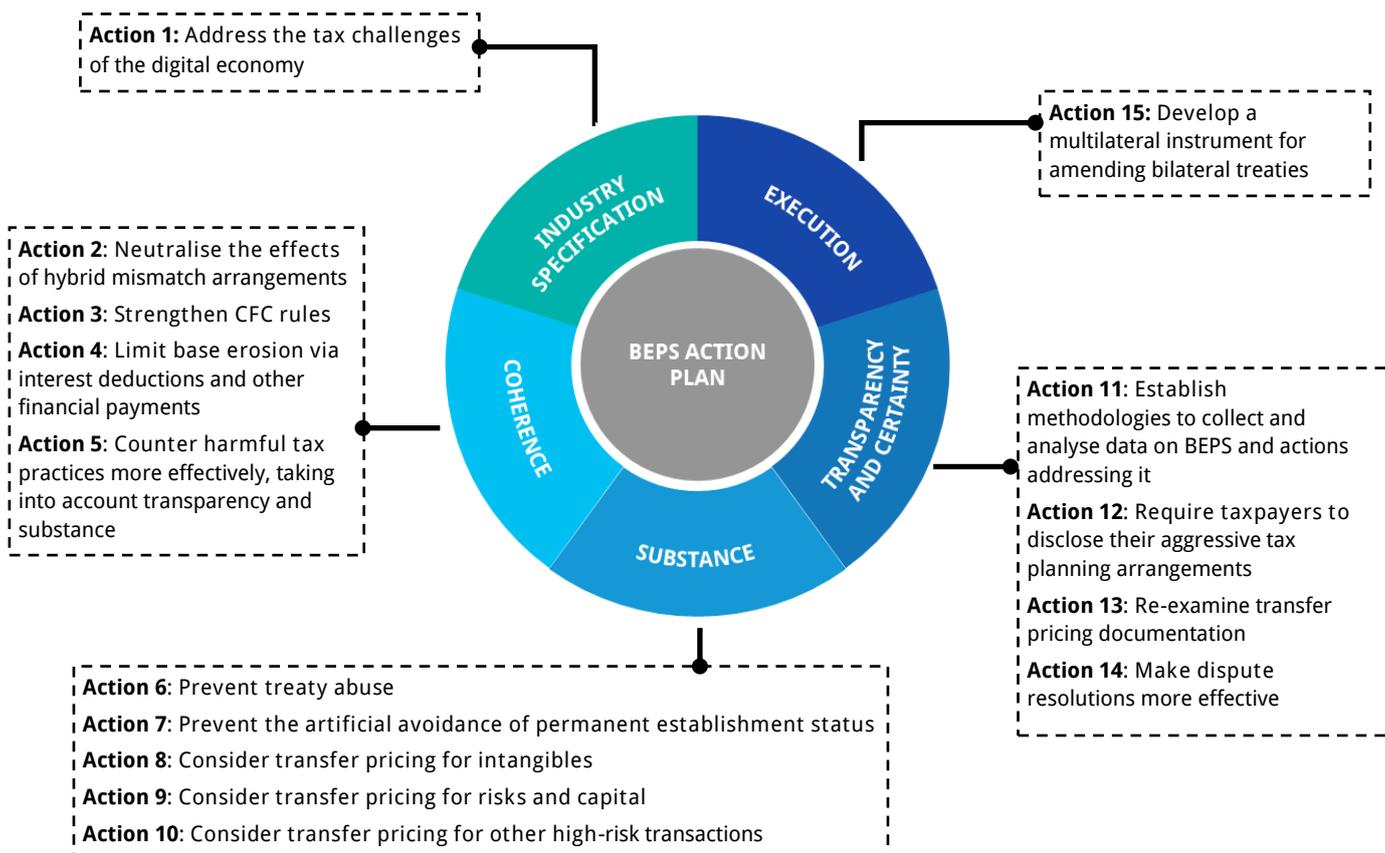


BEPS GLOBAL FRAMEWORK

Against the backdrop of global recessionary conditions, cash-strapped governments and economies facing the major moral debate of tax evasion versus tax planning and avoidance, there is tremendous political and public focus on the taxation of multinational enterprises (MNE) across the world. Correspondingly, the Organisation for Economic Cooperation and Development (OECD), in 2013, began its quest to address the concern of Base Erosion and Profit Shifting (BEPS). The OECD estimated that tax avoidance through base erosion and profit shifting has resulted in tax revenue losses to the tune of USD 100–240 billion every year, which is around 4–10% of global corporate income tax revenue. After an extensive exercise for over two years, the OECD presented a set of final reports on the BEPS Action Plan with 15 Actions aimed at curbing the perceived tax avoidance practices undertaken by MNEs. The 15-point Action Plan, when implemented, could be one of the most fundamental changes in the international tax framework of this century.

BEPS ACTION PLAN



GLOBAL ACCEPTANCE OF BEPS OUTCOMES

The BEPS Project outcomes have received tremendous global acceptance, with tax authorities aggressively implementing the recommendations so as to curb revenue leakages.

- Almost 80 countries, including G20 nations, 34 OECD members and 40 other countries have supported the BEPS Project.
- 31 countries officially signed the multilateral agreement for automatic exchange of information under BEPS on 27 January 2016.
- About 16 countries have made Country-by-Country (CbC) reporting applicable from fiscal year starting on or after 1 January 2016.
- Various countries have shown readiness to implement other BEPS recommendations such as patent box regime, controlled foreign corporations, interest deduction and thin-capitalisation measures, prevention of treaty abuse, etc.

INDIA'S ACTION PLAN ON BEPS: BUDGET 2016

In conformity with BEPS Action 13 (Transfer Pricing Documentation), India recently proposed draft regulations to implement **Country-by-Country Reporting** and **Master File** documentation in the Union Budget 2016-17. Heavy penalties are proposed for failure to maintain such onerous documentation.

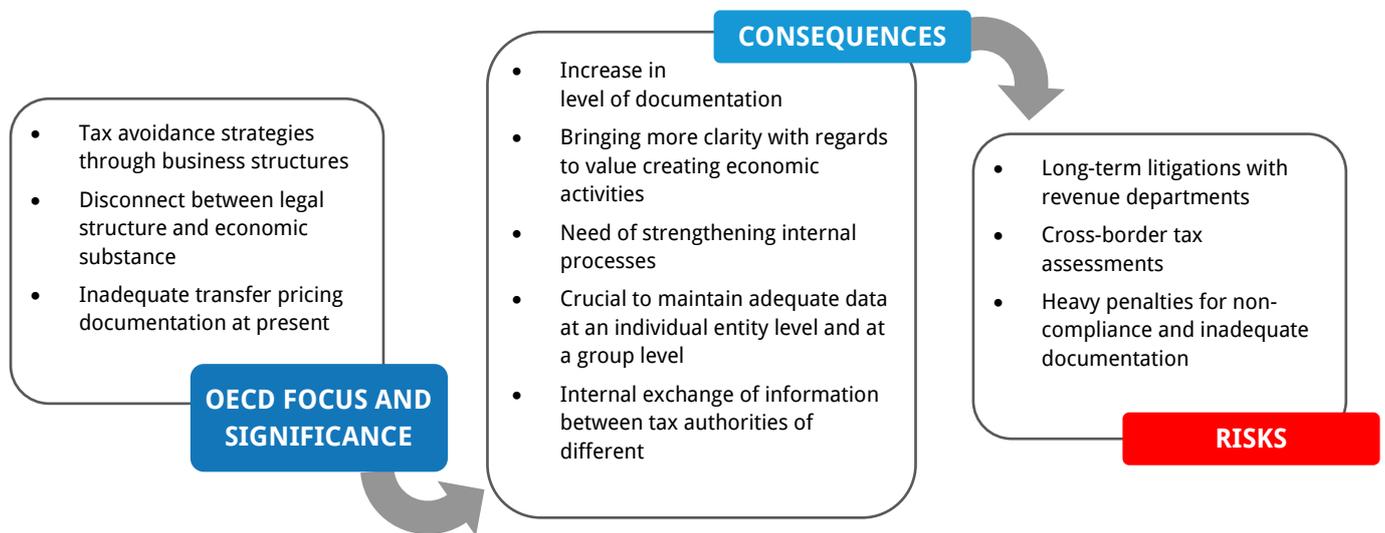
India also proposes to introduce **Place of Effective Management (POEM)** provisions in line with BEPS Action 6 (Prevent Treaty Abuse) and Action 7 (Permanent Establishment Status) to check on the artificial arrangements by MNEs to prevent Permanent Establishment (PE) status. Moreover, it is also proposed to enact an **equalisation levy** of 6% on foreign e-commerce players having no presence in India in line with BEPS Action 1 (Digital Economy).

Furthermore, a concessional tax rate of 10% has been proposed for **royalties derived from 'patents'** generated and registered in India to support research & development activities and to prevent shifting of legal ownership of intellectual properties to tax havens or low tax nations, as highlighted in BEPS Action 5 (Harmful Tax Practices).

ARE YOU PREPARED FOR BEPS?

MNEs would have to realign themselves with the scenario following the implementation of the BEPS Action Plan by various countries. It is clear that tax authorities will take more aggressive measures towards unfair tax practices. MNEs will no longer be able to look at value creation, transfer pricing and tax planning strategies in isolation – all must function in harmony. It is now time for MNEs to get 'BEPS ready'.

At the outset, MNEs need to understand the implications of all the BEPS Actions on their structure and operational model, evaluate the potential impact, identify the potential associated tax risks, and possibly restructure and realign their existing arrangements, if the need arises. It is also crucial to ensure that transfer pricing and relevant supporting documentation is kept up to date in a robust manner keeping in mind the overall objectives, consequences and risks associated as shown below:



Additionally, MNEs should be prepared for increased scrutiny by tax authorities given the broader economic information at their disposal.

In essence, it is imperative that MNEs perform a global BEPS check and evaluate the following questions:

- Is the nature of the group business clearly defined?
- How many international and domestic related party transactions does your business have?
- Do you have transfer pricing documentation that demonstrates your positions?
- What is the company's global supply chain policy?

- Does the policy have substance for each function performed and risk assumed in each local taxing jurisdiction?
- Is your transfer pricing documentation in line with the economic reality of the current supply chain in each jurisdiction and the supply chain as a whole?
- Do you have robust systems to align group-level as well as country-specific economic details and generate convincing audit trail documents?
- Do the existing business models need to be altered in view of the BEPS framework?

HOW SKP CAN HELP

SKP offers a full range of international tax and transfer pricing services and global solutions to MNEs. Our services are designed to equip you with adequate safeguards against BEPS measures and minimise the potential risks of non-compliance. We provide the following customised transfer pricing services:

- Review your existing structure, operational models and transfer pricing policies to find out if you are ready to comply with the new regulations encouraged by the BEPS framework.
- Help you develop actionable tax/transfer pricing risk management tactics including remodeling your tax/transfer pricing scenarios.

- Assist in preparing transfer pricing documentation including a Master file, local files in various jurisdictions and Country-by-Country reports in compliance with BEPS Action 13.
- Assist in business restructuring or reorganising business processes to ensure substance over form and realign the global transfer pricing policy.
- Assist in transfer pricing planning for new products, services and intangibles.
- Assist in setting up cost allocation/sharing/contribution arrangements.

ABOUT US

SKP is a long established and rapidly growing professional services group located in seven major cities across India. We specialise in providing sound business and tax guidance and accounting services to international companies that are currently conducting or initiating business in India as well as those expanding overseas. We serve over 1,200 active clients including multinationals, companies listed on exchanges, privately held and family-owned businesses from more than 45 countries.

From consulting on entry strategies to implementing business set-up and M&A transactional support, the SKP team assists clients with assurance, domestic and international tax, transfer pricing, corporate services, and finance and accounting outsourcing matters, all under one roof. Our team is dedicated to ensuring clients receive continuity of support, right across the business lifecycle.

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