

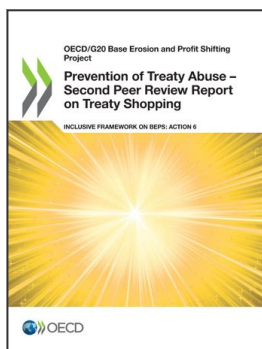
1 Background

Action 6 minimum standard and the terms of reference

1. The minimum standard requires jurisdictions to do two things in their tax treaties: include an express statement on non-taxation (generally in the preamble); and adopt one of three methods of addressing treaty shopping. It does not specify how these two things should be achieved (e.g. through the MLI or bilaterally). The Action 6 Final Report further states that (i) a jurisdiction is required to implement the minimum standard in a treaty only if asked to do so by another member of the Inclusive Framework¹; (ii) the decision on which of the three methods to adopt has to be agreed (a solution cannot be imposed); and (iii) reflecting treaties' bilateral nature, there is no time limit within which a jurisdiction has to attain the minimum standard.
2. In May 2017, the Inclusive Framework agreed the Terms of Reference for the peer review and its methodology and decided that the methodology would be reviewed in 2020.
3. The MLI has proven to be an effective way of implementing the minimum standard. However, a jurisdiction that prefers to implement the minimum standard through a detailed limitation on benefits provision cannot use the MLI to do so.
4. The current peer review process measures jurisdictions' progress in updating their tax treaties to include a new preamble and an approved method of tackling treaty-shopping. The peer review will be reviewed in 2020 in light of the experience in conducting the peer reviews.

Notes

¹ Para. 23, OECD (2015), *Preventing the Granting of Treaty Benefits in Inappropriate Circumstances, Action 6 – 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264241695-en> (the "BEPS Action 6 Report"): "Countries commit to adopt in their bilateral treaties measures that implement the minimum standard described in the preceding paragraph if requested to do so by other countries that have made the same commitment and that will request the inclusion of these measures." The Inclusive Framework of committed jurisdictions had not yet been established.



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