

Annex IV to Chapter V

Country-by-Country Reporting Implementation Package

Introduction

In order to facilitate a consistent and swift implementation of the Country-by-Country Reporting developed under Action 13 of the Base Erosion and Profit Shifting Action Plan (BEPS Action Plan, OECD, 2013), a Country-by-Country Reporting Implementation Package has been agreed by countries participating in the OECD/G20 BEPS Project. This implementation package consists of (i) model legislation which could be used by countries to require the ultimate parent entity of an MNE group to file the Country-by-Country Report in its jurisdiction of residence including backup filing requirements and (ii) three model Competent Authority Agreements that are to be used to facilitate implementation of the exchange of Country-by-Country Reports, respectively based on the 1) Convention on Mutual Administrative Assistance in Tax Matters, 2) bilateral tax conventions and 3) Tax Information Exchange Agreements (TIEAs). It is recognised that developing countries may require support for the effective implementation of Country-by-Country Reporting.

Model legislation

The model legislation contained in the Country-by-Country Reporting Implementation Package takes into account neither the constitutional law and legal system, nor the structure and wording of the tax legislation of any particular jurisdiction. Jurisdictions will be able to adapt this model legislation to their own legal systems, where changes to current legislation are required.

Competent Authority Agreements

The *Convention on Mutual Administrative Assistance in Tax Matters* (the “Convention”), by virtue of its Article 6, requires the Competent Authorities of the Parties to the Convention to mutually agree on the scope

of the automatic exchange of information and the procedure to be complied with. In the context of the Common Reporting Standard, this requirement has been translated into a Multilateral Competent Authority Agreement, which defines the scope, timing, procedures and safeguards according to which the automatic exchange should take place.

As the implementation of the automatic exchange of information by means of a Multilateral Competent Authority Agreement in the context of the Common Reporting Standard has proven both time- and resource-efficient, the same approach could be used for the purpose of putting the automatic exchange of information in relation to Country-by-Country Reports in place. Therefore, the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (the “CbC MCAA”) has been developed, based on the Convention and inspired by the Multilateral Competent Authority Agreement concluded in the context of the implementation of the Common Reporting Standard. In addition, two further model competent authority agreements have been developed for exchanges of Country-by-Country Reports, one for exchanges under Double Tax Conventions and one for exchanges under Tax Information Exchange Agreements.

In line with paragraph 5 of Chapter V of these Guidelines, one of the three objectives of transfer pricing documentation is to provide tax administrations with the information necessary to conduct an informed transfer pricing risk assessment, while paragraph 10 of Chapter V of these Guidelines states that effective risk identification and assessment constitute an essential early stage in the process of selecting appropriate cases for transfer pricing audit. The Country-by-Country Reports exchanged on the basis of the model competent authority agreements contained in the present Country-by-Country Reporting Implementation Package, represent one of the three tiers of the transfer pricing documentation and will, in accordance with paragraphs 16, 17 and 25 of Chapter V of these Guidelines, provide tax administrations with relevant and reliable information to perform an efficient and robust transfer pricing risk assessment analysis. Against that background, the model competent authority agreements aim to provide the framework to make the information contained in the Country-by-Country Report available to concerned tax authorities, such information being foreseeably relevant for the administration and enforcement of their tax laws through the automatic exchange of information.

The purpose of the CbC MCAA is to set forth rules and procedures as may be necessary for Competent Authorities of jurisdictions implementing BEPS Action 13 to automatically exchange Country-by-Country Reports prepared by the Reporting Entity of an MNE Group and filed on an annual basis with the tax authorities of the jurisdiction of tax residence of that entity

with the tax authorities of all jurisdictions in which the MNE Group operates.

For most provisions, the wording is substantially the same as the text of the Multilateral Competent Authority Agreement for the purpose of exchanges under the Common Reporting Standard. Where appropriate, the wording has been complemented or amended to reflect the Guidance on Country-by-Country Reporting set out in Chapter V of these Guidelines.

As a next step, it is intended that an XML Schema and a related User Guide will be developed with a view to accommodating the electronic exchange of Country-by-Country Reports.

Model legislation related to Country-by-Country Reporting

Article 1 *Definitions*

For purposes of this [title of the law] the following terms have the following meanings:

1. The term “Group” means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange.

2. The term “MNE Group” means any Group that (i) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and (ii) is not an Excluded MNE Group.

3. The term “Excluded MNE Group” means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than [750 million Euro]/[insert an amount in local currency approximately equivalent to 750 million Euro as of January 2015] during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year.

4. The term “Constituent Entity” means (i) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange; (ii) any such business unit that is excluded from the MNE Group’s Consolidated Financial Statements solely on size or materiality grounds; and (iii) any permanent establishment of any separate business unit of the MNE Group included in (i) or (ii) above provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.

5. The term “Reporting Entity” means the Constituent Entity that is required to file a country-by-report conforming to the requirements in Article 4 in its jurisdiction of tax residence on behalf of the MNE Group. The Reporting Entity may be the Ultimate Parent Entity, the Surrogate Parent Entity, or any entity described in paragraph 2 of Article 2.

6. The term “Ultimate Parent Entity” means a Constituent Entity of an MNE Group that meets the following criteria:

- i. it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence; and
- ii. there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest described in subsection (i) above in the first mentioned Constituent Entity.

7. The term “Surrogate Parent Entity” means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the Country-by-Country Report in that Constituent Entity’s jurisdiction of tax residence, on behalf of such MNE Group, when one or more of the conditions set out in subsection (ii) of paragraph 2 of Article 2 applies.

8. The term “Fiscal Year” means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements.

9. The term “Reporting Fiscal Year” means that Fiscal Year the financial and operational results of which are reflected in the Country-by-Country Report defined in Article 4.

10. The term “Qualifying Competent Authority Agreement” means an agreement (i) that is between authorised representatives of those jurisdictions that are parties to an International Agreement and (ii) that requires the automatic exchange of Country-by-Country Reports between the party jurisdictions.

11. The term “International Agreement” shall mean the Multilateral Convention for Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral Tax Convention, or any Tax Information Exchange Agreement to which [Country] is a party, and that by its terms provides legal

authority for the exchange of tax information between jurisdictions, including automatic exchange of such information.

12. The term “Consolidated Financial Statements” means the financial statements of an MNE Group in which the assets, liabilities, income, expenses and cash flows of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity.

13. The term “Systemic Failure” with respect to a jurisdiction means that a jurisdiction has a Qualifying Competent Authority Agreement in effect with [Country], but has suspended automatic exchange (for reasons other than those that are in accordance with the terms of that Agreement) or otherwise persistently failed to automatically provide to [Country] Country-by-Country Reports in its possession of MNE Groups that have Constituent Entities in [Country].

Article 2

Filing Obligation

1. Each Ultimate Parent Entity of an MNE Group that is resident for tax purposes in [Country] shall file a Country-by-Country Report conforming to the requirements of Article 4 with the [Country Tax Administration] with respect to its Reporting Fiscal Year on or before the date specified in Article 5.

2. A Constituent Entity which is not the Ultimate Parent Entity of an MNE Group shall file a Country-by-Country Report conforming to the requirements of Article 4 with the [Country Tax Administration] with respect to the Reporting Fiscal Year of an MNE Group of which it is a Constituent Entity, on or before the date specified in Article 5, if the following criteria are satisfied:

- i. the entity is resident for tax purposes in [Country]; and
- ii. one of the following conditions applies:
 - a) the Ultimate Parent Entity of the MNE Group is not obligated to file a Country-by-Country Report in its jurisdiction of tax residence; or,
 - b) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which [Country] is a party but does not have a Qualifying Competent Authority Agreement in effect to which [Country] is a party by

the time specified in Article 5 for filing the Country-by-Country Report for the Reporting Fiscal Year; or,

- c) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by the [Country Tax Administration] to the Constituent Entity resident for tax purposes in [Country].

Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in [Country] and one or more of the conditions set out in subsection (ii) above apply, the MNE Group may designate one of such Constituent Entities to file the Country-by-Country Report conforming to the requirements of Article 4 with [Country Tax Administration] with respect to any Reporting Fiscal Year on or before the date specified in Article 5 and to notify the [Country Tax Administration] that the filing is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in [Country].

15. Notwithstanding the provisions of paragraph 2 of this Article 2, when one or more of the conditions set out in subsection (ii) of paragraph 2 of Article 2 apply, an entity described in paragraph 2 of this Article 2 shall not be required to file a Country-by-Country Report with [Country Tax Administration] with respect to any Reporting Fiscal Year if the MNE Group of which it is a Constituent Entity has made available a Country-by-Country Report conforming to the requirements of Article 4 with respect to such Fiscal Year through a Surrogate Parent Entity that files that Country-by-Country Report with the tax authority of its jurisdiction of tax residence on or before the date specified in Article 5 and that satisfies the following conditions:

- a) the jurisdiction of tax residence of the Surrogate Parent Entity requires filing of Country-by-Country Reports conforming to the requirements of Article 4;
- b) the jurisdiction of tax residence of the Surrogate Parent Entity has a Qualifying Competent Authority Agreement in effect to which [Country] is a party by the time specified in Article 5 for filing the Country-by-Country Report for the Reporting Fiscal Year;
- c) the jurisdiction of tax residence of the Surrogate Parent Entity has not notified the [Country Tax Administration] of a Systemic Failure;

- d) the jurisdiction of tax residence of the Surrogate Parent Entity has been notified in accordance with paragraph 1 of Article 3 by the Constituent Entity resident for tax purposes in its jurisdiction that it is the Surrogate Parent Entity; and
- e) a notification has been provided to [Country Tax Administration] in accordance with paragraph 2 of Article 3.

Article 3 ***Notification***

1. Any Constituent Entity of an MNE Group that is resident for tax purposes in [Country] shall notify the [Country Tax Administration] whether it is the Ultimate Parent Entity or the Surrogate Parent Entity, no later than [the last day of the Reporting Fiscal Year of such MNE Group].
2. Where a Constituent Entity of an MNE Group that is resident for tax purposes in [Country] is not the Ultimate Parent Entity nor the Surrogate Parent Entity, it shall notify the [Country Tax Administration] of the identity and tax residence of the Reporting Entity, no later than [the last day of the Reporting Fiscal Year of such MNE Group].

Article 4 ***Country-by-Country Report***

1. For purposes of this [title of the law], a Country-by-Country Report with respect to an MNE Group is a report containing:
 - i. Aggregate information relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates;
 - ii. An identification of each Constituent Entity of the MNE Group setting out the jurisdiction of tax residence of such Constituent Entity, and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Constituent Entity is organised, and the nature of the main business activity or activities of such Constituent Entity.
2. The Country-by-Country Report shall be filed in a form identical to and applying the definitions and instructions contained in the standard template set out at [Annex III of Chapter V of the OECD Transfer Pricing Guidelines as the same may be modified from time to time] / [Annex III of

the Report *Transfer Pricing Documentation and Country-by-Country Reporting* on Action 13 of the OECD/G20 *Action Plan on Base Erosion and Profit Shifting*] / [the Appendix to this law].

Article 5
Time for filing

The Country-by-Country Report required by this [title of the law] shall be filed no later than 12 months after the last day of the Reporting Fiscal Year of the MNE Group.

Article 6
Use and Confidentiality of Country-by-Country Report Information

1. The [Country Tax Administration] shall use the Country-by-Country Report for purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks in [Country], including assessing the risk of non-compliance by members of the MNE Group with applicable transfer pricing rules, and where appropriate for economic and statistical analysis. Transfer pricing adjustments by the [Country Tax Administration] will not be based on the CbC Report.

2. The [Country Tax Administration] shall preserve the confidentiality of the information contained in the Country-by-Country Report at least to the same extent that would apply if such information were provided to it under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Article 7
Penalties

This model legislation does not include provisions regarding penalties to be imposed in the event a Reporting Entity fails to comply with the reporting requirements for the Country-by-Country Report. It is assumed that jurisdictions would wish to extend their existing transfer pricing documentation penalty regime to the requirements to file the Country-by-Country Report.

Article 8
Effective Date

This [title of the law] is effective for Reporting Fiscal Years of MNE Groups beginning on or after [1 January 2016].

Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (the “Agreement”) are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol (the “Convention”) or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the automatic exchange of country-by-country (CbC) reports takes place;

Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;

Whereas, the jurisdictions desire to increase international tax transparency and improve access of their respective tax authorities to information regarding the global allocation of the income, the taxes paid, and certain indicators of the location of economic activity among tax jurisdictions in which Multinational Enterprise (MNE) Groups operate through the automatic exchange of annual CbC Reports, with a view to assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate;

Whereas, the laws of the respective Jurisdictions require or are expected to require the Reporting Entity of an MNE Group to annually file a CbC Report;

Whereas, the CbC Report is intended to be part of a three-tiered structure, along with a global master file and a local file, which together represent a standardised approach to transfer pricing documentation which will provide tax administrations with relevant and reliable information to perform an efficient and robust transfer pricing risk assessment analysis;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree on the scope and modalities of such automatic exchanges;

Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, albeit that the actual exchange of the information will take place on a bilateral basis between the Competent Authorities;

Whereas, the Jurisdictions will have, or are expected to have, in place by the time the first exchange of CbC Reports takes place, (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate, in accordance with Section 5 of this Agreement, (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement) and (iii) the necessary legislation to require Reporting Entities to file the CbC Report;

Whereas, the Jurisdictions are committed to discuss with the aim of resolving cases of undesirable economic outcomes, including for individual businesses, in accordance with paragraph 2 of Article 24 of the Convention, as well as paragraph 1 of Section 6 of this Agreement;

Whereas, mutual agreement procedures, for instance on the basis of a double tax convention concluded between the jurisdictions of the Competent Authorities, remain applicable in cases where the CbC Report has been exchanged on the basis of this Agreement;

Whereas, the Competent Authorities of the jurisdictions intend to conclude this Agreement, without prejudice to national legislative procedures (if any), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;

Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1

Definitions

1. For the purposes of this Agreement, the following terms have the following meanings:

- a) the term “**Jurisdiction**” means a country or a territory in respect of which the Convention is in force and is in effect, either through ratification, acceptance or approval in accordance with Article 28, or through territorial extension in accordance with Article 29, and which is a signatory to this Agreement;
- b) the term “**Competent Authority**” means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention;
- c) The term “**Group**” means a collection of enterprises related through ownership or control such that it is either required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;
- d) the term “**Multinational Enterprise (MNE) Group**” means any Group that (i) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and (ii) is not an Excluded MNE Group;
- e) the term “**Excluded MNE Group**” means a Group that is not required to file a CbC Report on the basis that the annual consolidated group revenue of the Group during the fiscal year immediately preceding the reporting fiscal year, as reflected in its consolidated financial statements for such preceding fiscal year, is below the threshold defined in domestic law by the Jurisdiction and being consistent with the 2015 Report, as may be amended following the 2020 review contemplated therein;
- f) the term “**Constituent Entity**” means (i) any separate business unit of an MNE Group that is included in the consolidated financial statements for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were

- traded on a public securities exchange, (ii) any separate business unit that is excluded from the MNE Group's consolidated financial statements solely on size or materiality grounds and (iii) any permanent establishment of any separate business unit of the MNE Group included in (i) or (ii) above provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;
- g) the term “**Reporting Entity**” means the Constituent Entity that, by virtue of domestic law in its jurisdiction of tax residence, files the CbC Report in its capacity to do so on behalf of the MNE Group;
- h) the term “**CbC Report**” means the Country-by-Country Report to be filed annually by the Reporting Entity in accordance with the laws of its jurisdiction of tax residence and with the information required to be reported under such laws covering the items and reflecting the format set out in the 2015 Report, as may be amended following the 2020 review contemplated therein;
- i) the term “**2015 Report**” means the consolidated report, entitled *Transfer Pricing Documentation and Country-by-Country Reporting*, on Action 13 of the OECD/G20 *Action Plan on Base Erosion and Profit Shifting*;
- j) the term “**Co-ordinating Body**” means the co-ordinating body of the Convention that, pursuant to paragraph 3 of Article 24 of the Convention, is composed of representatives of the competent authorities of the Parties to the Convention;
- k) the term “**Co-ordinating Body Secretariat**” means the OECD Secretariat that, pursuant to paragraph 3 of Article 24 of the Convention, provides support to the Co-ordinating Body;
- l) the term “**Agreement in effect**” means, in respect of any two Competent Authorities, that both Competent Authorities have indicated their intention to automatically exchange information with each other and have satisfied the other conditions set out in paragraph 2 of Section 8. A list of Competent Authorities between which this Agreement is in effect is to be published on the OECD website.

2. As regards the application of this Agreement at any time by a Competent Authority of a Jurisdiction, any term not otherwise defined in this Agreement will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

SECTION 2

Exchange of Information with Respect to MNE Groups

1. Pursuant to the provisions of Articles 6, 21 and 22 of the Convention, each Competent Authority will annually exchange on an automatic basis the CbC Report received from each Reporting Entity that is resident for tax purposes in its jurisdiction with all such other Competent Authorities of Jurisdictions with respect to which it has this Agreement in effect, and in which, on the basis of the information in the CbC Report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment.

2. Notwithstanding the previous paragraph, the Competent Authorities of the Jurisdictions that have indicated that they are to be listed as non-reciprocal jurisdictions on the basis of their notification pursuant to paragraph 1 b) of Section 8 will send CbC Reports pursuant to paragraph 1, but will not receive CbC Reports under this Agreement. Competent Authorities of Jurisdictions that are not listed as non-reciprocal Jurisdictions will both send and receive the information specified in paragraph 1. Competent Authorities will, however, not send such information to Competent Authorities of the Jurisdictions included in the aforementioned list of non-reciprocal Jurisdictions.

SECTION 3

Time and Manner of Exchange of Information

1. For the purposes of the exchange of information in Section 2, the currency of the amounts contained in the CbC Report will be specified.

2. With respect to paragraph 1 of Section 2, a CbC Report is first to be exchanged, with respect to the fiscal year of the MNE Group commencing on or after the date indicated by the Competent Authority in the notification pursuant to paragraph 1a) of Section 8, as soon as possible

and no later than 18 months after the last day of that fiscal year. Notwithstanding the foregoing, a CbC Report is only required to be exchanged, if both Competent Authorities have this Agreement in effect and their respective Jurisdictions have in effect legislation that requires the filing of CbC Reports with respect to the fiscal year to which the CbC Report relates and that is consistent with the scope of exchange provided for in Section 2.

3. Subject to paragraph 2, the CbC Report is to be exchanged as soon as possible and no later than 15 months after the last day of the fiscal year of the MNE Group to which the CbC Report relates.

4. The Competent Authorities will automatically exchange the CbC Reports through a common schema in Extensible Markup Language.

5. The Competent Authorities will work towards and agree on one or more methods for electronic data transmission, including encryption standards, with a view to maximising standardisation and minimising complexities and costs and will notify the Co-ordinating Body Secretariat of such standardised transmission and encryption methods.

SECTION 4

Collaboration on Compliance and Enforcement

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe, with respect to a Reporting Entity that is resident for tax purposes in the jurisdiction of the other Competent Authority, that an error may have led to incorrect or incomplete information reporting or that there is non-compliance of a Reporting Entity with respect to its obligation to file a CbC Report. The notified Competent Authority will take appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

SECTION 5

Confidentiality, Data Safeguards and Appropriate Use

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged.

2. In addition to the restrictions in paragraph 1, the use of the information will be further limited to the permissible uses described in this paragraph. In particular, information received by means of the CbC Report

will be used for assessing high-level transfer pricing, base erosion and profit shifting related risks, and, where appropriate, for economic and statistical analysis. The information will not be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis. It is acknowledged that information in the CbC Report on its own does not constitute conclusive evidence that transfer prices are or are not appropriate and, consequently, transfer pricing adjustments will not be based on the CbC Report. Inappropriate adjustments in contravention of this paragraph made by local tax administrations will be conceded in any competent authority proceedings. Notwithstanding the above, there is no prohibition on using the CbC Report data as a basis for making further enquiries into the MNE Group's transfer pricing arrangements or into other tax matters in the course of a tax audit and, as a result, appropriate adjustments to the taxable income of a Constituent Entity may be made.

3. To the extent permitted under applicable law, a Competent Authority will notify the Co-ordinating Body Secretariat immediately of any cases of non-compliance with paragraphs 1 and 2 of this Section, including any remedial actions, as well as any measures taken in respect of non-compliance with the above-mentioned paragraphs. The Co-ordinating Body Secretariat will notify all Competent Authorities with respect to which this is an Agreement in effect with the first-mentioned Competent Authority.

SECTION 6

Consultations

1. In case an adjustment of the taxable income of a Constituent Entity, as a result of further enquiries based on the data in the CbC Report, leads to undesirable economic outcomes, including if such cases arise for a specific business, the Competent Authorities of the Jurisdictions in which the affected Constituent Entities are resident shall consult each other and discuss with the aim of resolving the case.

2. If any difficulties in the implementation or interpretation of this Agreement arise, a Competent Authority may request consultations with one or more of the Competent Authorities to develop appropriate measures to ensure that this Agreement is fulfilled. In particular, a Competent Authority shall consult with the other Competent Authority, before the first-mentioned Competent Authority determines that there is a systemic failure to exchange CbC Reports with the other Competent Authority. Where the first mentioned Competent Authority makes such a determination it shall notify the Co-ordinating Body Secretariat which, after having informed the other

Competent Authority concerned, will notify all Competent Authorities. To the extent permitted by applicable law, either Competent Authority may, and if it so wishes through the Co-ordinating Body Secretariat, involve other Competent Authorities that have this Agreement in effect with a view to finding an acceptable resolution to the issue.

3. The Competent Authority that requested the consultations pursuant to paragraph 2 shall ensure, as appropriate, that the Co-ordinating Body Secretariat is notified of any conclusions that were reached and measures that were developed, including the absence of such conclusions or measures, and the Co-ordinating Body Secretariat will notify all Competent Authorities, even those that did not participate in the consultations, of any such conclusions or measures. Taxpayer-specific information, including information that would reveal the identity of the taxpayer involved, is not to be furnished.

SECTION 7

Amendments

This Agreement may be amended by consensus by written agreement of all of the Competent Authorities that have the Agreement in effect. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

SECTION 8

Term of Agreement

1. A Competent Authority must provide, at the time of signature of this Agreement or as soon as possible thereafter, a notification to the Co-ordinating Body Secretariat:

- a) that its Jurisdiction has the necessary laws in place to require Reporting Entities to file a CbC Report and that its Jurisdiction will require the filing of CbC Reports with respect to fiscal years of Reporting Entities commencing on or after the date set out in the notification;
- b) specifying whether the Jurisdiction is to be included in the list of non-reciprocal Jurisdictions;
- c) specifying one or more methods for electronic data transmission including encryption;

- d) that it has in place the necessary legal framework and infrastructure to ensure the required confidentiality and data safeguards standards in accordance with Article 22 of the Convention and paragraph 1 and Section 5 of this Agreement, as well as the appropriate use of the information in the CbC Reports as described in paragraph 2 of Section 5 of this Agreement, and attaching the completed confidentiality and data safeguard questionnaire attached as Annex to this Agreement; and
- e) that includes (i) a list of the Jurisdictions of the Competent Authorities with respect to which it intends to have this Agreement in effect, following national legislative procedures for entry into force (if any) or (ii) a declaration by the Competent Authority that it intends to have this Agreement in effect with all other Competent Authorities that provide a notification under paragraph 1e) of Section 8.

Competent Authorities must notify the Co-ordinating Body Secretariat, promptly, of any subsequent change to be made to any of the above-mentioned content of the notification.

2. This Agreement will come into effect between two Competent Authorities on the later of the following dates: (i) the date on which the second of the two Competent Authorities has provided notification to the Co-ordinating Body Secretariat under paragraph 1 that includes the other Competent Authority's Jurisdiction pursuant to subparagraph 1e) and (ii) the date on which the Convention has entered into force and is in effect for both Jurisdictions.

3. The Co-ordinating Body Secretariat will maintain a list that will be published on the OECD website of the Competent Authorities that have signed the Agreement and between which Competent Authorities this is an Agreement in effect. In addition, the Co-ordinating Body Secretariat will publish the information provided by Competent Authorities pursuant to subparagraphs 1a) and b) on the OECD website.

4. The information provided pursuant to subparagraphs 1c) through e) will be made available to other signatories upon request in writing to the Co-ordinating Body Secretariat.

5. A Competent Authority may temporarily suspend the exchange of information under this Agreement by giving notice in writing to another Competent Authority that it has determined that there is or has been significant non-compliance by the second-mentioned Competent Authority with this Agreement. Before making such a determination, the first-

mentioned Competent Authority shall consult with the other Competent Authority. For the purposes of this paragraph, significant non-compliance means non-compliance with paragraphs 1 and 2 of Section 5 and paragraph 1 of Section 6 of this Agreement and/or the corresponding provisions of the Convention, as well as a failure by the Competent Authority to provide timely or adequate information as required under this Agreement. A suspension will have immediate effect and will last until the second-mentioned Competent Authority establishes in a manner acceptable to both Competent Authorities that there has been no significant non-compliance or that the second-mentioned Competent Authority has adopted relevant measures that address the significant non-compliance. To the extent permitted by applicable law, either Competent Authority may, and if it so wishes through the Co-ordinating Body Secretariat, involve other Competent Authorities that have this Agreement in effect with a view to finding an acceptable resolution to the issue.

6. A Competent Authority may terminate its participation in this Agreement, or with respect to a particular Competent Authority, by giving notice of termination in writing to the Co-ordinating Body Secretariat. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention.

SECTION 9

Co-ordinating Body Secretariat

Unless otherwise provided for in the Agreement, the Co-ordinating Body Secretariat will notify all Competent Authorities of any notifications that it has received under this Agreement and will provide a notice to all signatories of the Agreement when a new Competent Authority signs the Agreement.

Done in English and French, both texts being equally authentic.

Annex to the Agreement – Confidentiality and Data Safeguards Questionnaire

1. Legal Framework

A legal framework must ensure the confidentiality of exchanged tax information and limit its use to appropriate purposes. The two basic components of such a framework are the terms of the applicable treaty, Tax Information Exchange Agreement (TIEA) or other bilateral agreement for the exchange of information, and a jurisdiction’s domestic legislation.

1.1 Tax Conventions, TIEAs & Other Exchange Agreements

Primary Check-list Areas

- Provisions in tax treaties, TIEAs and international agreements requiring confidentiality of exchanged information and restricting use to intended purposes

How do the exchange of information provisions in your Tax Conventions, TIEAs, or other exchange agreements ensure confidentiality and restrict the use of both outgoing information to other Contracting States and incoming information received in response to a request?

1.2 Domestic Legislation

Primary Check-list Areas

- Domestic law must apply safeguards to taxpayer information exchanged pursuant to a treaty, TIEA or other international agreement, and treat those information exchange agreements as binding, restrict data access and use and impose penalties for violations.

How do your domestic laws and regulations safeguard and restrict the use of information exchanged for tax purposes under Tax Conventions, TIEAs, or other exchange instruments? How does the tax administration prevent the misuse of confidential data and prohibit the transfer of tax information from the tax administrative body to non-tax government bodies?

2. Information Security Management

The information security management systems used by each jurisdiction’s tax administration must adhere to standards that ensure the protection of confidential taxpayer data. For example, there must be a screening process for employees handling the information, limits on who can access the information, and systems to detect and trace unauthorized disclosures. The internationally accepted standards for information security are known as the “ISO/IEC 27000-series”. As described more fully below, a tax administration should be able to document that it is compliant with the ISO/IEC 27000-series standards or that it has an equivalent information security framework and that taxpayer information obtained under an exchange agreement is protected under that framework.

2.1.1 Background Checks and Contracts

Primary Check-list Areas

- Screenings and background investigations for employees and contractors
- Hiring process and contracts
- Responsible Points of Contact

What procedures govern your tax administration’s background investigations for employees and contractors who may have access to, use, or are responsible for protecting data received through exchange of information? Is this information publicly available? If so, please provide the reference. If not, please provide a summary of the procedures.

2.1.2 Training and Awareness

Primary Check-list Areas

- Initial training and periodic security awareness training based on roles, security risks, and applicable laws

What training does your tax administration provide to employees and contractors regarding confidential information including data received from partners through the Exchange of Information? Does your tax administration maintain a public version of the requirements? If so, please provide the reference. If not, please provide a summary of the requirement. [/End](#)

2.1.3 Departure Policies

Primary Check-list Areas

- Departure policies to terminate access to confidential information

What procedures does your tax administration maintain for terminating access to confidential information for departing employees and consultants? Are the procedures publicly available? If so, please provide the reference. If not, please provide a summary of the procedures.

2.2.1 Physical Security: Access to Premises

Primary Check-list Areas

- Security measures to restrict entry to premises: security guards, policies, entry access procedures

What procedures does your tax administration maintain to grant employees, consultants, and visitors access to premises where confidential information, paper or electronic, is stored? Are the procedures publicly available? If so, please provide the reference. If not, please provide a summary of the procedures.

2.2.2 Physical Security: Physical Document Storage

Primary Check-list Areas

- Secure physical storage for confidential documents: policies and procedures

What procedures does your tax administration maintain for receiving, processing, archiving, retrieving and disposing of hard copies of confidential data received from taxpayers or exchange of information partners? Does your tax administration maintain procedures employees must follow when leaving their workspace at the end of the day? Are these procedures publicly available? If yes, please provide the reference. If not, please provide a summary.

Does your tax administration have a data classification policy? If so, please describe how your document storage procedures differ for data at all classification levels. Are these procedures publicly available? If yes, please provide the reference. If not, please provide a summary. [/End](#)

2.3 Planning

Primary Check-list Areas

- Planning documentation to develop, update, and implement security information systems

What procedures does your tax administration maintain to develop, document, update, and implement security for information systems used to receive, process, archive and retrieve confidential information? Are these procedures publicly available? If yes, please provide the reference. If not, please provide a summary.

What procedures does your tax administration maintain regarding periodic Information Security Plan updates to address changes to the information systems environment, and how are problems and risks identified during the implementation of Information Security Plans resolved? Are these procedures publicly available? If yes, please provide the reference. If not, please provide a summary.

2.4 Configuration Management	
Primary Check-list Areas	<ul style="list-style-type: none"> ▪ Configuration management and security controls
<p>What policies does your tax administration maintain to regulate system configuration and updates? Are the policies publicly available? If yes, please provide the reference. If not, please provide a summary. [/End question]</p>	
2.5 Access Control	
Primary Check-list Areas	<ul style="list-style-type: none"> ▪ Access Control Policies and procedures: authorized personnel and international exchange of information
<p>What policies does your tax administration maintain to limit system access to authorized users and safeguard data during transmission when received and stored? Please describe how your tax administration's access authorization and data transmission policies extend to data received from an exchange of information partner under a treaty or TIEA or other exchange agreement. Are the policies publicly available? If yes, please provide the reference. If not, please provide a summary.</p>	
2.6 Identification and Authentication	
Primary Check-list Areas	<ul style="list-style-type: none"> ▪ Authenticating the identifying users and devices that require access to information systems
<p>What policies and procedures does your tax administration maintain for each information system connected to confidential data? Are the policies and procedures publicly available? If so, please provide a reference. If not, please provide a summary.</p> <p>What policies and procedures govern the authentication of authorized tax administration users by systems connected to confidential data? Are the policies and procedures publicly available? If so, please provide a reference. If not, please provide a summary.</p>	

2.7 Audit and Accountability

Primary Check-list Areas

- Traceable electronic actions within systems
- System audit procedures: monitoring, analyzing, investigating, and reporting of unlawful/unauthorized use

What policies and procedures does your tax administration maintain to ensure system audits take place that will detect unauthorized access? Are the policies publicly available? If so, please provide a reference. If not, please provide a summary.

2.8 Maintenance

Primary Check-list Areas

- Periodic and timely maintenance of systems
- Controls over: tools, procedures, and mechanisms for system maintenance and personnel use

What policies govern effective periodic system maintenance by your tax administration? Are these policies publicly available? If so, please provide a reference. If not, please provide a summary.

What procedures govern the resolution of system flaws identified by your tax administration? Are these procedures publicly available? If so, please provide a reference. If not, please provide a summary.

2.9 System and Communications Protection

Primary Check-list Areas

- Procedures to monitor, control, and protect communications to and from information systems

What policies and procedures does your tax administration maintain for the electronic transmission and receipt of confidential data. Please describe the security and encryption requirements addressed in these policies. Are these policies publicly available? If so, please provide a reference. If not, please provide a summary.

2.10 System and Information Integrity	
Primary Check-list Areas	<ul style="list-style-type: none"> ▪ Procedures to identify, report, and correct information system flaws in a timely manner ▪ Protection against malicious code and monitoring system security alerts
<p>What procedures does your tax administration maintain to identify, report, and correct information system flaws in a timely manner? Please describe how these procedures provide for the protection of systems against malicious codes causing harm to data integrity. Are these procedures publicly available? If so, please provide a reference. If not, please provide a summary.</p>	
2.11 Security Assessments	
Primary Check-list Areas	<ul style="list-style-type: none"> ▪ Processes used to test, validate, and authorize the security controls for protecting data, correcting deficiencies, and reducing vulnerabilities
<p>What policies does your tax administration maintain and regularly update for reviewing the processes used to test, validate, and authorize a security control plan? Is the policy publicly available? If so, please provide a reference. If not, please provide a summary.</p>	
2.12 Contingency Planning	
Primary Check-list Areas	<ul style="list-style-type: none"> ▪ Plans for emergency response, backup operations, and post-disaster recovery of information systems
<p>What contingency plans and procedures does your tax administration maintain to reduce the impact of improper data disclosure or unrecoverable loss of data? Are the plans and procedures publicly available? If so, please provide a reference. If not, please provide a summary.</p>	
2.13 Risk Assessment	
Primary Check-list Areas	<ul style="list-style-type: none"> ▪ Potential risk of unauthorized access to taxpayer information ▪ Risk and magnitude of harm from unauthorized use, disclosure, or disruption of the taxpayer information systems ▪ Procedures to update risk assessment methodologies
<p>Does your tax administration conduct risk assessments to identify risks and the potential impact of unauthorized access, use, and disclosure of information, or destruction of information systems? What procedures does your tax administration maintain to update risk assessment methodologies? Are these risk assessments and policies publicly available? If so, please provide a reference. If not, please provide a summary.</p>	

2.14 Systems and Services Acquisition

Primary Check-list Areas

- Methods and processes to ensure third-party providers of information systems process, store, and transmit confidential information in accordance with computer security requirements

What process does your tax administration maintain to ensure third-party providers are applying appropriate security controls that are consistent with computer security requirements for confidential information? Are the processes publicly available? If so, please provide a reference. If not, please provide a summary.

2.15 Media Protection

Primary Check-list Areas

- Processes to protect information in printed or digital form
- Security measures used to limit media information access to authorized users only
- Methods for sanitizing or destroying digital media prior to disposal or reuse

What processes does your tax administration maintain to securely store and limit access to confidential information in printed or digital form upon receipt from any source? How does your tax administration securely destroy confidential media information prior to its disposal? Are the processes available publicly? If so, please provide a reference. If not, please provide a summary.

2.16 Protection of Treaty-Exchanged data (formerly Prevention of Data Commingling)

Primary Check-list Areas

- Procedures to ensure treaty-exchanged files are safeguarded and clearly labeled
- Classification methods of treaty-exchanged files

What policies and processes does your tax administration maintain to store confidential information and clearly label it as treaty-exchanged after receipt from foreign Competent Authorities? Are these policies and processes publicly available? If so, please provide a reference. If not, please provide a summary.

2.17 Information Disposal Policies

Primary Check-list Areas

- Procedures for properly disposing paper and electronic files

What procedures does your tax administration maintain for the disposal of confidential information? Do these procedures extend to exchanged information from foreign Competent Authorities? Are the procedures publicly available? If so, please provide a reference. If not, please provide a summary.

3. Monitoring and Enforcement

In addition to keeping treaty-exchanged information confidential, tax administrations must be able to ensure that its use will be limited to the purposes defined by the applicable information exchange agreement. Thus, compliance with an acceptable information security framework alone is not sufficient to protect treaty-exchanged tax data. In addition, domestic law must impose penalties or sanctions for improper disclosure or use of taxpayer information. To ensure implementation, such laws must be reinforced by adequate administrative resources and procedures.

3.1 Penalties and Sanctions

Primary Check-list Areas

- Penalties imposed for unauthorized disclosures
- Risk mitigation practices

Does your tax administration have the ability to impose penalties for unauthorized disclosures of confidential information? Do the penalties extend to unauthorized disclosure of confidential information exchanged with a treaty or TIEA partner? Are the penalties publicly available? If so, please provide a reference. If not, please provide a summary.

3.2.1 Policing Unauthorized Access and Disclosure

Primary Check-list Areas

- Monitoring to detect breaches
- Reporting of breaches

What procedures does your tax administration have to monitor confidentiality breaches? What policies and procedures does your tax administration have that require employees and contractors to report actual or potential breaches of confidentiality? What reports does your tax administration prepare when a breach of confidentiality occurs? Are these policies and procedures publicly available? If so, please provide a reference. If not, please provide a summary.

3.2.2 Sanctions and Prior Experience

Primary Check-list Areas

- Prior unauthorized disclosures
- Policy/process modifications to prevent future breaches

Have there been any cases in your jurisdiction where confidential information has been improperly disclosed? Have there been any cases in your jurisdiction where confidential information received by the Competent Authority from an exchange of information partner has been disclosed other than in accordance with the terms of the instrument under which it was provided? Does your tax administration or Inspector General make available to the public descriptions of any breaches, any penalties/sanctions imposed, and changes put in place to mitigate risk and prevent future breaches? If so, please provide a reference. If not, please provide a summary.

Competent Authority Agreement on the Exchange of Country-by-Country Reports on the basis of a Double Tax Convention (“DTC CAA”)

Whereas, the Government of [Jurisdiction A] and the Government of [Jurisdiction B] desire to increase international tax transparency and improve access of their respective tax authorities to information regarding the global allocation of the income, the taxes paid, and certain indicators of the location of economic activity among tax jurisdictions in which Multinational Enterprise (MNE) Groups operate through the automatic exchange of annual CbC Reports, with a view to assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate;

Whereas, the laws of their respective Jurisdictions require or are expected to require the Reporting Entity of an MNE Group to annually file a CbC Report;

Whereas, the CbC Report is intended to be part of a three-tiered structure, along with a global master file and a local file, which together represent a standardised approach to transfer pricing documentation which will provide tax administrations with relevant and reliable information to perform an efficient and robust transfer pricing risk assessment analysis;

Whereas, Article [...] of the Income Tax Convention between [Jurisdiction A] and [Jurisdiction B] (the “Convention”), authorises the exchange of information for tax purposes, including the automatic exchange of information, and allows the competent authorities of [Jurisdiction A] and [Jurisdiction B] (the “Competent Authorities”) to agree the scope and modalities of such automatic exchanges;

Whereas, [Jurisdiction A] and [Jurisdiction B] [have/are expected to have/have, or are expected to have,] in place by the time the first exchange of CbC Reports takes place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate, in accordance with Section 5 of this

Agreement, (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement), and (iii) the necessary legislation to require Reporting Entities to file the CbC Report;

Whereas, [Jurisdiction A] and [Jurisdiction B] are committed to endeavour to mutually agree on resolving cases of double taxation in accordance with Article [25] of the Convention, as well as paragraph 1 of Section 6 of this Agreement;

Whereas, the Competent Authorities intend to conclude this Agreement on reciprocal automatic exchange pursuant to the Convention and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;

Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1

Definitions

1. For the purposes of this Agreement, the following terms have the following meanings:

- a) the term “[**Jurisdiction A**]” means [...];
- b) the term “[**Jurisdiction B**]” means [...];
- c) the term “[**Competent Authority**]” means in case of [Jurisdiction A], [...] and in case of [Jurisdiction B], [...];
- d) The term “[**Group**]” means a collection of enterprises related through ownership or control such that it is either required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;
- e) the term “[**Multinational Enterprise (MNE) Group**]” means any Group that (i) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with

respect to the business carried out through a permanent establishment in another jurisdiction, and (ii) is not an Excluded MNE Group;

- f) the term “**Excluded MNE Group**” means a Group that is not required to file a CbC Report on the basis that the consolidated group revenue of the Group during the fiscal year immediately preceding the reporting fiscal year, as reflected in its consolidated financial statements for such preceding fiscal year, is below the threshold defined in domestic law by the Jurisdiction and being consistent with the 2015 Report, as may be amended following the 2020 review contemplated therein;
- g) the term “**Constituent Entity**” means (i) any separate business unit of an MNE Group that is included in the consolidated financial statements for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange (ii) any separate business unit that is excluded from the MNE Group’s consolidated financial statements solely on size or materiality grounds and (iii) any permanent establishment of any separate business unit of the MNE Group included in (i) or (ii) above provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;
- h) the term “**Reporting Entity**” means the Constituent Entity that, by virtue of domestic law in its jurisdiction of tax residence, files the CbC Report in its capacity to do so on behalf of the MNE Group;
- i) the term “**CbC Report**” means the Country-by-Country Report to be filed annually by the Reporting Entity in accordance with the laws of its jurisdiction of tax residence and with the information required to be reported under such laws covering the items and reflecting the format set out in the 2015 Report, as may be amended following the 2020 review contemplated therein; and
- j) the term “**2015 Report**” means the consolidated report, entitled *Transfer Pricing Documentation and Country-by-Country Reporting*, on Action 13 of the OECD/G20 *Action Plan on Base Erosion and Profit Shifting*.

2. As regards to the application of this Agreement at any time by a Competent Authority of a Jurisdiction, any term not otherwise defined in

this Agreement will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

SECTION 2

Exchange of Information with Respect to MNE Groups

Pursuant to the provisions of Article [...] of the Convention, each Competent Authority will annually exchange on an automatic basis the CbC Report received from each Reporting Entity that is resident for tax purposes in its Jurisdiction with the other Competent Authority, provided that, on the basis of the information provided in the CbC Report, one or more Constituent Entities of the MNE Group of the Reporting Entity are resident for tax purposes in the Jurisdiction of the other Competent Authority or, are subject to tax with respect to the business carried out through a permanent establishment situated in the Jurisdiction of the other Competent Authority.

SECTION 3

Time and Manner of Exchange of Information

1. For the purposes of the exchange of information in Section 2, the currency of the amounts contained in the CbC Report will be specified.
2. With respect to Section 2, a CbC Report is first to be exchanged with respect to fiscal years of MNE Groups commencing on or after [...]. Such CbC Report is to be exchanged as soon as possible and no later than 18 months after the last day of the fiscal year of the MNE Group to which the CbC Report relates. CbC Reports with respect to subsequent fiscal years are to be exchanged as soon as possible and no later than 15 months after the last day of the fiscal year of the MNE Group to which the CbC Report relates.
3. The Competent Authorities will automatically exchange the CbC Reports through a common schema in Extensible Markup Language.
4. The Competent Authorities will work towards and agree on one or more methods for electronic data transmission including encryption standards.

SECTION 4

Collaboration on Compliance and Enforcement

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe, with respect to a Reporting Entity that is resident for tax purposes in the Jurisdiction of the other Competent Authority, that an error may have led to incorrect or incomplete information reporting or that there is non-compliance of a Reporting Entity with the respect to its obligation to file a CbC Report. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

SECTION 5

Confidentiality, Data Safeguards and Appropriate Use

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged.
2. In addition to the restrictions in paragraph 1, the use of the information will be further limited to the permissible uses described in this paragraph. In particular, information received by means of the CbC Report will be used for assessing high-level transfer pricing, base erosion and profit shifting related risks, and, where appropriate, for economic and statistical analysis. The information will not be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis. It is acknowledged that information in the CbC Report on its own does not constitute conclusive evidence that transfer prices are or are not appropriate and, consequently, transfer pricing adjustments will not be based on the CbC Report. Inappropriate adjustments in contravention of this paragraph made by local tax administrations will be conceded in any competent authority proceedings. Notwithstanding the above, there is no prohibition on using the CbC Report data as a basis for making further enquiries into the MNE Group's transfer pricing arrangements or into other tax matters in the course of a tax audit and, as a result, appropriate adjustments to the taxable income of a Constituent Entity may be made.
3. To the extent permitted under applicable law, each Competent Authority will notify the other Competent Authority immediately regarding of any cases of non-compliance with the rules set out in paragraphs 1 and 2

of this Section, including any remedial actions, as well as any measures taken in respect of non-compliance with the above-mentioned paragraphs.

SECTION 6

Consultations

1. In cases foreseen by Article [25] of the Convention, the Competent Authorities of both Jurisdictions shall consult each other and endeavour to resolve the situation by mutual agreement.
2. If any difficulties in the implementation or interpretation of this Agreement arise, either Competent Authority may request consultations with the other Competent Authority to develop appropriate measures to ensure that this Agreement is fulfilled. In particular, a Competent Authority shall consult with the other Competent Authority before the first-mentioned Competent Authority determines that there is a systemic failure to exchange CbC Reports with the other Competent Authority.

SECTION 7

Amendments

This Agreement may be amended by consensus by written agreement of the Competent Authorities. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

SECTION 8

Term of Agreement

1. This Agreement will come into effect on [.../the date of the later of the notifications provided by each Competent Authority that its Jurisdiction either has the necessary laws in place to require Reporting Entities to file a CbC Report].
2. A Competent Authority may temporarily suspend the exchange of information under this Agreement by giving notice in writing to the other Competent Authority that it has determined that there is or has been significant non-compliance by the other Competent Authority with this Agreement. Before making such a determination, the first-mentioned Competent Authority shall consult with the other Competent Authority. For the purposes of this paragraph, significant non-compliance means non-

compliance with paragraphs 1 and 2 of Section 5 and paragraph 1 of Section 6 of this Agreement, including the provisions of the Convention referred to therein, as well as a failure by the Competent Authority to provide timely or adequate information as required under this Agreement. A suspension will have immediate effect and will last until the second-mentioned Competent Authority establishes in a manner acceptable to both Competent Authorities that there has been no significant non-compliance or that the second-mentioned Competent Authority has adopted relevant measures that address the significant non-compliance.

3. Either Competent Authority may terminate this Agreement by giving notice of termination in writing to the other Competent Authority. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention.

Signed in duplicate in [...] on [...].

Competent
Authority for

[Jurisdiction A]

Competent
Authority for

[Jurisdiction B]

Competent Authority Agreement on the Exchange of Country-by-Country Reports on the basis of a Tax Information Exchange Agreement ("TIEA CAA")

Whereas, the Government of [Jurisdiction A] and the Government of [Jurisdiction B] intend to increase international tax transparency and improve access of their respective tax authorities to information regarding the global allocation of the income, the taxes paid, and certain indicators of the location of economic activity among tax jurisdictions in which Multinational Enterprise (MNE) Groups operate through the automatic exchange of annual CbC Reports, with a view to assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate;

Whereas, the laws of their respective Jurisdictions require or are expected to require the Reporting Entity of an MNE Group to annually file a CbC Report;

Whereas, the CbC Report is intended to be part of a three-tiered structure, along with a global master file and a local file, which together represent a standardised approach to transfer pricing documentation which will provide tax administrations with relevant and reliable information to perform an efficient and robust transfer pricing risk assessment analysis;

Whereas, Article [5A] of the Tax Information Exchange Agreement between [Jurisdiction A] and [Jurisdiction B] (the "TIEA"), authorises the exchange of information for tax purposes, including the automatic exchange of information, and allows the competent authorities of [Jurisdiction A] and [Jurisdiction B] (the "Competent Authorities") to agree the scope and modalities of such automatic exchanges;

Whereas, [Jurisdiction A] and [Jurisdiction B] [have/are expected to have/have, or are expected to have,] in place by the time the first exchange of CbC Reports takes place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate, in accordance with Section 5 of this Agreement, (ii) the infrastructure for an effective exchange relationship

(including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement) and (iii) the necessary legislation to require Reporting MNEs to file the CbC Report;

Whereas, the Competent Authorities intend to conclude this Agreement on reciprocal automatic exchange pursuant to the TIEA and subject to the confidentiality and other protections provided for in the TIEA, including the provisions limiting the use of the information exchanged thereunder;

Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1

Definitions

1. For the purposes of this Agreement, the following terms have the following meanings:

- a) the term “[**Jurisdiction A**]” means [...];
- b) the term “[**Jurisdiction B**]” means [...];
- c) the term “[**Competent Authority**]” means in case of [Jurisdiction A], [...] and in case of [Jurisdiction B], [...];
- d) The term “[**Group**]” means a collection of enterprises related through ownership or control such that it is either required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;
- e) the term “[**Multinational Enterprise (MNE) Group**]” means any Group that (i) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and (ii) is not an Excluded MNE Group;
- f) the term “[**Excluded MNE Group**]” means a Group that is not required to file a CbC Report on the basis that the consolidated group revenue of the Group during the fiscal year immediately preceding

the reporting fiscal year, as reflected in its consolidated financial statements for such preceding fiscal year, is below the threshold defined in domestic law by the Jurisdiction and being consistent with the 2015 Report, as may be amended following the 2020 review contemplated therein;

- g) the term “**Constituent Entity**” means (i) any separate business unit of an MNE Group that is included in the consolidated financial statements for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange (ii) any separate business unit that is excluded from the MNE Group’s consolidated financial statements solely on size or materiality grounds and (iii) any permanent establishments of any separate business unit of the MNE Group included in (i) or (ii) above provided such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;
- h) the term “**Reporting Entity**” means the Constituent Entity that, by virtue of domestic law in its jurisdiction of tax residence, files the CbC Report in its capacity to do so on behalf of the MNE Group;
- i) the term “**CbC Report**” means the Country-by-Country Report to be filed annually by the Reporting Entity in accordance with the laws of its jurisdiction of tax residence and with the information required to be reported under such laws covering the items and reflecting the format set out in the 2015 Report, as may be amended following the 2020 review contemplated therein; and
- j) the term “**2015 Report**” means the consolidated report, entitled *Transfer Pricing Documentation and Country-by-Country Reporting*, on Action 13 of the OECD/G20 Action Plan on Base Erosion and Profit Shifting.

2. As regards to the application of this Agreement at any time by a Competent Authority of a Jurisdiction, any term not otherwise defined in this Agreement will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

SECTION 2

Exchange of Information with Respect to MNE Groups

Pursuant to the provisions of Article [5A] of the TIEA, each Competent Authority will annually exchange on an automatic basis the CbC Report received from each Reporting Entity that is resident for tax purposes in its Jurisdiction with the other Competent Authority, provided that, on the basis of the information provided in the CbC Report, one or more Constituent Entities of the MNE Group of the Reporting Entity are resident for tax purposes in the Jurisdiction of the other Competent Authority or, are subject to tax with respect to the business carried out through a permanent establishment situated in the Jurisdiction of the other Competent Authority.

SECTION 3

Time and Manner of Exchange of Information

1. For the purposes of the exchange of information in Section 2, the currency of the amounts contained in the CbC Report will be specified.
2. With respect to Section 2, a CbC Report is first to be exchanged with respect to fiscal years of MNE Groups commencing on or after [...]. Such CbC Report is to be exchanged as soon as possible and no later than 18 months after the last day of the fiscal year of the Reporting Entity of the MNE Group to which the CbC Report relates. CbC Reports with respect to subsequent fiscal years are to be exchanged as soon as possible and no later than 15 months after the last day of the fiscal year of the MNE Group to which the CbC Report relates.
3. The Competent Authorities will automatically exchange the CbC Reports through a common schema in Extensible Markup Language.
4. The Competent Authorities will work towards and agree on one or more methods for electronic data transmission including encryption standards.

SECTION 4

Collaboration on Compliance and Enforcement

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe, with respect to a Reporting Entity that is resident for tax purposes in the Jurisdiction of the other Competent Authority, that an error may have led to incorrect or incomplete information reporting or that there is non-compliance of a

Reporting Entity with the respect to its obligation to file a CbC Report. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

SECTION 5

Confidentiality, Data Safeguards and Appropriate Use

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the TIEA, including the provisions limiting the use of the information exchanged.

2. In addition to the restrictions in paragraph 1, the use of the information will be further limited to the permissible uses described in this paragraph. In particular, information received by means of the CbC Report will be used for assessing high-level transfer pricing, base erosion and profit shifting related risks, and, where appropriate, for economic and statistical analysis. The information will not be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis. It is acknowledged that information in the CbC Report on its own does not constitute conclusive evidence that transfer prices are or are not appropriate and, consequently, transfer pricing adjustments will not be based on the CbC Report. Inappropriate adjustments in contravention of this paragraph made by local tax administrations will be conceded in any competent authority proceedings. Notwithstanding the above, there is no prohibition on using the CbC Report data as a basis for making further enquiries into the MNE's transfer pricing arrangements or into other tax matters in the course of a tax audit and, as a result, appropriate adjustments to the taxable income of a Constituent Entity may be made.

3. To the extent permitted under applicable law, each Competent Authority will notify the other Competent Authority immediately regarding of any cases of non-compliance with the paragraphs 1 and 2 of this Section, including any remedial actions, as well as any measures taken in respect of non-compliance with the above-mentioned paragraphs.

SECTION 6

Consultations

1. In case an adjustment of the taxable income of a Constituent Entity, as a result of further enquiries based on the data in the CbC Report, leads to undesirable economic outcomes, including if such cases arise for a

specific business, both Competent Authorities shall consult each other and discuss with the aim of resolving the case.

2. If any difficulties in the implementation or interpretation of this Agreement arise, either Competent Authority may request consultations with of the other Competent Authority to develop appropriate measures to ensure that this Agreement is fulfilled. In particular, a Competent Authority shall consult with the other Competent Authority before the first-mentioned Competent Authority determines that there is a systemic failure to exchange CbC Reports with the other Competent Authority.

SECTION 7

Amendments

This Agreement may be amended by consensus by written agreement of the Competent Authorities. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

SECTION 8

Term of Agreement

1. This Agreement will come into effect on [.../the date of the later of the notifications provided by each Competent Authority that its Jurisdiction either has the necessary laws in place to require Reporting Entities to file a CbC Report].

2. A Competent Authority may temporarily suspend the exchange of information under this Agreement by giving notice in writing to the other Competent Authority that it has determined that there is or has been significant non-compliance by the other Competent Authority with this Agreement. Before making such a determination, the first-mentioned Competent Authority shall consult with the other Competent Authority. For the purposes of this paragraph, significant non-compliance means non-compliance with paragraphs 1 and 2 of Section 5 and paragraph 1 of Section 6 of this Agreement and the provisions of the TIEA referred to therein, as well as a failure by the Competent Authority to provide timely or adequate information as required under this Agreement. A suspension will have immediate effect and will last until the second-mentioned Competent Authority establishes in a manner acceptable to both Competent Authorities that there has been no significant non-compliance or that the second-

mentioned Competent Authority has adopted relevant measures that address the significant non-compliance.

3. Either Competent Authority may terminate this Agreement by giving notice of termination in writing to the other Competent Authority. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the TIEA.

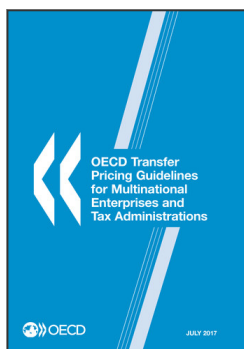
Signed in duplicate in [...] on [...].

Competent Authority for

Competent Authority for

[Jurisdiction A]

[Jurisdiction B]



From:
OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017

Access the complete publication at:

<https://doi.org/10.1787/tpg-2017-en>

Please cite this chapter as:

OECD (2017), “Annex IV to Chapter V. Country-by-Country Reporting Implementation Package”, in *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/tpg-2017-24-en>

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