Important Terms and Agreements regarding International Taxation

➢ BEPS ("Base Erosion and Profit Shifting")

The 15 Action Points for a fairer taxation worldwide

https://www.oecd.org/tax/beps/

The BEPS ("**Base Erosion and Profit Shifting**") project, developed by the OECD and G20, refers to tax planning strategies that exploit gaps in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity. The BEPS Package provides 15 Actions that equip governments with the domestic and international instruments needed to tackle BEPS. Countries shall have the tools to ensure that profits are taxed where economic activities generating the profits are performed and where value is created. These tools also give businesses greater certainty by reducing disputes over the application of international tax rules and standardising compliance requirements.

➢ MLI

The "Multilateral Instrument" to change DTAs automatically according to BEPS standards

https://www.oecd.org/tax/beps/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-beps.htm

In November 2016, over 100 jurisdictions concluded negotiations on the **Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting** ("Multilateral Instrument" or "MLI") that will implement a series of tax treaty measures to update international tax rules and lessen the opportunity for tax avoidance by multinational enterprises. The MLI entered into force on 1 July 2018 and already covers **89 jurisdictions**.

The MLI offers concrete solutions for governments to close the gaps in existing international tax rules by transposing results from the OECD/G20 BEPS Project into bilateral tax treaties worldwide. The MLI automatically modifies the application of thousands of bilateral tax treaties concluded to eliminate double taxation. It also implements agreed minimum standards to counter treaty abuse and to improve dispute resolution mechanisms while providing flexibility to accommodate specific tax treaty policies.

In force in: Singapore
Signed by: China, Germany, Hong Kong
Not ratified, nor signed by: British Virgin Islands, Cayman Islands, Thailand, Vietnam

➢ Inclusive Framework on BEPS

The worldwide cooperating working groups for the implementation of the BEPS action plan

https://www.oecd.org/tax/beps/beps-about.htm

The OECD/G20 Inclusive Framework on BEPS (IF) was established in 2016 to ensure interested countries and jurisdictions (including developing economies) can participate on an equal footing in the development of standards on BEPS related issues, while reviewing and monitoring the implementation of the OECD/G20 BEPS Project. The OECD/G20 Inclusive

Framework on Base Erosion and Profit Shifting (BEPS) brings together over 130 countries and jurisdictions to collaborate on the implementation of the BEPS Package. The countries are establishing a modern international tax framework under which profits are taxed where economic activity and value creation occur. The Inclusive Framework serves as a **forum** to do so by establishing working parties and groups and organizing meetings and events.

Members: British Virgin Islands, Cayman Islands, China, Germany, Hong Kong, Singapore, Thailand, Vietnam

➢ Convention on Mutual Administrative Assistance in Tax Matters

For a better worldwide cooperation and improved transparency in tax matters

https://www.oecd.org/ctp/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm

The **Convention on Mutual Administrative Assistance in Tax Matters** was developed jointly by the OECD and the Council of Europe in 1988 and amended by Protocol in 2010. The Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance.

The Convention facilitates international co-operation for a better operation of national tax laws, while respecting the fundamental rights of taxpayers. It provides for all possible forms of administrative co-operation between states in the assessment and collection of taxes. This co-operation ranges from exchange of information, including automatic exchanges, to the recovery of foreign tax claims. **129 jurisdictions** currently participate in the Convention, including 17 jurisdictions covered by territorial extension. This represents a wide range of countries including all G20 countries, all BRICS (Brazil, Russia, India, China, South Africa), all OECD countries, major financial centres and an increasing number of developing countries.

In force in: British Virgin Islands, Cayman Islands, China, Germany, Hong Kong, Singapore
Not ratified, nor signed by: Thailand, Vietnam

➢ MCAA

The worldwide automatic exchange of information agreement

https://www.oecd.org/tax/transparency/technical-assistance/aeoi/whatisthemultilateralcompetentauthorityagreement.htm

The **Multilateral Competent Authority Agreement** ("the MCAA") is a multilateral framework agreement that provides a standardised and efficient mechanism to facilitate the automatic exchange of information in accordance with the "Standard for Automatic Exchange of Financial Information in Tax Matters". It avoids the need for several bilateral agreements to be concluded. Its design as a framework agreement means the MCAA always ensures each signatory has ultimate control over exactly which exchange relationships it enters into and that each signatory's standards on confidentiality and data protection always apply. Currently, the Agreement is signed by **61 jurisdictions**. The legal basis for the MCAA (which is agreed at competent authority level) rests in Article 6 of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (see above) which provides for the automatic exchange of information between parties to the Convention, where two parties subsequently agree to do so.

Signed by: British Virgin Islands, Cayman Islands, China, Germany, Hong Kong, Singapore
Not signed by: Thailand, Vietnam

- **EU Council Directive on administrative cooperation in the field of taxation 2011/16/EU of 15 February 2011 (amended by EU Council Directive 2018/822 of 25 May 2018)**

  In brief, the EU Directive 2011/16/EU has introduced **the mandatory reporting of cross-border arrangements** that are indicative of potentially aggressive tax planning models. The amendment follows BEPS Action Point 12 (disclosure of aggressive tax planning models) and builds on the Common Reporting Standard. According to the amendment, intermediaries must report potentially aggressive tax planning models with a cross-border component to the national authorities. Intermediaries are persons (such as tax consultants), who are responsible for the design, marketing, organization, administration or implementation of such a model. The relevant disclosure requirements must, in some instances, also be followed by the taxpayers themselves.