Indonesia and the BRICS: Implementing the BEPS Action Plan[1]

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Abstract

Tax base erosion and profit shifting (BEPS) is a global problem. Finding solutions is a challenge for most countries. The global economic crisis led to a new environment and requirements for doing business. These requirements have been developed by two key international institutions: the Organisation for Economic Co-operation and Development (OECD) and the Group of 20 (G20). This approach has engaged the developed and developing countries that are members of these institutions, as well as a significant number of partner countries. As a result, more than 100 countries have confirmed their commitment to the BEPS Action Plan.

This article assesses the level of implementation of the BEPS Plan in Indonesia and in the BRICS countries of Brazil, Russia, India, China and South Africa. The author monitored their activities for 13 of the 15 actions (excluding Actions 11 and 15) and identifies several best practices that can be used by Russia.

Monitoring considered implemented and planned actions, primarily amendments to and new norms in relevant national legislation, as well as the expected implementation time for all BEPS actions. In addition, the author assessed institutional environments created to implement the provisions of the Action Plan, consultation processes and mechanisms for informing stakeholders.

Analysis shows that approaches to implementing the BEPS Action Plan differ among the six countries. Although several lag behind in terms of their implementation schedule, each country has demonstrated some efforts that can be considered best practices. Russia has succeeded the most in implementing the Action Plan.

Key words: BEPS; Taxation; Profit shifting; Tax avoidance; BRICS; Indonesia; Multinational corporations; Transfer pricing

For citation: Shelepov A. (2017) Indonesia and the BRICS: Implementing the BEPS Action Plan. *International Organisations Research Journal*, vol. 12, no 3, pp. 114–136 (in Russian and English). DOI: 10.17323/1996-7845-2017-03-114

[1] The editorial board received the article in January 2017.

The research was carried out within the framework of the RANEPA research project "Comparative study of BRICS member countries and Indonesia approaches to OECD instruments implementation" (2017).

Introduction. Overview of the BEPS Action Plan Activities and Approaches to Implementation Assessment

Tax base erosion and profit shifting (BEPS) is a global problem posing a challenge for most countries of the world. The global economic crisis stimulated the development of new requirements for doing business by key international institutions. These two factors predetermined the need to combine the efforts of two institutions – the Organisation for Economic Co-operation and Development (OECD) and the Group of 20 (G20) – to find effective solutions to address BEPS. This approach has made possible the engagement of both developed and developing countries through their membership in these institutions, as well as a large number of partner countries. As a result, more than 100 countries have confirmed their commitment to anti-BEPS measures [Shelepov, 2016].

The main outcome document of the OECD/G20 project is the BEPS Action Plan. 15 actions defined within the Plan provide for the implementation of a set of measures that allow member countries to combat tax base erosion and profit shifting. Implementation of these measures requires careful consideration, as hasty and excessive tightening of requirements can lead to negative consequences for business environments in respective countries. Taking into account the voluntary implementation of measures to address BEPS by non-OECD members, including Russia, the experience of countries that are not OECD members but which closely cooperate with the Organisation is of particular interest. Among them, BRICS and Indonesia should especially be considered.

On 5 October 2015, following the results of the work by the G20 and the OECD, 13 final reports and comments were published, reflecting the consensus reached on the BEPS Action Plan. Further actions in each of these areas should form a comprehensive and coordinated approach to addressing the BEPS problem. The 15 actions of the BEPS Plan differ in terms of the coherence of the specific measures aimed at preventing tax base erosion. Actions provide for (in order of descending consensus between countries) the introduction of "minimum standards" to be implemented through changes in relevant national legislation, the development of guidelines on general policy directions ("common approaches") while providing for a certain flexibility at the national level and the identification of "best practices" with recommendations for their implementation at the national level. In some countries participating in the BEPS project the implementation of measures in accordance with identified best practices is not mandatory [Deloitte, 2015b]. In addition, some actions of the BEPS Plan provide for modification of existing OECD approaches previously approved by countries or the creation of new instruments, so that it is not presently required that specific measures are implemented at the national level [Shelepov, 2016].

With the improvement of the BEPS package by the OECD and the growing consensus among participating countries, some "common approaches" have been transformed into "minimum requirements," and "best practices" have become "common

approaches." The various approaches to the implementation of BEPS actions at the country level is illustrated in Table 1.

Table 1. BEPS Actions and Approaches to Their Implementation at the Country Level

BEPS Actions	Category
1. Digital economy	Common approach, characterized by the OECD as an action for further consideration [OECD, 2015c]
2. Hybrid mismatch arrangements	Common approach
3. Controlled foreign companies	Best practice
4. Interest deductions	Common approach
5. Harmful tax practices	Minimum standard
6. Tax treaty abuse	Minimum standard
7. Permanent establishment status	Changes to the OECD Model Tax Convention
8–10. Transfer pricing	Changes to the OECD Transfer Pricing Guidelines
11. Measuring and monitoring BEPS	Does not provide for action at the country level
12. Aggressive tax planning disclosure	Best practice
13. Transfer pricing documentation	Common approach (transfer pricing documentation) and minimum standard (country-by-country reporting)
14. Dispute resolution	Minimum standard
15. Multilateral instrument	Does not provide for action at the country level, except signing the instrument following its development

Source: Elaborated by the author based on [DLA Piper, 2015; Deloitte, 2017b].

Some experts, taking account of the ongoing development of specific proposals for the implementation of BEPS actions, put the same actions into different categories. For example, Deloitte analysts consider the collection of value added tax (VAT) on digital services within Action 1 to be a "common approach" while also describing it as an "action for further work." Action 13 is characterized as a combination of a "minimum standard" and a "common approach" [Deloitte, 2017b].

The main purpose of this article is to assess the level of implementation of the BEPS Plan in the BRICS countries and Indonesia after monitoring their activities, primarily with regard to the adoption of relevant national legislation, as well as the identification of best practices that can be considered by Russian tax authorities. It is important to note the relevance of anti-BEPS proposals for Russia, given the general policy of deoffshorization of the Russian economy. At the same time, according to some experts, "it seems impossible to copy the proposals on BEPS, because there is a number of very specific problems in Russia that need to be addressed. These include, in particular, thin capitalization rules that deal with a fixed ratio, transfer pricing rules with a focus on domestic transactions and vague rules for controlling prices between

non-interdependent entities, the problem of interpreting the provisions of agreements on avoidance of double taxation, double VAT taxation when importing goods through a commissioner, etc." [Milogolov, 2016]. This explains the importance of considering the experience of other states in implementing the provisions of the BEPS Plan, taking into account their national circumstances.

Monitoring is carried out for 13 of the 15 actions, excluding Action 11 which does not involve any country actions, and Action 15 which provides for the development of the OECD Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS, signed by all countries considered except Brazil. Its ratification process is still underway and the final scope of changes in national tax regimes is unclear.

Monitoring considered implemented and planned actions taken by the BRICS countries and Indonesia, primarily amendments to and new norms in relevant national legislation, as well as the expected implementation time, if available, for all BEPS actions. In addition, institutional environments created to implement the provisions of the Action Plan, consultation processes and mechanisms for informing stakeholders were assessed.

Assessment of the implementation level was performed using a three-point scale. A score of −1 indicates no action or little progress. A score of 0 indicates continuing work on the action or the use of approaches different from those recommended by the OECD. A score of +1 means complete or almost complete implementation of national reforms in accordance with OECD recommendations to date or expected full implementation in the near future.

Changes in Legislation and Other Actions Aimed at Implementing the BEPS Plan

Brazil

Despite the fact that Brazil participated in the discussions on the BEPS Project within the framework of G20 and OECD mechanisms, representatives of the country's tax authorities have not publicly announced implementation of any specific measures to combat tax base erosion. Priorities of Brazil's fiscal policy include covering the state budget deficit, as well as weakening tax competition between individual states of the country that introduce tax incentives to attract investment. Some experts believe that fiscal policy measures recently implemented in Brazil have been aimed primarily at addressing these problems, although often their implementation is formally in line with some recommendations of the BEPS Plan [Deloitte, 2017a].

As a result, the Brazilian corporate sector remains poorly informed about combating tax base erosion because of the absence of specific reform plans announced by tax authorities and an increased focus on other national tax system reforms that are not directly related to BEPS issues.

At the same time, some aspects subsequently included in the BEPS Plan's requirements and recommendations had already been reflected in the national legislation of Brazil before the publication of the Plan. This refers primarily to the regulation of controlled foreign companies, limiting interest deductions and harmful tax practices [Deloitte, 2017a]. Thus, Law No. 12973/2014 introduced rules for controlled and affiliated companies in Brazil applicable to directly and indirectly controlled companies. Any investment in a controlled foreign company must be adjusted annually to reflect the change in the investment value that corresponds to profits or losses of the company. In this case, the change in investment must be recognized in proportion to the Brazilian parent's participation in the company's equity. Any adjustment relating to profits earned, calculated according to the local accounting standards of the jurisdiction of the controlled entity, are subject to the Corporate Income Tax (IRPJ) and Social Contribution on Net Profits (CSLL) annually.[2]

Taxpayers will be allowed to consolidate positive and negative adjustments until 2022 if they satisfy certain conditions as defined by the legislation. A company cannot consolidate positive and negative adjustments if it is subject to a tax regime with a nominal income tax rate of less than 20% or it is a resident in a tax heaven (or is controlled directly or indirectly by tax heaven residents). If the taxpayer decides not to consolidate its tax losses, they will only be compensated by the foreign controlled entity with its own future profits. Accumulated losses can be used to compensate for profits without any time limits, provided that disclosure rules are followed. This approach formally implements OECD recommendations on controlled foreign companies and limits the potential negative impact on compliant businesses.

Thin capitalization rules in Brazil ensure that interest paid by a Brazilian entity to a related party (individual or legal entity) resident in a foreign country, but not in a tax haven or a jurisdiction with a privileged tax regime, may be deducted for income tax purposes if the interest expense is considered necessary for the activities of the local entity, and if several quantitative requirements limiting the size of the deduction are met.[3] Such an approach is also balanced in terms of the interests of the state and business.

In accordance with OECD recommendations Brazilian legislation was amended to restrict harmful tax practices. Normative Ruling No. 1658, which entered into force on 15 September 2016, deals with the substantive economic activity of holding companies in jurisdictions from the Brazilian "grey list" of privileged tax regimes. Normative Ruling No. 1634, which entered into force on 9 May 2016, introduced new requirements for disclosing information in the Brazilian corporate taxpayer register (CNPJ). The main requirement relates to identifying the entire chain of owners, as well as their legal representatives, including final beneficiaries, especially in cases involving foreign companies. Normative Ruling No. 1689 of 21 February 2017 contains guidelines on measures related to Action 5 of the BEPS Plan, including an explanation of the need

[2] PWC (2017) "Brazil: Corporate-Group Taxation." Available at: http://taxsummaries.pwc.com/ID/Brazil-Corporate-Group-taxation (accessed 04.07.2017).

[3] Ibid.

for and procedures governing information exchange between tax authorities. The ruling also provides for the use of a dispute settlement mechanism in the framework of Brazil's tax agreements, which is in line with the recommendations of BEPS Action 14 [Deloitte, 2017a].

However, the prospects for further integration of BEPS provisions into national legislation are not yet clear. In July 2015, a draft bill requiring disclosure of information on aggressive tax planning was proposed [Deloitte, 2015a], but it was rejected by the congress in November that year. According to some experts, the rejection of these proposals can be explained by their vague wording, leading to additional uncertainty for the business community about the consequences of implementing anti-BEPS rules.[4] There is no information about further legislative initiatives in this area. The situation is also complicated by the continuing political crisis in Brazil.

As a result, despite the formal participation of Brazil in the development of the BEPS Plan, the scope and the pace of ongoing integration of new standards into national legislation is not clear; this is related to low levels of awareness of the proposed changes within the country and the cautious attitude of business toward them. The Department of Federal Revenue has expressed its support for the BEPS Action Plan, considering some measures as having the potential to improve the national business climate.[5] However, informal sources indicate that Brazilian authorities intend to analyze the consequences of implementing anti-BEPS measures in other countries before taking additional actions at the national level [Deloitte, 2017a].

Thus, only some amendments have been made in Brazilian legislation that are in line with OECD recommendations regarding the BEPS Plan. They include measures provided for in Actions 3 (controlled foreign companies), 4 (interest deduction), 5 (harmful tax practices) and 14 (tax dispute resolution). On some actions, including Actions 2 (hybrid arrangements) and 12 (aggressive tax planning) the adoption of relevant legislation was blocked by the congress. Regarding Actions 8–10 and 13, dealing with transfer pricing and related documentation, Brazilian legislation differs significantly from the OECD recommendations. For Actions 1 (digital economy), 6 (tax treaty abuse) and 7 (permanent establishment status) no information is currently available.

India

Indian authorities fully support legislative changes to fight BEPS proposed by the OECD. According to the representative of the country's main tax authority, the Department of Revenue of the Ministry of Finance, "BEPS is a reality. The report pre-

[4] International Tax Review (2015) "Brazil: Update on the Obligation to Disclose Certain Transactions in Brazil." Available at: http://www.internationaltaxreview.com/Article/3514732/Brazil-Update-on-the-obligation-to-disclose-certain-transactions-in-Brazil.html (accessed 04.07.2017).

[5] Department of Federal Revenue of Brazil (2015) "Informar Operações Atípicas e Relevantes à Administração Tributária: Um Direito do Contribuinte." Available at: http://idg.receita.fazenda.gov.br/sobre/consultas-publicas-e-editoriais/editorial/informar-operacoes-atipicas-e-relevantes-a-administracao-tributaria-um-direito-do-contribuinte (accessed 04.07.2017).

sents a consensus among G20 nations. We will now start examining the report, and see when and how we can start bringing in the measures."[6]

In some cases, even if there are currently no relevant norms in Indian legislation, the country's specialized authorities use the provisions of the BEPS Plan in their practice. At the same time, Indian legislation contains norms that do not fully comply with the recommendations on BEPS. This approach is explained by the need to account for national circumstances.[7] As in many other countries, the Indian tax authorities believe that implementation of the provisions of the BEPS Plan should be aimed at maintaining a balance between combating tax base erosion and supporting business activity.[8]

Integration within the national legislation of India of some provisions that were subsequently included in the BEPS Plan started alongside the growing interest of the OECD and the G20 in BEPS issues. For instance, the Finance Act 2013, a key national document in the financial sphere, provided for the introduction of a general anti-avoidance rule (GAAR) as of 1 April 2015[9] which is in line with Action 6 of the BEPS Plan. However, the implementation of this provision was postponed for two years so that it could be synchronized with other actions [Deloitte, 2017c].

The Finance Act 2016, approved and published in May 2016, provides for rules aimed at combating tax base erosion which were adopted following the publication of the OECD BEPS Action Plan. These rules deal with the taxation of transactions involving digital services (Action 1), introduction of the "patent box" regime (Action 5) and transfer pricing documentation and country-by-country reporting (Action 13) [CBEC, 2016]. When the recommendations were integrated into India's national legislation tax authorities informed stakeholders about the changes, resulting in a relatively high level of business awareness about the BEPS Project in India [Deloitte, 2017c].

As noted above, OECD recommendations in India are often implemented in practice, but not legislated. This refers, for example, to Actions 8–10. However, the country's authorities are expected to make significant changes in transfer pricing regulations on 1 April 2018.[10] According to these new regulations, taxpayers who are parties to a cross-border transaction will in certain cases have to make a so-called secondary adjustment. Secondary adjustments are aimed at reflecting actual allocations of profits between taxpayers and their associated enterprises. The purpose of a secondary adjustment is to eliminate the imbalance between the taxpayer's accounts and actual profits. Excess profits (differences between market prices in a transaction between independent parties and actual profits) shall be considered to be advances made by taxpayers to

[6] "The BEPS Effect: Is India Ready?" *Business Standard* (2015) Available at: http://www.business-standard.com/article/opinion/the-beps-effect-is-india-ready-115101800760_1.html (accessed 04.07.2017).

[7] EY (2016) "OECD BEPS Reports: An Indian Perspective." Available at: http://www.ey.com/IN/en/Newsroom/News-releases/EY-oecd-beps-reports-an-indian-perspective (July 2017).

[8] "The BEPS Effect: Is India Ready?" *Business Standard* (2015) Available at: http://www.business-standard.com/article/opinion/the-beps-effect-is-india-ready-115101800760_1.html (accessed 04.07.2017).

[9] "Finance Act 2013." *Tax India* (2016) Available at: http://www.taxindiaonline.com/RC2/union_budget/finance_act/finance_act_13/ (accessed 04.07.2017).

[10] "India: India Budget Analysis 2017–18." *Mondaq* (2017) Available at: http://www.mondaq.com/india/x/567978/withholding+tax/India+Budget+Analysis+201718 (accessed 04.07.2017).

their associated enterprises if they are not repatriated to India within a prescribed time. Interest on excessive profits are also be payable until obligations to repatriate them are discharged. Although the secondary adjustment is an internationally recognized concept in line with the OECD's transfer pricing guidelines, implementation of the new rules may result in certain difficulties. For example, foreign countries in which associated enterprises are located may have exchange control provisions that make it difficult to repatriate excess profits to India.

Thus, although India has not taken any concrete actions in accordance with some actions of the BEPS Plan, including hybrid arrangements (Action 2), controlled foreign companies (Action 3), interest deductions (Action 4), permanent establishment status (Action 7) and aggressive tax planning (Action 12), India generally seeks to introduce changes to its national legislation to comply with the OECD recommendations and is discussing potential amendments. In particular, India agrees to cooperate on the exchange of tax information by providing competent tax authorities in other countries with access to information about Indian tax residents (Action 13). In addition, some provisions, such as the general anti-avoidance rule (GAAR) (Action 6) were in force in India even before the BEPS Action Plan was adopted. Some progress was also made in relation to Actions 1, 5 and 8–10. The only exception is Action 14, which is considered to be irrelevant given the existence of other effective dispute resolution mechanisms and moreover is seen as threatening India's sovereignty [PWC, 2016a].

China

Days after the publication of the final BEPS Action Plan, the State Administration of Taxation (SAT) of China organized a conference to discuss the country's position regarding the BEPS Project and concrete steps to integrate measures to address tax base erosion and profit shifting into the national legislation.

It should be noted that by the time of the adoption of the BEPS Action Plan, China had already developed legislation in line with OECD recommendations in some areas, including transfer pricing and controlled foreign companies. For example, in accordance with the rules on controlled foreign companies, retained earnings of a controlled foreign company in a jurisdiction with a low tax rate (less than 12.5%) may be taxed because they are considered to be a potential distribution of profits to shareholders. Chinese tax authorities have published a list of countries ("white list") which they do not consider to be jurisdictions with low tax rates for the purpose of this law.[11] Close attention of the tax administration to BEPS coupled with successful implementation of some tax regulations before the publication of the BEPS Action Plan allowed China to integrate other provisions of the Plan into its national legislation in a relatively short time. At the same time, the SAT initially aimed to create a stable and transparent tax environment, while ensuring that China receives a "fair share of profits" gained from

[11] PWC (2017) "China: Corporate-Group Taxation." Available at: http://taxsummaries.pwc.com/ID/Peoples-Republic-of-China-Corporate-Group-taxation (accessed 04.07.2017).

implementing initiatives to combat BEPS [Deloitte, 2017b]. According to the SAT, the existing practices of Chinese tax authorities meet the requirements of Action 6 and the recommendations of Action 7. Regarding transfer pricing, relevant amendments have been made (Circular 2), taking into account national circumstances, i.e., OECD recommendations were adapted as appropriate for China [Deloitte, 2017b]. Recommendations for Action 13 have been incorporated into China's national legislation based on the same approach. On 29 June 2016, the SAT issued a new rule (Bulletin 42), replacing the provisions of Circular 2 relating to transfer pricing in terms of information disclosure and documentation. There is a three-level documentation framework, including a master file, a local file and a special issue file. It is required that the local file contains a quantitative and qualitative value chain analysis. In addition, the parent company of a multinational enterprise is required to submit a country-by-country (CbC) report along with its annual reporting on the corporate income tax. China is also a signatory of the Multilateral Competent Authority Agreement for the Automatic Exchange of CbC Reports [Deloitte, 2017b].

Thus, implementation of the BEPS Action Plan provisions in China considers the national context and aims to maintain a balance between combating tax avoidance and ensuring that the interests of businesses, and primarily Chinese companies working abroad, are satisfied. For example, the corporate income tax (CIT) law (Action 4) includes a thin capitalization rule that prohibits interest expenses arising from related-party loans. In "tax havens," the debt to equity ratio for enterprises in the financial industry is 5:1 and for enterprises of other industries it is 2:1. However, if there is substantial evidence that the financing arrangement meets the arm's length principle, these interests can be fully deductible from the tax base, even if these ratios are exceeded.[12] Work to review the existing norms and integrate the provisions of the BEPS Plan into national legislation is carried out not only within the existing tax administration framework, but also by a department of international taxation specially created within the SAT. It is important to note that activities of state bodies aimed at combating BEPS are widely covered in media [Deloitte, 2017b].

Actions are planned in accordance with a number of other BEPS Plan recommendations. In particular, the existing regimes are reviewed for compliance with the requirements of Action 5 and reviewing the law on tax administration and collection in line with Action 12 is discussed [Deloitte, 2017g].

At present, in relation to some actions of the BEPS Plan, including Actions 1 (digital economy) and 2 (hybrid arrangements), Chinese tax authorities have not taken any measures. For others, relevant provisions were already in place or were promptly adopted as with Actions 3 (controlled foreign companies), 4 (interest deduction), 6 (treaty abuse), 7 (permanent establishment status) and 8–10 (transfer pricing). For still others including Actions 5 (harmful tax practices), 12 (aggressive tax planning), 13 (transfer pricing documentation) and 14 (dispute resolution), legislative changes are expected in the near future.

[12] PWC (2017) "China: Corporate-Group Taxation." Available at: http://taxsummaries.pwc.com/ID/Peoples-Republic-of-China-Corporate-Group-taxation (accessed 04.07.2017).

South Africa

South African authorities pay considerable attention to the BEPS Project. The country's top-level officials, representatives of leading political parties and the South African Revenue Service (SARS) regularly declare the importance of fighting BEPS for the country. Against this background, in 2013 a special Davis Tax Committee was tasked with the comprehensive assessment and development of recommendations on reforming the country's tax system, taking account of the measures proposed by the OECD to address BEPS.

Following the publication of materials on individual actions of the BEPS Plan, the Davis Tax Committee presents authorities' recommendations for reforming and harmonizing the national legislation to the South African government. The mechanism of public consultations is actively used, aimed at analyzing the positions of all stakeholders and especially the business community [Davis Tax Committee, 2015].

As in most other countries considered in this analysis, according to South African authorities the implementation of the BEPS Action Plan should be based on a balanced approach. Confirming this point of view, experts from the Davis Tax Committee noted that "if South Africa wants to remain competitive in a globalized economy, it must adhere to a balanced tax policy that ensures the inflow of foreign direct investment. It should not hurry with the implementation of the BEPS Plan, given that other countries can take a wait-and-see position, providing legislative preferences for investors and preserving their competitiveness."[13]

South Africa's legislation already includes rules dealing with certain aspects of BEPS. They primarily focus on controlled foreign companies, transfer pricing and relevant information disclosure, use of hybrid arrangements, and exchange control rules for certain types of payments. The Davis Tax Committee representatives believe that the South African Revenue Service should continue its work to incorporate OECD recommendations into national legislation. Concrete proposals by the Committee in this regard were published as a report in late-2016,[14] supplementing recommendations on seven actions of the BEPS Plan announced earlier [Davis Tax Committee, 2015].

Work in accordance with the recommendations of the Davis Tax Committee has already started. In April 2016, the South African Revenue Service published a draft resolution on the introduction of mandatory CbC reporting for transnational enterprises in line with Action 13 of the BEPS Plan [South African Revenue Service, 2016b]. At the same time, probably to minimize potential negative consequences of the new requirements, the Revenue Service has changed its initial plans to introduce more stringent reporting rules than those required by the OECD [Deloitte, 2017f]. In July 2016, draft

[13] Baker Tilly International (2015) "South Africa Launches Consultation on BEPS Response." Available at: http://www.bakertillyinternational.com/web/insights/international-tax-insight-august-2015/south-africa-launches-consultation-on-beps-response.aspx (accessed 04.07.2017).

[14] Davis Tax Committee (2017) "What's New." http://www.taxcom.org.za/index.html (accessed 04.07.2017).

requirements for transfer pricing documentation were announced [South African Revenue Service, 2016a].

In the framework of the budget review on 22 February 2017, South Africa's minister of finance set out the position on the BEPS Plan.[15] Regarding Action 1, foreign companies that supply digital services to South Africa are already required to register for VAT withholding. Currently, these regulations are under additional review. South Africa is a member of the Task Force for the Digital Economy which examines issues related to direct taxation. Regarding hybrid mismatches, the South African legal system provides for measures to limit double deduction of interest payments from taxable income, as well as income exclusions in cases where there were no corresponding deductions and vice versa. Additional initiatives are likely to be considered in future. South African rules on controlled foreign companies have been acknowledged internationally and were recommended by the OECD as one of the three best options for implementation in other countries. The South African government is attempting to limit excessive debt financing and erosion of the tax base, and is going to review the existing limitation in line with OECD recommendations on Action 4. South Africa participates in the Forum on Harmful Tax Practices[16] and has recently completed a review of its preferential tax regimes in order to align them with those of the OECD countries. However, there are concerns that the "headquarter company" tax regime used in South Africa could constitute a harmful tax practice [Deloitte, 2017f]. Regarding Action 6, the principle purpose test is applied, which largely corresponds to national measures aimed at combating tax treaty abuse. In accordance with this method, benefits are considered to be illegal if it is reasonable to conclude that obtaining them was one of the principal purposes when entering into any arrangement or transaction.

No concrete actions have been taken on Action 7. However, in future negotiations on tax treaties South Africa will take account of the recommendations concerning fragmentation of business activities and avoidance of permanent establishment status through exemptions of certain types of activities from taxation. The goal will be to prevent companies from artificially avoiding permanent establishment status by breaking up large business processes into several smaller operations. In addition, the South African Revenue Service is updating the transfer pricing requirements in line with OECD guidelines based on the arms' length principle and an agreed approach to ensure appropriate pricing of intangible assets that are difficult to value. The Tax Administration Act[17] contains rules for disclosing aggressive tax practices that were used as a benchmark in the final OECD report on BEPS Action 12. The Act also serves as a legal basis

[15] EY (2017) "South Africa Sets Forth Position on OECD BEPS Action Plan." Available at: http://ey.com/gl/en/services/tax/international-tax/alert--south-africa-sets-forth-position-on-oecd-beps-action-plan (accessed 04.07.2017).

[16] "South Africa Publishes 2017 Budget Review, Includes Position on BEPS Action Items." *Thomson Reuters* (2017) Available at: https://tax.thomsonreuters.com/blog/checkpoint/southafrica-publishes-2017-budget-review-includes-position-on-beps-action-plan (accessed 04.07.2017).

[17] South African Government (2011) "Tax Administration Act 28 of 2011." Available at: http://www.gov.za/documents/tax-administration-act (accessed 04.07.2017).

for CbC reporting and includes the term "international tax standard" to refer to such reporting. The new provisions were published in December 2016, and the first reports should be submitted to the State Revenue Service by 31 December 2017 for fiscal years starting on or after 1 January 2016.[18] As for Action 14, the South African finance minister emphasized that, like many other developing countries that are members of the G20 or OECD, South Africa has not committed to mandatory arbitration to resolve tax disputes. Nevertheless, the model tax treaty will be updated in the future to incorporate the relevant minimum standards.

Despite obvious progress in integrating the provisions of the BEPS Plan into South Africa's national legislation, businesses, especially international corporations operating in the country, are concerned about unjustified tightening of tax rules, as well as the complexities and contradictions of existing and proposed norms which make compliance difficult. South African authorities have not yet announced any plans to address this problem.

It is important to note that even before the adoption of the BEPS Plan, national legislation was adopted in South Africa that was in line with several actions, particularly those on hybrid mismatch arrangements, interest deductions, transfer pricing and tax treaty abuse. The OECD recognizes some of the existing rules, for example, regulations on controlled foreign companies, as best practices. However, some of the measures currently in place are too complex and unclear and need further consideration. Other rules do not fully cover all OECD recommendations for certain actions. In addition, measures to address harmful tax practices are considered by the OECD as potentially leading to tax base erosion.

Indonesia

The first Asia-Pacific technical meeting on BEPS in November 2015 was an important stimulus of Indonesia's participation in the development, implementation and monitoring of measures to address BEPS. Representatives of 17 countries and a number of international organizations took part in the meeting organized by the Ministry of Finance of Indonesia. The deputy minister confirmed Indonesia's support for the BEPS Project as an important item on the G20 agenda and called for strengthening cooperation between developed and developing countries to combat tax base erosion.[19]

Before the BEPS Action Plan was agreed, a number of provisions in Indonesia's legislation considered BEPS issues. In particular, the national tax authorities adopted regulations for controlled foreign companies, requirements for disclosing transactions involving "tax havens," rules for disclosing transfer pricing information and procedures to encourage tax authorities to exchange information with foreign counterparts, as well

[18] EY (2017) "South Africa Sets Forth Position on OECD BEPS Action Plan." Available at: http://ey.com/gl/en/services/tax/international-tax/alert--south-africa-sets-forth-position-on-oecd-beps-action-plan (accessed 04.07.2017).

[19] OECD (2015) "OECD Holds a Regional Consultation on BEPS for Asia-Pacific in Indonesia." Available at: http://www.oecd.org/ctp/oecd-holds-first-asia-pacific-technical-meeting-on-beps-in-indonesia.htm (accessed 04.07.2017).

as mechanisms to combat tax treaties abuse. At the same time, the tax authorities have formally associated none of these changes in Indonesian tax laws with the implementation of BEPS Plan recommendations. The only exceptions were measures in relation to Action 13. The Ministry of Finance of Indonesia introduced requirements for three-tiered documentation for taxpayers. They are in line with OECD recommendations and include additional requirements for information in the master file and the local file. In particular, the documents must be prepared in Bahasa and made available within four months of the end of the tax year. Thresholds were also established to determine documentation requirements and the inclusion of domestic related parties in the scope of the transfer pricing rules. Indonesian taxpayers must provide a local file and a master file if they are involved in transactions with related parties and have annual gross profits exceeding IDR50 billion, if the volume of such transactions is above IDR20 billion, or if related parties are located in jurisdictions where the corporate tax rate is lower than in Indonesia, i.e., is below 25% [Deloitte, 2017d].

The tax authorities have introduced rules for CbC reporting in line with OECD recommendations, with some additional details. Reports must be made available within 12 months from the end of the fiscal year. A detailed manual on the procedure for filing these reports should be published. Indonesia signed the multilateral competent authority agreement on the exchange of CbC reports.

Still, the prospects for further implementation of the provisions of the BEPS Action Plan in Indonesia are quite favourable. The main tax authority of the country, the General Directorate of Taxes (DGT) of the Ministry of Finance, fully supports measures to combat BEPS. Particular attention is paid to the exchange of information with foreign tax authorities. On 1 May 2015, the Convention on Mutual Administrative Assistance in Tax Matters entered into force for Indonesia, creating additional possibilities for cooperation for the national tax authorities.[20] According to some sources, a general anti-avoidance rule (GAAR) is likely to be adopted in Indonesia. In addition, the DGT has been working to raise business awareness about BEPS and proposed measures to address tax base erosion [Deloitte, 2017d]. Despite the absence of clear norms, Indonesian tax practice in some cases relies on the principles of the BEPS Action Plan. For instance, on 9 June 2016, the Ministry of Finance announced the establishment of an ad hoc group focused on taxing activities related to digital business. In addition, an investigation was initiated earlier against four companies operating via the internet that avoided paying taxes, including VAT. Evidence has been found that those companies had not registered their local businesses as permanent establishments in Indonesia. Although the companies indicated that their incomes had been received by their headquarters in Singapore, their actions were found to be illegal. The local tax authorities have expressed their intention to further tax income from online advertising.[21]

[20] OECD (2017) "Jurisdictions Participating in the Convention on Mutual Administrative Assistance in Tax Matters Status – 29 June 2017." Available at: http://www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf (accessed 04.07.2017).

[21] PricewaterhouseCoopers (2017) "Indonesia: Overview." Available at: http://taxsummaries.pwc.com/ID/Indonesia-Overview (accessed 04.07.2017).

Thus, for some actions of the BEPS Plan, relevant provisions are already incorporated in the Indonesia's legislation, including Action 3 (controlled foreign companies) and Action 6 (tax treaty abuse). For Action 4 (interest deduction), the provisions of the national law are in some contradiction with the OECD recommendations due to some technical differences. New regulations which came into force in January 2016 are not fully compliant with the OECD recommendations since they are based on principles different from the fixed group ratio recommended by the OECD [Deloitte, 2017d]. For Actions 8–10, compliance with the OECD recommendations is partial. As for Action 13, on 30 December 2016, amendments were made to the legislation concerning transfer pricing documentation and CbC reporting. Implementation of some reforms is currently underway. Still, for some BEPS actions no information about implementation is currently available (Actions 1, 2, 5, 7, 12 and 14).

Russia

Although Russia is not an OECD member and does not have key partner status, its G20 membership and 2013 presidency contributed to growing attention to and progress in the BEPS Action Plan implementation at the national level, as well as active engagement in multilateral discussions within the OECD.

Russia officially participates in the work of the OECD Committee on Fiscal Affairs through one of its working bodies – the Forum on Tax Administration.[22] Representatives of Russian business participate in public discussions[23] on BEPS issues that can potentially affect them, such as controlled foreign companies [OECD, 2015a] or permanent establishment status [OECD, 2015b], and do so on an equal footing with OECD members and key partners of the organization.

Thus, at the national level Russia actively uses best global tax policy practices. This resulted in the adoption of new legislative initiatives in 2014 aimed, inter alia, at addressing tax base erosion and profit shifting.

As a result, current Russian legislation on tax avoidance reflects several recommendations of the BEPS Action Plan, including thin capitalization rules that limit interest deductions, as well as transfer pricing rules and control procedures. Within a package of measures to "deoffshore" the Russian economy the government has adopted rules for controlled foreign companies, introduced the "beneficial owner" concept, agreed on measures to prevent artificial avoidance of permanent establishment status and proposed various other initiatives related to the BEPS Action Plan.

Short-term plans for tax legislation development (until 2018) also take account of the need to address BEPS. Work is in progress to facilitate the automatic exchange of financial account information with foreign jurisdictions, as well as to improve indirect

[22] OECD (2017) "Forum on Tax Administration." Available at: https://www.oecd.org/tax/forum-on-tax-administration/about/ (July 2017).

[23] OECD (2017) "Previous Requests for Input." Available at: http://www.oecd.org/ctp/previous-requests-for-input.htm (accessed 04.07.2017).

taxation of electronic services, transfer pricing,[24] corporate borrowings taxation and rules for controlled foreign companies. Tax authorities also take measures to enhance international cooperation[25] and develop control mechanisms[26] in all areas mentioned in the BEPS Action Plan.

Thus, the focus on "deoffshorization" of the Russian economy contributed to the integration of most of the BEPS Action Plan recommendations into national law. Public awareness of the OECD-proposed actions and legislative changes at the national level is growing. In addition, Russian courts increasingly appeal to BEPS Action Plan provisions, thus broadening the practical implementation of the new norms.[27] Only a few recommendations of the BEPS Plan have not yet resulted in any legislative changes, specifically Action 2 (hybrid mismatches) and Action 14 (dispute resolution). On Actions 8–10 (transfer pricing) and Action 13 (transfer pricing documentation) relevant provisions are currently under consideration. As for other recommendations, Russian legislation had contained relevant provisions before the adoption of the BEPS Plan and amended others accordingly in short order, including Action 1 (digital economy), Action 3 (controlled foreign companies), Action 4 (interest deduction), Action 6 (tax treaty abuse) and Action 7 (permanent establishment status). For Action 12 (aggressive tax planning), proposals for new initiatives are expected. Recommendations on Action 5 (harmful tax practices) are considered to be irrelevant for the Russian Federation.

More details of Russia's implementation of the BEPS Action Plan are presented in Table 2.

Table 2. BEPS Actions Implementation in Russia

Action	Implementation Status	Expected Timing
1	On 3 July 2016, the Federal Law No. 244-FZ[1] establishing new rules for imposing VAT on electronic services provided by foreign entities via the internet was adopted. It entered into force on 1 January 2017.[2] The law obliges foreign companies that are not residents of the Russian Federation to pay VAT for services rendered to individuals in electronic form. For this purpose, a special procedure for the registration of foreign entities by the Russian tax authorities is envisaged. In accordance with the new law, the place of realization of electronic services will be determined according to the consumer's location. If electronic services were provided by a foreign supplier to a Russian consumer, VAT will be payable to the Russian budget	Since 1 January 2017

[24] Federal Tax Service (2017) "Transfer Pricing." Available at: https://www.nalog.ru/rn77/taxation/transfer_pricing/ (accessed 04.07.2017).

[25] Federal Tax Service (2016) "Federal Tax Service Participated in the OECD Meeting." Available at: https://www.nalog.ru/rn77/about_fts/inttax/6107527/ (accessed 04.07.2017).

[26] Federal Tax Service (2015) "More than 30 Countries Have Used the Federal Tax Service Experience in Electronic Control." Available at: https://www.nalog.ru/rn77/news/smi/5638767/ (accessed 04.07.2017).

[27] "The Blaming Strategy." *Rossijskaya Gazeta* (2015) Available at: https://rg.ru/2015/12/08/sydi.html (accessed 04.07.2017).

Action	Implementation Status	Expected Timing
	in one of the two ways. If services were provided to a Russian legal entity or through a Russian agent, then this legal entity or agent must withhold VAT and transfer it to the budget. If services were provided by a foreign supplier to a Russian individual directly or through a foreign agent, VAT will be payable to the budget by that supplier or agent. In this case, foreign entities must be registered in Russia for VAT purposes. Electronic services covered by this law include: provision of advertising services on the internet, broadcasting of TV and radio channels, hosting services, provision of domain names, provision of trading platforms, granting rights to use information in electronic form (music, electronic books and publications, audio and graphic files), granting rights to use software and databases (access to online games, downloading games to computers and smartphones) [PWC, 2016d]	
2	No information on planned actions available	N/A
3	Legislation on controlled foreign companies has been adopted and is being regularly updated.[3] In accordance with Russian tax legislation, a controlled foreign company is a foreign organization or entity operating without the formation of a legal entity that is not recognized as a resident of Russia and is controlled by organizations or individuals who are residents of Russia. Since 2016 [PWC, 2016b], an individual or legal entity is recognized as a controlling one if its share in the organization exceeds 25%. Russian tax legislation provides for a number of benefits in case of liquidation of controlled foreign companies. Federal Law No. 32-FZ of 15 February 2016 amended the Tax Code of the Russian Federation, particularly the provisions on controlled foreign companies.[4] In accordance with this law, the time period for preferential liquidation of such companies was extended until 1 January 2018 [PWC, 2016b]. When a controlled foreign company is liquidated within the specified time period, the taxpayer is released from responsibilities related to control over this company. The property received from the liquidated company is exempt from taxation. In addition, certain privileges are provided for the sale of securities belonging to such a company. The list of states and territories that do not exchange tax information with Russia was approved and later updated[5]	2015–2017. Implementation ongoing. Clear timelines for full implementation have not been specified, but recommendations can be considered as largely fulfilled
4	Relevant legislation has been adopted, including the thin (insufficient) capitalization rules.[6] The rules entered into force on 1 January 2017. Freezing exchange rates for the purposes of thin capitalization has been deferred until 31 December 2019 [PWC, 2016c]. This measure was adopted to prevent the impact of the appreciation of foreign currencies against the rouble in the framework of thin capitalization for old loans, if terms of repaying debts do not change while these provisions are in effect. Thus, for calculating the amount of debt, the exchange rate as of 1 July 2014 is used. These rules reduce the number of cases in which interest expenses are considered to be dividends that will not be deducted when calculating the profit tax. No additional actions are currently expected	Implemented
5	It is considered to be irrelevant, since the Russian Federation is not a member of the OECD and does not have its key partner status	Considered to be irrelevant
6	The practice of including in tax treaties articles that limit benefits is not common. The recommendations were also implemented through the introduction of the "beneficial owner" concept, increasingly used by tax authorities. In Russia, legal entities are obliged to identify their beneficial owners and disclose relevant information to state authorities, in accordance with the Letter of the Ministry of Finance of the Russian Federation No. 03-00-RZ / 16236 of 09.04.2014 "On the Benefits Provided for by International Agreements on the Avoidance of Double Taxation."[7] Failure to comply with these requirements results in a fine of up to 500 thousand roubles. It is expected that in the future financial institutions will be able to refuse to allow such companies to open accounts or to suspend their operations on previously opened accounts	Implemented

Action	Implementation Status	Expected Timing
7	Legislation in line with OECD recommendations was adopted. Provisions concerning permanent establishment status are contained in Articles 306-309 of the Tax Code of the Russian Federation.[8] No further action is expected	Implemented
8–10	New transfer pricing guidelines are being developed by the tax authorities, taking into account OECD recommendations. On 6 March 2017, the Ministry of Finance published a revised draft law on transfer pricing,[9] supplementing Part One of the Tax Code with certain provisions related to the automatic exchange of financial account information and documentation on international groups of companies	N/A
12	The Convention on Mutual Administrative Assistance in Tax Matters which ensures the disclosure of information on aggressive tax planning has been signed and entered into force.[10] The Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information has been signed.[11] However, Russian legislation does not yet contain a definition of "aggressive tax planning." According to some opinions, this leads to abuse by the tax authorities, who consider tax benefits received by companies from transactions with foreign counterparts as unreasonable. In particular, in 2016 24.9 thousand field inspections of organizations and entrepreneurs were conducted, and 99.2% of them revealed violations. As a result, 252 billion roubles of taxes and 97 billion roubles of sanctions and penalties were additionally imposed[12]	Planned for 2018
13	On 26 January 2017, the Federal Tax Service of Russia signed Multilateral Competent Authority Agreement on the Exchange of CbC Reports. Currently, a draft law is being considered aimed at creating a legal framework that will enable financial institutions to meet OECD requirements. On 6 March 2017, the Ministry of Finance published a revised draft law on transfer pricing, supplementing Part One of the Tax Code with certain provisions related to the automatic exchange of documentation on international groups of companies[13]	Planned for 2018
14	No information on planned actions available	N/A

[1] Federal law of 03.07.2016 № 244-FZ "On Making Amendments to Parts One and Two of the Tax Code of the Russian Federation." *Rossijskaya Gazeta* (2016) Available at: https://rg.ru/2016/07/06/izmenenia-kodeks-dok.html (accessed 04.07.2017).

[2] Federal Tax Service (2016). "VAT on Electronic Services can be Discussed at the FTS Website." Available at: https://www.nalog.ru/rn77/news/activities_fts/6103267/ (accessed 04.07.2017).

[3] Federal law of 15.02.2016 № 32-FZ. Available at: http://kremlin.ru/acts/bank/40523 (accessed 04.07.2017).

[4] Federal law of 08.03.2015 № 32-FZ. Available at: http://kremlin.ru/acts/bank/39499 (accessed 04.07.2017).

[5] Federal Tax Service (2016) "The Federal Tax Service Adopted a List of States and Territories Not Exchanging Tax Information with Russia." Available at: https://www.nalog.ru/rn77/news/activities_fts/6040699/ (July 2017).

[6] Federal law of 08.03.2015 № 32-FZ. Available at: http://kremlin.ru/acts/bank/39499 (accessed 04.07.2017).

[7] Letter of the Ministry of Finance of the Russian Federation No. 03-00-RZ / 16236 of 09.04.2014 "On the Benefits Provided for by International Agreements on the Avoidance of Double Taxation." Available at: http://minfin.ru/ru/document/?id_4=21474 (accessed 04.07.2017).

[8] Federal law of 24.11.2014 № 376-FZ. Available at: http://kremlin.ru/acts/bank/39080 (July 2017).

[9] EY (2017). "A New Version of the Draft Law on the Introduction of Requirements for the Preparation of Documentation for International Groups of Companies in Russia was Submitted for Public Discussion." Available at: www.ey.com/ru/ru/services/tax/ey-tax-messenger-9march-2017 (July 2017).

[10] OECD (2017) "Jurisdictions Participating in the Convention on Mutual Administrative Assistance in Tax Matters status." http://www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf (accessed 04.07.2017).

[11] Federal Tax Service (2016) "Russia Signed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information." Available at: https://www.nalog.ru/rn77/news/activities_fts/6067818/ (accessed 04.07.2017).

[12] "Dangerous tax optimization." *RAPSI* (2017) Available at: http://rapsinews.ru/incident_publication/20170228/277891983.html (accessed 04.07.2017).

[13] EY (2017) "A New Version of the Draft Law on the Introduction of Requirements for the Preparation of Documentation for International Groups of Companies in Russia was Submitted for Public Discussion." Available at: www.ey.com/ru/ru/services/tax/ey-tax-messenger-9march-2017 (accessed 04.07.2017).

Source: elaborated by the author based on [Deloitte, 2017e].

Incorporation of the BEPS Action Plan in the Legislation of the BRICS Countries and Indonesia: Comparative Conclusions

Analysis shows that institutional approaches to implementing the provisions of the BEPS Action Plan are different in the examined countries. In China, a special department was created to integrate the provisions of the BEPS Plan into national legislation. The country's authorities pay considerable attention to national interests in general and those of domestic companies while implementing measures against BEPS. At the same time, this approach limits the comprehensiveness of the implementation of OECD recommendations. India, like China, successfully strives to take into account national interests and business positions. It is necessary to emphasize the desire of the national authorities to provide time for adaptation to legislative innovations and synchronization between actions in line with OECD recommendations. For this reason in particular the introduction of a general anti-avoidance rule was postponed. Indonesia has not yet achieved tangible progress in implementing the provisions in all areas at the national level, but has created conditions for their successful integration into the law in the future. At the same time, some of the norms introduced by the Indonesian government, although consistent with the general logic of the OECD recommendations, are contradictory in technical terms, as in the case of Action 4. In Brazil, the implementation of measures is complicated by the political crisis and low level of awareness of the corporate sector about BEPS. For South Africa, despite some progress in a number of areas, including the creation of a special advisory body on the implementation of the BEPS Action Plan, complex, unclear and inconsistent provisions in the existing tax legislation remain a challenge.

Among all the countries examined, Russia has to date had the most success in the implementation of BEPS Plan provisions. Assessment of the implementation level of individual actions by all countries is presented in Table 3.

Table 3. Assessments of the BEPS Plan Implementation by the BRICS Countries and Indonesia

Action	Brazil	India	China	South Africa	Indonesia	Russia
1	–1	+1	–1	+1	–1	+1
2	–1	–1	–1	0	–1	–1
3	+1	–1	0	0	+1	+1
4	+1	–1	0	0	0	+1
5	+1	+1	+1	0	–1	n/a
6	–1	+1	+1	+1	+1	+1
7	–1	–1	+1	–1	–1	+1
8–10	0	0	+1	0	0	0
12	–1	–1	0	+1	–1	0
13	0	0	+1	+1	+1	0
14	+1	–1	0	0	–1	–1
Average	–0,09	–0,27	+0,27	+0,27	–0,27	+0,30

Source: elaborated by the author.

Further development of relevant legislation in Russia seems necessary due to substantial negative impacts of BEPS on the national tax base, as confirmed by the OECD. At the same time, it may be useful to consider the experience of countries similar to Russia in terms of the status of their collaboration with the OECD and G20 membership. One of the best practices is the creation of a special institution aimed at integrating the provisions of the BEPS Action Plan into national law following the examples of China and South Africa. Another effective approach is to synchronize the implementation of individual recommendations of the BEPS Plan over time, following the example of India. It is also important to note that rapid implementation of the BEPS Action Plan can create additional uncertainty for companies operating in the Russian market, as well as provide foreign jurisdictions with temporary competitive advantages. In this regard, it is important to take account of their commitment to combat BEPS and their experience implementing the Plan in the context of their national environment and the interests of business. The BEPS Action Plan is flexible and allows countries to find an optimal balance for achieving both goals. Finally, foreign tax authorities' experience in informing stakeholders about relevant changes may be useful.

Despite the political differences between Russia and a number of foreign countries, it is actively involved in international cooperation on the implementation of the BEPS Action Plan. In particular, our country has joined the Multilateral Convention to Prevent BEPS. However, as mentioned above, BEPS actions differ in terms of con-

sensus among stakeholders and, accordingly, the level of their formalization. Since 13 actions primarily imply changes in national tax legislation, each of the countries acts at its own pace based on its own economic, political and legal considerations. For this reason, it may sometimes be impossible to learn from the experience of other countries, and some recommendations may be considered unacceptable by national authorities. The fact that Russia has committed to implement measures in relation to BEPS demonstrates its willingness to meet the highest standards in the field of international taxation and to promote cooperation on these issues. Further efforts should be made to implement these measures, focusing not only on improving national legislation, but also on stimulating interaction with other countries. Tax base erosion is an international process that requires mutual efforts to be addressed.

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Подходы стран БРИКС и Индонезии к реализации положений Плана BEPS[1]

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Размывание налогооблагаемой базы и перемещение прибыли (tax base erosion and profit shifting, BEPS) является глобальной проблемой. Поиск путей ее решения – актуальная задача для большинства стран. Глобальный экономический кризис привел к формированию новой среды и требований к ведению бизнеса. Эти требования разрабатывались двумя ключевыми международными институтами: ОЭСР и «Группой двадцати». Такой подход позволил привлечь к процессу не только развитые и развивающиеся государства, являющиеся членами данных институтов, но и широкий спектр государств-партнеров. В результате общее количество стран, заявивших о своей приверженности Плану BEPS, превысило 100.

В данной статье оценивается уровень исполнения рекомендаций Плана BEPS в Индонезии и пяти странах БРИКС. Автор проводит мониторинг их действий по 13 из 15 Мероприятий Плана (исключая Мероприятия 11 и 15), а также выявляет ряд наилучших практик, которые могут быть полезны в связи с реализаций Плана в России.

В рамках мониторинга рассматриваются совершенные и планируемые действия, в первую очередь поправки и новые нормы национального законодательства, а также планируемые периоды имплементации для каждого из Мероприятий. Кроме того, автор оценивает институциональные условия реализации положений Плана, а также механизмы консультаций и информирования заинтересованных сторон.

Анализ показывает, что подходы шести стран к реализации Плана BEPS различаются. Хотя некоторые из них отстают по срокам реализации, каждая из стран продемонстрировала действия, которые можно рассматривать как лучшие практики. Россия достигла наибольших успехов с точки зрения объема реализации Плана.

Ключевые слова: размывание налогооблагаемой базы и перемещение прибыли (BEPS); налогообложение; избежание налогообложения; БРИКС; Индонезия; транснациональные корпорации, трансфертное ценообразование

Для цитирования: Шелепов А.В. Подходы стран БРИКС и Индонезии к реализации положений Плана BEPS // Вестник международных организаций. 2017. Т. 12. № 3. С. 114–136. DOI: 10.17323/1996-7845-2017-03-114

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[1] Статья поступила в редакцию в январе 2017 г.

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