

- In its 2015 recommendations to the G20, the OECD reached a high-level consensus on all 15 Action Items. The Inclusive Framework was announced in February 2016 and there are now over 100 countries and jurisdictions participating in the BEPS project. In November 2016, the text of the Multilateral Instrument was agreed.
- Work remains outstanding on several Action Items and more consensually agreed detail is needed across a broad range of Actions to ensure the proposals are administratively feasible, and implemented consistently.
- BIAC remains committed to engaging constructively and fully with the OECD, G20, and developing countries to help refine the recommendations, develop additional detailed guidance, and to monitor implementation.

1 <i>Digital</i>	<ul style="list-style-type: none"> - Recognition that “Digital Economy” is very broad and does not require separate tax rules is welcome. - However, concerns remain that the final report might be seen to be encouraging unilateral solutions. - Several instances of unilateral “Digital” measures not recommended by the OECD have been observed.
2 <i>Hybrids</i>	<ul style="list-style-type: none"> - Despite the simplicity of the high-level concepts, rules place a significant compliance burden on businesses and tax authorities – especially in determining the position in other countries. Imported mismatch rules and the draft branch mismatch rules are particularly difficult to apply. - Insufficient consideration given to business models in some sectors (e.g. Financial Services).
3 <i>CFCs</i>	<ul style="list-style-type: none"> - Because no common agreement on the purpose of CFC rules, the resultant “best practices” are not coherent. - Current range of options encourage unilateral action.
4 <i>Interest</i>	<ul style="list-style-type: none"> - While the basic recommendation has simplicity and clarity, proposals could still restrict deductions for many non-aggressive taxpayers (e.g., in infrastructure and other long-term investments/project finance). - FS and group ratio rules are disappointing because they suggest options rather than unified approach. <p>Concerned that adoption by countries of different approaches will create confusion, complexity and uncertainty.</p>
5 <i>HTPs</i>	<ul style="list-style-type: none"> - Modified nexus approach theoretically (and appropriately) aligns taxing rights with economic activity, but implementation at a country level showing difficulties in practice (especially inside EU). - May result in unilateral – and divergent – implementation. Additional detailed guidance would be welcome.
6 <i>Treaties</i>	<ul style="list-style-type: none"> - Minimum treaty standards will create a significant compliance burden for taxpayers (especially where both LOB and a PPT rules are adopted) and, as a result, legitimate business structures could be denied treaty benefits. Further development and guidance needed.
7 <i>PEs</i>	<ul style="list-style-type: none"> - Concerned that a wide range of interpretations could be applied to Permanent Establishment thresholds, particularly regarding Dependent Agent PEs. - Concerned that the Profit Attribution guidance is not forthcoming. Further, the draft guidance released for consultation would very be difficult to comply with (or audit). Some tax authorities seeking to apply new criteria in audits in advance of this crucial complementary guidance being finalised.
8-10 <i>TP</i>	<ul style="list-style-type: none"> - Welcome the confirmation that the most appropriate Transfer Pricing method should be used and that recharacterisation will not be required unless conduct differs from contractual arrangements. - Concerned that the final reports still lack detail and/or contain ambiguity and contradictions. A number of areas on TP remain outstanding and we urge for these to be finalised in order to avoid differing interpretations.
11 <i>Data</i>	<ul style="list-style-type: none"> - Welcome the detailed report, and agree existing data is insufficient. BIAC stands ready to help. - Encouraged the OECD is addressing the impact of uncertainty on tax on cross-border trade and investment (FDI) through its Business Survey on Taxation, and urges the results of the survey to be acted upon.
12 <i>Disclosure</i>	<ul style="list-style-type: none"> - Scope for new, different disclosure rules in different countries could lead to increased compliance burden. Additional concern that existing regimes will also be maintained, therefore still greater burden.
13 <i>CBCR/TPD</i>	<ul style="list-style-type: none"> - Serious concerns about implementation of Country by Country Reporting as well as Master and Local Files. - In some cases countries are going beyond the requirements as agreed in the final report.
14 <i>Disputes</i>	<ul style="list-style-type: none"> - Support OECD and G20 efforts to enhance the Mutual Arbitration Procedure and welcomes the commitment of a number of countries to implement binding arbitration to resolve disputes. We are encouraged by the MAP peer review process which is already underway. - Improving dispute resolution is key to the success of the BEPS project. BIAC hopes for further progress in this area, and will constructively engage wherever it can be of assistance.
15 <i>MLI</i>	<ul style="list-style-type: none"> - Welcome the conclusion of the Multilateral Instrument and hope it will enable swift and consistent implementation of some Action Items. - Disappointed that the OECD did not consult with business on the text of the MLI - The MLI has inbuilt flexibility which is necessary but makes it extremely complex.