitte. Access date: 28 December 2016.

<https://www2.deloitte.com/global/en/pages/tax/articles/beps-country-scorecards.html>.

<sup>2168</sup> OECD report supports Australian Government action on multinational tax avoidance, Treasurer of the Commonwealth of Australia 6 October 2016. Access date: 28 December 2016.

<http://sjm.ministers.treasury.gov.au/media-release/003-2015/>.

<sup>2169</sup> Leading the global fight against tax avoidance, Budget 2016-17. Access date: 28 December 2016.

<http://www.budget.gov.au/2015-16/content/glossy/tax/html/tax-06.htm>.

<sup>2170</sup> Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015, Parliament of Australia. Access date: 28 December 2016.

[http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r5549\\_aspassed/toc\\_pdf/15171b01.pdf;fileType=application per cent2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r5549_aspassed/toc_pdf/15171b01.pdf;fileType=application%20pdf).

<sup>2171</sup> BEPS Country Scorecards, Deloitte. Access date: 28 December 2016.

<https://www2.deloitte.com/global/en/pages/tax/articles/beps-country-scorecards.html>.

<sup>2172</sup> Implementation Of The Oecd Hybrid Mismatch Rules A Report to the Treasurer, Australia Government’s Board of Taxation. Access date: 28 December 2016. <http://taxboard.gov.au/files/2016/05/Implementation-of-the-OECD-hybrid-mismatch-rules.pdf>.

line with the OECD Action 2 approach. The rules will apply to payments made on or after 1 January 2018 or six months after the relevant law is enacted, whichever is later.<sup>2173</sup>

As of December 2016, Australia's transfer pricing legislation is being updated to specifically incorporate the latest OECD recommendations from Actions 8-10 of BEPS from 1 July 2016.<sup>2174</sup>

Australian Treasury has estimated BEPS problem of 4-10 percent of global corporate income tax revenue. According to its media release, further work on methodologies to measure progress is required<sup>2175</sup>

Mandatory Disclosure of Tax Act is passing the stage of consultation in the Australian Government.<sup>2176</sup>

Australia provides all the necessary information on Country-by-Country reporting (CbC) on the official cite of the Australian Taxation Office on the regular basis.<sup>2177</sup>

Australia is committed to binding arbitration<sup>2178</sup>

Along with other 86 countries, Australia is working on instrument to update bilateral treaties with BEPS outcomes.<sup>2179</sup>

In addition, Australia supports countries interested in applying anti-BEPS rules.

On 1 – 3 December 2016, Australian representatives participated in the International Taxation Conference 2016, Mumbai, India, which focused, inter alia, on supporting developing countries in implementing anti-BEPS rules.<sup>2180</sup>

On 7 December 2016, the double-taxation agreement between Germany and Australia entered into force.<sup>2181</sup> Tax agreement between the Federal Republic of Germany and Australia was signed on 12

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<sup>2173</sup> BEPS Country Scorecards, Deloitte. Access date: 28 December 2016.

<https://www2.deloitte.com/global/en/pages/tax/articles/beps-country-scorecards.html>.

<sup>2174</sup> BDO Australia Limited - Implementing a diverted profits tax, The Treasury. Access date: 28 December 2016.

[https://www.treasury.gov.au/~media/Treasury/Consultations per cent20and per cent20Reviews/Consultations/2016/Implementing per cent20a per cent20diverted per cent20profits per cent20tax/Submissions/PDF/BDO.ashx](https://www.treasury.gov.au/~media/Treasury/Consultations%20and%20per%20Reviews/Consultations/2016/Implementing%20a%20diverted%20profits%20per%20tax/Submissions/PDF/BDO.ashx).

<sup>2175</sup> Base erosion & profit shifting (BEPS), RSM. Access date: 28 December 2016.

<http://www.rsm.global/australia/service/tax/base-erosion-profit-shifting-beps>.

<sup>2176</sup> OECD Proposals for Mandatory Disclosure of Tax Information, The Treasury. Access date: 28 December 2016.

[http://www.treasury.gov.au/~media/Treasury/Consultations per cent20and per cent20Reviews/Consultations/2016/OECD per cent20Proposals per cent20for per cent20Mandatory per cent20Disclosure per cent20of per cent20Tax per cent20Information/Key per cent20Documents/PDF/OECD\\_proposals\\_mandatory\\_tax\\_disclosure.ashx](http://www.treasury.gov.au/~media/Treasury/Consultations%20and%20per%20Reviews/Consultations/2016/OECD%20Proposals%20for%20Mandatory%20per%20Disclosure%20of%20Tax%20Information/Key%20Documents/PDF/OECD_proposals_mandatory_tax_disclosure.ashx).

<sup>2177</sup> Country-by-Country reporting and transfer pricing documentation, Australian Taxation Office. Access date: 28 December 2016. <https://www.ato.gov.au/Business/International-tax-for-business/In-detail/Transfer-pricing/Country-by-Country-reporting-and-transfer-pricing-documentation/>.

<sup>2178</sup> OECD report supports Australian Government action on multinational tax avoidance, Treasurer of the Commonwealth of Australia. Access date: 28 December 2016. <http://sjm.ministers.treasury.gov.au/media-release/003-2015/>.

<sup>2179</sup> Base erosion & profit shifting (BEPS), RSM. Access date: 28 December 2016.

<http://www.rsm.global/australia/service/tax/base-erosion-profit-shifting-beps>.

<sup>2180</sup> International Taxation Conference 2016, IBFD. Access date: 28 December 2016.

[http://www.ibfd.org/sites/ibfd.org/files/content/pdf/16\\_015\\_fol\\_ICT\\_final.pdf](http://www.ibfd.org/sites/ibfd.org/files/content/pdf/16_015_fol_ICT_final.pdf) .

November 2016. It includes such issues as the elimination of double taxation and the prevention of tax cuts and evasion.<sup>2182</sup>

On 8-10 February 2017, Tax Institute of Australia will hold 2017 Financial Services Taxation Conference. The program is supposed to include speeches of leading experts and commentators from across the profession. Moreover, BEPS and international tax issues impacting on the financial services industry feature in the program, including sessions considering hybrids, branch attribution and transfer pricing.<sup>2183</sup>

Australia has made efforts aimed at implementing reforms to tackle BEPS domestically and involved other countries in this process. Thus, it receives a score of +1.

*Analyst: Ildar Khalilyulin*

### **Brazil: 0**

Brazil has partially complied with the commitment on taxes.

On 1 October 2016, Normative Ruling (NR) No. 1,658 of the Federal Revenue Service of Brazil took effect. It updates the Brazilian List of Countries with Favored Taxation and Privileged Tax Regimes. These updating results from a review carried out by the Federal Revenue Service in compliance with the institutional duty to update and improve normative acts, and takes into account purely technical and objective criteria. The NR may be considered an initial action by Brazil in the context of tax transparency and substance.<sup>2184</sup>

On 21 October 2016, as part of the ongoing efforts to increase transparency in cross-border developments, Brazil, signed a Multilateral Agreement of Competent Authorities (MACA) for the Common Reporting Standard in Paris (CRS). This Agreement is supported by the Convention on Mutual Assistance in Tax Matters and reinforces the commitment to the implementation of the global standard for the automatic exchange of financial information for tax purposes. It is a significant advance in the BEPS implementation and in international tax cooperation.<sup>2185</sup>

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<sup>2181</sup> Abkommen vom 12. November 2015 zwischen der Bundesrepublik Deutschland und Australien zur Beseitigung der Doppelbesteuerung auf dem Gebiet der Steuern vom Einkommen und vom Vermögen sowie zur Verhinderung der Steuerverkürzung und -umgehung, Federal Ministry of Finance 17 October 2016. Access date: 25 December 2016. [http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales\\_Steuerecht/S\\_ taatenbezogene\\_Informationen/Laender\\_A\\_Z/Australien/2016-10-17-Australien-Abkommen-DBA.html](http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales_Steuerecht/S_ taatenbezogene_Informationen/Laender_A_Z/Australien/2016-10-17-Australien-Abkommen-DBA.html).

<sup>2182</sup> Abkommen vom 12. November 2015 zwischen der Bundesrepublik Deutschland und Australien zur Beseitigung der Doppelbesteuerung auf dem Gebiet der Steuern vom Einkommen und vom Vermögen sowie zur Verhinderung der Steuerverkürzung und -umgehung, Federal Ministry of Finance 12 November 2016. Access date: 25 December 2016 [http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales\\_Steuerecht/S\\_ taatenbezogene\\_Informationen/Laender\\_A\\_Z/Australien/2016-10-17-Australien-Abkommen-DBA.html](http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales_Steuerecht/S_ taatenbezogene_Informationen/Laender_A_Z/Australien/2016-10-17-Australien-Abkommen-DBA.html).

<sup>2183</sup> 2017 Financial Services Taxation Conference, The Tax Institute. Access date: 28 December 2016. <http://www.taxinstitute.com.au/professional-development/key-events/financial-services-taxation-conference/2017-financial-services-taxation-conference>.

<sup>2184</sup> Instrução Normativa atualiza lista do Brasil de países com Tributação Favorecida e de Regimes Fiscais Privilegiados, Secretaria da Receita Federal do Brasil 16 September 2016. Access date: 20 December 2016. <http://idg.receita.fazenda.gov.br/noticias/ascom/2016/setembro/instrucao-normativa-atualiza-lista-do-brasil-de-paises-com-tributacao-favorecida-e-de-regimes-fiscais-privilegiados>.

<sup>2185</sup> Acordo Multilateral entre Autoridades Competentes *sobre o* Intercâmbio Automático de Informações Financeiras (MCAA - CRS), Secretaria da Receita Federal do Brasil 15 November 2016. Access date: 20 December 2016. <http://idg.receita.fazenda.gov.br/aceso-rapido/legislacao/acordos-internacionais/acordos-para-intercambio-de-informacoes-relativas-a-tributos/convencao-multilateral-sobre-assistencia-mutua-administrativa-em-materia-tributaria/acordo-multilateral-entre-autoridades-competentes-sobre-o-intercambio-automatico-de-informacoes-financeiras-mcaa-crs>.



On 21 October 2016, Brazil signed the Multilateral Competent Authority Agreement (MCAA) for the automatic exchange of Country-by-Country (CbC) reports. It includes an annual report through which multinational groups should provide the tax administration of the jurisdiction of residence of their final controller with various information and indicators related to the location of activities, global allocation of income and taxes paid.<sup>2186</sup>

On 4 November 2016, the Federal Revenue Service of Brazil informed about the adoption of Country-by-Country Reporting, a new standard of documentation on global operations to be required from multinational groups by tax administrations.<sup>2187</sup>

Brazil has made progress in implementing domestic reforms consistent with the BEPS Package, but failed to support other countries interested in implementing anti-BEPS rules. Thus, it receives a score of 0.

*Analyst: Sofia Streltsova*

### **Canada: 0**

Canada has partially complied with the commitment on taxes.

On 22 March 2016, Canada's Federal Budget for 2016 was issued. The Budget included measures that would adopt treaty dispute resolution mechanisms (BEPS Action 14), minimum standards on harmful tax practices (BEPS Action 5), preventing treaty abuse (BEPS Action 6), and country-by-country (CbC) reporting (BEPS Action 13). The Budget also discusses application of the transfer pricing provisions found in the BEPS Action 8 through 10 recommendations.<sup>2188</sup>

In April 2016, the Canada revenue Agency issued an Income Tax Information Circular,<sup>2189</sup> Advance Income Tax Rulings and Technical Interpretations<sup>2190</sup> which have new paragraphs dedicated to the exchange of information under BEPS Action 5.<sup>2191</sup>

On 7 September 2016, Minister of National Revenue Diane LeBouthillier emphasized the need of Canada's participation in the Joint International Taskforce on Shared Intelligence and Collaboration (JITSIC) network. The Minister pointed to the necessity of collaboration between Canada's international partners, in order to find and prevent tax avoidance.<sup>2192</sup>

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<sup>2186</sup> The Latest on BEPS – 24 October 2016, E&Y 24 October 2016. Access date: 12 January 2017.

<http://taxinsights.ey.com/archive/archive-news/the-latest-on-beps-24-october-2016.aspx>.

<sup>2187</sup> Consulta Publica RFB Nº 11/2016, Secretaria da Receita Federal do Brasil 4 November 2016. Access date: 20 December 2016. <http://idg.receita.fazenda.gov.br/sobre/consultas-publicas-e-editoriais/consulta-publica/arquivos-e-imagens/consulta-publica-rfb-no-11-2016.pdf>.

<sup>2188</sup> Canada Announces BEPS Measures in 2016 Federal Budget, Thomson Reuters 30 March 2016. Access date: 12 January 2017. <https://tax.thomsonreuters.com/blog/checkpoint/canada-announces-beps-measures-in-2016-federal-budget>

<sup>2189</sup> Current income tax information circulars, Canada Revenue Agency. Access date: 12 January 2017. <http://www.cra-arc.gc.ca/menu/ICSC-e.html>.

<sup>2190</sup> Income tax rulings and interpretations, Canada Revenue Agency. Access date: 12 January 2017. <http://www.cra-arc.gc.ca/tx/txprfssnls/srvcs/menu-eng.html>.

<sup>2191</sup> BEPS Country Scorecards, Deloitte. Access date: 12 January 2017.

<https://www2.deloitte.com/global/en/pages/tax/articles/beps-country-scorecards.html>.

<sup>2192</sup> Government of Canada works with International Partners to Crack Down on Offshore Tax Evasion, Government of Canada 7 September 2016. Access date: 12 January 2017. <http://news.gc.ca/web/article-en.do?crtr.sj1D=&crtr.mnthndVI=12&mthd=advSrch&crtr.dpt1D=450&nid=1121509&crtr.lc1D=&crtr.tp1D=1&crtr.yrStrtVI=2016&crtr.kw=&crtr.dyStrtVI=1&crtr.aud1D=&crtr.mnthStrtVI=1&crtr.page=1&crtr.yrndVI=2016&crtr.dyndVI=31>.

Canada is a member of Inclusive Framework on BEPS Composition, however, no substantial action to support other countries in implementing BEPS standards have been registered during the compliance period.<sup>2193</sup> Thus, it receives a score of 0.

*Analyst: Irina Popova*

### **China: 0**

China has partially complied with the commitment on taxes.

On 29 June 2016, SAT issued a new regulation (Bulletin 42) to replace the rules in Circular 2 (Circular 2 is the tool through which the OECD transfer pricing guidelines are implemented in China) to the extent they relate to transfer pricing compliance (disclosure and documentation). It also includes a CbC reporting form, which shows how China has adopted the requirements of BEPS Action 13 and lays the foundation for the future exchange of CbC information.<sup>2194</sup>

On 10 September 2016, the State Administration of Taxation (SAT) has issued the Administrative Measures on Tax Payment Credit, provided multiple taxation conveniences for selected taxpayers with Class A credit standing, and established the "black list" system, so that the honest taxpayers will proceed without hindrance while the dishonest can't move a single step.<sup>2195</sup>

China has made progress in implementing domestic reforms consistent with the BEPS Package, but no actions to support other countries interested in applying anti-BEPS rules have been registered during the compliance period. Thus, it receives a score of 0.

*Analyst: Kirill Krivosheyev*

### **France: +1**

France has fully complied with the commitment on taxes.

On 22-24 November 2016, the first regional meeting of the Inclusive Framework on BEPS for French-Speaking Countries supported by France was held in Tunis. This regional meeting was an integral element of the Inclusive Framework, enabling all countries and jurisdictions to discuss the implementation of the BEPS package on a regional basis, including the development of practical tools and to feed their perspectives into the global dialogue. The meeting brought together officials from Finance Ministries and Tax Administrations from Asia and Pacific countries, the OECD and other international organisations.<sup>2196</sup>

According to the Transfer Pricing Forum report issued in September 2016, France is among the first countries of the OECD which implemented country-by-country (CbC) reporting norms in its own domestic legislation. The French tax code provides for some specific measures which were effective after 1 January 2016. This measure applies to French resident companies which meet specific requirements, including generation of an annual consolidated turnover of at least EUR750 million

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<sup>2193</sup> INCLUSIVE FRAMEWORK ON BEPS COMPOSITION, OECD 5 January 2017. Access date: 12 January 2017. <http://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf>.

<sup>2194</sup> BEPS Country Scorecards on Base Erosion and Profit Shifting, Deloitte | Audit, Consulting, Financial, Risk Management, Tax Services 31.08.2016. Access date: 08 January 2017. <https://www2.deloitte.com/global/en/pages/tax/articles/beps-country-scorecards.html>.

<sup>2195</sup> Taxation Honesty Promotes Construction of "Credit China", State Administration of Taxation of The People's Republic of China 07 November 2016. Access date: 08 January 2017. <http://www.chinatax.gov.cn/2013/n2925/n2957/c2342441/content.html>.

<sup>2196</sup> Regional Meeting of the Inclusive Framework on BEPS for French speaking countries, OECD 22.11.2016. Access date: 6 December 2016 <http://www.oecd.org/ctp/beps/regional-meeting-for-french-speaking-countries-on-the-inclusive-framework-on-beps.htm>

(VAT excluded).<sup>2197</sup> France is also one of the countries that signed a multilateral competent authority agreement for the automatic exchange of CbC reports.<sup>2198</sup>

According to the KPMG report published on 21 September 2016 “all new tax treaties entered into by France include substance and anti-treaty shopping provisions.”<sup>2199</sup>

On 29 September 2016, the French government approved a decree on the application of CbC reporting. The decree provides insight into the practical application of CbC reporting and introduces into French regulations certain provisions included in the BEPS Action 13.<sup>2200</sup>

France has made progress in implementing domestic reforms consistent with the BEPS Package and supported countries interested in applying anti-BEPS rules. Thus, it receives a score of +1.

*Analysts: Mark Rakhmangulov & Anastasiya Polovko*

### **Germany: +1**

Germany has fully complied with the commitment on taxes.

On 22 September 2016, the federal government together with the Federal Ministry of Finance announced a package of measures for more transparency in shell companies. Federal Minister of Finance Schäuble presented a ten-point action plan against tax fraud, tricky tax avoidance and money laundering.<sup>2201</sup>

On 18 October 2016, Chancellor Angela Merkel and Panama President of Panama Varela Rodriguez agreed to enter into an information sharing agreement to fight against tax evasion, including BEPS.<sup>2202</sup> On 21 November 2016, the agreement was signed.<sup>2203</sup>

On 25 October 2016, German representatives participated in the Council’s meeting of the Ministers of Economy and Finance (ECOFIN). The European Commission made proposals on joint corporate

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<sup>2197</sup> Transfer pricing forum, Bloomberg . Access date: 6 December 2016

<http://www.olswang.com/media/48497320/bloomberg-bna-transfer-pricing-forum-france-september-2016.pdf>

<sup>2198</sup> The Global Tax Reset & BEPS (Base Erosion & Profit Shifting), Deloitte Access date: 7 December 2016

<https://www2.deloitte.com/global/en/pages/tax/topics/base-erosion-profit-shifting.html>

<sup>2199</sup> France - Response to BEPS, KPMG 21.09.2016 Access date: 7 December 2016.

<https://home.kpmg.com/xx/en/home/insights/2015/10/france-response-to-beps.html>

<sup>2200</sup> France: Decree implementing country-by-country reporting, KPMG 10.10.2016. Access date: 7 December 2016

<https://home.kpmg.com/xx/en/home/insights/2016/10/tnf-france-decree-implementing-country-by-country-reporting.html>

<sup>2201</sup> Nationale Massnahmen gegen Steueroasen und Briefkastenfirmen, Federal Ministry of Finance 18 October 2016. Access date: 26 December 2016.

<http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/2016-06-03-Nationale-Massnahmen-gegen-Steueroasen-Briefkastenfirmen.html>.

<sup>2202</sup> Joining forces to tackle tax evasion, Federal Government 18 October 2016. Access date: 25 December 2016.

[https://www.bundesregierung.de/Content/EN/Artikel/2016/10\\_en/2016-10-18-merkel-trifft-varela-panama\\_en.html?nn=709674](https://www.bundesregierung.de/Content/EN/Artikel/2016/10_en/2016-10-18-merkel-trifft-varela-panama_en.html?nn=709674).

<sup>2203</sup> Doppelbesteuerungsabkommen betreffend den Betrieb von Seeschiffen und Luftfahrzeugen im internationalen Verkehr mit Panama am 21. November 2016 in Panama unterzeichnet, Federal Ministry of Finance 18 October 2016. Access date: 26 December 2016.

[http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales\\_Steuern/S taatenbezogene\\_Informationen/Laender\\_A\\_Z/Panama/2016-12-13-Panama-Abkommen-DBA-Luft\\_Schiff.html](http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales_Steuern/S taatenbezogene_Informationen/Laender_A_Z/Panama/2016-12-13-Panama-Abkommen-DBA-Luft_Schiff.html).

tax assessment base and consolidated corporate tax base. German Federal Government approved them.<sup>2204</sup>

On 7 December 2016, the double-taxation agreement between Germany and Australia entered into force.<sup>2205</sup> Tax agreement between the Federal Republic of Germany and Australia was signed on 12 November 2016. It includes such issues as the elimination of double taxation and the prevention of tax cuts and evasion.<sup>2206</sup>

Germany has made progress in implementing domestic reforms consistent with the BEPS Package and in supporting countries interested in applying anti-BEPS rules. Thus, it receives a score of +1.

*Analyst: Elizaveta Nekrasova*

## **India: 0**

India has partially complied with the commitment on taxes.

According to Deloitte, India managed to reach progress in implementation of BEPS Actions 1, 5, 6 and 13.<sup>2207</sup>

India first introduced the General Anti-Avoidance Rules in the domestic tax law in 2012, but they have been deferred to become active from April 2017.<sup>2208</sup>

On 29 February 2016, the Indian government introduced an equalization levy on online advertising revenue earned from India by non-resident e-commerce companies, which became effective on 1 June 2016.<sup>2209</sup>

On 1 April 2016, India introduced a concessional regime for taxation of royalty income from patents at 10 per cent gross income.<sup>2210</sup>

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<sup>2204</sup> Rückblick auf die Sitzungen der Eurogruppe und des ECOFIN-Rates am 7. und 8. November 2016 in Brüssel, Federal Ministry of Finance 21 November 2016. Access date: 25 December 2016.

<https://www.bundesfinanzministerium.de/Content/DE/Monatsberichte/2016/11/Inhalte/Kapitel-4-Wirtschafts-und-Finanzlage/4-6-europaeische-wirtschafts-und-finanzpolitik.html?nn=14404&view=pdf>.

<sup>2205</sup> Abkommen vom 12. November 2015 zwischen der Bundesrepublik Deutschland und Australien zur Beseitigung der Doppelbesteuerung auf dem Gebiet der Steuern vom Einkommen und vom Vermögen sowie zur Verhinderung der Steuerverkürzung und -umgehung, Federal Ministry of Finance 17 October 2016. Access date: 25 December 2016. [http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales\\_Steuerecht/taatenbezogene\\_Informationen/Laender\\_A\\_Z/Australien/2016-10-17-Australien-Abkommen-DBA.html](http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales_Steuerecht/taatenbezogene_Informationen/Laender_A_Z/Australien/2016-10-17-Australien-Abkommen-DBA.html).

<sup>2206</sup> Abkommen vom 12. November 2015 zwischen der Bundesrepublik Deutschland und Australien zur Beseitigung der Doppelbesteuerung auf dem Gebiet der Steuern vom Einkommen und vom Vermögen sowie zur Verhinderung der Steuerverkürzung und -umgehung, Federal Ministry of Finance 12 November 2016. Access date: 25 December 2016. [http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales\\_Steuerecht/taatenbezogene\\_Informationen/Laender\\_A\\_Z/Australien/2016-10-17-Australien-Abkommen-DBA.html](http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales_Steuerecht/taatenbezogene_Informationen/Laender_A_Z/Australien/2016-10-17-Australien-Abkommen-DBA.html).

<sup>2207</sup> BEPS Actions implementation by India, Deloitte September 2016. Access date: 16 December 2016. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-india.pdf>

<sup>2208</sup> Final Report on General Anti Avoidance Rules (GAAR) in Income-tax Act, 1961, Ministry of Finance of the Republic of India 02 September 2012. Access date: 27 December 2016. [http://www.finmin.nic.in/reports/report\\_gaar\\_itact1961.pdf](http://www.finmin.nic.in/reports/report_gaar_itact1961.pdf).

<sup>2209</sup> India introduces new equalization levy on online advertising revenue, PWC 06.06.2016. Access date: 27 December 2016. <http://www.pwc.com/us/en/tax-services/publications/insights/assets/pwc-india-introduces-new-equalization-levy-on-online-advertising-revenue.pdf>.

<sup>2210</sup> Finance bill, 2016, Ministry of Finance of the Republic of India 29 January 2016. Access date: 27 December 2016. <http://indiabudget.nic.in/ub2016-17/memo/mem1.pdf>.

On 14 May 2016, the Indian Finance Act 2016 introduced the country-by-country (CbC) reporting requirement in the Indian transfer pricing regulations.<sup>2211</sup>

On 29 October 2016, the amended bilateral tax treaty between Japan and India came into force, with strengthened provisions on exchange of tax information to prevent evasion.<sup>2212</sup>

India has made progress in implementing domestic reforms consistent with the BEPS Package, but no actions to support other countries interested in applying anti-BEPS rules have been registered during the compliance period. Thus, India receives a score of 0.

*Analyst: Evgeny Tsarik*

### **Indonesia: 0**

Indonesia has partially complied with the commitment on taxes.

Action 3 (CFC provisions), Action 4 (Interest deduction – thin capitalization rule based on debt-to-equity approach), Action 6 (Prevent treaty abuse) have been covered by the amendments to the Indonesian tax legislation prior to the compliance period.<sup>2213</sup>

Action 1 (VAT on business to customers digital services), Action 2 (Hybrids), Action 5 (Harmful tax practices), Action 7 (Permanent establishment status), Actions 8-10 (Transfer pricing), Action 11 (Methodology for data collection and analysis), Action 12 (Disclosure of aggressive tax planning), Action 13 (country-by-country (CbC) reporting), Action 14 (Dispute resolution) are yet to be addressed by the Indonesian authorities.<sup>2214</sup>

As regards assistance on the tax issues to the developing countries, Indonesia has demonstrated its willingness to participate in this work through membership in the Inclusive Framework for BEPS Implementation and taking part in its inaugural meeting in the summer of 2016 in Kyoto,<sup>2215</sup> as well as in the ad hoc group negotiating on the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.<sup>2216</sup>

Indonesia has made progress in implementing domestic reforms consistent with the BEPS Package, but no actions to support other countries interested in applying anti-BEPS rules have been registered during the compliance period. Thus, Indonesia receives a score of 0.

*Analyst: Pavel Doronin*

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<sup>2211</sup> The finance act, 2016, Ministry of law and justice of the Republic of India 14.05.2016 Access date: 18 December 2016. <http://taxindiaupdates.in/wp-content/uploads/2016/01/Finance-Act-2016-No.-28-of-2016.pdf>.

<sup>2212</sup> India-Japan amended tax treaty comes into force, The Economic Times 1 November 2016. Access date: 29 November 2016. <http://economictimes.indiatimes.com/news/economy/policy/india-japan-amended-tax-treaty-comes-into-force/articleshow/55188400.cms>.

<sup>2213</sup> BEPS Actions implementation by country – Indonesia (by Deloitte). Access date: 11 December 2016. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-indonesia.pdf>.

<sup>2214</sup> BEPS Actions implementation by country – Indonesia (by Deloitte). Access date: 11 December 2016. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-indonesia.pdf>.

<sup>2215</sup> Developing countries and BEPS, OECD website. Access date: 29 November 2016. <http://www.oecd.org/tax/developing-countries-and-beps.htm>.

<sup>2216</sup> Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. OECD Information Brochure. Access date: 29 November 2016. <http://www.oecd.org/tax/treaties/multilateral-instrument-BEPS-tax-treaty-information-brochure.pdf>.

### **Italy: 0**

Italy has partially complied with the commitment on taxes.

On 1 January 2016, legislation applicable to hybrid mismatch agreements entered into force in Italy. This legislation falls under the category of “best practice” in OECD classification.<sup>2217</sup>

On 4 August 2016, the Italian Tax Authority (ITA) issued Circular n. 35/E, providing extensive clarifications on the Italian Controlled Foreign Companies (CFC) regime. The Circular also summarized the recent changes to the CFC rules introduced by 2015 and 2016 Budget Laws (Law n. 190/20141 and Law n. 208/20152) as well as by Legislative Decree n. 147/2015 (Internationalization Decree3).<sup>2218</sup>

On 22 December 2015, the budget law for 2016 was passed by the Italian Parliament.<sup>2219</sup> The bill amended CFC rules, and also introduced Country-by-country reporting.<sup>2220</sup>

Italy has made progress in implementing domestic reforms in line with the BEPS Package, but no actions to support other countries interested in applying anti-BEPS rules have been registered during the compliance period. Thus, Italy receives a score of 0.

*Analyst: Maria Strelnikova*

### **Japan: +1**

Japan has fully complied with the commitment on taxes.

Action 1 (VAT on business to customers digital services), Action 2 (Hybrids), Action 3 (CFC provisions), Action 4 (Interest deduction), Action 12 (Disclosure of aggressive tax planning, voluntary disclosure), Action 13 (Dispute resolution, Transfer pricing documentation) of the BEPS Action Plan have been covered by the amendments to the Japanese tax legislation prior to the compliance period (Transfer pricing documentation related rules to be promulgated on 1 April 2017 with the start of new financial year).<sup>2221</sup> Action 5 (harmful tax practices) is not applicable to Japan since Japan is considered to have no harmful tax practices.<sup>2222</sup>

Ongoing as of the compliance period are deliberations with respect to Action 6 (Prevent treaty abuse – the Government is currently updating Japan’s tax treaties with various partners), Action 7 (Permanent establishment status – Japan is committed to continue ongoing G20/OECD discussion on the issue), Actions 8 to 10 (Transfer pricing – Japan is committed to continue ongoing

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<sup>2217</sup> BEPS Actions implementation by country (Italy), Deloitte October 2016. Access date: 27 December 2016. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-italy.pdf>.

<sup>2218</sup> Italy issues new guidance on CFC, International Tax Alert 1 September 2016. Access date: 27 December 2016. [http://www.ey.com/Publication/vwLUAssets/Italy\\_issues\\_new\\_guidance\\_on\\_CFC\\_regulations/USD\\_FILE/2016US\\_02679-161US\\_Italy%20issues%20new%20guidance%20on%20CFC%20regulations.pdf](http://www.ey.com/Publication/vwLUAssets/Italy_issues_new_guidance_on_CFC_regulations/USD_FILE/2016US_02679-161US_Italy%20issues%20new%20guidance%20on%20CFC%20regulations.pdf).

<sup>2219</sup> Italy: Corporate tax changes, enacted in 2016 budget law, KPMG 7 January 2016. Access date: 04 January 2017 <https://home.kpmg.com/xx/en/home/insights/2016/01/tnf-italy-corporate-tax-changes-2016-budget-law.html>.

<sup>2220</sup> La legge di stabilità 2016, Gazzetta Ufficiale della Repubblica Italiana 30 December 2015. Access date: 04 January 2017 [http://www.rgs.mef.gov.it/\\_Documenti/VERSIONE-I/Attivit--i/Bilancio\\_di\\_previsione/Legge\\_di\\_stabilit/2016/La\\_legge\\_di\\_stabilitx\\_2016.pdf](http://www.rgs.mef.gov.it/_Documenti/VERSIONE-I/Attivit--i/Bilancio_di_previsione/Legge_di_stabilit/2016/La_legge_di_stabilitx_2016.pdf).

<sup>2221</sup> BEPS Actions implementation by country – Japan (by Deloitte). Access date: 29 November 2016. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-japan.pdf>.

<sup>2222</sup> BEPS Actions implementation by country – Japan (by Deloitte). Access date: 29 November 2016. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-japan.pdf>.

G20/OECD discussion on the issue) and Action 14 (Dispute resolution – Japan is one of the countries committed to binding arbitration).<sup>2223</sup>

On 29 October 2016, the amended bilateral tax treaty between Japan and India came into force, with strengthened provisions on exchange of tax information to prevent evasion.<sup>2224</sup>

Japan has made progress in implementing domestic reforms consistent with the BEPS Package and supported countries interested in applying anti-BEPS rules. Thus, Japan receives a score of +1.

*Analyst: Pavel Doronin*

### **Korea: +1**

Korea has fully complied with the commitment on taxes.

Action 1 (VAT on business to customers digital services – foreign vendors must register with the Korean tax authorities for VAT purposes), Action 3 (CFC provisions), Action 4 (Interest deduction – thin capitalization rules have been strengthened by changing the 3:1 debt-to-equity ratio requirement to 2:1), Action 6 (Prevent treaty abuse – substance-over-form rule used to deny treaty benefits in treaty abuse situations), Action 13 (Transfer pricing documentation, CbC reporting – amendments included in the 2016 tax law), Action 14 (Dispute resolution – Competent Authority process available with treaty partners) have been covered by the amendments to the Korean tax legislation prior to the compliance period<sup>2225</sup> or have been in place prior to the BEPS Action Plan.

Action 2 (Hybrids), Action 5 (Harmful tax practices), Action 7 (Permanent establishment status), Actions 8-10 (Transfer pricing), Action 11 (Methodology for data collection and analysis), Action 12 (Disclosure of aggressive tax planning) are yet to be addressed by the Korean authorities.<sup>2226</sup>

As regards assistance on the tax issues to the developing countries, Korea has demonstrated its commitment to provide this assistance through membership in the Inclusive Framework for BEPS Implementation and taking part in its inaugural meeting in the summer of 2016 in Kyoto,<sup>2227</sup> as well as in the ad hoc group negotiating on the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.<sup>2228</sup>

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<sup>2223</sup> BEPS Actions implementation by country – Japan (by Deloitte). Access date: 29 November 2016. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-japan.pdf>.

<sup>2224</sup> India-Japan amended tax treaty comes into force, The Economic Times 1 November 2016. Access date: 29 November 2016. <http://economictimes.indiatimes.com/news/economy/policy/india-japan-amended-tax-treaty-comes-into-force/articleshow/55188400.cms>.

<sup>2225</sup> BEPS Actions implementation by country – Korea (by Deloitte). Access date: 11 December 2016. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-south-korea.pdf>.

<sup>2226</sup> BEPS Actions implementation by country – Korea (by Deloitte). Access date: 11 December 2016. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-south-korea.pdf>.

<sup>2227</sup> Developing countries and BEPS, OECD website. Access date: 29 November 2016. <http://www.oecd.org/tax/developing-countries-and-beps.htm>.

<sup>2228</sup> Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. OECD Information Brochure. Access date: 29 November 2016. <http://www.oecd.org/tax/treaties/multilateral-instrument-beps-tax-treaty-information-brochure.pdf>.

On 27 September 2016, the tax treaty between Korea and Hong Kong came into force,<sup>2229</sup> having specific clauses on prevention of fiscal evasion.<sup>2230</sup>

Korea has made progress in implementing domestic reforms consistent with the BEPS Package and supported countries interested in applying anti-BEPS rules. Thus, Korea receives a score of +1.

*Analyst: Pavel Doronin*

### **Mexico: +1**

Mexico has fully complied with the commitment on tax.

Mexico participates in the Inclusive Framework on BEPS.<sup>2231</sup>

On 26-30 September 2016, Mexico hosted the event on Transfer Pricing Documentation and Country-by-Country Reporting aimed at discussing the new guidance on transfer pricing documentation and country-by-country reporting as well as the revised guidance on safe harbors in the context of Action 13 of the BEPS Action Plan.<sup>2232</sup>

On 14 October 2016, the US Internal Revenue Service (IRS) announced that US taxpayers seeking unilateral Advanced Pricing Agreements (APAs) with Mexico for their maquiladora operations will not be exposed to double taxation as long as the intercompany pricing is under the framework to which the US and Mexican competent authorities have agreed in advance. The Mexican Tax Authority (SAT) will be notifying eligible maquiladora taxpayers with pending unilateral APAs about an election to apply the “Fast Track” methodology agreed in advance with the IRS, which will produce arm’s-length results.<sup>2233</sup>

On 17 October 2016, Mexican Tax Authorities published proposed regulations regarding the “additional information” that could be requested as part of the new transfer pricing obligations, which require Mexican taxpayers to submit a master file, local file and country-by-country (CbC) report. The proposed regulations were published by the Mexican Tax Ombudsman (Prodecon) as part of a public comment process. The proposed regulations are in line with the legislation enacted on 1 January 2016 that introduced new transfer pricing filings, as well as the new Chapter V of the OECD Transfer Pricing (TP) Guidelines (that incorporated the Base Erosion and Profit Shifting (BEPS) Action 13 recommendations).<sup>2234</sup>

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<sup>2229</sup> Hong Kong, Korea tax treaty enters into force, Multinational Tax & Transfer Pricing News 30 September 2016. Access date: 11 December 2016. <http://mnetax.com/hong-kong-korea-tax-treaty-enters-force-17408>.

<sup>2230</sup> Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Republic of Korea) Order, Hong Kong Legislation Portal 12 December 2014. Access date: 11 December 2016. [http://www.legislation.gov.hk/blis\\_pdf.nsf/6799165D2FEE3FA94825755E0033E532/537A862229D830E648257D7300575C52/USD%20FILE/CAP\\_112CL\\_e\\_b5.pdf](http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/537A862229D830E648257D7300575C52/USD%20FILE/CAP_112CL_e_b5.pdf).

<sup>2231</sup> Inclusive Framework Composition, OECD. Access date: 23 November 2016. <http://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf>.

<sup>2232</sup> Transfer Pricing Documentation And Country-By-Country Reporting. Access date: 23 November 2016. <https://www.oecd.org/ctp/tax-global/mtc-mexico-event-tp-documentation-and-cbc-reporting-september-2016.pdf>.

<sup>2233</sup> The Latest on BEPS - 7 November 2016. Access date: 23 November 2016.

<http://www.ey.com/gl/en/services/tax/international-tax/alert--the-latest-on-beps---7-november-2016>.

<sup>2234</sup> Mexican Tax Authorities issue proposed regulations regarding the master file, local file and CbC report. Access date: 23 November 2016. <http://www.ey.com/gl/en/services/tax/international-tax/alert--mexican-tax-authorities-issue-proposed-regulations-regarding-the-master-file--local-file-and-cbc-report>.



On 25 November 2016, Mexico adopted the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.<sup>2235</sup>

On 28 November 2016, Mexico hosted the seminar “One year post-BEPS: The OECD, EU, USA and Mexico perspectives.” The event was organized by International Fiscal Association (IFA) Mexico, National Autonomous University of Mexico (UNAM) jointly with Amsterdam Centre for Tax Law (ACTL) of the University of Amsterdam, Texas A&M University School of Law. The participants of the seminar discussed anti-BEPS measures implemented by a number of countries of the world as well as EU, US and Mexico measures aimed at implementing BEPS Action Plan.<sup>2236</sup>

Mexico has made progress in implementing domestic reforms consistent with the BEPS Package and supported countries interested in applying anti-BEPS rules. Thus, Mexico receives a score of +1.

*Analyst: Elizaveta Safonkina*

### **Russia: +1**

Russia has fully complied with the commitment on taxes.

According to the Section 11 of the Main Directions for Tax Policy in 2017 and 2018-2019 Period, published by the Russian Ministry of Finance on 30 November 2016, Russia will continue to conclude new agreements on avoidance of double taxation with other countries.<sup>2237</sup>

On 12 December 2016, the Government of Russia signed the Multilateral Competent Authority Agreement on the Exchange of Country-By-Country Reports (CbC MCAA).<sup>2238</sup>

On 1 January 2017, the Agreement between Russia and China on Avoidance of Double Taxation entered into force.<sup>2239</sup>

Russia is a signatory of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and intends to implement first information exchange in September 2018.<sup>2240</sup>

Russia has made progress in implementing domestic reforms consistent with the BEPS Package and supported countries interested in applying anti-BEPS rules. Thus, Russia receives a score of +1.

*Analyst: Mark Rakhmangulov*

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<sup>2235</sup> Countries adopt multilateral convention to close tax treaty loopholes and improve functioning of international tax system. Access date: 25 November 2016. <http://www.oecd.org/tax/countries-adopt-multilateral-convention-to-close-tax-treaty-loopholes-and-improve-functioning-of-international-tax-system.htm>.

<sup>2236</sup> Seminar One year post-BEPS OECD, EU, USA and Mexico perspectives - Mexico City 28 November 2016. Access date: 23 November 2016. <http://actl.uva.nl/news-events/events/content/conferences/2016/11/mexico-city-28-november-2016.html>.

<sup>2237</sup> Main Directions for Tax Policy in 2017 and 2018-2019 Period, Ministry of Finance. [http://minfin.ru/ru/?id\\_65=116206&page\\_id=1&popup=Y&area\\_id=65](http://minfin.ru/ru/?id_65=116206&page_id=1&popup=Y&area_id=65)

<sup>2238</sup> Multilateral Competent Authority Agreement on the Exchange of Country-By-Country Reports, Government of Russia 12 December 2016. <http://government.ru/docs/25626/>

<sup>2239</sup> List of International Agreements on Avoiding Double Taxation between Russia and Other Countries, Ministry of Finance of Russia 30 December 2016.

[http://minfin.ru/ru/performance/tax\\_relations/international/?id\\_57=117045&page\\_id=179&popup=Y&area\\_id=57](http://minfin.ru/ru/performance/tax_relations/international/?id_57=117045&page_id=179&popup=Y&area_id=57)

<sup>2240</sup> Signatories of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and Intended First Information Exchange Date, OECD 2 November 2016.

<http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/MCAA-Signatories.pdf>

### **Saudi Arabia: 0**

Saudi Arabia has partially complied with the commitment on taxes.

In 2016 the Convention on Mutual Administrative Assistance in Tax Matters entered into force for Saudi Arabia. Thus, the country expanded the number of its partners for tax information exchange and other forms of tax cooperation by more than 60 jurisdictions, including offshore financial center jurisdictions with which Saudi Arabia has no tax treaties in force.<sup>2241</sup>

On 31 August 2016, Deloitte reported that there were no changes to the tax laws specifically related to BEPS in Saudi Arabia. However, some anti-avoidance measures already exist in the country, including general anti-avoidance rule (GAAR), thin capitalization rules and concept of transfer pricing.<sup>2242</sup>

On 2 November 2016, Saudi Arabia signed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information.<sup>2243</sup>

On 15 November 2016, the Memorandum of Understanding Regarding the Agreement between the Government of the United States of America and the Government of the Kingdom of Saudi Arabia to Improve International Tax Compliance and to Implement FATCA (US Foreign Account Tax Compliance Act) was signed.<sup>2244</sup>

Saudi Arabia has taken measures to fight tax avoidance at the international level, but no facts of BEPS Actions domestic implementation have been registered. Thus, Saudi Arabia receives a score of 0.

*Analyst: Aydar Shakirov*

### **South Africa: 0**

South Africa has partially complied with the commitment on taxes.

On 28 October 2016, the South Africa Revenue Service (SARS) adopted additional transfer pricing documentation requirements, under Section 29 of the Tax Administration Act, for South African companies with cross-border related-party transactions that exceed ZAR100 million each year in aggregate.<sup>2245</sup>

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<sup>2241</sup> Saudi Arabia to apply Convention on Mutual Administrative Assistance in Tax Matters as of 1 January 2017, EY 13 October 2016. Access Date: 21 December 2016. <http://29952.ey-vx.com/archive/archive-news/saudi-arabia-to-apply-convention-on-mutual-administrative-assistance.aspx>.

<sup>2242</sup> BEPS Country Scorecards. Saudi Arabia, Deloitte 31.08.2016. Access Date: 21 December 2016. <https://www2.deloitte.com/global/en/pages/tax/articles/beps-country-scorecards.html>.

<sup>2243</sup> Saudi Arabia and Uruguay added to the OECD's MCAA signatories list, PWC 10 November 2016. Access Date: 21 December 2016. <http://blogs.pwc.de/citt/2016/11/10/saudi-arabia-uruguay-added-oecd-s-mcaa-signatories-list/>.

<sup>2244</sup> Memorandum Of Understanding Regarding The Agreement Between The Government Of The United States Of America And The Government Of The Kingdom Of Saudi Arabia To Improve. International Tax Compliance And To Implement Fatca, US Department of Treasury 15 November 2016. Access Date: 21 December 2016. <https://www.treasury.gov/resource-center/tax-policy/treaties/Documents/Understanding-SaudiArabia.pdf>.

<sup>2245</sup> South Africa Increases Transfer Pricing Documentation Requirements, Thomson Reuters 11 November 2016. Access date: 12 January 2017. <https://tax.thomsonreuters.com/blog/checkpoint/South-Africa-Increases-Transfer-Pricing-Documents-Requirements>.

On 1 October 2016, a Special Voluntary Disclosure Programme (SVDP) was launched in South Africa. The SVDP was created for individuals and companies who have not in the past disclosed tax and exchange control defaults in relation to offshore assets.<sup>2246</sup>

South Africa is a member of Inclusive Framework on BEPS, however, no substantial action to support other countries in implementing BEPS standards have been registered during the compliance period.<sup>2247</sup> Thus, South Africa receives a score of 0.

*Analyst: Irina Popova*

### **Turkey: 0**

Turkey has partially complied with the commitment on taxes.

On 16 March 2016, Draft Transfer Pricing Communiqué No.3 was issued by Turkish tax authorities, introducing new concepts as “location savings and other local market features,” “assembled workforce” and “group synergies.” These concepts are now have to be taken into account in transfer pricing analysis (Actions 9-10 of BEPS). It also introduced a three-tier documentation approach to transfer pricing recommended by Action 13.<sup>2248</sup>

On 7 September 2016, the Law on Supporting Investments on Project Basis and Amending Certain Laws and Decree Laws (Law No. 6745) entered into force. Among other issues, it introduced a new withholding tax obligation covering e-commerce (Action 1 of BEPS).<sup>2249</sup>

Turkey is a member of Inclusive Framework on BEPS Composition.<sup>2250</sup>

On 16 December 2016, Turkey participated in the first regional meeting of the Inclusive Framework on Base Erosion and Profit Shifting in the region. This meeting gave the participants an opportunity to discuss the developments on the implementation of BEPS. Participants were also provided input to the work on the instruments aimed at meeting the specific needs of developing countries in implementing BEPS measures.<sup>2251</sup>

Turkey has made efforts to implement actions to address BEPS domestically. However, no substantial action to support other countries in implementing BEPS standards have been registered during the compliance period.<sup>2252</sup> Thus, Turkey receives a score of 0.

*Analyst: Irina Popova*

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<sup>2246</sup> Voluntary Disclosure Programme (VDP), South African revenue Service. Access date: 12 January 2017. <http://www.sars.gov.za/Legal/VDP/Pages/default.aspx>.

<sup>2247</sup> Inclusive Framework Composition, OECD. Access date: 23 November 2016. <http://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf>.

<sup>2248</sup> BEPS Actions Implementation by Country: Turkey, Deloitte. Access date: 12 January 2017. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-actions-implementation-turkey.pdf>.

<sup>2249</sup> Turkey to grant new incentives for eligible investments on a project basis, Invest in Turkey 8 September 2016. Access date: 12 January 2017. <http://www.invest.gov.tr/en-US/infocenter/news/Pages/turkey-grants-new-incentives-for-eligible-investments-on-project-basis.aspx>.

<sup>2250</sup> Inclusive Framework Composition, OECD. Access date: 23 November 2016. <http://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf>.

<sup>2251</sup> OECD holds regional meeting of the Inclusive Framework on BEPS for the Eastern Europe and Central Asia region, OECD 16 December 2016, Access date: 12 January 2017. <http://www.oecd.org/ctp/beps/oecd-holds-regional-meeting-of-the-inclusive-framework-on-beps-for-the-eastern-europe-and-central-asia-region.htm>.

<sup>2252</sup> Inclusive Framework Composition, OECD. Access date: 23 November 2016. <http://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf>.

## United Kingdom: +1

United Kingdom has partially complied with the commitment on taxes.

An amendment to the Memorandum of Understanding (MoU), originally signed on 2 April 2013, between the UK Department for International Development and the OECD, was made [date unknown]. The amendment made additional resources of GBP1,000,000. GBP500,000 will go to the OECD's Tax and Development Programme and another GBP500,000 to the Global Forum on Transparency and Exchange of Information for Tax Purposes. The UK continued making payments within the relevant compliance period. In October 2016 and January 2017 a payment of GBP125,000 was made in each month, with half of that amount transferred to the OECD and half transferred to the Global Forum.<sup>2253</sup> The UK is the largest voluntary contributor for financing for technical assistance activities.<sup>2254</sup> The UK has also committed to conduct its first automatic exchange of information in 2017.<sup>2255</sup>

Legislation was enacted in September 2016 to implement G20/OECD rules to prevent hybrid mismatches (Action 2), including imported mismatches and mismatches involving permanent establishments. The rules will enter into force on 1 January 2017.<sup>2256</sup>

On December 2015, the UK Government issued a Policy paper: "Corporation Tax: tax deductibility of corporate interest expense," which regulates spheres under Action 4 of BEPS (dedicated to interest deductions).<sup>2257</sup>

In September 2016, the UK updated its controlled foreign corporations (CFC) law which is categorized as a "best practice by OECD."<sup>2258</sup>

2) No material changes are expected in the following areas of tax policy:

Reinforce CFC rules to make it more difficult for multinational companies based outside the UK to lead profits away from low-tax countries (to level the playing field between those enterprises and UK domestic businesses).<sup>2259</sup>

3) Immediate adoption in case work. The revisions to the OECD transfer pricing guidelines made by the final report on Actions 8-10 "Aligning Transfer Pricing Outcomes with Value Creation" have been enacted into UK law.

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<sup>2253</sup> Supporting Tax transparency in developing countries, Department for International Development. Date of Access: 04 April 2017. <https://devtracker.dfid.gov.uk/projects/GB-1-203564/documents>

<sup>2254</sup> Tax Transparency, 2016, OECD. Date of Access: 04 April 2017. <http://www.oecd.org/tax/transparency/GF-annual-report-2016.pdf>

<sup>2255</sup> Tax Transparency, 2016, OECD. Date of Access: 04 April 2017. <http://www.oecd.org/tax/transparency/GF-annual-report-2016.pdf>

<sup>2256</sup> BEPS Country Scorecards September 2016. Access Date: 15 December 2016.

<https://www2.deloitte.com/global/en/pages/tax/articles/beps-country-scorecards.html>.

<sup>2257</sup> Policy paper: "Corporation Tax: tax deductibility of corporate interest expense", UK Government 5 deember 2016. Access date: 17 January 2016. <https://www.gov.uk/government/publications/corporation-tax-tax-deductibility-of-corporate-interest-expense/corporation-tax-tax-deductibility-of-corporate-interest-expense>

<sup>2258</sup> BEPS Actions implementation by country September 2016. Access Date: 15 December 2016.

<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-action-3-cfcs-implementation-matrix.pdf>.

<sup>2259</sup> United Kingdom - Response to BEPS 21 November 2016. Access Date: 15 December 2016.

<https://home.kpmg.com/xx/en/home/insights/2015/10/united-kingdom-response-to-beps.html>.

United Kingdom makes progress in implementing domestic reforms consistent with the BEPS Package, had supported countries interested in applying anti-BEPS rules through the Global Forum and OECD. Thus, the United Kingdom receives a score of +1.

*Analyst: Irina Popova*

### **United States: +1**

The United States has fully complied with the commitment on taxes.

On 2 November 2016, the US Treasury Department and Internal Revenue Service (IRS) released final regulations (T.D. 9792) on issues arising under subpart F (special category of foreign source unearned income), “which is designed to prevent the deferral of passive or mobile income through the use of controlled foreign corporations (CFCs).”<sup>2260</sup>

On 4 November 2016, the US Treasury Inspector General (TIGA) issued recommendations on the IRS’s handling of transfer pricing issues improvement. The report included full access of Transfer Pricing Practice (TPP) employees to the Specialist Referral System and the Rules of Engagement implementation; adequate transfer pricing providing; comprehensive transfer pricing strategy development that includes outcome-related strategic goals.<sup>2261</sup>

On 7 November 2016, the US government reported that the US and Antigua and Barbuda signed a Model I IGA (Model 1 intergovernmental agreements – a part of Foreign Account Tax Compliance Act, aimed at facilitating domestic reporting and reciprocal automatic exchange of information); also IGAs with Panama and Georgia entered into force.<sup>2262</sup>

On 13 December 2016, the US IRS issued final tax regulations “under sections 6038A and 7701 that require wholly foreign-owned domestic disregarded entities to be treated as a domestic corporations, separate from their owners” with the aim of reporting, record maintenance, and associated compliance requirements.<sup>2263</sup>

On 16 December 2016, the US IRS released final regulations (TD 9803) under section 367 which “eliminate the favorable tax treatment of outbound transfers of foreign goodwill and going concern value.”<sup>2264</sup>

The US has made progress in implementing domestic reforms consistent with the BEPS Package and supports countries interested in applying anti-BEPS rules. Thus, the United States receives a score of +1.

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<sup>2260</sup> New US subpart F tax regulations address foreign partnerships, active rents and royalties exception, Multinational Tax and Transfer Pricing News Centre 11 November 2016. Access date: 28 December 2016. <http://mnetax.com/new-us-subpart-f-tax-regulations-address-foreign-partnerships-active-rents-royalties-exception-18035>.

<sup>2261</sup> US Treasury Inspector General suggests ways to improve IRS transfer pricing exams, Multinational Tax and Transfer Pricing News Centre 4 November 2016. Access date: 28 December 2016. <http://mnetax.com/us-treasury-inspector-general-suggests-ways-improve-irs-transfer-pricing-exams-17968>.

<sup>2262</sup> US FATCA IGAs with Panama, Georgia enter into force; IGA with Antigua and Barbuda signed, Multinational Tax and Transfer Pricing News Centre 7 November 2016. Access date: 28 December 2016. <http://mnetax.com/fatca-iga-panama-georgia-antigua-barbuda-17985>.

<sup>2263</sup> US IRS issues final reporting, record keeping rules for foreign-owned disregarded domestic entities, Multinational Tax and Transfer Pricing News Centre 13 December 2016. Access date: 28 December 2016. <http://mnetax.com/us-irs-issues-final-reporting-record-keeping-rules-foreign-owned-disregarded-domestic-entities-18546>.

<sup>2264</sup> US finalizes regs on outbound transfers of foreign goodwill, Multinational Tax and Transfer Pricing News Centre 21 December 2016. Access date: 28 December 2016. <http://mnetax.com/us-finalizes-regs-outbound-transfers-foreign-goodwill-18705>.

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### **European Union: +1**

The European Union has fully complied with the commitment on taxes.

On 12 July 2016, the European Council Directive 2016/1164 was adopted. The directive sets out rules against tax avoidance practices and ensures that all companies operating in the EU pay their taxes where profits and value are generated. The directive aims to block some of the most dominant forms of base erosion and profit shifting. This legislation allowed Member States to implement the commitments they made under the OECD/G20 Base Erosion and Profit Shifting project.<sup>2265</sup>

On 22 October 2016, the European Commission proposed measures to address a broad range of mismatches, including hybrid permanent establishment mismatches, imported mismatches, hybrid transfers and dual resident mismatches, both within the EU and in relation to third-countries. Like the measures in Anti-Tax Avoidance Directive, the rules in this new proposal are in line with the OECD BEPS approach.<sup>2266</sup>

On 25 October 2016, the Council's meeting of the Ministers of Economy and Finance (ECOFIN) was held. The European Commission made proposals on joint corporate tax assessment base and consolidated corporate tax base.<sup>2267</sup>

On 10 November 2016, the European Commission launched a public consultation on the potential EU action on tax advisers and intermediaries who help their clients shift profits offshore for the purposes of avoiding tax. The Commission wants to get views on how a mandatory disclosure scheme for tax advisers could be put in place. Such rules would oblige intermediaries to give early information on schemes which could be viewed as aggressive or abusive planning for tax purposes and would reflect the goals of the OECD's non-binding guidelines (BEPS Action 12) for the disclosure of aggressive tax planning strategies.<sup>2268</sup>

On 22 November 2016, the European Commission presented the proposal for a new "European Consensus on Development," which determines the EU actions in the area of development cooperation. In particular, it addresses assistance in the areas of tax evasion, tax avoidance and illicit financial flows, as well as the efficiency, effectiveness and fairness of tax systems.<sup>2269</sup>

The EU has made progress in implementing domestic reforms consistent with the BEPS Package and supports countries interested in applying anti-BEPS rules. Thus, it receives a score of +1.

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<sup>2265</sup> Building a fair, competitive and stable corporate tax system for the EU, European Commission 25 October 2016. Access date: 21 December 2016. [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/com\\_2016\\_682\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/com_2016_682_en.pdf).

<sup>2266</sup> Building a fair, competitive and stable corporate tax system for the EU, European Commission 25 October 2016. Access date: 21 December 2016. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0682&qid=1480239071845&from=EN>.

<sup>2267</sup> Rückblick auf die Sitzungen der Eurogruppe und des ECOFIN-Rates am 7. und 8. November 2016 in Brüssel, Federal Ministry of Finance 21 November 2016. Access date: 25 December 2016. <https://www.bundesfinanzministerium.de/Content/DE/Monatsberichte/2016/11/Inhalte/Kapitel-4-Wirtschafts-und-Finanzlage/4-6-europaeische-wirtschafts-und-finanzpolitik.html?nn=14404&view=pdf>.

<sup>2268</sup> Commission gathers views on future rules to deter promoters of aggressive tax planning schemes, European Commission 10 November 2016. Access date: 21 December 2016. [http://europa.eu/rapid/press-release\\_IP-16-3618\\_en.htm](http://europa.eu/rapid/press-release_IP-16-3618_en.htm).

<sup>2269</sup> A proposal for a new European Consensus on development, European Commission 22 November 2016. Access date: 21 December 2016. [http://europa.eu/rapid/press-release\\_MEMO-16-3884\\_en.htm](http://europa.eu/rapid/press-release_MEMO-16-3884_en.htm).