



- In its 2015 recommendations to the G20, the OECD reached a high-level consensus on all 15 Action Items.
- Several Action Items left work open, however, and more consensually agreed detail is needed across a broad range of Actions to ensure the proposals are administratively feasible, and implemented consistently.
- As it has from the very beginning of the BEPS Project, 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.

<b>1</b> <i>Digital</i>	<ul style="list-style-type: none"><li>- Recognition that “Digital Economy” is very broad and does not require separate tax rules is welcome.</li><li>- However, concerns remain that the final report might be seen to encourage unilateral solutions.</li></ul>
<b>2</b> <i>Hybrids</i>	<ul style="list-style-type: none"><li>- Despite simplicity of high-level concepts, rules place a significant compliance burden on businesses and tax authorities – especially in determining position in other country. Imported mismatch rules a particular issue.</li><li>- Concern that insufficient consideration given to business models in some sectors (e.g., Financial Services and regulatory capital; non-tax commercial use of hybrids).</li></ul>
<b>3</b> <i>CFCs</i>	<ul style="list-style-type: none"><li>- Because no common agreement on purpose of CFC rules, the resultant “best practices” are not coherent.</li><li>- Need further work on whether CFC rules are about active vs. passive; or minimum tax; or competitive tool – otherwise current range of options could encourage unilateral action.</li></ul>
<b>4</b> <i>Interest</i>	<ul style="list-style-type: none"><li>- While 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).</li><li>- Additional work being undertaken on group-wide and FS rules requires urgent finalisation; some countries are already moving forward and seeking to implement the recommendations unilaterally.</li></ul>
<b>5</b> <i>HTPs</i>	<ul style="list-style-type: none"><li>- 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).</li><li>- May result in unilateral – and divergent – implementation. Additional detailed guidance would be welcome.</li></ul>
<b>6</b> <i>Treaties</i>	<ul style="list-style-type: none"><li>- Minimum treaty standards will create a significant compliance burden for taxpayers (especially where both LOB and a PPT rules are adopted).</li><li>- As a result, legitimate business structures could be denied treaty benefits. Further development and guidance needed.</li></ul>
<b>7</b> <i>PEs</i>	<ul style="list-style-type: none"><li>- Improvements made since Discussion Draft regarding Permanent Establishment thresholds, but remain concerned at wide range of interpretations that could be applied, particularly regarding Dependent Agent PEs.</li><li>- Concerned that the profit attribution work was not completed concurrently. Some tax authorities already seeking to apply new criteria in audits in advance of this crucial complementary guidance.</li></ul>
<b>8-10</b> <i>TP</i>	<ul style="list-style-type: none"><li>- 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.</li><li>- Concerned that the final reports still lack detail and/or contain ambiguity and contradictions. Therefore urge further work on TP issues to provide additional guidance to avoid differing interpretations.</li></ul>
<b>11</b> <i>Data</i>	<ul style="list-style-type: none"><li>- Welcome the detailed report, and agree existing data is insufficient. BIAC stands ready to help.</li><li>- BIAC encourages further research on impact of tax on cross-border trade and investment (FDI).</li></ul>
<b>12</b> <i>Disclosure</i>	<ul style="list-style-type: none"><li>- 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.</li></ul>
<b>13</b> <i>CBCR/TPD</i>	<ul style="list-style-type: none"><li>- Serious concerns about implementation of Country by Country Reporting as well as Master and Local Files.</li><li>- In some cases countries are going beyond the requirements of Local and Master Files as agreed in the final report.</li><li>- Further detailed guidance to ensure consistency would be welcome.</li></ul>
<b>14</b> <i>Disputes</i>	<ul style="list-style-type: none"><li>- BIAC supports OECD and G20 efforts to enhance the Mutual Arbitration Procedure and welcome the commitment of 20 countries to implement binding arbitration to resolve disputes.</li><li>- BIAC hopes for quick and significant progress, and will constructively engage wherever it can be of assistance.</li></ul>
<b>15</b> <i>MLI</i>	<ul style="list-style-type: none"><li>- BIAC welcomes the commitment of over 90 countries to participate in the development of the Multilateral Instrument in 2016 and requests that business be consulted at the appropriate points in the process.</li></ul>