I’m delighted to participate in this important discussion on international tax issues, and I want to thank the U.S. Council for inviting me back again.

In preparing for this speech, I spent time reflecting on what has happened in the global tax arena since I last spoke to this group in 2014. I remember saying at that time that swift and dramatic changes were underway in response to the ongoing globalization of markets, business models and financial systems. Which was true, but I think the pace of change since then has been so rapid that it may have outpaced our expectations.

Consider that back then, the OECD and the G20 had only recently launched their project to combat Base Erosion and Profit Shifting. The Forum on Tax Administration was still in the early stages of an important new effort to make resolution of disputes related to tax treaties more efficient and effective. And the United States had yet to fully implement the Foreign Account Tax Compliance Act, or FATCA – a new system for financial account reporting that would come to be seen as the precursor to the Common Reporting Standard.

Over the past two years, major steps have been taken to move forward on all these fronts. With the underlying concepts in place and well understood, attention has turned to the hard work of practical implementation, which continues today. It is that work, and where we hope it will lead us that I would like to focus on.

But first, to set the stage, it is important to understand how it was possible to have so much change in such a relatively short time. I believe the most critical factor was the willingness of governments everywhere to come together and work collaboratively toward their common goals.

This level of cooperation was possible because countries understood that the rapidly changing global business and tax environment was putting a severe strain on the international tax framework, and was giving rise to a wealth of opportunities for cross-border tax avoidance. It was clear there was no time to waste in restoring confidence in the system. Countries also realized it was vital to limit unilateral actions by jurisdictions that could further weaken, rather than strengthen, the principles by which tax systems operate.

In addition, tax administrators understood that actions taken to improve global tax compliance, however necessary they may be, should not impede global commerce. In this regard, everyone knew it would be critical to develop clear and consistent laws and regulations governing cross-border transactions, so that businesses could continue to operate effectively in the international arena.
In response to all of these challenges, the OECD and the G20 together charted a path forward, through the development of the BEPS project. The package of measures approved eight months ago represents a comprehensive action plan to update international tax rules to reflect modern business practices. It includes new and reinforced international standards, along with concrete measures to help countries combat cross-border tax avoidance.

Looking at the BEPS package from a tax administration standpoint, two critical components of this effort are the automatic exchange of information among countries, and effective measures to resolve disputes that arise under tax treaties.

First, the automatic exchange of information. In order for countries to work cooperatively to ensure the proper functioning of the international tax framework, it was understood that tax transparency was critical. In 2014 the policy issue had been settled and we knew transparency was the common goal, but we still needed to make automatic information sharing work as a practical matter. That need has given rise to the Common Reporting Standard. The evidence of widespread support for this standard is clear, as 101 countries have committed to using it.

We are now on the road toward implementation of the CRS, which is often referred to as the “global FATCA.” In that regard, I think it would be helpful to share some of the challenges the U.S. faced in implementing the FATCA reporting standard and how we met them.

When FATCA was enacted in 2010, tax officials in the U.S. believed it would be an important tool in our country’s offshore compliance efforts, since it requires foreign financial institutions, or FFIs, to report information to the IRS about financial accounts held either by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold a substantial ownership interest.

FATCA has become that tool, but it is also much more. I came to this realization at the FTA meeting in Dublin in October 2014. I had braced for a great deal of negative feedback on FATCA, since we were requiring financial institutions in FTA countries, at some cost, to provide us information about U.S. taxpayers. But instead, I found uniform enthusiasm among the FTA member countries for the system of reporting that FATCA calls for. FATCA was viewed, not as an end in itself, but as a beginning – the first universal platform designed for information exchange in both directions. Thus far, more than 190,000 financial institutions have registered with us through this system.

This, of course, required us to make significant changes and additions to our information technology system. Which is easier said than done when you understand how old some of our equipment and applications are.

Probably one of the biggest challenges we confronted in implementing FATCA was the need for a modern mode of data transmission to accommodate the automatic exchange of bulk information that would occur under FATCA. Working with our partners in tax administration around the world, we designed a new system for electronic data exchange to allow FATCA data to be sent quickly and securely through the International Data Exchange Service, or IDES.

Where a jurisdiction has a reciprocal Intergovernmental Agreement and the jurisdiction has the necessary safeguards and infrastructure in place, the IRS will also use IDES to provide similar information to the host country tax authority on accounts in U.S. financial institutions held by the jurisdiction’s residents. This reciprocal exchange of information has already started with many
countries, and we continue working collaboratively with our partner jurisdictions to troubleshoot problems with IDES when they arise.

In all of the work we have done on FATCA implementation, we have taken very seriously the need to ensure that that the financial data transmitted through IDES is sent securely, kept confidential, and used only for tax purposes. So we designed IDES to include state-of-the-art encryption protocols, and we developed a set of safeguard standards addressing the security and use of data once it is received by a government. And, as the sophistication of cyber criminals increases, we need to continue to update those security arrangements, which we are presently doing with all of our partners.

There is much in the FATCA story that can inform the discussion about the Common Reporting Standard. Therefore, the U.S. has been assisting on various aspects of CRS implementation. We are committed to continuing to provide this support, even though the U.S. Congress has yet to pass legislation allowing us to sign on to the Common Reporting Standard. U.S. participation in this standard is critical to ensuring that reporting is as straightforward and as seamless as possible for financial institutions and companies in the U.S. Therefore, I will continue to urge Congress to enact this legislation as quickly as possible.

Meanwhile, the Common Reporting Standard and the need to move forward on its implementation were a major topic at the FTA’s most recent meeting last month in Beijing. An important outcome of this meeting was the agreement among FTA members on a Common Transmission System for the exchange of financial account information called for under the CRS. Like IDES, this transmission system is expected to be a secure, encrypted platform that can be used for transmitting any information between participating countries. We expect this system to be operational in time for the first exchanges of CRS data in September 2017.

As we move forward, all of us involved in the automatic exchange of information face an ongoing challenge, whether we are talking about FATCA or the Common Reporting Standard. This challenge involves not just collecting data and safeguarding it, but also putting that data to the best possible use, helping to eliminate unreported offshore accounts and improve revenue collection.

To help achieve this goal, the FTA will be relying on the Joint International Task Force on Shared Intelligence and Collaboration, or JITSIC, Network. The JITSIC Network will provide the opportunity for countries to work directly with financial institutions, account holders and advisors to execute specific tax enforcement actions. During the FTA’s Beijing meeting, in fact, members confirmed their commitment to a strengthened JITSIC, which will make tax authorities more effective globally.

So that is the first critical component of the effort to counteract BEPS. The second involves ensuring the efficient and effective resolution of disputes related to tax treaties. The issue of effective dispute resolution, which tax administrators deal with regularly on a national basis, becomes more complex when tax compliance involves multinational entities that operate across national borders, because the potential exists for double taxation to come into play.

Historically, competent authorities have relied on Mutual Agreement Procedures as an effective tool for settling disputes over double taxation that arise under tax treaties. But there has been a
sharp increase over the last decade in both the number of cases within MAP proceedings and the amount of time it takes to resolve a MAP case. This situation prompted the FTA in 2012 to create a new subgroup, the Mutual Agreement Procedures Forum. The MAP Forum is led by the U.S. and comprises competent authorities from 25 countries who have been working on necessary MAP improvements.

In developing their BEPS package, the OECD and the G20 understood the potential for creating unnecessary uncertainty for tax-compliant multinational companies, which could give rise to cases of unintended double taxation. That concern prompted the OECD to include a measure for improving dispute resolution programs in its BEPS package. This measure, known as Action 14, reflects recognition by the OECD members of the need to make dispute resolution programs more effective with the BEPS package in place.

The cornerstone of Action 14 is the commitment by 44 countries participating in the BEPS project to adhere to a minimum standard that ensures they resolve disputes related to treaties in a timely, effective and efficient manner. These countries have also committed to allowing their MAP programs to periodically undergo peer review and monitoring, to ensure they remain in compliance with the minimum standard.

The Forum on Tax Administration has been given a leading role in implementing this measure. The OECD’s report on Action 14 directed the FTA’s MAP Forum to conduct the peer reviews and make recommendations for improvements where needed. The report also instructed the MAP Forum to work with the Committee on Fiscal Affairs’ Working Party 1 on Tax Conventions and Related Questions to develop a framework for implementation. This includes developing Terms of Reference that will be used to assess the implementation of the minimum standard, as well as an Assessment Methodology that will establish procedures and guidelines for the peer review process.

Over the last several months, the MAP Forum and the CFA’s Working Party 1 have together made steady progress on the difficult work of putting these key pieces of Action 14 into place. We will need to keep up this pace of progress, given that the OECD has called for peer reviews to start this year, and the first reports on these reviews to be delivered in 2017. At last month’s meeting in Beijing, FTA members reaffirmed their intention to begin the review process before the end of 2016.

I also want to mention another issue relative to the BEPS package that I know is on everyone’s mind. That is the country-by-country reporting system, which is effective as of January 1, 2016. The U.S. regulations designed to comport with this system will only apply to tax years beginning after June 30, 2016. The difference in effective dates means that under the OECD’s requirements, the first reports will be due in late 2017, several months before they will be due under the U.S. regulations.

I want to assure everyone that we understand the concerns expressed by the business community about the difficulties that this gap period poses for U.S.-based companies. We are considering alternative methods for receiving submissions for the gap period, which could include some system of voluntary reporting. We are coordinating with other countries to try and make sure that voluntary filing will work. We haven’t made final decisions yet, but are continuing to look at
how to respond to the issues raised by the gap period, and we hope to have additional information on this matter in the near future.

As you can see, while much progress has been made, there is a great deal of work yet to be done to translate all of these agreed-upon concepts into reality. Given the spirit of cooperation and collaboration that exists among the governments involved in this effort, I remain confident we will achieve our goals. The IRS looks forward to working with our tax administration partners around the world as we move forward together toward a more workable and sustainable international tax system – a system that will meet the needs of both governments and taxpayers in the evolving global tax environment.