



BUSINESSatOECD

THE BUSINESS AND INDUSTRY ADVISORY COMMITTEE

Taxation and Fiscal Affairs Committee

Activity Update

Spring 2017

The following report provides an update of the BIAC Taxation and Fiscal Affairs Committee key activities, tax policy perspectives and future events.

BIAC's Committee on Taxation and Fiscal Affairs (the BIAC Tax Committee) advocates predictable, stable and transparent tax frameworks and tax administrative practices across issues for the elimination of double taxation and of other tax barriers to cross-border trade and investment. The Committee is focused on key international tax areas including tax treaty issues, transfer pricing, indirect tax, tax policy analysis, tax administration, tax policy and development.

As the officially recognized voice of business to the OECD, Business at OECD (BIAC) conveys business perspectives and expertise to policymakers on a broad range of global taxation and fiscal policy issues.



BEPS Implementation

The OECD Base Erosion and Profit Shifting (BEPS) Project has entered the implementation phase whereby governments are applying new guidance and translating the OECD's recommendations into domestic legislation so a major focus of the BIAC Tax Committee remains on consistent implementation across OECD member countries to allow for a fair, transparent and coherent international tax system.

BIAC released its position summary on the final BEPS Project recommendations in January 2017. Many of the concerns identified in this Position Paper are common across the range of BEPS Action Items. We have expressed these concerns to the OECD before, but we feel they are worth repeating as their importance continues to grow, especially as the implementation phase proceeds. To read the full position summary, please click [here](#).

To achieve this goal of consistent BEPS implementation, BIAC has been closely engaged with the following BEPS implementation measures:

Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS

- More than 100 jurisdictions have concluded negotiations on a multilateral instrument (MLI) that will swiftly implement a series of tax treaty measures to update international tax rules and lessen the opportunity for tax avoidance by multinational enterprises. The new instrument will transpose results from the OECD/G20 BEPS Project into more than 2000 tax treaties worldwide.
- The MLI is a multilateral convention that will enable the simultaneous amendment of more than 3,000 existing bilateral conventions for the avoidance of double taxation. BIAC applauds the OECD for the considerable progress made in this regard and looks forward to **the official MLI signing ceremony, to be held on June 7, 2017 in Paris at the Ministerial Council Meetings (MCM)**.

Country-by-Country Reporting Implementation

- BIAC has been supportive of the CbCR initiative since its inception as a High Level Risk Assessment Tool and method to improve transparency to (and between) governments. BIAC recognises the need for tax authorities around the world to have access to data on global activities in order to determine where to focus their own scarce resources, given that appropriate safeguards for the protection of data are in place. Providing tax authorities the data they need plays a vital part in maintaining and (re)building trust in the international tax system. To read BIAC's full statement on CbCR Implementation, please click [here](#).
- The Forum on Tax Administration (FTA) Large Business and International Programme held its annual meeting regarding the implementation of Country by Country Reporting

(CbCR) where BIAC was invited to provide insight into the early lessons and challenges associated with the ongoing implementation of CbCR. BIAC Tax leadership emphasized the importance of confidentiality, uniformity, and consistent implementation necessary to assist taxpayers and tax authorities in the preparation and review of CbC reports.

BEPS Inclusive Framework

- The OECD has established the Inclusive Framework on BEPS, which brings together over 100 countries and jurisdictions, including non- OECD member countries to collaborate on implementation of the BEPS Package. Members of the Inclusive Framework are working towards developing a peer review and monitoring process for the four minimum BEPS standards:
 - Action 5 – Countering Harmful Tax Practices – Transparency Framework
 - Action 6 – Preventing the Granting of Treaty Benefits in Inappropriate Circumstances
 - Action 13 – Country-by-Country Reporting
 - Action 14 - Making Dispute Resolution Mechanisms More Effective
- BIAC Tax Committee representatives joined the OECD and representatives from Finance Ministries and Tax Administrations in Eastern Europe and Central Asia at the Second Regional Meeting of the Inclusive Framework held in April in Tbilisi, Georgia, where they highlighted the importance of tax certainty and shared early experiences of BEPS implementation of regional taxpayers.

Dispute Resolution - Mutual Agreement Procedure (MAP)

- Working towards more efficient and effective dispute resolution for tax matters is an important focus of the BIAC Tax Committee work. The Mutual Agreement Procedure (MAP) peer review and monitoring process under BEPS Action 14 was established with the goal of improving the tax treaty dispute resolution process. The peer review process is conducted in two stages. In the first stage, implementation of the Action 14 minimum standard is evaluated for Inclusive Framework members per a specific schedule of review. Stage 2 focused on monitoring the follow-up recommendations resulting from jurisdictions' Stage 1 reports.
- Beginning in the fall of 2016, the OECD initiated Stage 1 peer reviews for 13 countries with the third batch of countries scheduled to be launched by August 2017. BIAC has been closely involved with the Stage 1 peer review process by soliciting feedback from members and presenting businesses with an opportunity to provide input in the Stage 1 peer reviews on an anonymous basis as the MAP peer review process permits admissions from associations such as BIAC.

OECD BEPS Discussion Drafts – Continued Attention

- The Committee continues to analyze and gather insights from members on critical transfer pricing and permanent establishment issues surrounding the BEPS Action 8-10 Discussion Draft (Revised Guidance on Profit Splits) and the BEPS Action 7 Discussion Draft (Additional Guidance on the Attribution of Profits to Permanent Establishments). The Committee will provide additional commentary to the OECD following the release of updated discussion drafts expected to be released in June 2017.
- In February 2017, BIAC provided comments on the BEPS Action 6 Discussion Draft related to Non-Collective Investment Vehicle (CIV) funds. BIAC welcomes the work undertaken by the OECD to provide clarity around the treaty entitlement of non-CIV funds and believes that the discussion draft represents a valuable start in helping to understand the OECD’s position on tax treaty entitlement of non-CIV funds. To read BIAC’s full comments, please click [here](#).

The Platform for Collaboration on Tax

- The Platform for Collaboration on Tax issued a discussion draft on January 24, 2017 titled “A Toolkit for Addressing Difficulties in Accessing Comparables Data for Transfer Pricing Analyses.” BIAC strongly supports the Platform in its role of coordinating efforts between international organisations on tax matters, and greatly welcomes the work done by the Platform to create a toolkit that will address the difficulties in accessing and effectively utilising comparables data.
- In comments on the discussion draft, Business at OECD stressed the importance of introducing a priority rule to assist taxpayers and tax authorities in interpreting the toolkit in conjunction with other guidelines published by the OECD, United Nations, and local jurisdictions. Business at OECD emphasized the continued importance of the application of the arm’s length principle in Transfer Pricing matters. To read BIAC’s full comments, please click [here](#).

The Common Reporting Standard and Automatic Exchange of Information

- The Business Advisory Group (BAG) on Common Reporting Standard (CRS), coordinated by BIAC, met with the OECD Working Party 10 (WP 10) in March to discuss the CRS and those areas identified by business members for further clarification and development by the OECD. The BAG reiterated BIAC’s strong support to the CRS and industry’s extensive efforts to ensure compliance.
- The BAG reminded the OECD WP10 of the strong need for a “soft landing” whereby early-year audits focus on firms’ compliance processes as a number of uncertainties regarding CRS still remain. Additionally, the BAG agreed to continue work identifying potential “loopholes” to be addressed by the Global Forum in their examination of

participating jurisdictions as well as potential enhancements to the Automatic Exchange of Information (AEOI) portal.

Tax Certainty – Tax and Growth

OECD/G20 Business Survey on Taxation

- In the Fall of 2016, the OECD launched its business survey on tax certainty to support the G20 future tax policy work. The survey and subsequent report to the G20 Finance Ministers is the result of international cooperation on pro-growth tax policies and the work on tax and inclusive growth and tax certainty conducted by the OECD and the International Monetary Fund (IMF).
- The survey provided an opportunity for businesses to share their views and experiences related to tax certainty with Tax administrations and policy makers. Business at OECD played a central role in helping to facilitate the OECD's Business Survey on Taxation by submitting the survey to its members and associated global networks in a continued effort towards increasing tax certainty.
- Results of the survey regarding tax certainty highlighted the important factor that the tax system plays in influencing investment and location decision while stressing the tremendous effect that uncertainty around corporate income tax and value added tax has on these same decisions for survey respondents. The sources of uncertainty included issues related to tax administration, concerns over inconsistent approaches of different tax authorities issues associated with dispute resolution mechanisms, and taxpayer behavior. . For this reason the report recognizes that effective and appropriate measures to enhance tax certainty will differ between countries.
- Additionally, the report stresses that now is the time for tax systems to better promote growth and inclusivity. BIAC Taxation Chair, Will Morris, emphasized this notion at the Annual Consultation of BIAC with OECD Ambassadors in January where he noted the importance of tax certainty as a tool for enabling cross-border trade and investment. Mr. Morris encouraged the OECD and government to ensure BEPS recommendations are implemented consistently, continue the valuable work on tax certainty, and commit to creating a tax environment that supports growth in the long-term by building cooperative compliance approaches.
- The Report also recommends some practical actions, which would support greater tax certainty in OECD and G20 countries (i.e., reducing complexity and improving clarity through improved tax policy design, improving tax dispute prevention and resolution at the domestic and international level, and application of innovative tools to enhance certainty in tax administration) including cooperative compliance programs and advance pricing agreements, as well as simultaneous and joint audits.

Tax and Digital

Tax and the Digital Economy OECD Going Digital Project

- In January 2017 the OECD launched a new a multidisciplinary, horizontal initiative on the digital economy (the Going Digital project) which aims to help policymakers in all relevant policy areas better understand the digital transformation that is taking place across different sectors of the economy and society as a whole.
- The OECD noted in its recent report to the G20 Finance Ministers that “[t]he tax consequences of the digitalization of the economy should be fully explored, and must be addressed in a way that avoids uncoordinated unilateral actions which would not be conducive to growth.”

To facilitate this endeavor and contribute to the OECD horizontal project, the BIAC Tax Committee will organize a digital workshop in July 2017, where business and tax experts in the digital economy will discuss the unique challenges that the digital economy poses for international taxation.

Issues which the Committee intends to focus on at the digital workshop include emerging and rapidly changing business models, value creation, globally-mobile customer bases, and how existing international taxation principles align with the dynamic digital economy.

International VAT/GST Guidelines

OECD Technical Advisory Group on VAT/GST Guidelines

- In February, Business members of the Technical Advisory Group (“TAG”) on VAT/GST Guidelines met with the OECD to focus the role of “platforms” and other “intermediaries” in the collection of VAT/GST in online trade.
- It was concluded in these meetings that further research and analysis is necessary regarding VAT issues related to “digital platforms and intermediaries” and that this work should be carried out by a dedicated Task Team (Platforms Task Team) made up of subject-matter experts from both tax administrations and the business community. Business at OECD looks forward to supporting the OECD on the role of e-commerce platforms and other intermediaries in the collection of VAT/GST through this Task Team on online sales.

4th Annual OECD Global Forum on VAT

- The 4th OECD Global Forum on VAT, which took place on 12-14 April, brought together over 300 government and business experts to explore how VAT/GST policies and their practical application around the world can safeguard VAT revenues and foster economic growth. At the meeting, Karl-Heinz Haydl, BIAC Tax Committee Bureau member and Business Co-Chair of the OECD VAT Technical Advisory Group (TAG) called for continued work founded on the OECD VAT/GST Guidelines, with the aim to foster certainty and a global level playing field on VAT/GST indirect taxation.

International Outreach

For a number of years, the BIAC Tax Committee has reached out beyond OECD member countries to further international understanding and more consistent adoption of international tax rules. This became more important during the BEPS Project, and following the introduction of the Inclusive Framework it has become a critical part of BIAC's mandate. This outreach was extended in recent years to countries such as China, Brazil, and India.

BIAC Meets with China's Ministry of Finance and State Administration of Taxation

- Committee Chair Will Morris, and Vice Chairs Bill Sample, Carol Doran Klein, Yoshiyasu Okada, and Georg Geberth led a BIAC delegation to Beijing in January 2017, and met with high-level delegations from the Ministry of Finance and the State Administration of Taxation's International, and Large Enterprise Administration Departments (MOF, SAT ITD, and SAT LEAD respectively).
- BIAC delegates had the opportunity to discuss China's growth and development objectives and how they can be furthered through effective implementation of the BEPS Project, international cooperation, enhancement of tax certainty, cooperative compliance, and initiatives for collecting and using data.

Committee Leadership

Chair

William Morris, PwC, LLP (United States)

Deputy Chair

Alan McLean (Shell, Netherlands)

Vice Chairs

Dr. Krister Anderson, Intare AB (Sweden)

Ms. Carol Doran Klein, U.S. Council for International Business (United States)

Mr. Georg Geberth, Siemens AG (Germany)

Ms. Karine Uzan-Mercié, Coca-Cola Enterprises, Inc. , (France)

Mr. Yoshiyasu Okada, Zerishi-Houjin PricewaterhouseCoopers (Japan)

Mr. William Sample, Microsoft Corporation (United States)

Extended Bureau

Mr. Karl-Heinz Haydl, PwC GmbH (Germany)

Ms. Henriette Fuchs, Pearl Cohen (Israel)

Mr. Chris Faiferlick, Ernst & Young LLP (United States)

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Upcoming Meetings

5-6 June 2017 - OECD International Tax Conference

Washington D.C.

6-7 June 2017 - OECD Ministerial Council Meeting

Paris

7 June 2017 - MLI Signing Ceremony

Paris

30 June 2017 - International Tax Conference on "Growth and Taxes"

Munich

19 July 2017 - Business at OECD Tax and Digital Workshop

Paris

3 October 2017 - 3rd OECD-Keidanren & 21 PPI International Tax Conference

Tokyo

2 November 2017 - Business at OECD Taxation and Fiscal Policy Committee Meeting

Paris

3 November 2017 - Business at OECD Taxation and Fiscal Policy Bureau Meeting

Paris

2018 (TBC) - Business at OECD/BDI Joint Tax Conference

Berlin



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