1. Record Nr. UNINA9911011668803321 Autore Oguttu Annet Wanyana Titolo Base Erosion and Profit Shifting Amsterdam:,: IBFD Publications USA, Incorporated,, 2021 Pubbl/distr/stampa ©2021 **ISBN** 9789087227180 9087227183 Edizione [1st ed.] Descrizione fisica 1 online resource (753 pages) Disciplina 343.05267 Soggetti Transfer pricing - Taxation - Law and legislation - Africa International business enterprises - Taxation - Law and legislation -Africa Tax administration and procedure - International cooperation Tax evasion - Africa - Prevention Tax evasion - Law and legislation - Africa Lingua di pubblicazione Inglese **Formato** Materiale a stampa Livello bibliografico Monografia Cover -- Title -- Copyright -- List of Contributors -- Foreword --Nota di contenuto

Preface -- Acknowledgements -- Table of Contents -- Introduction --Abbreviations -- Part 1 Setting the Scene -- Chapter 1 Domestic Resource Mobilization and Introductory Remarks on BEPS -- 1.1. The need for domestic resource mobilization in Africa -- 1.2. The role of corporate tax in ensuring domestic resource mobilization in Africa --1.3. The stumbling blocks to mobilizing revenue from multinational companies in Africa -- 1.3.1. Illicit financial flows -- 1.3.2. Tax avoidance -- 1.4. Meaning of BEPS -- 1.5. Distinguishing BEPS from illicit financial flows -- 1.6. The causes of BEPS -- 1.7. The fiscal consequences of BEPS -- 1.8. OECD recommendations to curtail BEPS -- 1.9. Overview -- Chapter 2 Base Erosion and Profit Shifting in Africa -- 2.1. Background -- 2.2. Factors that exacerbate BEPS in Africa --2.2.1. Lack of relevant legislation in place or clear understanding of how such legislation operates -- 2.2.2. Limited tax administrative capacity -- 2.3. Criticisms of the OECD BEPS Project -- 2.4. How should Africa respond to the OECD BEPS Project? -- 2.5. Initiatives in Africa

responding to the OECD BEPS Project -- 2.5.1. Initiatives by African regional bodies -- 2.5.2. Notable BEPS initiatives at national level -- 2.6. International initiatives that African countries should embrace to improve their tax systems and administrative capacities -- 2.6.1. OECD initiatives on BEPS that can benefit Africa -- 2.6.2. G20 Development Working Group initiatives on BEPS in Africa -- 2.6.3. The Platform for Collaboration on Tax -- 2.6.4. United Nations initiatives on BEPS -- 2.7. BEPS Action Points that are of priority to most African countries -- 2.8. Policy perspectives African countries should consider before adopting the OECD's BEPS measures -- 2.9. The OECD Inclusive Framework.

2.10. OECD recommendations on how the BEPS Action Points are to be implemented -- 2.10.1. Minimum standards -- 2.10.2. Common approaches and best practices for domestic law -- 2.10.3. Action Points that reinforce international standards -- 2.10.4. Analytical reports -- 2.11. Overview -- Part 2 Measures Containing Minimum Standards -- Chapter 3 Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance - Action 5 -- 3.1. Background -- 3.2. Key considerations under Action 5 -- 3.2.1. The substantial activity requirement -- 3.2.2. Improving transparency, including compulsory spontaneous information exchange on rulings related to preferential regimes -- 3.2.3. OECD Inclusive Frame work Peer Review of Action 5 -- 3.3. Preferential tax regimes in Africa --3.3.1. Mauritius's tax regimes -- 3.3.2. South Africa's headquarter company regime -- 3.3.3. Botswana's intermediary holding company regime -- 3.3.4. Seychelles's international business companies and special licence companies -- 3.3.5. Liberia's shipping regime -- 3.4. Special economic zones in Africa -- 3.5. What should Africa's policy approach be regarding preferential tax regimes? -- 3.6. Tax incentives and BEPS In Africa -- 3.6.1. Why do countries grant tax incentives? --3.6.2. Strategic tax incentives -- 3.6.3. Unstrategic tax incentives --3.6.4. Factors that cause unstrategic tax incentives to be granted --3.6.5. Addressing unstrategic tax incentives at the domestic level --3.6.5.1. Guidance on the design of tax incentives -- 3.6.5.2. Guidance on the governance of tax incentives -- 3.6.6. Addressing unstrategic tax incentives at the international level: Harmful tax competition and the race to the bottom -- 3.6.6.1. Tax coordination -- 3.6.6.2. Challenges that tax coordination in regional agreements may present -- 3.7. Overview.

Chapter 4 Preventing Treaty Abuse - Action 6 -- 4.1. Background --4.2. Measures that have been employed to prevent treaty shopping --4.3. Factors that encourage treaty shopping in Africa -- 4.3.1. Tax treaty negotiation dynamics that contribute to treaty shopping in Africa -- 4.3.2. Treaties signed with low-tax jurisdictions -- 4.3.3. Tax treaties with low or zero withholding tax rates -- 4.3.4. Abuse of tax treaties with tax sparing provisions -- 4.4. OECD BEPS recommendations on preventing treaty abuse and how they could be applied by African countries -- 4.4.1. General -- 4.4.2. Addressing treaty abuse where a person circumvents domestic tax law to gain treaty benefits -- 4.4.2.1. Use of domestic anti-abuse provisions in Africa: Examples -- 4.4.2.2. Use of domestic anti-abuse provisions in Africa: Concerns about treaty override -- 4.4.3. Addressing treaty abuse where a person circumvents treaty limitations -- 4.4.3.1. Effecting changes to treaty preambles in Africa -- 4.4.3.2. Use of the LOB provision in African treaties -- 4.4.3.3. Use of the PPT in African treaties -- 4.5. BEPS Action 6 and the multilateral instrument -- 4.6. OECD peer review of the Action 6 minimum standard -- 4.7. BEPS measures to deal with specific treaty abuse schemes -- 4.7.1. Treaty

abuse involving dual-resident entities -- 4.7.2. Treaty abuse and dividend transfer schemes -- 4.7.3. Circumventing CGT due to lack of domestic meaning of "immovable property" -- 4.7.4. Circumventing CGT by indirectly transferring assets to low-tax jurisdictions -- 4.8. Tax policy considerations that countries ought to consider before entering into a tax treaty -- 4.8.1. IMF recommendations -- 4.8.2. OECD recommendations -- 4.9. Overview of measures taken by some African countries to review their tax treaty policies. 4.10. Treaty-related BEPS matters that are relevant to developing countries but were not dealt with under the BEPS Project -- 4.10.1. BEPS and the allocation of taxing rights between residence and source states -- 4.10.2. Potential BEPS issues in treaties with MFN clauses --4.11. Overview -- Chapter 5 Re-Examining Transfer Pricing Documentation - Action 13 -- 5.1. Introduction -- 5.2. OECD's earlier corporate transparency initiatives -- 5.3. Ensuring transparency under Action 13 -- 5.3.1. Action 13 global documentation structure for corporate transparency -- 5.3.2. Advantages of the three-tier reporting structure and CbC reporting in particular -- 5.3.3. Limits to the use of CbC reports -- 5.4. CbC filing mechanisms and obligations for MNEs --5.5. Recommendations to mitigate the compliance burdens of MNEs --5.6. Requirements for countries to be able to exchange and receive CbC reports -- 5.7. Mechanism to monitor implementation of CbCR: The OECD Inclusive Framework -- 5.8. Implementing CbCR in Africa --5.8.1. General outlook -- 5.8.2. OECD Peer Review (Phase 1) -- 5.9. OECD peer review (Phase 2 and Phase 3) -- 5.10. Implementing CbCR in Africa: Challenges and recommendations -- 5.10.1. The cumbersome conditions to receive and exchange information --5.10.2. The high reporting threshold -- 5.10.3. Dilution of the criteria for CbCR -- 5.10.4. Tax authorities have no powers to ask for CbC reports -- 5.10.5. The volume of CbC report information to be processed and its impact on countries' risk assessment cycles --5.10.6. Impact of currency fluctuations on the reporting threshold --5.10.7. Issues regarding reporting taxes paid on a cash or accrual basis -- 5.10.8. Lack of clear and uniform penalties for non-compliance --5.10.9. Challenges that inconsistent rules may pose. 5.10.10. African countries with no MNE groups headquartered in their jurisdiction -- 5.11. The case for making CbCR public -- 5.11.1. The growing international support for CbCR -- 5.11.2. Public CbCR will level the playing field for all countries to benefit from it -- 5.11.3. Improve the capacity of tax administrations to monitor BEPS -- 5.11.4. Public accountability -- 5.11.5. Informed responsible investment --5.12. Overview -- Chapter 6 Improving Dispute Resolution - Action 14 -- 6.1. Introduction -- 6.2. The mutual agreement procedure -- 6.3. How effective has MAP been in resolving treaty disputes? -- 6.4. Making dispute resolution mechanisms more effective under Action 14 -- 6.4.1. The minimum standard on dispute resolution -- 6.4.2. MAP best practices recommended by the OECD -- 6.4.3. Commitments to mandatory binding arbitration -- 6.5. Challenges of the MAP in Africa -- 6.5.1. Affordability of MAP -- 6.5.2. Concerns regarding signing up to binding arbitration clauses in Africa -- 6.5.3. The impact of arbitration in BITs on tax treaty disputes -- 6.5.4. The MAP and concerns about corresponding transfer pricing adjustments -- 6.5.5. Examples of ineffectiveness of MAP in South Africa' streaties with other African countries -- 6.6. OECD Inclusive Framework peer review of Action 14 in Africa -- 6.7. UN guidance on the MAP for developing countries -- 6.8. Overview -- Part 3 Measures Advocating Common Approaches and Best Practices -- Chapter 7 Neutralizing the Effects of Hybrid Mismatch Arrangements - Action 2 -- 7.1. Introduction -- 7.2.

Hybrid entities -- 7.2.1. Hybrid entity mismatches in Africa -- 7.2.2. Addressing hybrid entity mismatches -- 7.3. Dual resident entities -- 7.3.1. General -- 7.3.2. Addressing dual resident entity mismatches -- 7.4. Hybrid instruments -- 7.4.1. Hybrid instrument mismatches in Africa.

7.4.2. Addressing hybrid instrument mismatches.

## Sommario/riassunto

This book provides a thorough analysis of the implementation of the OECD/G20 BEPS measures in Africa and considers the experiences, challenges and opportunities for African countries.