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G8 Research Group  
at the Munk School of Global Affairs at Trinity College in the University of Toronto  
presents the

## **2013 Lough Erne G8 Summit Final Compliance Report**

18 June 2013 to 15 May 2014

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## Contents

Preface .....	3
Executive Summary .....	4
Table A: 2013 Lough Erne Final Compliance Scores .....	7
1. Macroeconomic Policy: Global Demand [37].....	8
2. Macroeconomic Policy: Global Imbalances [45] .....	23
3. Trade: Trade Deals [8].....	37
4. Trade: Green Growth [54].....	54
5. Trade: Africa Trade and Infrastructure [69].....	60
6. Finance: Base Erosion and Profit Shifting [76] .....	71
7. Transparency: Corporate Transparency [87] .....	83
8. Transparency: Extractive Industries [97] .....	106
9. Crime and Corruption: Anti-Money Laundering [95] .....	119
10. Crime and Corruption: Stolen Asset Recovery [162] .....	131
11. Information and Communication Technologies [115] .....	138
12. Health: Deepening Impact on Malnutrition [136] .....	147
13. Climate Change: Climate and Clean Air Coalition [145] .....	164
14. Climate Change: Climate Finance [150] .....	182
15. Development: Country-Led Reforms [157] .....	189
16. Terrorism: Countering Violent Extremism [183].....	205
17. Regional Security: Deauville Partnership [186].....	216
18. Regional Security: Syria [198] .....	227

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## 6. Finance: Base Erosion and Profit Shifting [76]

### Commitment:

“[We agree] to ensure that our own tax rules do not allow or encourage any multinational enterprises to reduce overall taxes paid by artificially shifting profits to low-tax jurisdictions.”

*2013 Lough Erne Leaders’ Communiqué*

### Assessment:

Country	Lack of Compliance	Work in Progress	Full Compliance
Canada			+1
France			+1
Germany			+1
Italy			+1
Japan		0	
Russia			+1
United Kingdom			+1
United States		0	
European Union		0	
Average Score		+0.67	

### Background:

Issues of tax transparency have featured in past G8 agendas. In 2004 at the Sea Island G8 Summit, steps were taken to fight corruption and improve transparency as well as accountability for both private and public sectors within select countries.<sup>363</sup>

In 2009 in Lecce, Italy, the G8 Finance Ministers agreed to implement efforts that would ensure global financial stability as well as an international level playing field.<sup>364</sup> In accordance, the Finance Minister Jim Flaherty said that the Canadian “government is committed to enhancing the fairness and competitiveness of Canada’s international tax rules.”<sup>365</sup> At last year’s Lough Erne 2013 G8 summit, it was made clear that in order to maintain fiscal stability, it is of crucial importance that fair and effective international tax rules are applied to multilateral enterprises.<sup>366</sup>

In addition, on 24 April 2013, the British Prime Minister David Cameron addressed the President of the European Council, and noted the proposal to address tax evasion and avoidance, as key concerns to the global economy. Prime Minister David Cameron emphasizes the role of the G8 by stating, “tax evasion and aggressive tax avoidance are global problems that require truly global solutions.”<sup>367</sup>

At the Lough Erne G8 meeting of 2013, Leaders welcomed the OECD work on addressing Base Erosion and Profit Shifting (BEPS) and supported its development of a concrete Action Plan to

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<sup>363</sup> Transnational Crime and Corruption, G8 Information Centre (Toronto) 15 May 2007. Access Date: 30 November 2013. [http://www.g8.utoronto.ca/evaluations/2006compliance\\_final/14-2006\\_g8compliance\\_crime.pdf](http://www.g8.utoronto.ca/evaluations/2006compliance_final/14-2006_g8compliance_crime.pdf)

<sup>364</sup> Statement of G8 Finance Ministers. Department of Finance Canada. 13 June 2009. Access Date: 30 November 2013. [www.fin.gc.ca/n08/09-061-eng.asp](http://www.fin.gc.ca/n08/09-061-eng.asp).

<sup>365</sup> Government of Canada Releases Draft Foreign Affiliate Regulations, Department of Finance Canada (Ottawa) 18 December 2013. Access Date: 30 November 2012. [www.fin.gc.ca/n08/09-120-eng.asp](http://www.fin.gc.ca/n08/09-120-eng.asp)

<sup>366</sup> Lough Erne Joint Communiqué from Group of Eight Leaders (Lough Erne) 18 June 2013 Access Date: 30 November 2013 <http://iipdigital.usembassy.gov/st/english/texttrans/2013/06/20130618276629.html#axzz2m3EHVebS>

<sup>367</sup> PM Letter to the EU on Tax Evasion and Aggressive Avoidance (London) 25 April 2013 Access Date: 30 November 2013 <http://www.g8.utoronto.ca/summit/2013lougherne/130424-cameron.html>

tackle tax BEPS issues.<sup>368</sup> The OECD BEPS Action Plan, fully endorsed by the G20 Finance Ministers and Leaders in Moscow and Saint Petersburg, calls for implementation of 15 actions to address tax planning strategies that exploit gaps and mismatches in tax rules to make profits ‘disappear’ for tax purposes or to shift profits to low or no-tax locations where little or no real economic activity takes place. These actions include concrete measures in areas such as domestic anti-avoidance rules, transfer pricing, tax treaty abuse, harmful tax practices, and transfer pricing documentation requirements.<sup>369</sup>

**Commitment Features:**

This commitment focuses on preventing unintended double non-taxation through base erosion and profit shifting practices . The aim is to drive domestic policy and legislation in G8 member countries (and more broadly, OECD and G20 countries) and at the level of the international tax rules, to target these tax practices. The objective is “to restore confidence in the fairness and effectiveness of our international tax rules and practices, and to ensure that each country is able to collect taxes owing and that developing countries are also able to secure the benefits of progress made on this agenda.”<sup>370</sup>

The artificial shifting of profits can be carried out by various methods. For example, a company can shift debt to a high tax jurisdictions thus avoid taxation on foreign subsidiaries, which may be deferred until repatriated.<sup>371</sup> It can also be done by claiming greater profits in low tax jurisdiction; this is called a hybrid entity, and consists of the business having a partnership in one jurisdiction and the corporation in another.

To this end full compliance requires that G8 members to (1) discuss or announce policies or legislation that will directly tackle artificial profit shifting and base erosion and (2) implemented and enforce new legislation that targets BEPS issues .

**Scoring Guidelines:**

-1	Member has not discussed or announced new policies addressing base erosion and profit shifting
0	Member has discussed or announced new policies addressing base erosion and profit shifting but has NOT implemented legislation
+1	Member has implemented new legislation that targets base erosion and profit shifting.

*Lead Analyst: Michael Humeniuk*

**Canada: +1**

Canada has fully complied with its commitment to ensure that its tax rules do not allow base erosion and profit shifting.

On 25 June 2013, Minister of National Revenue Gail Shea announced new rules for Canadians holding foreign property, in the form of a change to the “Foreign Income Verification Statement.” This means that Canadians who hold foreign property with a value of over CAD 100,000 will have to provide additional information on this property to the Canada Revenue Agency (CRA). This

<sup>368</sup> Lough Erne Joint Communiqué from Group of Eight Leaders (Lough Erne) 18 June 2013 Access Date: 30 November 2013 <http://iipdigital.usembassy.gov/st/english/texttrans/2013/06/20130618276629.html#axzz2m3EHVebS>

<sup>369</sup> Addressing Base Erosion And Profit Shifting Report, 12 February 2013. Date of Access: 30 November 2013. <http://www.oecd.org/tax/beps-reports.htm>

<sup>370</sup> Lough Erne Joint Communiqué from Group of Eight Leaders (Lough Erne) 18 June 2013 Access Date: 30 November 2013 <http://iipdigital.usembassy.gov/st/english/texttrans/2013/06/20130618276629.html#axzz2m3EHVebS>

<sup>371</sup> Tax Havens: International Tax Avoidance and Evasion (Washington) 23 January 2013 Dare of Access: 30 November 2013 <http://www.fas.org/sgp/crs/misc/R40623.pdf>

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includes: (1) the name of the foreign institution holding the funds; (2) the country in which the property is held; (3) the income generated by the property. The new rules will make it easier for the CRA to detect and diminish instances of tax evasion.<sup>372</sup>

Moreover, on 25 November 2013, Auditor General Michael Ferguson issued a report on the CRA's progress in combatting foreign tax evasion. The report noted that while the CRA had made progress on tackling tax evasion, it lacks the resources to fully deal with the growing issue. In response to the report, Minister of National Revenue Kerry-Lynne Findlay announced that the CRA was fully complying with Ferguson's three recommendations. These are: (1) making sure procedures for offshore audits are reformed and clear to staff; (2) establishing clear timelines for the offshore audits; (3) revising its policy on the use of non-prosecution agreements.<sup>373,374</sup>

Additionally, on 13 December 2013, Industry Minister James Moore announced that the federal government is reviewing the Canada Business Corporations Act, and accepting public input for changes. The review is partly conducted with a focus to increase business transparency with regards to foreign profits—one reform suggested is improving share disclosure rules. The government is accepting written suggestions until March of 2014.<sup>375</sup>

On 15 January 2014, Minister of National Revenue Kerry-Lynne Findlay announced the launch of the Offshore Tax Informant Program (OTIP), first proposed in the 2013 Economic Action Plan. The program allows the payment of rewards to individuals who provide information on international tax evasion by Canadian companies. The reward will be “a percentage of the federal tax collected as a result of the information provided.”<sup>376</sup>

Lastly, on 23 February 2014, the G20 Finance Ministers and Central Bank Governors, including Finance Minister Joe Oliver, and Bank of Canada Governor Stephen Poloz, issued a communique after their meeting in Sydney, Australia. In it, they pledged “a global response to Base Erosion and Profit Shifting (BEPS)” and that by the Brisbane G20 Summit, they would “deliver effective, practical and sustainable measures to counter BEPS across all industries, including traditional, digital and digitalised firms, in an increasingly globalised economy.” Furthermore, they endorsed the Common Reporting Standard for the exchange of tax information, and pledged the full exchange of tax information by the end of 2015.<sup>377</sup>

Canada continues to implement existing policies to diminish foreign tax avoidance and profit shifting, many of which were introduced in the 2013 budget. Canada has announced rule changes and policy shifts to address tax avoidance and profit shifting in this compliance cycle, and with the launch

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<sup>372</sup> Harper Government announces new requirements for Canadians with offshore property and income, Canada Revenue Agency (Ottawa) 25 June 2013. Access Date: 18 December 2013. <http://www.cra-arc.gc.ca/nwsrm/rlss/2013/m06/nr130625-eng.html>

<sup>373</sup> Statement by the Honourable Kerry-Lynne D. Findlay on the release of the Auditor General's Report, Canada Revenue Agency (Ottawa) 26 November 2013. Access Date: 18 December 2013. <http://www.cra-arc.gc.ca/whtsnw/tms/sttmnt131126-eng.html>

<sup>374</sup> Auditor General: Revenue Agency not prepared for increase in tax-haven cases, Postmedia News (Toronto) 25 November 2013. Access Date: 18 November 2013. <http://o.canada.com/business/auditor-general-revenue-agency-not-prepared-for-increase-in-tax-haven-cases/>

<sup>375</sup> Ottawa weighs new rules on executive compensation, director votes, The Globe and Mail (Toronto) 13 December 2013. Access Date: 18 November 2013. <http://www.theglobeandmail.com/report-on-business/corporate-governance-rules-up-for-review-as-ottawa-launches-consultation/article15947345/#dashboard/follows/>

<sup>376</sup> Canada Revenue Agency launches informant hotline, Canada Revenue Agency (Ottawa) 15 January 2014. Access Date: 6 May 2014. <http://news.gc.ca/web/article-en.do?nid=809539>

<sup>377</sup> Communiqué of G-20 Finance Ministers and Central Bank Governors, Department of Finance (Ottawa) 23 February 2014. Access Date: 6 May 2014. <http://www.fin.gc.ca/n14/14-029-eng.asp>

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of the Offshore Tax Informant Program, new legislation has been enacted since the Loch Erne Summit. Thus, Canada receives a full compliance score of +1.

*Analyst: Alexander Cohen*

**France: +1**

France has fully complied with its commitment implement new legislation that targets tax avoidance.

On 25 September 2013, the French government released its 2014 draft Finance Bill. This initially proposed version put forth a bill in line with recent debates regarding Base Erosion Profit Shifting (BEPS).<sup>378</sup>

Additionally, on 19 November 2013, the French National Assembly adopted a revised version of the Finance Bill draft for 2014.<sup>379</sup> The bill includes several amendments to the original draft brought forth on 25 September 2013 including the strengthening of anti-tax evasion rules and transfer pricing documentation requirements.<sup>380</sup> The Finance bill was approved for 2014 on 19 December 2013.<sup>381</sup>

France has fully complied with its commitments and has been awarded +1 for the ongoing discussion and debates by the French Senate to put forth the final 2014 Finance Bill where tax avoidance is directly targeted.

*Analyst: Nicholas Chong*

**Germany: +1**

Germany has fully complied with its commitment to implement more comprehensive tax regulations that do not allow companies to artificially shift profits to low-tax jurisdictions.

On 9 April 2013, Germany along with France, Spain, Italy, and the UK announced their intention to exchange FATCA-type information amongst themselves in addition to exchanging information with the United States which was an important step towards the new single standard of automatic information for tax purposes developed by the OECD and in 2014 endorsed by G20 Finance Ministers as the “New Common Reporting Standard.”<sup>382</sup> The forum includes 122 members that aim

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<sup>378</sup> French National Assembly adopts draft 2014 Finance Bill and French Government releases draft Amended 2013 Finance Bill (UK) 20 November 2013. Access Date: 29 December 2013. [http://www.ey.com/Publication/vwLUAssets/French\\_National\\_Assembly\\_adopts\\_draft\\_2014\\_Finance\\_Bill\\_and\\_French\\_Government\\_releases\\_draft\\_Amended\\_2013\\_Finance\\_Bill/\\$FILE/2013G\\_CM3978\\_French%20National%20Assembly%20adopts%20draft%202014%20Finance%20Bill.pdf](http://www.ey.com/Publication/vwLUAssets/French_National_Assembly_adopts_draft_2014_Finance_Bill_and_French_Government_releases_draft_Amended_2013_Finance_Bill/$FILE/2013G_CM3978_French%20National%20Assembly%20adopts%20draft%202014%20Finance%20Bill.pdf)

<sup>379</sup> French National Assembly adopts draft 2014 Finance Bill and French Government releases draft Amended 2013 Finance Bill (UK) 20 November 2013. Access Date: 29 December 2013. [http://www.ey.com/Publication/vwLUAssets/French\\_National\\_Assembly\\_adopts\\_draft\\_2014\\_Finance\\_Bill\\_and\\_French\\_Government\\_releases\\_draft\\_Amended\\_2013\\_Finance\\_Bill/\\$FILE/2013G\\_CM3978\\_French%20National%20Assembly%20adopts%20draft%202014%20Finance%20Bill.pdf](http://www.ey.com/Publication/vwLUAssets/French_National_Assembly_adopts_draft_2014_Finance_Bill_and_French_Government_releases_draft_Amended_2013_Finance_Bill/$FILE/2013G_CM3978_French%20National%20Assembly%20adopts%20draft%202014%20Finance%20Bill.pdf)

<sup>380</sup> French National Assembly adopts draft 2014 Finance Bill and French Government releases draft Amended 2013 Finance Bill (UK) 20 November 2013. Access Date: 29 December 2013. [http://www.ey.com/Publication/vwLUAssets/French\\_National\\_Assembly\\_adopts\\_draft\\_2014\\_Finance\\_Bill\\_and\\_French\\_Government\\_releases\\_draft\\_Amended\\_2013\\_Finance\\_Bill/\\$FILE/2013G\\_CM3978\\_French%20National%20Assembly%20adopts%20draft%202014%20Finance%20Bill.pdf](http://www.ey.com/Publication/vwLUAssets/French_National_Assembly_adopts_draft_2014_Finance_Bill_and_French_Government_releases_draft_Amended_2013_Finance_Bill/$FILE/2013G_CM3978_French%20National%20Assembly%20adopts%20draft%202014%20Finance%20Bill.pdf)

<sup>381</sup> France’s Parliament approves 2014 Finance Bill and Amended 2013 Finance Bill (UK) 20 December 2013. Access Date: 9 May 2014. [http://www.ey.com/Publication/vwLUAssets/France\\_Parliament\\_approves\\_2014\\_Finance\\_Bill\\_and\\_Amended\\_2013\\_Finance\\_Bill/\\$FILE/2013G\\_CM4052\\_France%E2%80%99s%20Parliament%20approves%202014%20Finance%20Bill%20and%20Amended%202013%20Finance%20Bill.pdf](http://www.ey.com/Publication/vwLUAssets/France_Parliament_approves_2014_Finance_Bill_and_Amended_2013_Finance_Bill/$FILE/2013G_CM4052_France%E2%80%99s%20Parliament%20approves%202014%20Finance%20Bill%20and%20Amended%202013%20Finance%20Bill.pdf)

<sup>382</sup> OECD REPORT FOR THE G8 SUMMIT LOUGH ERNE, ENNISKILLEN, JUNE 2013: [http://www.oecd.org/ctp/exchange-of-tax-information/taxtransparency\\_G8report.pdf](http://www.oecd.org/ctp/exchange-of-tax-information/taxtransparency_G8report.pdf)

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to increase transparency in the system by creating an automatic exchange of information. The German Chancellor Angela Merkel highly supports the new plan to tackle tax avoidance stating, “the global economy has changed massively over the last decade but global tax rules have stood still for almost a century and Britain will lead the international effort to bring them into the 21st century.”<sup>383</sup>

The OECD Secretary General further released a progress report of the Global Forum on Exchange of Information to inform the decision of G8 and G20 Leaders. Thus far, Germany is on track to implementing the new initiatives, and is one of five countries that have agreed to enact the Model 1 IGA, which “provides for reporting by financial institutions to their local tax authorities, which then exchange the information on an automatic basis with the residence jurisdiction tax authorities.”<sup>384</sup> The report further outlines necessary actions by the countries to create and implement a new single, global standard for automatic exchange of tax information.

In addition, on 29 May 2013, Germany signed a cross-border tax compliance agreement with the United States.<sup>385</sup> This is another example of Germany’s support and active initiatives in international tax reforms. This accord was modelled after the agreement of France, Italy, Spain, the UK, and Germany to increase information sharing published on 26 May 2012.<sup>386</sup> Moreover on 27 November 2013 a joint statement by the finance ministers of France, Germany, Italy, Spain, and the UK welcomed “Colombia, Greece, Iceland Liechtenstein, Luxembourg and Malta to the G5 pilot initiative on automatic exchange of information.”<sup>387</sup>

Finally, at their meeting on 28 April 2014, the G5 leaders (France, Germany, Italy, Spain and the United Kingdom) strongly endorsed early adoption of the new Global Standard for Automatic Exchange of tax information, which was published on 17 January 2014 by the OECD.<sup>388</sup> This new standard was presented and approved at the February 2014 G20 meeting of Finance Ministers and Central Bank Governors. On 19 March 2014, the G5 leaders issued a statement outlining their intention was to have the first information exchange by 2017, with retroactive information on accounts opened in 2015.

Germany has taken active steps at confronting tax avoidance via profit shifting. Due to Germany’s active cooperation and engagement with the OECD and its respective action plan, as well as initiatives for tax-reforms, it has attained a compliance score of +1.

*Analyst: Amelia Cook*

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<sup>383</sup> US Unveils Plan to End Tax Avoidance, The Telegraph UK, 16 February 2013. Date Accessed: 15 December 2013. <http://www.telegraph.co.uk/finance/personalfinance/consumertips/tax/9873666/OECD-unveils-plan-to-end-tax-avoidance.html>

<sup>384</sup> Global Forum on Transparency and Exchange of Information for Tax Purposes, The Organization for Economic Co-operation and Development (Paris) 19-20 July 2013. Date Accessed: 15 December 2013. <http://www.oecd.org/g20/topics/taxation/>

<sup>385</sup> <http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2013/2013-05-29-tax-compliance-agreement-with-us.html>

<sup>386</sup> Sharing Tax Information: Joint Statement by G5 Finance Ministers, Federal Ministry of Finance (Berlin) 27 November 2013. Date Accessed: 15 December 2013. <http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2013/2013-05-29-tax-compliance-agreement-with-us.html>

<sup>387</sup> Cabinet Approves Cross-Border Tax Compliance Agreement with U.S, Federal Ministry of Finance (Berlin) 29 May 2013. Date Accessed: 15 December 2013.

<http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2013/2013-11-28-joint-statement-g5.html>

<sup>388</sup> Automatic Exchange of Information, The Organization for Economic Co-operation and Development (Paris) February 2014. Date Accessed: 29 April 2014.

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## Italy: 0

Italy has partially complied with its commitment to prevent tax avoidance by multinational corporations, particularly by means of profit shifting to low-tax jurisdiction.

The Guardia di Finanza — the Italian tax enforcement body — has published the 2013 guidelines on tax audits for the fiscal year. The guidelines have increased the level of inspection on high risk taxpayers to counter tax avoidance. These taxpayers range from small enterprises with turnovers of EUR 5 million, to large enterprises with turnovers of EUR 100 million. These taxpayers are to be inspected following guidelines set out by the OECD.<sup>389</sup>

On 10 January 2014, Italy signed an anti-evasion pact with the US Treasury Department. As per the agreement, “Italian banks and financial institutions will report information”<sup>390</sup> about offshore accounts worth more than USD 50,000, in attempts to improve tax compliance.

Thus, Italy has been awarded a 0. While Italy has increased inspections on businesses in accordance with the OECD, it has not yet passed enough concrete legislation to tackle issues of tax avoidance.

*Analyst: Andy Li*

## Japan: 0

Japan has partially complied with its commitment to target acts of tax avoidance. It has signed the conventions and the amending protocols with several countries and has stressed the importance of closing tax avoidance loopholes.

On 28 June 2013, Government of Japan “deposited the Instrument of Acceptance on the Convention on Mutual Administrative Assistance in Tax Matters (the Convention) and the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (the Amending Protocol) to the Secretary-General of the Organization for Economic Co-operation and Development (OECD).”<sup>391</sup> The Conventions provide mutual “administrat[ion] supports concerning tax matters between tax authorities of the States Parties (exchange of information concerning tax matters, mutual assistance in recovery of tax claims, and mutual assistance in service of documents on taxes) and also deals with international tax avoidance and avoidance in an appropriate manner.”<sup>392</sup>

On 5 December 2013, Japanese Ambassador to the Kingdom of Sweden, Seiji Morimoto, and State Secretary to the Minister for Finance of the Kingdom of Sweden, Mikael Lundholm, signed the Protocol Amending the Convention between Japan and Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income in Stockholm.<sup>393</sup> The Protocol “expands the scope of exemption of taxes withheld at source on investment income (dividends, interest and royalties) to further promote mutual investments between the two

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<sup>389</sup> The war on tax evasion: an Italian perspective, Nexia International, June 2013. Date Accessed: 20 December 2013. <http://www.nexia.com/TheWarontaxevasion:anItalianperspective>

<sup>390</sup> U.S. Treasury signs anti-tax evasion pact with Italy, 10 January 2014. Access Date: 1 May 2014. <http://www.reuters.com/article/2014/01/10/usa-tax-italy-idUSL2N0KK21Y20140110>

<sup>391</sup> On the Deposit of the Instrument of Acceptance of the “Convention on Mutual Administrative Assistance in Tax Matters” and the “Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters,” 1 July 2013. Access Date: 20 December 2013. [http://www.mofa.go.jp/press/release/press6e\\_000138.html](http://www.mofa.go.jp/press/release/press6e_000138.html)

<sup>392</sup> On the Deposit of the Instrument of Acceptance of the “Convention on Mutual Administrative Assistance in Tax Matters” and the “Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters,” 1 July 2013. Access Date: 20 December 2013. [http://www.mofa.go.jp/press/release/press6e\\_000138.html](http://www.mofa.go.jp/press/release/press6e_000138.html)

<sup>393</sup> Signing of the Protocol Amending Tax Convention with Sweden, Ministry of Foreign Affairs of Japan, 6 December 2013. Access Date: 19 December 2013. [http://www.mofa.go.jp/press/release/press4e\\_000120.html](http://www.mofa.go.jp/press/release/press4e_000120.html)



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countries,” and also “introduces provisions for preventing tax avoidance regarding with the above mentioned expansion of the scope of exemption.”<sup>394</sup>

On 17 December 2013, Keiichii Hayashi, Ambassador of Japan to the United Kingdom and Mr. David Gauke MP, Exchequer Secretary to the Treasury of the United Kingdom, signed The Conventions in London.<sup>395</sup> Comparably, on 1 July 2013, the Ministry of Finance announced the Convention signed with the Portuguese Republic on 19 December 2011 will be in effect on 28 July 2013.<sup>396</sup>

Moreover, to target cross border fiscal avoidance and to expand the international network of information exchange, on 13 March 2014, Hitoshi Noda, consul-general of Japan in Hong Kong and Tam Pak Yuen, secretary for economy and finance of the Macao Special Administrative Region signed a specific Tax Information Exchange Agreement with the goal of preventing “cross-border fiscal evasion and tax avoidance.”<sup>397</sup>

At the annual Japan-Canada Joint Economic Committee held on 10 January 2014, broad issues such as bilateral economic relations and trade policy, cooperation on energy and natural resources as well as international economic issues were discussed.<sup>398</sup>

Furthermore, on 15 April 2014, Deputy Foreign Minister Ho Xuan Son and Japanese Ambassador to Vietnam Fukuda Hiroshi “signed and exchanged a diplomatic note on the enactment of their agreement on double tax avoidance and tax avoidance prevention”<sup>399</sup> which not only addressed the financial concern but also acknowledged the economic contributions made by Japan Bank for International Cooperation (JBIC) towards infrastructure construction and energy development in Vietnam.

Although Japan has discussed tackling tax avoidance, primarily through the Convention and Protocol related discussions, it has yet to pass concrete legislation; for this reason Japan has been awarded a partial score of 0.

*Analyst: Angel Ji*

### **Russia: +1**

Russia has fully complied with the commitment on tax avoidance and profit shifting.

On 28 June 2013,<sup>400</sup> Russian President Vladimir Putin signed Federal Law on Amendments to Certain Legislative Acts of the Russian Federation regarding Prevention of Illegal Financial Operations. The law directly addresses tax avoidance and profit shifting by providing for measures to

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<sup>394</sup> Signing of the Protocol Amending Tax Convention with Sweden, Ministry of Foreign Affairs of Japan, 6 December 2013. Access Date: 19 December 2013. [http://www.mofa.go.jp/press/release/press4e\\_000120.html](http://www.mofa.go.jp/press/release/press4e_000120.html)

<sup>395</sup> Signing of the Protocol Amending Tax Convention with Sweden, Ministry of Foreign Affairs of Japan, 6 December 2013. Access Date: 19 December 2013. [http://www.mofa.go.jp/press/release/press4e\\_000120.html](http://www.mofa.go.jp/press/release/press4e_000120.html)

<sup>396</sup> Tax Convention with the Portuguese Republic will Enter into Force 1 July 2013. Access Date: 29 December 2013. [https://www.mof.go.jp/english/pri/publication/mf\\_review/cy2013/481/481\\_10.htm](https://www.mof.go.jp/english/pri/publication/mf_review/cy2013/481/481_10.htm)

<sup>397</sup> Signing of the Tax Information Exchange Agreement between the Government of Japan and the Government of the Macao Special Administrative Region of the People’s Republic of China, 13 March 2014. Access Date: 2 May 2014. [http://www.mofa.go.jp/press/release/press4e\\_000233.html](http://www.mofa.go.jp/press/release/press4e_000233.html).

<sup>398</sup> Japan-Canada Joint Economic Committee, 9 January 2014. Access Date: 2 May 2014. [http://www.mofa.go.jp/press/release/press4e\\_000156.html](http://www.mofa.go.jp/press/release/press4e_000156.html)

<sup>399</sup> Vietnam, Japan exchange note on double tax avoidance agreement, 16 April 2014. Access Date: 2 May 2014. <http://english.vov.vn/Politics/Vietnam-Japan-exchange-note-on-double-tax-avoidance-agreement/275443.vov>

<sup>400</sup> Introduction of amendments to certain legislation in order to prevent illegal financial operations, President of Russia 30 June 2013. Access Date: 13 January 2014. <http://kremlin.ru/news/18424>.

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prevent the registration of shell companies, expanding state control over financial operations, and introducing the definition of a beneficial owner.<sup>401</sup>

On 12 December 2013, Vladimir Putin in his Address to the Federal Assembly proposed some steps to address the challenges of offshore economic activity. In particular, he suggested that companies registered in foreign jurisdictions should not be allowed to use government support measures and state guarantees as well as fulfil government contracts.<sup>402</sup> He also instructed the Government to ensure that companies that are registered in offshore jurisdictions and belong to Russian owners or whose ultimate beneficiaries are Russian nationals are taxed in accordance with Russian laws.<sup>403</sup>

Russia has implemented new legislation to address tax avoidance and profit shifting during the compliance period. Thus, it receives a score of +1.

*Analyst: Andrey Shelepon*

### **United Kingdom: +1**

The United Kingdom has fully complied with its commitment to ensure that their tax rules do not allow or encourage any multinational enterprises to reduce overall taxes paid by artificially shifting profits to low-tax jurisdictions.

From 18 July 2013 to 10 October 2013, the HM Revenue and Customs also held a consultation that on “Reform of an anti-avoidance provision: transfer of assets abroad.”<sup>404</sup> On 20 December 2013, HM Revenue Customs published the outcome for the consultation, which stated in the “Next Steps” section, “the Government has decided not to pursue legislative change to the matching rules at present.”<sup>405</sup>

On 10 December 2013, HM Treasury and HM Revenue Customs published draft tax legislation in the 2014 Finance Bill. The bill contained next steps with regards to the government’s drive to tackle tax avoidance.<sup>406</sup> Exchequer Secretary to the Treasury, David Gauke said, “The package of measures in the legislation published today delivers action that builds on our efforts to create a tax system that supports growth and fairness. And by consulting on the draft legislation in this way we are delivering on our promise to make the system more certain and stable for taxpayers and businesses.”<sup>407</sup> The Employment intermediaries document of the draft anti-avoidance tax legislation proposed policies

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<sup>401</sup> Amendments to several laws in order to prevent illegal financial operations, President of Russia 30 June 2013. Access Date: 31 December 2013. <http://eng.kremlin.ru/news/5662>.

<sup>402</sup> Presidential Address to the Federal Assembly, President of Russia 12 December 2013. Access Date: 31 December 2013. <http://eng.kremlin.ru/news/6402>.

<sup>403</sup> List of instructions following the Address to the Federal Assembly, President of Russia 27 December 2013. Access Date: 13 January 2014. <http://kremlin.ru/assignments/20004>.

<sup>404</sup> Consultation outcome: Reform of an anti-avoidance provision: Transfer of Assets Abroad, HM Revenue and Customs 20 December 2013 (London). Access Date: 20 December 2013. <https://www.gov.uk/government/consultations/reform-of-an-anti-avoidance-provision-transfer-of-assets-abroad>

<sup>405</sup> Consultation outcome: Reform of an anti-avoidance provision: Transfer of Assets Abroad, HM Revenue and Customs 20 December 2013 (London). Access Date: 20 December 2013. <https://www.gov.uk/government/consultations/reform-of-an-anti-avoidance-provision-transfer-of-assets-abroad>

<sup>406</sup> Draft tax legislation published in Finance Bill 2014, HM Treasury and HM Revenue and Customs (London) 10 December 2013. Access Date: 20 December 2013. <https://www.gov.uk/government/news/draft-tax-legislation-published-in-finance-bill-2014>

<sup>407</sup> Draft tax legislation published in Finance Bill 2014, HM Treasury and HM Revenue and Customs (London) 10 December 2013. Access Date: 20 December 2013. <https://www.gov.uk/government/news/draft-tax-legislation-published-in-finance-bill-2014>

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that support the Government's anti-avoidance strategy by "helping to ensure that offshore employer pay their fair share of employment taxes."<sup>408</sup>

Moreover, on 19 December 2013, Public Accounts Committee chair Margaret Hodge said that "HMRC aims to make the UK more attractive to business but the incentives to international corporations may also enable them to avoid tax."<sup>409</sup> The committee also noted that "HMRC failed to use the full range of sanctions at its disposal to vigorously pursue all unpaid tax" and "changes in the controlled foreign company rules and the failure to close the loophole created by Eurobonds are two examples showing where it has become easier for companies to avoid tax while ordinary people continue to pay their share."<sup>410</sup> Recently, analysts reported that Apple sheltered USD 40 billion from taxation using Ireland's loophole.<sup>411</sup> The committee reported that HTMC predicted in Autumn 2012 a GBP 3.12 billion tax collection from UK holders of Swiss bank accounts, but has so far collected only GBP 440 million.<sup>412</sup>

On 27 March 2014, the UK government published legislation implementing tax changes, Finance Bill 2014.<sup>413</sup> The bill contains measures that aim to target the issue of tax avoidance, for example, by introducing a new requirement that tax avoidance scheme users should pay the disputed tax upfront and taking action to prevent on and off-shore employment intermediaries from avoiding obligations.<sup>414</sup>

Additionally, on 12 April 2014, Chancellor George Osborne announced planned offshore tax avoidance penalties. Mr. Osborne said that the government is looking at options for a new criminal standard, increased penalties and a possible bonus for whistleblowers.<sup>415</sup> At the meeting of the International Monetary Fund and The World Bank in Washington DC, Mr. Osborne said, "A very important part of our economic plan is that everyone makes a fair contribution. We've already done a lot to crack down on those who don't pay their taxes, now we're introducing a new criminal offence for people who hide their money offshore. And the message is very simple — if you're hiding your money offshore, we are coming to get you and the criminal law is going to come and find you."<sup>416</sup>

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<sup>408</sup> Employment Intermediaries, HM Treasury and HM Revenue and Customs (London) 10 December 2013. Access Date: 20 December 2013. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/264617/2\\_Employment\\_intermediaries.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264617/2_Employment_intermediaries.pdf)

<sup>409</sup> UK Tax Avoidance: Politicians Slam HMRW for Being Too Lenient on Big Business, International Business Times UK Edition (London) 19 December 2013. Access Date: 20 December 2013. <http://www.ibtimes.co.uk/uk-tax-avoidance-politicians-slam-hmrc-being-too-lenient-big-business-1429540>

<sup>410</sup> UK Tax Avoidance: Politicians Slam HMRW for Being Too Lenient on Big Business, International Business Times UK Edition (London) 19 December 2013. Access Date: 20 December 2013. <http://www.ibtimes.co.uk/uk-tax-avoidance-politicians-slam-hmrc-being-too-lenient-big-business-1429540>

<sup>411</sup> UK Tax Avoidance: Politicians Slam HMRW for Being Too Lenient on Big Business, International Business Times UK Edition (London) 19 December 2013. Access Date: 20 December 2013. <http://www.ibtimes.co.uk/uk-tax-avoidance-politicians-slam-hmrc-being-too-lenient-big-business-1429540>

<sup>412</sup> HMRC "Loses nerve" chasing big firms, says MP, BBC News 19 December 2013. Access Date: 20 December 2013. <http://www.bbc.co.uk/news/business-25430826>

<sup>413</sup> Finance Bill 2014 brings in new tax changes, HM Treasury and HM Revenue & Customs 27 March 2014 (London) Access Date: 28 April 2014 <https://www.gov.uk/government/news/finance-bill-14-brings-in-new-tax-changes>

<sup>414</sup> Finance Bill 2014 brings in new tax changes, HM Treasury and HM Revenue & Customs 27 March 2014 (London) Access Date: 28 April 2014 <https://www.gov.uk/government/news/finance-bill-14-brings-in-new-tax-changes>

<sup>415</sup> Offshore tax evasion: Osborne sets out new penalties, BBC News 12 April 2014 (London). Access Date: 28 April 2014 <http://www.bbc.com/news/uk-politics-26998208>

<sup>416</sup> Offshore tax evasion: Osborne sets out new penalties, BBC News 12 April 2014 (London). Access Date: 28 April 2014 <http://www.bbc.com/news/uk-politics-26998208>

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Under this newly proposed criminal offence, prosecutions can be secured with only proof that income on money held by individuals who reside outside Britain is taxable and undeclared.<sup>417</sup>

Thus, the United Kingdom has been awarded a score of +1 for its discussion of and implementation of legislation with regards to tax-avoidance of multinational enterprises.

*Analyst: Xinbe (Alissa) Wang*

### **United States: 0**

The United States has partially complied with its commitment to implement policies, which ensure that multinational corporations do not engage in tax avoidance techniques.

At the first Session of the 113th Congress, the Levin-Whitehouse-Begich-Shaheen Stop Tax Haven Abuse Act was presented. This bill aims to “end offshore tax abuses ... and protect American families and businesses from devastating cuts,” as well as to restrict the transfer of intellectual property to overseas entities.<sup>418</sup> The bill calls upon the United States to more effectively engage with foreign institutions that “impede U.S. tax enforcement, including prohibiting U.S. banks from doing business with a designated foreign bank.”<sup>419</sup> All foreign financial institutions are required to disclose the financial activity of American clients with accounts that have total assets of USD 50,000 or more.<sup>420</sup> Moreover, the bill’s co-sponsors moved to strengthen the Foreign Account Tax Compliance Act (FATCA),<sup>421</sup> a bill passed in 2010 and set to take effect in July 2014, which “targets tax non-compliance by U.S. taxpayers with foreign accounts.”<sup>422</sup> The Stop Tax Haven Abuse Act was presented to congressional committees for review on 19 September 2013. The bill has not made it past the committee stage.<sup>423</sup>

The extent of the United States’ compliance can, therefore, only be evaluated in the context of the nation’s ability to establish international agreements with regards to FATCA. The U.S. “has signed 18 FATCA inter-governmental agreements, has 11 agreements in substance, and is engaged in related discussions with many other jurisdictions.”<sup>424</sup> The use of dialogue to amongst G8 members to fulfil

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<sup>417</sup> UK to ramp up fight against offshore tax evasion, Reuters US edition 12 April 2014 (London). Access Date: 28 April 2014 <http://www.reuters.com/article/2014/04/12/britain-economy-tax-idUSL6NON401N20140412>

<sup>418</sup> Summary of the Levin-Whitehouse-Begich-Shaheen Stop Tax Haven Abuse Act, Newsroom-Press Releases, Carl Levin (United States Senator for Michigan) (Washington), 19 September 2013. Access Date: 21 December 2013. <http://www.levin.senate.gov/newsroom/press/release/summary-of-the-levin-whitehouse-begich-shaheen-stop-tax-haven-abuse-act/>

<sup>419</sup> Summary of the Levin-Whitehouse-Begich-Shaheen Stop Tax Haven Abuse Act, Newsroom-Press Releases, Carl Levin (United States Senator for Michigan) (Washington), 19 September 2013. Access Date: 21 December 2013. <http://www.levin.senate.gov/newsroom/press/release/summary-of-the-levin-whitehouse-begich-shaheen-stop-tax-haven-abuse-act/>

<sup>420</sup> Complying With U.S. Tax Evasion Law Is Vexing Foreign Banks, New York Times (New York), 16 September 2013. Access Date: 21 December 2013. [http://dealbook.nytimes.com/2013/09/16/complying-with-u-s-tax-evasion-law-is-vexing-foreign-banks/?\\_r=0](http://dealbook.nytimes.com/2013/09/16/complying-with-u-s-tax-evasion-law-is-vexing-foreign-banks/?_r=0)

<sup>421</sup> Summary of the Levin-Whitehouse-Begich-Shaheen Stop Tax Haven Abuse Act, Newsroom-Press Releases, Carl Levin (United States Senator for Michigan) (Washington), 19 September 2013. Access Date: 21 December 2013. <http://www.levin.senate.gov/newsroom/press/release/summary-of-the-levin-whitehouse-begich-shaheen-stop-tax-haven-abuse-act/>

<sup>422</sup> Foreign Account Tax Compliance Act, Internal Revenue Service (Washington), 18 December 2013. Access Date: 21 December 2013. [http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-\(FATCA\)](http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-(FATCA))

<sup>423</sup> Stop Tax Haven Abuse Act (S. 1533), Govtrack.us. 19 September 2013. Access Date: 21 December 2013. <https://www.govtrack.us/congress/bills/113/s1533#overview>

<sup>424</sup> U.S. Signs FATCA Pacts with Malta, Netherlands, Bermuda, Jersey, Guernsey and Isle of Man, Accounting Today (Washington), 19 December 2013. Access Date: 21 December 2013. <http://www.accountingtoday.com/news/US-Signs-FATCA-Pacts-Malta-Netherlands-Bermuda-Jersey-Guernsey-Isle-of-Man-69035-1.html>

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commitments is evident in that signatories to FATCA include Germany and Britain.<sup>425</sup> As of 12 December 2013, recent intergovernmental agreements have been made with Malta, the Netherlands, the Islands of Bermuda, and three United Kingdom Crown Dependencies: Jersey, Guernsey, and the Isle of Man.<sup>426</sup>

By 5 May 2014, the number of jurisdictions treated as having an intergovernmental agreement in effect include 32, under both Model IGA 1 and Model IGA 2 Plans.<sup>427</sup> Bilateral agreements ensure that “countries will allow their financial institutions to comply with FATCA via their home-country regulators.”<sup>428</sup> The penalty for non-compliance, with regards to reporting on the holdings of U.S. taxpayers in foreign institutions, is “a potential 30 per cent withholding tax on U.S. source income, a penalty that could effectively freeze [foreign institutions] out of U.S. financial markets.”<sup>429</sup>

Although the United States has pursued bilateral relationships with foreign countries with the goal of reducing the tax avoidance practices of multinational corporations, since the Lough Erne Summit, it has however, failed to actively implement legislation. Therefore, the United States of America has been awarded a score of 0 for partially fulfilling its commitment to reduce the tax avoidance techniques of multinational corporations.

*Analyst: Aditya Rau*

### **European Union: 0**

The European Union has partially complied with its commitment to discuss strategies and implement policies or legislation that will directly tackle artificial profit shifting and tax avoidance. The European Union has proposed various measures conducive to the resolution of tax avoidance and profit shifting, but has yet to implement new legislation to this effect.

On 25 November 2013, the European Commission proposed measures to close loopholes in the Parent Subsidiary Directive and address national mismatches.<sup>430</sup> As a result, companies will be unable to exploit differences in the way intra-group payments are taxed across the EU to avoid paying any tax.<sup>431</sup> Accordingly, the Member States are expected to implement the amended Directive by 31 December 2014.<sup>432</sup>

The European Union also created a High Level Expert Group on Taxation of the Digital Economy, which met for the first time on 12 December 2013.<sup>433</sup> The goal of the group is to look at the

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<sup>425</sup> U.S. Treasury gives more detail on offshore anti-tax evasion law, Reuters (Washington), 29 October 2013. Access Date: 21 December 2013. <http://www.reuters.com/article/2013/10/29/usa-tax-fatca-idUSL1N0I1N020131029>

<sup>426</sup> U.S. Signs FATCA Pacts with Malta, Netherlands, Bermuda, Jersey, Guernsey and Isle of Man, Accounting Today (Washington), 19 December 2013. Access Date: 21 December 2013. <http://www.accountingtoday.com/news/US-Signs-FATCA-Pacts-Malta-Netherlands-Bermuda-Jersey-Guernsey-Isle-of-Man-69035-1.html>

<sup>427</sup> FACTA-Archive, U.S. Department of the Treasury (Washington) 9 May 2014. Access Date: 9 May 2014. <http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx>

<sup>428</sup> U.S. Treasury gives more detail on offshore anti-tax evasion law, Reuters (Washington), 29 October 2013. Access Date: 21 December 2013. <http://www.reuters.com/article/2013/10/29/usa-tax-fatca-idUSL1N0I1N020131029>

<sup>429</sup> U.S. Treasury gives more detail on offshore anti-tax evasion law, Reuters (Washington), 29 October 2013. Access Date: 21 December 2013. <http://www.reuters.com/article/2013/10/29/usa-tax-fatca-idUSL1N0I1N020131029>

<sup>430</sup> Tackling Tax Avoidance: Commission tightens key EU corporate tax rules, European Commission (Brussels) 25 November 2013, Access Date: 20 December 2013. [http://europa.eu/rapid/press-release\\_IP-13-1149\\_en.htm](http://europa.eu/rapid/press-release_IP-13-1149_en.htm)

<sup>431</sup> Tackling Tax Avoidance: Commission tightens key EU corporate tax rules, European Commission (Brussels) 25 November 2013, Access Date: 20 December 2013. [http://europa.eu/rapid/press-release\\_IP-13-1149\\_en.htm](http://europa.eu/rapid/press-release_IP-13-1149_en.htm)

<sup>432</sup> Tackling Tax Avoidance: Commission tightens key EU corporate tax rules, European Commission (Brussels) 25 November 2013, Access Date: 20 December 2013. [http://europa.eu/rapid/press-release\\_IP-13-1149\\_en.htm](http://europa.eu/rapid/press-release_IP-13-1149_en.htm)

<sup>433</sup> Taxing the Digital Economy: Commission creates Expert Group to guide EU approach, European Commission (Brussels) 22 October 2013, Access Date: 20 December 2013. [http://europa.eu/rapid/press-release\\_IP-13-983\\_en.htm](http://europa.eu/rapid/press-release_IP-13-983_en.htm)

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challenges in digital taxation and propose solutions in the first half of 2014. The goal is to ensure that the digital sector pays its fair share of taxes, while not creating tax obstacles to this pro-growth sector.<sup>434</sup>

Additionally, on 23 February 2014, the EU Commissioner for Taxation, Algirdas Šemeta supported the G20 Finance Ministers' agreement today on a new global standard, which will reinforce the fight against tax avoidance and improve tax transparency worldwide. The Commissioner welcomed the development of a new standard that can be smoothly and effectively implemented, with minimum disruption for businesses.<sup>435</sup>

Although the European Union has actively discussed measures to prevent tax avoidance and shifting, it has so far failed to take concrete legislative steps. Therefore the European Union has been awarded a partial score of 0.

*Analyst: Alex Mazanik*

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<sup>434</sup> Taxing the Digital Economy: Commission creates Expert Group to guide EU approach, European Commission (Brussels) 22 October 2013, Access Date: 20 December 2013. [http://europa.eu/rapid/press-release\\_IP-13-983\\_en.htm](http://europa.eu/rapid/press-release_IP-13-983_en.htm)

<sup>435</sup> Commissioner Šemeta welcomes G20 Finance Ministers' agreement on global tax transparency standard (Brussels) 23 February 2014, Date Accessed: 2 May 2014. [http://europa.eu/rapid/press-release\\_STATEMENT-14-16\\_en.htm?locale=en](http://europa.eu/rapid/press-release_STATEMENT-14-16_en.htm?locale=en)