

BEPS Actions implementation by country

Action 14 – Dispute resolution

On 5 October 2015, the G20/OECD published 13 final reports and an explanatory statement outlining consensus actions under the base erosion and profit shifting (BEPS) project. The output under each of the BEPS actions is intended to form a complete and cohesive approach covering domestic law recommendations and international principles under the OECD model tax treaty and transfer pricing guidelines.

It is now for governments to digest and introduce the necessary legislation. The table below sets out a summary of the expected implementation and timing of the proposals under Action 14 by territory.

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Country	Notes on implementation	Expected timing	Last reviewed by Deloitte
Argentina	Not yet known.	Not yet known	August 2017
Australia	Australia has included the mutual agreement procedure and mandatory arbitration provisions in its 2015 tax treaty with Germany. Australia has signed the MLI. Australia intends to adopt the mutual agreement procedure recommendations contained in the MLI and is committed to binding arbitration.	Ongoing in bilateral tax treaty negotiations Subject to ratification and entry into force of the MLI (see Action 15)	July 2017
Austria	Austria is one of the countries committed to binding arbitration.	Not yet known	March 2017

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Belgium	Belgium is one of the countries committed to binding arbitration and to close pending cases within 24 months.	Not yet known	May 2017
Brazil	On 21 February 2017, the tax authorities issued NI No. 1,689, which regulates the dispute resolution mechanism applicable to Brazil's tax treaties.	21 February 2017	July 2017
Canada	Canada is one of the countries participating in the BEPS project that are committed to binding arbitration.	Subject to ratification of the MLI (application of the new and/or amended rules as from 1 January 2019 possible)	July 2017
China	<p>Action 14 conclusions present challenges for the Chinese tax system, which contains some ambiguous rules, such as the rules on tax suspension and the relationship between administrative remedies (e.g. the relationship between the mutual agreement procedure (MAP) and administrative review), etc.</p> <p>The SAT plans to take three actions in relation to Action 14:</p> <ul style="list-style-type: none"> • Strengthen the relevant legislation; • Improve accuracy and uniformity in local practice; and • Join the MAP forum to enhance cooperation with other countries. <p>The SAT issued new regulations on advance pricing arrangements in October 2016.</p>	Bulletin 64 applies from the 2016 income tax year, which commenced on 1 December 2016	July 2017
Czech Republic	On 9 March 2017, the Czech Parliament approved the draft EU Council Directive on double taxation dispute resolution mechanisms in the EU.	Not yet known	April 2017
Denmark	Denmark has not yet committed to mandatory arbitration.	Subject to implementation of the multilateral instrument (MLI)	April 2017

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Estonia	Not yet known.	Not yet known	July 2017
Finland	Finland has not yet committed to mandatory arbitration.	Not yet known	May 2017
France	France is one of the countries committed to binding arbitration.	Subject to implementation of the MLI	May 2017
Germany	Germany is one of the countries committed to binding arbitration. Some of Germany's treaties already have binding arbitration clauses. Germany signed the MLI and opted for the mandatory binding arbitration clause with the reservation to replace the two-year period of the MLI with a three-year period.	Subject to ratification of the MLI (application of the new and/or amended rules as from 1 January 2019 possible) and bilateral negotiations	July 2017
Greece	A new article has been included in the Procedural Tax Code to implement the MAP, which is in line with Greece's tax treaties concluded and the EU Arbitration Convention.	28 November 2016	May 2017
Hong Kong	The IRD considers improvements in cross-border tax dispute resolutions to be a high priority and has issued a consultation paper. Bills will be introduced to the legislative council for further review and approval.	Published consultation paper on 26 Oct 2016 Plan to introduce the relevant amendment bill(s) to the Legislative Council in 2017	July 2017
Hungary	Not yet known.	Not yet known	April 2017
Iceland	Not yet known.	Not yet known	June 2017

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India	Not yet known, although government sources have indicated that mandatory and binding arbitration is unlikely to be acceptable to India.	Not yet known	May 2017
Indonesia	Not yet known.	Not yet known	July 2017
Ireland	This is expected to be implemented through the multilateral instrument.	Subject to implementation of the multilateral instrument	March 2017
Israel	Not yet known.	Not yet known	April 2017
Italy	An international tax decree published in September 2015 introduced a new advance ruling procedure for transfer pricing, exit taxes, the migration of tax residence, the attribution of profits or losses to an Italian PE, PE issues arising from an investment in Italy and cross-border payments of dividends, interest or royalties. The ruling procedure is available to companies with cross-border activities and any rulings issued will bind the taxpayer and the tax authorities for five years. In January 2017, the Italian tax authorities issued their first clarification relating to this ruling procedure.	1 January 2016 (new investments ruling available from 12 May 2016)	May 2017
Japan	Japan is one of the countries committed to binding arbitration.	Ongoing	May 2017
Luxembourg	Developments are under way in connection with the MLI to implement tax treaty-related measures to prevent BEPS, although it is not yet known what position will be taken by the Luxembourg tax authorities. The MLI is expected to be signed in June 2017.	Subject to implementation of the MLI	March 2017

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Mexico	Not yet known.		Not yet known	March 2017
Netherlands	The Netherlands is one of the countries committed to binding arbitration and, therefore, includes this in its tax treaty policy.		Subject to implementation of the MLI and bilateral negotiations	May 2017
New Zealand	New Zealand is one of the countries committed to binding arbitration.		Subject to implementation of the multilateral instrument	June 2017
Norway	Norway was one of the countries committed to binding arbitration but has not chosen arbitration in the published MLI position.	N/A		August 2017
Poland	Poland is one of the countries committed to binding arbitration.		Subject to implementation of the MLI	May 2017
Portugal	Portugal is one of the countries committed to binding arbitration. Pursuant to article 23(4) of the MLI, Portugal has chosen to apply article 23(5) that enforces the non-disclosure of information received during arbitration proceedings.		Subject to implementation of the MLI	July 2017
Russia	Not yet known.		Not yet known	July 2017
Saudi Arabia	Not yet known.		Not yet known	May 2017
Singapore	Singapore signed the MLI on 7 June 2017. Singapore has opted for mandatory binding arbitration.		Not yet known, subject to ratification process	August 2017

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Slovakia	Not yet known.	Not yet known	August 2017
Slovenia	Not yet known.	Not yet known	December 2016
South Africa	<p>While South Africa is not one of the countries that is committed to binding arbitration in its bilateral tax treaties, South Africa has tax treaties with most of the countries that have committed, so those treaties may need to be amended to include a specified timeframe for the resolution of disputes.</p> <p>In March 2015, the SARS published guidance on MAP procedures, including an explanation of what MAP entails and how to submit a request.</p>	Not yet known	June 2017
South Korea	A competent authority process is available with treaty partners. It is not yet known whether arbitration will be adopted.	Not yet known	April 2017
Spain	Spain is one of the countries committed to binding arbitration.	Subject to implementation of the MLI	May 2017
Sweden	<p>Sweden has chosen to apply the arbitration procedure (i.e. Part IV) in the MLI.</p> <p>As an EU member state, Sweden will be affected by any EU developments in this area. In May 2017, the EU adopted a directive that introduces an arbitration procedure. Sweden will have to transpose corresponding rules into its domestic law.</p>	See Action 15	July 2017
Switzerland	Switzerland is one of the countries committed to binding arbitration.	Subject to implementation of the multilateral instrument	February 2017

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Turkey	Not yet known.	Subject to implementation of the multilateral instrument	June 2017
United Kingdom	The UK is one of the countries committed to binding arbitration. The UK is included in the first batch of peer reviews.	Subject to implementation of the MLI	May 2017
United States	Action 14 is broadly consistent with the existing US position on dispute resolution. US tax treaties provide for mandatory binding arbitration. Signed tax treaties that would add arbitration provisions to US treaties with Japan, Spain and Switzerland are awaiting Senate consent, with no definite prospects for completion of the process in the foreseeable future. The US is one of the countries committed to binding arbitration.	Not yet known	March 2017



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