

PROGRESS REPORT 2020

International Taxation

MINISTRY
OF
FINANCE
OF
GEORGIA



REPORT ON PROGRESS 2020

This Progress Report tracks records of achievements in international taxation of the Ministry of Finance of Georgia for 2020 and covers following areas:

Tax Treaties

Base Erosion and Profit Shifting (BEPS)

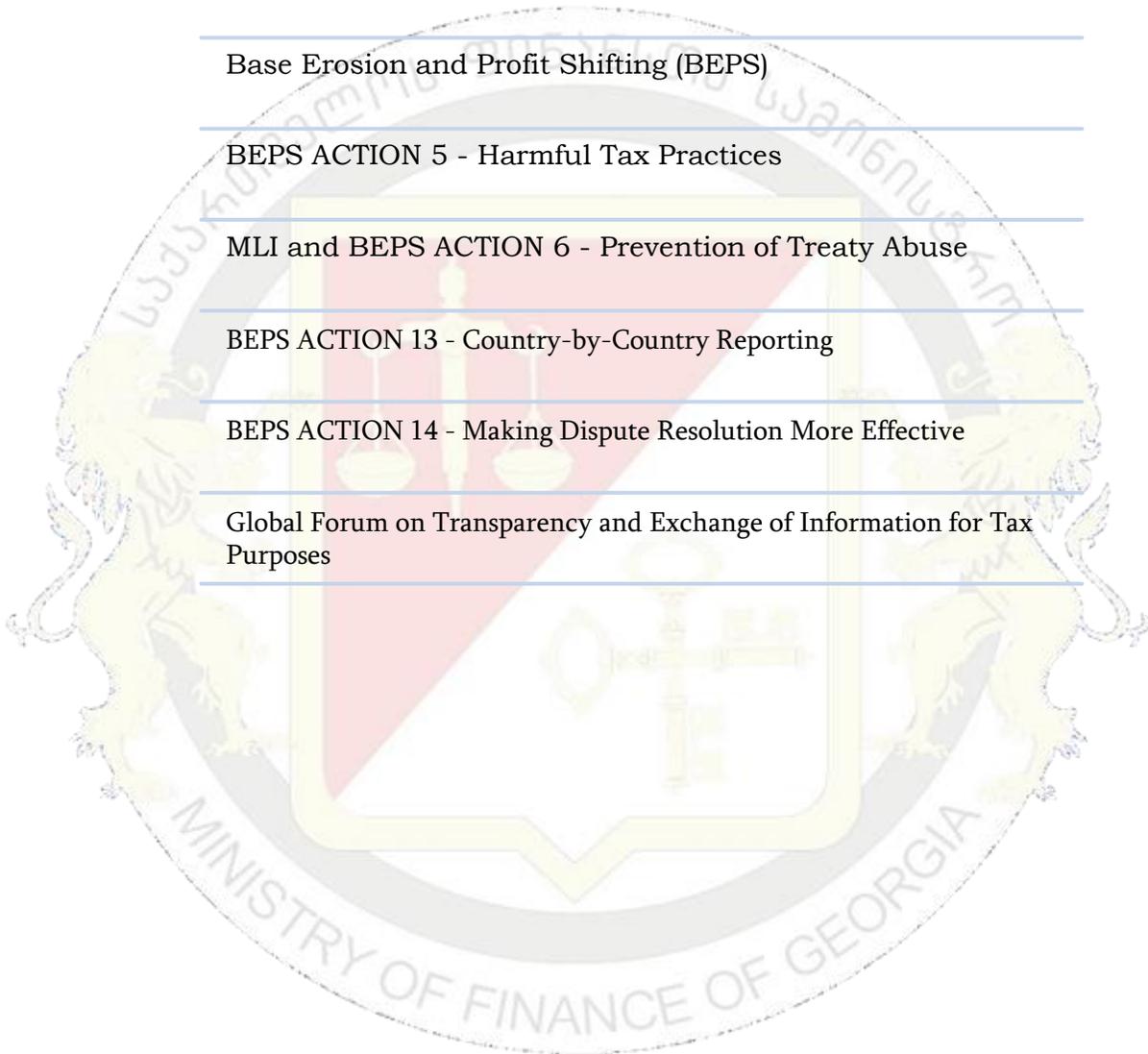
BEPS ACTION 5 - Harmful Tax Practices

MLI and BEPS ACTION 6 - Prevention of Treaty Abuse

BEPS ACTION 13 - Country-by-Country Reporting

BEPS ACTION 14 - Making Dispute Resolution More Effective

Global Forum on Transparency and Exchange of Information for Tax Purposes



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Currently **Georgia** has negotiated and concluded agreements on the „Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital “with **56** partner states. These agreements include treaties with all EU member states, as well as the OECD countries and Georgia’s major trade and economic partners.

Despite the impediments posed by Covid-19:

On October 5, 2020, Double Tax Agreement between Georgia and Hong Kong has been signed remotely.

On October 5, 2020 the Minister of Finance of Georgia - Mr. Ivane Matchavariani and the Secretary for Financial Services and the Treasury of Hong Kong - Mr. HUI Ching-yu Christopher signed **an “Agreement between Georgia and the Hong Kong Special Administrative Region of the People’s Republic of China for the Elimination of Double Taxation with respect to Taxed on Income and on Capital and the Prevention of Tax evasion and Avoidance”**.

The agreement is based on the renewed 2017 OECD Model Tax Convention and sets out the standards established under the OECD/G20 Base Erosion and Profit Shifting Project.

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On October 22, 2020, Georgia successfully completed remote negotiations with Japan on the renewal of the Double Tax Agreement.

The renewed **“Convention between Georgia and Japan for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance”** is based on the 2017 edition of the OECD Model Tax Convention and it takes into consideration the new standards resulting from the work of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project.

This is particularly noteworthy, since the Convention replaces the Tax Convention between the Government of Japan and the Government of the Union of Soviet Socialist Republics for the Avoidance of Double Taxation with respect to Taxes on Income, which entered into force in 1986.

Additionally, in 2020 Georgia has carried out and finalized its domestic procedures required for the signature of the renewed tax treaty with Poland.

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Base Erosion and Profit Shifting (BEPS)



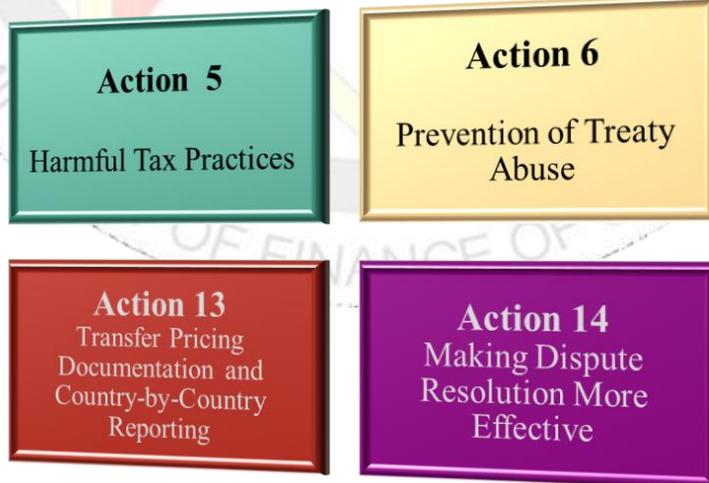
The OECD/G20 Inclusive Framework on BEPS (IF) was established in 2016, and at present, it brings together **over 125 countries** and jurisdictions to collaborate on the implementation of the OECD/ G20 Base Erosion and Profit Shifting (BEPS) Package.

On June 14 2016, Georgia became an associate member of the Inclusive Framework for the implementation of the BEPS package (minimum standards). This is a unique opportunity for developing countries, and for **Georgia in particular**, to work closely with OECD and G20 member states on an equal footing on shaping and implementation of the BEPS outcomes, in order to tackle tax avoidance efficiently.

All countries and jurisdictions joining the Framework participate in the review process, which allows members to review their own tax systems, identify, and remove elements creating BEPS risks.

The BEPS package consists of 15 Actions, **four of which contain minimum standards.**

The BEPS minimum standards are as follows:



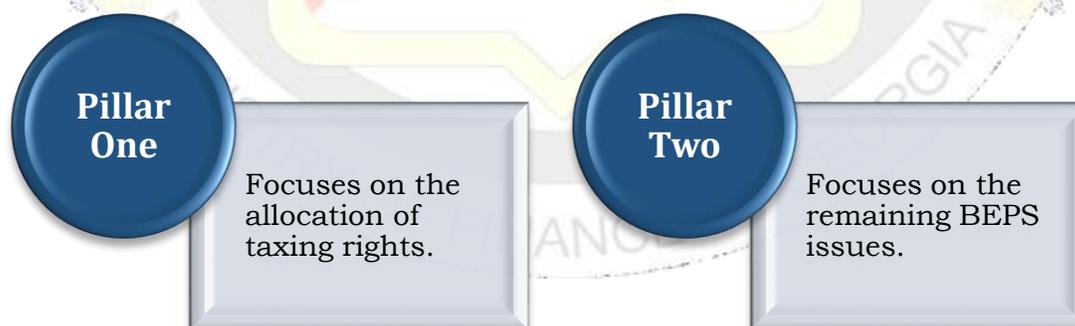
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As an Inclusive Framework member, **Georgia is actively engaged in the implementation process of the BEPS minimum standards.**

2016-2020 Georgia was an elected member of the Steering Group – the governing body of the Inclusive Framework, which is composed of 22 member jurisdictions and chaired by Germany

Since 2016 **as the member of the IF Steering Group** Georgia has been intensely involved in the work related to the tax challenges arising from the digitalization, which aimed to provide consensus-based, long-term solutions to the tax challenges arising from the digitalization of the economy by 2020.

Despite Covid-19 pandemic, during 2020 **IF Steering Group** and all members of IF have made substantial progress with respect to the work mentioned above and as a result of this work, on October 9, 2020, the IF released a package consisting of the Reports on the Blueprints of Pillar One and Pillar Two, which reflects convergent views on a number of key policy features, principles and parameters of both Pillars and identifies remaining political and technical issues where differences of views remain to be bridged. The IF keeps working on the issues remained unsolved, toward the final agreement to be reached by mid-2021.



BEPS ACTION 5 - HARMFUL TAX PRACTICES

The Action 5 Report is one of the four BEPS minimum standards. All members of the Inclusive Framework on BEPS commit to implementing the Action 5 minimum standard, and to participating in the peer review.

The Action 5 minimum standard consists of two parts. One part relates to preferential tax regimes, where a peer review is undertaken to identify features of such regimes that can facilitate base erosion and profit shifting, and therefore have the potential to unfairly impact the tax base of other jurisdictions. The other part includes a commitment to transparency through the compulsory spontaneous exchange of relevant information on taxpayer-specific rulings, which in the absence of such information exchange, could give rise to BEPS concerns.



The Forum on Harmful Tax Practices (FHTP) has been conducting reviews of preferential regimes since its creation in 1998 in order to determine if the regimes could be harmful to the tax base of other jurisdictions.

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The current work of the Forum on Harmful Tax Practices (FHTP) comprises **three key areas**:

1. The assessment of preferential tax regimes to identify features of such regimes that can facilitate base erosion and profit shifting, and therefore have the potential to unfairly impact the tax base of other jurisdictions;

2. The peer review and monitoring of the Action 5 transparency framework through the compulsory spontaneous exchange of relevant information on taxpayer-specific rulings which, in the absence of such information exchange, could give rise to BEPS concerns; and

3. The review of substantial activities requirements in no or only nominal tax jurisdictions to ensure a level playing field.

As a member of the inclusive framework, Georgia has been actively engaged in the work of the FHTP since September 2016, as a result:

In March 2017, Georgia became a member of the Bureau of the FHTP.

In 2017 Georgia became a member of the Focus Group on the Revision of Criteria (FORC).

Currently, the Bureau is co-chaired by France and Japan, and comprises representatives from the following other nine countries: Brazil, Germany, Ireland, Indonesia, Mexico, Singapore, Spain, Switzerland and the US.

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In 2017, for the first time, preferential tax regimes existing in Georgia have been reviewed by the FHTP against the compliance with the Action 5 minimum standards.

As a result of the above mentioned reviews, it has been recognized by the FHTP that **Georgia's Free Industrial Zone and Special Trade Company Regimes** are **out of scope** of the minimum standards, meaning no further action is required by Georgia.

Two other regimes, **the International Financial Company and the Virtual Zone Person regimes** have been concluded as **'potentially harmful but not actually harmful'** and Georgia received **the following recommendation:**

No further actions are required to be taken with respect to these regimes by Georgia, though they will be a subject to an ongoing yearly monitoring process

Consequently, **since 2017** annually, FHTP conducts the reassessment of above mentioned preferential tax regimes through monitoring process and **these regimes have been granted the same assessments as within the 2017 assessments.**

Additionally, in 2019 Georgia abolished the regime of International financial company. Thus, from 2021 only the Virtual Zone Person regime will be subjected to monitoring process.

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REGIME: International Financial Company	REGIME: Free Industrial Zone	REGIME: Special Trade Company	REGIME: Virtual Zone Person
STATUS: Abolished	STATUS: Out of scope	STATUS: Out of scope	STATUS: Potentially harmful but not actually harmful
	COMMENTS: No income from geographically mobile activities.	COMMENTS: No income from geographically mobile activities.	COMMENTS: Ring-fencing and substantial activities factor implicated, but no harmful economic effects in practice. Regime is subject to annual monitoring.

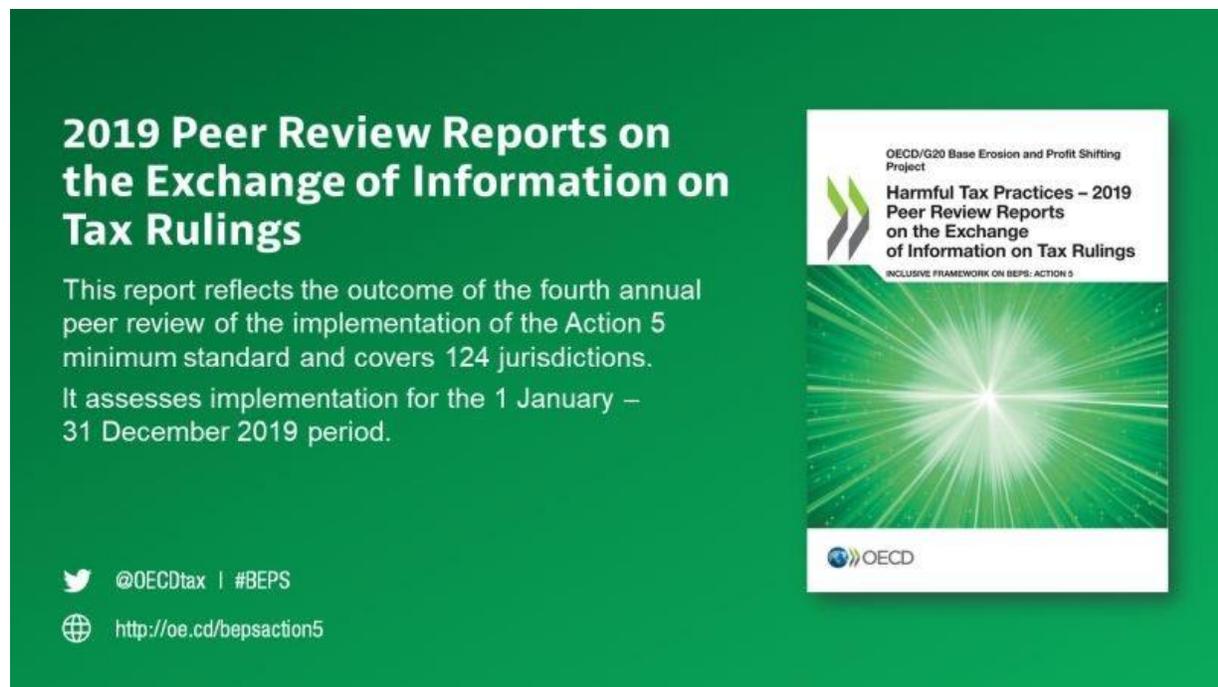
In order to fulfill the obligations emerged **from the second part of the Action 5 of the BEPS Project, Georgia** implemented the transparency framework for spontaneous exchange of information on certain tax rulings.

Namely, in order to have the necessary legal framework in place for spontaneous exchange of information on rulings covered by the transparency framework, and for purposes of fulfilling the obligations arising from the joining of Georgia to the Inclusive Platform, the Ministry of Finance of Georgia issued “the Order on Implementation of the Obligatory Measures under the Base Erosion and Profit Shifting (BEPS) Project”, as well as “the Form for Information Exchange”, “Instructions for the Form on Exchange of Information” and “Issues Specified by the Base Erosion and Profit Shifting Project Action Plan 5”.

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On 15 December 2020 OECD published 2019 Peer Review Reports on the Exchange of Information on Tax rulings, where Georgia for the second time was reviewed under Action 5 minimum standard for compulsory spontaneous exchange of information on certain tax rulings and **received positive assessment (no recommendations)**.

- Access the report <https://bit.ly/3qEeHKG>



2019 Peer Review Reports on the Exchange of Information on Tax Rulings

This report reflects the outcome of the fourth annual peer review of the implementation of the Action 5 minimum standard and covers 124 jurisdictions. It assesses implementation for the 1 January – 31 December 2019 period.

[@OECDtax](https://twitter.com/OECDtax) | [#BEPS](https://twitter.com/OECDtax)

<http://oe.cd/bepsaction5>

OECD/G20 Base Erosion and Profit Shifting Project
Harmful Tax Practices – 2019 Peer Review Reports on the Exchange of Information on Tax Rulings
INCLUSIVE FRAMEWORK ON BEPS: ACTION 5
OECD

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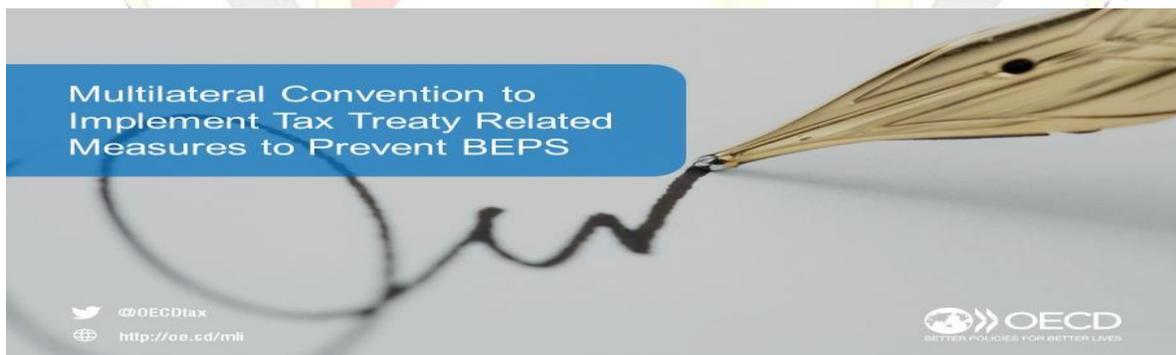
MLI and BEPS ACTION 6 - PREVENTION OF TREATY ABUSE

In order to ensure swift implementation of action 6 outputs in the tax treaties, OECD elaborated the **Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("Multilateral Instrument" or "MLI")**, which offers concrete solutions for governments to close loopholes in international tax treaties by transposing results from the BEPS Project into bilateral tax treaties worldwide.

The MLI allows governments to implement agreed minimum standards to counter treaty abuse and improve dispute resolution mechanisms while providing flexibility to accommodate specific tax treaty policies.

On 7 June 2017, together with 70 Ministers and other high-level representatives, Georgia signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("Multilateral Instrument" or "MLI").

Following Georgia's international tax policy line, 34 out of 56 active double tax treaties will be modified under the MLI. With respect to the remaining jurisdictions, Georgia is working closely with them on a bilateral basis.



On November 19, 2020, Georgia was elected as a chair of the Conference of MLI for 3 years.

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MLI entered into force for Georgia on July 1, 2019

In 2020, MLI entered into force with Luxembourg, the UK, Iceland, Ireland, Finland, India, Serbia, Slovenia, France, Sweden, Norway, Belgium, Israel, the Netherlands, Lithuania, Singapore and Slovak Republic.

In order to facilitate the application of the MLI, **the Ministry of Finance has been working closely with its partner countries for whom MLI entered into force, to prepare synthesized texts.**

Synthesized text reproduces the text of each Covered Tax Agreement and the provisions of the MLI that modify that Covered Tax Agreement in the light of the interaction of the MLI positions Georgia has taken.

**In 2020, Ministry of Finance finalized the synthesized texts with the following countries. The synthesized texts are published on the webpage of the MOF in Georgian and English languages:
<https://www.mof.ge/en/5128>**

Luxembourg

The UK

Iceland

Ireland

Finland

India

Serbia

Slovenia

Georgia continues negotiation procedures with other partner states in order to reach an agreement on final versions of synthesized texts, which would reflect modifications made by the MLI.

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To ensure effective and coordinated implementation of Action 6 minimum standard in 2018, the OECD launched a Peer Review of existing bilateral tax treaties

The 2019 Peer Review covers 129 jurisdictions. It started with a questionnaire sent to members of the Inclusive Framework in March 2019. The questionnaire was based on the 2018 Action 6 Peer Review questionnaire with a few modifications.

The 2019 **Peer Review** revealed, that Georgia has **made substantial progress towards implementing the minimum standard and is currently in the process of modifying its treaty network** by using the MLI, which has proved itself to be a quick and efficient way of allowing jurisdictions to meet the minimum standard.

The 2020 Peer Review process is still ongoing.

The excerpt of Georgia's 2019 review is attached below. The full report: <https://www.oecd.org/tax/beps/prevention-of-treaty-abuse-second-peer-review-report-on-treaty-shopping.htm>

Georgia

A. Progress in the implementation of the minimum standard

Georgia has 56 tax agreements in force, as reported in its response to the Peer Review questionnaire.

Georgia signed the MLI in 2017, listing 34 tax agreements.

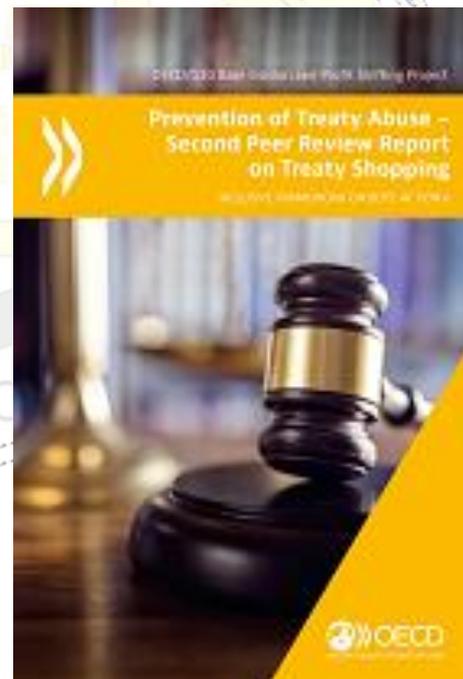
Georgia is implementing the minimum standard through the inclusion of the preamble statement and the PPT.⁵⁸

The agreements that will be modified by the MLI will come into compliance with the minimum standard once the provisions of the MLI take effect.

Georgia has indicated in the response to the Peer Review questionnaire that bilateral negotiations would be used for its agreement with Poland.

B. Implementation issues

No jurisdiction has raised any concerns about their agreements with Georgia.



BEPS ACTION 13 - Country - by-Country Reporting

Under BEPS Action 13 - Transfer Pricing Documentation and Country-by-Country Reporting, all large multinational enterprises (MNEs with consolidated group revenue of at least EUR 750 million) are required to report key information on their activities and income annually and for each tax jurisdiction in which they operate. The BEPS Action 13 report (Transfer Pricing Documentation and Country-by- Country Reporting) provides a template for that.

As one of the four BEPS minimum standards the Action 13 is subject to peer review in order to ensure timely and accurate implementation and thus safeguard the level playing field. All members of the inclusive Framework on BEPS commit to implementing the action 13 minimum standard and to participating in the peer review on an equal footing.

On June 30, 2016 in the course of the first meeting of the Inclusive Framework on BEPS, Georgia signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country (CbC MCAA) Reports.

The purpose of this CbC MCAA is to set forth rules and procedures, as may be necessary for Competent Authorities of jurisdictions implementing BEPS Action 13, to automatically exchange CbC Reports prepared by the Reporting Entity of MNE Group. But in order the CbC Reports to be exchanged between tax administrations, all countries are



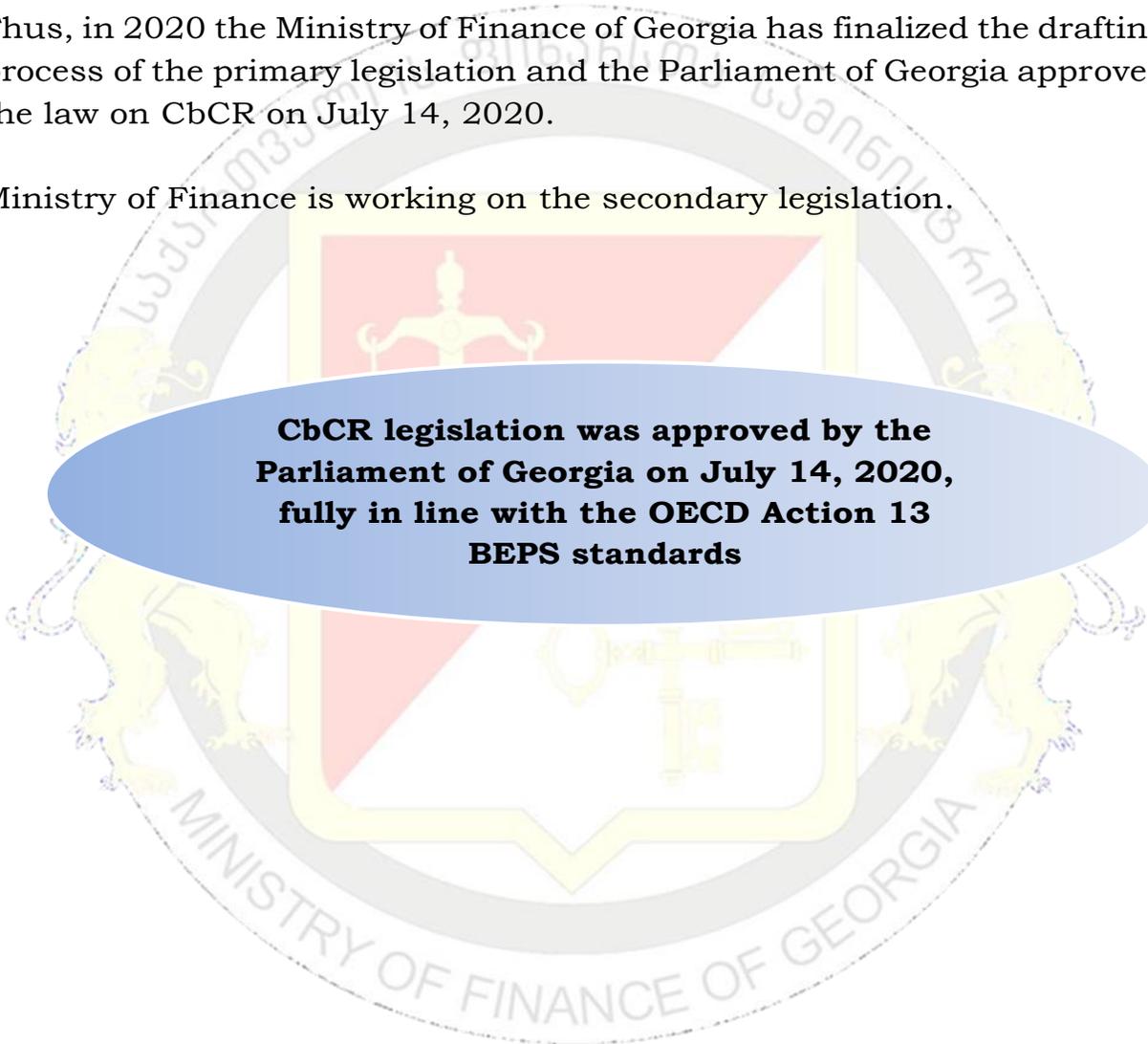
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required to have legal framework in place.

During 2019-2020 Ministry of Finance worked extensively together with the OECD, to put in place legal framework for the implementation of the CbC reporting standard.

Thus, in 2020 the Ministry of Finance of Georgia has finalized the drafting process of the primary legislation and the Parliament of Georgia approved the law on CbCR on July 14, 2020.

Ministry of Finance is working on the secondary legislation.

The seal of the Ministry of Finance of Georgia is a large, faint watermark in the background. It features a central shield with a red triangle and a golden figure, flanked by two golden lions. The shield is set within a circular frame containing the text 'საქართველოს მინისტრის სამინისტრო' at the top and 'MINISTRY OF FINANCE OF GEORGIA' at the bottom.

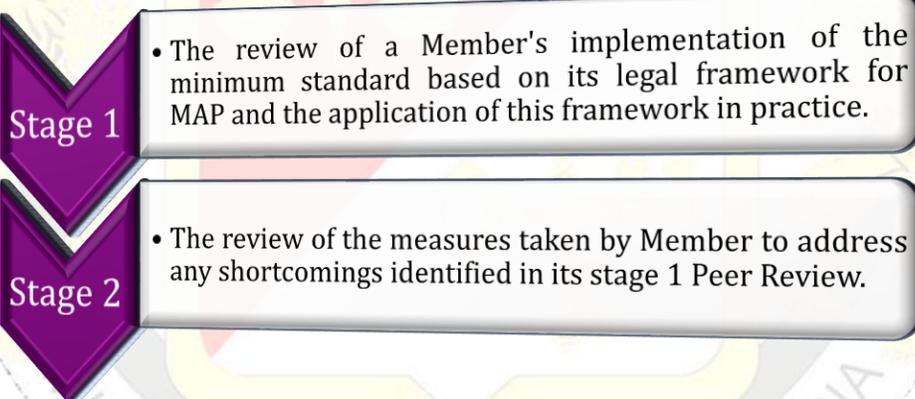
CbCR legislation was approved by the Parliament of Georgia on July 14, 2020, fully in line with the OECD Action 13 BEPS standards

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BEPS ACTION 14 - Making Dispute Resolution More Effective

The minimum standard of Action 14 requires the Inclusive Framework member-countries to ensure the consistent and proper implementation of tax treaties, including the effective and timely resolution of disputes regarding their interpretation or application through the mutual agreement procedure. The commitment by members to implement the Action 14 minimum standard includes a commitment to provide timely and complete reporting of MAP statistics, pursuant to an agreed reporting framework.

The MAP peer review and monitoring process is conducted **by the Forum on Tax Administration (MAP Forum)** in accordance with the Terms of Reference and Assessment Methodology, with all members participating on an equal footing. The Assessment Methodology establishes detailed guidelines for a two-stage approach to the peer review and monitoring process.



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In May 2017, Georgia was elected as a member of the FTA MAP Forum Steering Group.

- ✓ Throughout the year 2020 Georgia was closely involved in activities of the FTA MAP Forum and participated in the reviews of other jurisdictions.
- ✓ On May 15, 2020 the Ministry of Finance provided the reporting of its MAP statistics pursuant to the agreed reporting framework.

During 2020 Ministry of Finance, in close cooperation with the World Bank, finalized the drafting process of the MAP Decree, which sets out the clear procedures for the taxpayers wishing to initiate the Mutual Agreement Procedure under the DTA with Georgian Competent Authority.

New Map Decree is fully in line with the standards introduced by the OECD under ACTION 14 BEPS project and provides a mechanism, independent from the ordinary legal remedies available under domestic law, through which the competent authorities of the Contracting States may resolve differences or difficulties regarding the interpretation or application of the Convention on a mutually-agreed basis under Article 25 of the [OECD Model Tax Convention](#).

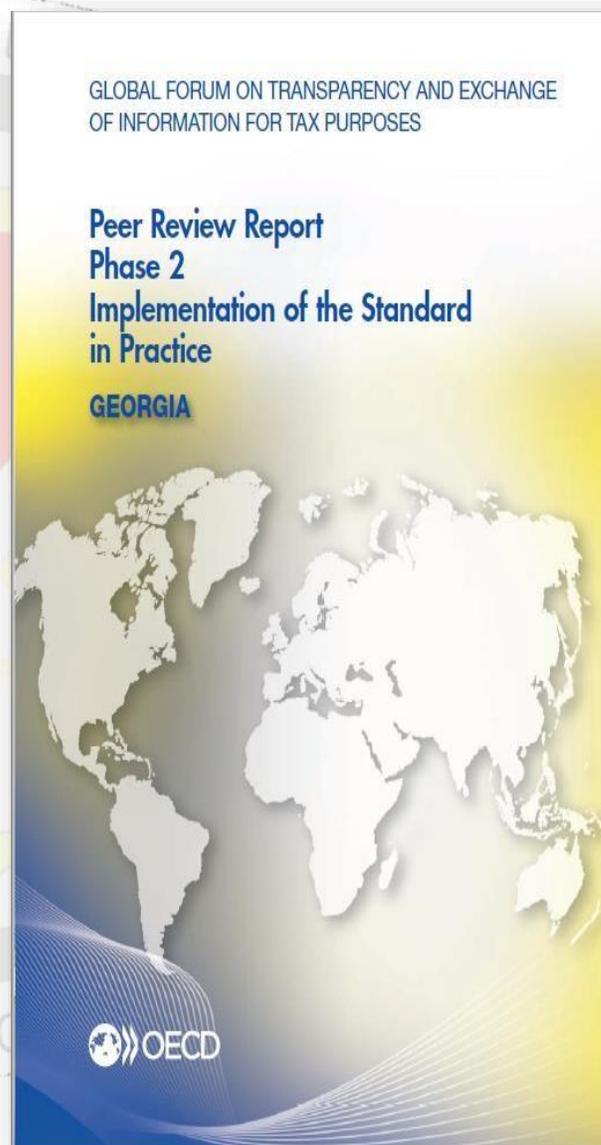
This mechanism – the mutual agreement procedure – is of fundamental importance to the proper application and interpretation of tax treaties, notably to ensure that taxpayers entitled to the benefits of the treaty are not subject to taxation by either of the Contracting States, which is not in accordance with the terms of the treaty.

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Global Forum on Transparency and Exchange of Information for Tax Purposes

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the world's leading multilateral body within which work in the area of transparency and exchange of information for tax purposes is carried out. The mandate of the Global Forum is to ensure a rapid and effective implementation of the standards on transparency and exchange of information for tax purposes. Its work focuses on two internationally recognized standards: exchange of information on request (EOIR) and automatic exchange of financial account information (AEOI). The Global Forum now has 161 members on equal footing.

One of the main instruments used by the Global Forum to ensure that its members effectively implement the internationally agreed standards, is a peer review process. The process is robust and transparent and is designed to identify any areas of the legal or practical implementation of the standards that require improvement, and thus ensures the level playing field.



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On 11 April 2011, Georgia became a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

Georgia's Phase 1 and Phase 2 reviews on implementation of EOIR Standards have been conducted in 2013-2016. As a result of the assessment, it was established **in 2016 that Georgia's legislation and practice in the field of tax transparency and exchange of information comply with the international standard and Georgia rates as overall largely compliant with the international standard.**

The work on EOIR is undertaken by the Peer Review Group (PRG) comprising 30 members, including Georgia.

Since 2015 Georgia is an elected member of PRG and actively has been participating in and contributing to the monitoring and peer review process for EOIR.

Georgia's assessment under the new second round of reviews was initially scheduled for 2020. Due to the heavy workload at the Global Forum's Secretariat Georgia's review has been postponed to 2022.

The 2022 review of Georgia will be conducted in accordance with the new 2016 methodology for the second round of reviews.

On June 8, 2020 Georgia committed to implement the Standard for Automatic Exchange of Financial Account Information in Tax Matters (the AEOI Standard) and to begin exchanges under this Standard by the end of September 2023.

Key documents on the Global Forum may be found here: <https://www.oecd.org>