

ANTIGUA AND BARBUDA



BASE EROSION AND PROFIT SHIFTING BILL 2025

NO. OF 2025

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ANTIGUA AND BARBUDA
BASE EROSION AND PROFIT SHIFTING BILL 2025

NO. OF 2025

AN ACT to provide for the implementation of the Base erosion and Profit Shifting (BEPS) Actions under the OECD/G20 Inclusive Framework, including the 12 Actions agreed upon to address tax avoidance strategies by multinational enterprises, and to make provisions for other connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows —

1. Short Title

This Act may be cited as the Base Erosion and Profit Shifting Act, 2025.

2. Commencement

The provisions of this Act shall come into force as follows:-

- (a) The provisions of Part I of this Act shall come into force for accounting periods ending on or after 31 December 2024, with the first filing deadline set for no later than the 31 December, 2025.
- (b) The provisions of Part II of this Act shall come into force on the 1st January, 2026.

PART I
COUNTRY BY COUNTRY REPORTING

3. Interpretation

In this Act, unless the context otherwise requires —

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

“Constituent Entity” means—

- (a) 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;
- (b) any such business unit that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds; and
- (c) any permanent establishment of any separate business unit of the MNE Group included in paragraph (a) or (b) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes;

“Excluded MNE Group” means, with respect to any Fiscal Year of the Group, a group having total consolidated group revenue of less than eight hundred and fifty million United States dollars during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year;

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

“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;

“Inland Revenue Department” means the department in accordance with the Tax Administration and Procedures Act No. 12 of 2018;

“International Accounting Principles” include International Financial Reporting Standards;

“International Agreement” means the Multilateral Convention for Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral Tax Convention, or any Tax Information Exchange Agreement to which Antigua and Barbuda 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;

“Minister” means the Minister with responsibility for finance;

“MNE Group” means any Group that—

- (a) 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
- (b) is not an excluded MNE Group;

“Qualifying Competent Authority Agreement” means the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Report which is an agreement that—

- (a) between authorised representatives of those jurisdictions that are parties to an international Agreement; and
- (b) requires the automatic exchange of country-by-country reports between the party jurisdictions;

“Reporting Entity” means the Constituent Entity that is required to file a country-by-country report conforming to the requirement in section 4 in its jurisdictions of tax residence on behalf of the MNE Group and the Reporting Entity may be the Ultimate Parent Entity, the Surrogate Parent Entity or entity described in section 4(2);

“Reporting Fiscal Year” means that Fiscal Year the financial and operational results of which are reflected in the country-by-country report defined in section 6;

“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 the jurisdiction of tax residence of that Constituent Entity, on behalf of the MNE Group, when one or more of the conditions set out in section 4(2)(b) applies;

“Systemic Failure”, with respect to a jurisdiction, means that a jurisdiction has—

- (a) a Qualifying Competent Authority Agreement in effect with Antigua and Barbuda, but has suspended automatic exchange, for reasons other than those that are in accordance with the terms of that Agreement; or
- (b) otherwise persistently failed to automatically provide to Antigua and Barbuda country-by-country reports in its possession of MNE Groups that have Constituent Entities in Antigua and Barbuda;

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

- (a) 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
- (b) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest directly described in paragraph (a) in the first mentioned Constituent Entity.

4. Filing Obligations

(1) Each Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Antigua and Barbuda shall file with the Inland Revenue Department, a country-by-country report conforming to the requirements of section 6 with respect to its Reporting Fiscal Year on or before the date specified in section 7.

(2) A Constituent Entity, which is not the Ultimate Parent Entity of an MNE Group, shall file with the Inland Revenue Department, a country-by-country report that conforms to the requirements of section 6 with respect to the Reporting Fiscal Year of a MNE Group of which it is a Constituent Entity, on or before the date specified in section 7, if the following criteria are satisfied:

- (a) the entity is resident for tax purposes in Antigua and Barbuda; and
- (b) one of the following conditions apply:
 - (i) the Ultimate Parent Entity of the MNE group is not obligated to file a country-by-country report in its jurisdiction of tax residence;
 - (ii) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which Antigua and Barbuda is a party but does not have a Qualifying Competent Authority Agreement in effect to which Antigua and Barbuda is a party by the date specified in section 7 for filing the country-by-country report for the Reporting Fiscal Year; or
 - (iii) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by the Inland Revenue Department to the Constituent Entity resident for tax purposes in Antigua and Barbuda.

(3) Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in Antigua and Barbuda and one or more of the conditions set out in subsection (2) apply, the MNE Group may designate one of such Constituent Entities to file the country-by-country report conforming to the requirements of section 6 with the Inland Revenue Department that is intended to satisfy the filing requirements of all the Constituent Entities of such MNE Group that are resident for tax purposes in Antigua and Barbuda.

(4) Notwithstanding subsection (2), a Constituent Entity shall not be required to file a country-by-country report with the Inland Revenue Department, for a Reporting Fiscal Year where the MNE Group of which it is a Constituent Entity through a Surrogate Parent Entity, files a country-by-country report with respect to the Fiscal Year Reporting with the tax authority of its jurisdiction of tax residence on or before the period specified in section 7 and that satisfies the following conditions:

- (a) the jurisdiction of tax residence of the Surrogate Parent Entity requires the filing of country-by-country reports conforming to the requirements of section 6;

(b) the jurisdiction of tax residence of the Surrogate Parent Entity has a Qualifying Competent Authority Agreement in effect to which Antigua and Barbuda is a party by the time specified in section 7 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 Inland Revenue Department of a Systemic Failure;

(d) the jurisdiction of tax residence of the Surrogate Parent Entity has been notified, in accordance with section 5(1), 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 the Inland Revenue Department in accordance with section 5(2).

(5) Notwithstanding section 4(2), an entity shall not be required to file a CbC report in circumstances where the Ultimate Parent Entity of the MNE group is not obligated to file a CbC report in its jurisdiction of tax residence solely because its consolidated group revenue, as reflected in its Consolidated Financial Statements for the preceding Fiscal Year, falls below that jurisdiction's CbC reporting threshold.

5. Notification requirements

(1) Any Constituent Entity of an MNE Group that is resident for tax purposes in Antigua and Barbuda shall notify the Inland Revenue Department whether it is the Ultimate Parent Entity or the Surrogate Parent Entity, not 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 Antigua and Barbuda is not the Ultimate Parent Entity nor the Surrogate Parent Entity, it shall notify the Inland Revenue Department 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.

6. Country-by-Country Report (CbC)

(1) The Inland Revenue Department shall, in accordance with section 19, issue Regulations in respect of the –

(a) content and format of a country-by-country report; and

(b) method for filing a country-by-country report.

(2) For the purposes of subsection (1), a country-by-country report with respect to an MNE Group is a report containing—

(a) aggregate information relating to the amount of revenue, profit or 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 equivalent with regard to each jurisdiction in which the MNE Group operates;

(b) an identification of each Constituent Entity of the MNE Group setting out the jurisdiction of 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 of such Constituent Entity,

and shall be in the form set out in the Schedule in the Regulations.

(3) Where the Inland Revenue Commissioner makes provision for an electronic method of filing a country-by-country report, the Inland Revenue Department shall cause an electronic validation process to be established.

(4) Where the Inland Revenue Department specifies an electronic method for filing a country-by-country report, unless the contrary is proved—

(a) the use of an electronic method is presumed to have resulted in the filing of the country-by-country report only if it has been successfully recorded by the electronic validation process;

(b) the time of filing the of the country-by-country report is presumed to be the time as recorded by the electronic validation process; and

(c) the person who forwards the country-by-country report is presumed to be the person identified as such any relevant feature of the electronic system.

(5) A country-by-country report which is not filed in accordance with the Regulations issued under section 21 shall be treated as not having being filed or invalidly filed.

7. Time for filing

(1) The country-by-country report required by this Act shall be filed no later than twelve months after the last day of the Reporting Fiscal Year of the MNE Group.

(2) The first Reporting Fiscal Year for the purposes of this Act is any fiscal year beginning on or after the date of the coming into force of this Act.

8. Country-by-Country report may be used

The Inland Revenue Department shall use the country-by-country report and any other information obtained pursuant to this Act for the purposes of collaboration on compliance and enforcement with other competent authorities pursuant to a qualifying competent authority agreement.

9. Confidentiality

The Inland Revenue Department 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 as contained in Schedule 2 of the Act.

10. Records

(1) A reporting entity shall establish and keep a record of—

- (a) the steps undertaken for the performance of the obligations under section 4;
- (b) any evidence relied upon for the performance of its obligations under section 4; and
- (c) the information submitted to the Inland Revenue Department for the purposes of section 4.

(2) A reporting entity under subsection (1) shall, before disposing of any records made pursuant to subsection (1), ensure that the records are kept for a period of six years.

(3) For the purposes of this section, the period referred to in subsection (2) shall commence after the end of the Reporting Fiscal Year to which the records pertain.

11. Provision of information

(1) The Inland Revenue Department may, in writing and within such times as it may request a Constituent Entity to provide or make available to it, information including—

- (a) copies of relevant books, records or other documents; or
- (b) electronically stored information,

in its possession or control as the Inland Revenue Department may reasonably require to determine whether the Constituent Entity is compliant within this Act.

(2) Where any information which is required to be provided to the Inland Revenue Department is located outside of Antigua and Barbuda, the Constituent Entity shall take all necessary steps to bring the information to Antigua and Barbuda, within the time specified by the Inland Revenue Department.

(3) A Constituent Entity shall retain for six years any book, document, electronically-stored information or other record that relates to the information required to be reported to the Inland Revenue Department under this Act.

12. Errors in CbC reporting

Where the Inland Revenue Department discovers an error in a country-by-country report, the Inland Revenue Department shall, in writing—

- (a) notify the relevant Reporting Entity of an error;
- (b) require the Reporting Entity to correct the error and submit a corrected report within twenty-eight days after the date of service of the notice; and

(c) state that failure to comply with the requirements of the notice amounts to a breach of the Act and such breach may render every director or officer concerned in the management of the Reporting Entity liable and subject on summary conviction to a fine of Two Hundred And Fifty Thousand Dollars unless he proves that the breach was committed without his knowledge or connivance or that he exercised reasonable diligence to prevent the breach.

13. Avoidance of Obligations

Where a person enters into an agreement or engages in a practice, for which the main purpose or one of the main purposes of the person entering in the agreement or engaging in the practice is to avoid any obligation under this Act, the person is subject to the obligation as if the person had not entered into the agreement or engaged in the practice.

14. Fake country-by-country report

Where a person knowingly makes or submits a false country-by-country report, whether in its entirety or in part thereof, he commits an offence and is liable on conviction on indictment to a fine of Five Hundred Thousand Dollars and to imprisonment for a term of Ten Years.

15. Alter, destroy mutilate or obliterate a country-by-country report

A person who, without written authorisation from the Inland Revenue Department —

- (a) alters, destroys, mutilates, obliterates, hides or removes a country-by-country report which is submitted to the Inland Revenue Department pursuant to this Act; or
- (b) causes another person to do anything referred to in paragraph (a),

commits an offence is liable on summary conviction to a fine of two hundred and fifty thousand Dollars and to imprisonment for Ten Years.

16. Hindering or obstructing Commissioner

Any person who hinders or obstructs the Inland Revenue Department performing a function under this Act, commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for Ten Years.

17. Right of Appeal

A person aggrieved by a decision of the Inland Revenue Department under this Act, may appeal that decision to the High Court.

18. Penalties

(1) Where a Reporting Entity fails to comply with the reporting requirements for the country-by-country report, as required under this Act, it commits an offence and is liable on summary conviction to a two hundred and fifty thousand Dollars and to imprisonment for Ten Years.

(2) Notwithstanding subsection (1), a Reporting Entity which contravenes sections 4, 5, 6, 7, 8 9 and 10 and Regulations made under section 19 may be liable to an administrative fine not exceeding twenty thousand Dollars in the manner provided for Regulations made under this Act.

(3) The criminal penalties as contained in the Tax Administration and Procedures Act No. 12 of 2018 applies specifically Part X (Criminal Offences).

19. Regulations

(1) The Minister may make Regulations for the purpose of giving effect to this Act and such Regulations shall be subject to negative resolution of Parliament.

(2) Regulations made under subsection (1) may carry an administrative fine of One Hundred Thousand Dollars and a fine of two hundred and fifty thousand dollars.

PART II TRANSFER PRICING

20. Interpretation

(1) In this Act, unless the context otherwise requires—

“business organization” means

- (a) a company or body corporate; or
- (b) a partnership, firm, or individual, carrying on a business;

“permanent establishment” means, subject to subsection (2), (3) and (4), a fixed place of business through which the business organization is wholly or partly carried on, and includes-

- (a) a place of management;
- (b) a branch; and
- (c) an office;

but does not include-

- (d) a building site or construction or installation project that does not last for more than three months

- (e) the use of facilities solely for the purpose of storage, display of goods or merchandise belonging to the business organization;
- (f) the maintenance of stock of goods or merchandise belonging to the business organization solely for the purpose of storage, display or delivery;
- (g) the maintenance of a stock of goods or merchandise belonging to the business organization solely for the purpose of processing by another business organization;
- (h) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the business organization;
- (i) the maintenance of a fixed place of business solely for the purpose of carrying on, for the business organization, any other activity of a preparatory or auxiliary character;
- (j) the maintenance of a fixed place of business solely for any combination of activities mentioned in paragraphs (e) to (i), if the overall activity of the fixed place of business resulting from that combination is of a preparatory or auxiliary character.

(2) Where a person, other than an agent of an independent status referred to in subsection (3), is acting on behalf of a business organization and has, and habitually exercises, in Antigua and Barbuda an authority to conclude contracts in the name of the business organization, that business organisation shall be deemed to have a permanent establishment in Antigua and Barbuda in respect of any activities which that person undertakes for the business organization, unless the activities of that person are limited to those mentioned in paragraphs (e) to (j) of subsection (1) which, if exercised through a fixed place of business, would not make the fixed place of business a permanent establishment under the provision of those paragraphs.

(3) A business organization shall not be deemed to have a permanent establishment in Antigua and Barbuda merely because it carries on business in Antigua and Barbuda through a broker, general commission agent or any other agent is acting in the ordinary course of the business of that broker or agent.

(4) The fact that a business organization that is resident in Antigua and Barbuda controls or is controlled by a business organization that is resident outside Antigua and Barbuda, or carries on business outside Antigua and Barbuda (whether through a permanent establishment or otherwise), shall not of itself constitute either business organization as a permanent establishment of the other.

21. Transfer Pricing

(1) For the purposes of this section -

“arm’s length consideration” in relation to a connected transaction –

(a) means the consideration that would have been obtained if the connected transaction had been a comparable independent transaction; and

(b) shall be determined in accordance with the Schedule Three;

“comparable independent transaction”, means an independent transaction that is determined in accordance with the Schedule Three to be an appropriate transaction to compare with a particular connected transaction;

“connected person”, in relation to a participant in a transaction, means a person who is treated as being connected, with another participant in the transaction;

“connected transaction” means a transaction between connected persons”

“consideration” in relation to a transaction means all of the terms and conditions applicable to the transaction, and includes, but is not limited to, the price, profit margin and profit share, terms of payment, security for payment, and any other commercially significant aspect of the transaction;

“independent person”, in relation to a participant in a transaction, means a person who is not treated as being connected, with any other participant in the transaction;

(2) In each true and correct return which shall be delivered to the Commissioner by every person liable to pay income tax in respect of any year of assessment, the person whose income the return relates to shall-

(a) state the arm’s length consideration (and no other consideration) in respect of any connected transaction in which the person participated in that year of assessment; and

(b) use the arm’s length consideration (and no other consideration) in computing the tax chargeable on the person’s income for that year of assessment.

(3) If-

(a) the consideration in respect of a connected transaction is not an arm’s length consideration; and

(b) the taxable income that would have accrued to any connected person who participates in that transaction, if the consideration for that transaction had been arm’s length consideration, has not accrued,

then, for the purposes of determining the taxable income derived from that transaction by any of those connected persons, the consideration in respect of that transaction shall be treated as that which would have been obtained if the transaction had been the arm's length consideration.

(4) Where a return of income is submitted to the Commissioner under this Act, the person in respect of whose income it is submitted shall certify whether to his knowledge the accounts or information upon which the return is based include particulars of any transactions carried out between connected person and if so what those particulars are.

(5) With effect from the year of assessment in 2026, if any person fails to certify as required by subsection (4) or provides an incorrect or incomplete certificate or return due to the taxpayer's negligent or fraudulent conduct, the Tax Administration and Procedures Act No. 12 of 2018 applies in relation of Part X (Criminal Offences).

(6) The Commissioner may require a person who participates in a transaction to confirm to the Commissioner what, in the person's opinion, is the arm's length consideration for the transaction.

(7) For the purposes of determining whether a person who participates in a transaction is a connected person or whether that transaction is a connected transaction, the Commissioner may request that person to provide information or documentation regarding-

- (a) the relationship of that person to any other person who participates in the transaction; and
- (b) the consideration for the transaction, including the terms and conditions of the transaction.

(8) If a person fails to provide, to the satisfaction of the Commissioner, any information or documentation requested by the Commissioner under subsection (7) in respect of a transaction or in respect of the relationship of the person to any other person who participates in the transaction, then the Commissioner shall –

- (a) treat the person as a connected person in relation to any other person who participates in the transaction and treat the transaction as a connected transaction; and
- (b) determine the arm's length consideration for the transaction accordingly.

(9) Where a person ("person A") is resident in Antigua and Barbuda and a participant in a transaction with another person ("person B") who is resident in a jurisdiction other than Antigua and Barbuda, as described in subsection (10), then the Commissioner shall –

- (a) treat person A as being a connected person in relation to person B and treat the transaction as a connected transaction; and
- (b) require person A to determine the arm's length consideration for the transaction accordingly.

(10) Subsection (9) applies in respect of a jurisdiction other than Antigua and Barbuda that, in the opinion of the Commissioner, is one in which either-

- (a) no tax is payable on the income, profits or gains of person B; or

(b) the rate of tax applicable to the income, profits or gains of person B is less than one half of the rate of tax that would be applicable under this Act to the income, profits or gains if person B were resident in Antigua and Barbuda.

(11) Person A referred to in subsection (9) shall not be required to provide documentation on the determination of the arm's length consideration in the transaction with person B, provided person A satisfies the Commissioner with the relevant information and evidence that person B is not a connected person.

(12) For the purposes of any assessment, objection or appeal under this Act, the onus shall be on one person who alleges that the consideration for a transaction is at an arm's length consideration, to prove that the consideration is arm's length consideration.

22. Advance Transfer Pricing agreement”

(1) The Commissioner may, upon application by any person who is liable to pay tax under this Act, enter into an agreement with that person (hereinafter referred to as an “Advance transfer pricing agreement”) regarding the manner of determining the arm's length consideration for connected transactions by that person.

(2) Where a person has entered into an advance transfer pricing agreement with the Commissioner, the arm's length consideration for connected transactions by that person that are within the scope of the agreement shall be determined in accordance with the agreement, unless the consideration for any such transaction is inconsistent with the agreement.

(3) The Commissioner may make rules regarding advance transfer pricing agreements, including rules in respect of any or all of the following matters-

(a) the criteria of a person to be eligible to apply for such an agreement to be entered into;

(b) the form and manner for applying for such an agreement to be entered into, and the information to be provided by an applicant;

(c) the terms and conditions that are to be included in such agreement, including provisions for their duration, suspension and termination;

(d) such other matters as the Commissioner considers necessary or desirable for the better carrying out of the provision of this section.

23. Transfer pricing corresponding adjustment to prevent double taxation

(1) This section applies in circumstances where –

(a) an adjustment to the consideration in respect of a connected transaction is made by a tax authority of a country other than Antigua and Barbuda;

(b) the adjustment referred to in paragraph (a) results in the tax authority in that other country making an increase to the taxable base in that country, by a connected person who is participant in a connected transaction, on an amount of income in respect of the connected person liable to pay tax in Antigua and Barbuda; and

(c) the country referred to in paragraph (a) has a treaty with Antigua and Barbuda that provides for relief from double taxation in accordance with the Income Tax Act.

(2) Where the circumstances described in subsection (1) apply, a person referred to in subsection (1) (b) may request the Commissioner to examine and determine whether the consideration, after an adjustment referred to in subsection (1) (a), is consistent with arm's length consideration.

(3) Upon receipt of a request under subsection (2), the Commissioner shall carry out the examination requested, in consultation with the tax authority of the other country referred to in subsection (1) (c) if necessary.

(4) If, after an examination under subsection (3), the Commissioner determines that –

(a) the consideration in respect of a connected transaction, after the adjustment referred to in subsection (1)(a) has been made by the tax authority of another country, is consistent with arm's length consideration of that transaction; and

(b) an adjustment referred to in subsection (1) (b) has been made by the taxing authority of the other country to the taxable income in that country by the connected person,

(c) then the Commissioner shall make a corresponding adjustment to the amount of taxable income in Antigua and Barbuda by that connected person, unless the Commissioner considers that the adjustment of taxable income in the other country has been made as a result of fraud or wilful default.

24. Duty to keep prescribed documentation

Every person who engages in a transaction to which section 4 applies shall prepare and keep the prescribed documentation.

25. Regulations

The Minister may make regulations generally in relation to transfer pricing, and in particular but without prejudice to the generality of the foregoing may make regulations-

(a) determining the size of enterprises to which the provisions of this Act relating to transfer pricing shall apply; and

(b) specifying the size and nature of transactions to which the provision of this Act relating to transfer pricing shall apply.

SCHEDULE ONE

(Section 3)

**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 I 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 OC 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 authority 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 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 I 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 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 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

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 I 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.

fins fiscales ou sont imposées au titre d'activités menées par l'intermédiaire d'un établissement

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 I 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 Ia) 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 CbCReport. 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 Coordinating 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 Repotting 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 I 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 I e) 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 I that includes the

offer Competent Authority's Jurisdiction pursuant to subparagraph le) 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 1 (a) and (b) on the OECD website.

4. The information provided pursuant to subparagraphs 1 (c) 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.

SCHEDULE TWO

(Section 3 and 9)

MULTILATERAL CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

PREAMBLE

THE MEMBER STATES OF THE COUNCIL OF EUROPE AND THE MEMBER COUNTRIES OF THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD), SIGNATORIES OF THIS CONVENTION;

CONSIDERING that the development of international movement of persons, capital, goods and services - although highly beneficial in itself - has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

WELCOMING the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

CONSIDERING that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

RECOGNISING that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

CONSIDERING that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognised as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

CONSIDERING therefore that States should not carry out measures or supply information except in conformity with their domestic law and practice, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

DESIRING to conclude a convention on mutual administrative assistance in tax matters;

HAVE AGREED AS FOLLOWS:

CHAPTER I: SCOPE OF THE CONVENTION

Article 1: Object of the Convention and persons covered

1. The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such assistance may involve, where appropriate, measures taken by judicial bodies.

2. Such administrative assistance shall comprise

a) exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;

b) assistance in recovery, including measures of conservancy; and

c) service of documents.

3. A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

Article 2: Taxes covered

1. This Convention shall apply

a) to the following taxes:

i) taxes on income or profits,

ii) taxes on capital gains which are imposed separately from the tax on income or profits,

iii) taxes on net wealth, imposed on behalf of a Party; and

b) to the following taxes:

i) taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party,

ii) compulsory social security contributions payable to general government or to social security institutions established under public law, and

iii) taxes in other categories, except customs duties, imposed on behalf of a Party, namely:

A. estate, inheritance or gift taxes,

B. taxes on immovable property,

C. general consumption taxes, such as value-added or sales taxes,

D. specific taxes on goods and services such as excise taxes,

- E. taxes on the use or ownership of motor vehicles,
 - F. taxes on the use or ownership of movable property other than motor vehicles,
 - G. any other taxes
- iv) taxes in categories referred to in sub-paragraph iii) above which are imposed on behalf of political sub-divisions or local authorities of a Party.

2. The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.

3. The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the "Depositaries") of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

4. The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

CHAPTER II: GENERAL DEFINITIONS

Article 3: Definitions

1. For the purposes of this Convention, unless the context otherwise requires:

- a) the terms "applicant State" and "requested State" mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;
- b) the term "tax" means any tax or social security contribution to which the Convention applies pursuant to Article 2;
- c) the term "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;
- d) the term "competent authority" means the persons and authorities listed in Annex B;
- e) the term "nationals", in relation to a Party, means:
 - i) all individuals possessing the nationality of that Party, and
 - ii) all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

2. As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.

3. The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question.

CHAPTER III: FORMS OF ASSISTANCE

Section I: Exchange of Information

Article 4: General provision

1. The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention.

2. Deleted.

3. Any Party may, by a declaration addressed to one of the Depositaries, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.

Article 5: Exchange of information on request

1. At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular persons or transactions.

2. If the information available in the tax files of the requested State is not sufficient to enable it to comply with the request for information, that State shall take all relevant measures to provide the applicant State with the information requested.

Article 6: Automatic exchange of information

With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4.

Article 7: Spontaneous exchange of information

1. A Party shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances:

- a) the first-mentioned Party has grounds for supposing that there may be a loss of tax in the other Party;
- b) a person liable to tax obtains a reduction in or an exemption from tax in the first-mentioned Party which would give rise to an increase in tax or to liability to tax in the other Party;
- c) business dealings between a person liable to tax in a Party and a person liable to tax in another Party are conducted through one or more countries in such a way that a saving in tax may result in one or the other Party or in both;
- d) a Party has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;
- e) information forwarded to the first-mentioned Party by the other Party has enabled information to be obtained which may be relevant in assessing liability to tax in the latter Party.

2. Each Party shall take such measures and implement such procedures as are necessary to ensure that information described in paragraph 1 will be made available for transmission to another Party.

Article 8: Simultaneous tax examinations

1. At the request of one of them, two or more Parties shall consult together for the purposes of determining cases and procedures for simultaneous tax examination. Each Party involved shall decide whether or not it wishes to participate in a particular simultaneous tax examination.

2. For the purposes of this Convention, a simultaneous tax examination means an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

Article 9: Tax examinations abroad

1. At the request of the competent authority of the applicant State, the competent authority of the requested State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State.

2. If the request is acceded to, the competent authority of the requested State shall, as soon as possible, notify the competent authority of the applicant State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested State.

3. A Party may inform one of the Depositaries of its intention not to accept, as a general rule, such requests as are referred to in paragraph 1. Such a declaration may be made or withdrawn at any time.

Article 10: Conflicting information

If a Party receives from another Party information about a person's tax affairs which appears to it to conflict with information in its possession, it shall so advise the Party which has provided the information.

Section II: Assistance in Recovery

Article 11: Recovery of tax claims

1. At the request of the applicant State, the requested State shall, subject to the provisions of Articles 14 and 15, take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims.

2. The provision of paragraph 1 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agreed between the Parties concerned, which are not contested.

However, where the claim is against a person who is not a resident of the applicant State, paragraph 1 shall only apply, unless otherwise agreed between the Parties concerned, where the claim may no longer be contested.

3. The obligation to provide assistance in the recovery of tax claims concerning a deceased person or his estate, is limited to the value of the estate or of the property acquired by each beneficiary of the estate, according to whether the claim is to be recovered from the estate or from the beneficiaries thereof.

Article 12: Measures of conservancy

At the request of the applicant State the requested State shall, with a view to the recovery of an amount of tax, take measures of conservancy even if the claim is contested or is not yet the subject of an instrument permitting enforcement.

Article 13: Documents accompanying the request

1. The request for administrative assistance under this Section shall be accompanied by:
 - a) a declaration that the tax claim concerns a tax covered by the Convention and, in the case of recovery that, subject to paragraph 2 of Article 11, the tax claim is not or may not be contested,
 - b) an official copy of the instrument permitting enforcement in the applicant State, and
 - c) any other document required for recovery or measures of conservancy.

2. The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

Article 14: Time limits

1. Questions concerning any period beyond which a tax claim cannot be enforced shall be governed by the law of the applicant State. The request for assistance shall give particulars concerning that period.

2. Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 1, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.

3. In any case, the requested State is not obliged to comply with a request for assistance which is submitted after a period of 15 years from the date of the original instrument permitting enforcement.

Article 15: Priority

The tax claim in the recovery of which assistance is provided shall not have in the requested State any priority specially accorded to the tax claims of that State even if the recovery procedure used is the one applicable to its own tax claims.

Article 16: Deferral of payment

The requested State may allow deferral of payment or payment by instalments if its laws or administrative practice permit it to do so in similar circumstances, but shall first inform the applicant State.

Section III: Service of Documents

Article 17: Service of documents

1. At the request of the applicant State, the requested State shall serve upon the addressee documents, including those relating to judicial decisions, which emanate from the applicant State and which relate to a tax covered by this Convention.

2. The requested State shall effect service of documents:

- a) by a method prescribed by its domestic laws for the service of documents of a substantially similar nature;
- b) to the extent possible, by a particular method requested by the applicant State or the closest to such method available under its own laws.

3. A Party may effect service of documents directly through the post on a person within the territory of another Party.

4. Nothing in the Convention shall be construed as invalidating any service of documents by a Party in accordance with its laws.

5. When a document is served in accordance with this Article, it need not be accompanied by a translation. However, where it is satisfied that the addressee cannot understand the language of the document, the requested State shall arrange to have it translated into or a summary drafted in its or one of its official languages. Alternatively, it may ask the applicant State to have the document either translated into or accompanied by a summary in one of the official languages of the requested State, the Council of Europe or the OECD.

CHAPTER IV: PROVISIONS RELATING TO ALL FORMS OF ASSISTANCE

Article 18: Information to be provided by the applicant State

1. A request for assistance shall indicate where appropriate:

- a) the authority or agency which initiated the request made by the competent authority;
- b) the name, address and any other particulars assisting in the identification of the person in respect of whom the request is made;
- c) in the case of a request for information, the form in which the applicant State wishes the information to be supplied in order to meet its needs;
- d) in the case of a request for assistance in recovery or measures of conservancy, the nature of the tax claim, the components of the tax claim and the assets from which the tax claim may be recovered;
- e) in the case of a request for service of documents, the nature and the subject of the document to be served;
- f) whether it is in conformity with the law and administrative practice of the applicant State and whether it is justified in the light of the requirements of Article 21.2. g.

2. As soon as any other information relevant to the request for assistance comes to its knowledge, the applicant State shall forward it to the requested State.

Article 19: Deleted.

Article 20: Response to the request for assistance

1. If the request for assistance is complied with, the requested State shall inform the applicant State of the action taken and of the result of the assistance as soon as possible.
2. If the request is declined, the requested State shall inform the applicant State of that decision and the reason for it as soon as possible.
3. If, with respect to a request for information, the applicant State has specified the form in which it wishes the information to be supplied and the requested State is in a position to do so, the requested State shall supply it in the form requested.

Article 21: Protection of persons and limits to the obligation to provide assistance

1. Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested State.
2. Except in the case of Article 14, the provisions of this Convention shall not be construed so as to impose on the requested State the obligation:
 - a) to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State;
 - b) to carry out measures which it considers contrary to public policy (*ordre public*) or to its essential interests;
 - c) to supply information which is not obtainable under its own laws or its administrative practice or under the laws of the applicant State or its administrative practice;
 - d) to supply information which would disclose any trade, business, industrial, commercial or professional secret, or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*) or to its essential interests;
 - e) to provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the requested State has concluded with the applicant State;
 - f) to provide assistance if the application of this Convention would lead to discrimination between a national of the requested State and nationals of the applicant State in the same circumstances.
 - g) to provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practice, except where recourse to such measures would give rise to disproportionate difficulty;
 - h) to provide assistance in recovery in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the applicant State.
3. If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the requested information, even though the requested State may not need such information for its own tax purposes. The

obligation contained in the preceding sentence is subject to the limitations contained in this Convention, but in no case shall such limitations, including in particular those of paragraph 1 and 2, be construed to permit a requested State to decline to supply information solely because it has no domestic interest in such information.

4. In no case shall the provisions of this Convention, including the particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 22: Secrecy

1. Any information obtained by a Party under this Convention shall be treated as secret in the same manner as information obtained under the domestic laws of that Party, or under the conditions of secrecy applying in the supplying Party if such conditions are more restrictive.

2. Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) involved in the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes.

3. If a Party has made a reservation provided for in sub-paragraph a) of paragraph 1 of Article 30, any other Party obtaining information from that Party shall not use it for the purpose of a tax in a category subject to the reservation. Similarly, the Party making such a reservation shall not use information obtained under this Convention for the purpose of a tax in a category subject to the reservation.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, information received by a Party may be used for other purposes when such information may be used for such other purposes under the laws of the supplying Party and the competent authority of that Party authorises such use. Information provided by a Party to another Party may be transmitted by the latter to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

Article 23: Proceedings

1. Proceedings relating to measures taken under this Convention by the requested State shall be brought only before the appropriate body of that State.

2. Proceedings relating to measures taken under this Convention by the applicant State, in particular those which, in the field of recovery, concern the existence or the amount of the tax

claim or the instrument permitting its enforcement, shall be brought only before the appropriate body of that State. If such proceedings are brought, the applicant State shall inform the requested State which shall suspend the procedure pending the decision of the body in question. However, the requested State shall, if asked by the applicant State, take measures of conservancy to safeguard recovery. The requested State can also be informed of such proceedings by any interested person. Upon receipt of such information the requested State shall consult on the matter, if necessary, with the applicant State.

3. As soon as a final decision in the proceedings has been given, the requested State or the applicant State, as the case may be, shall notify the other State of the decision and the implications which it has for the request for assistance.

CHAPTER V: SPECIAL PROVISIONS

Article 24: Implementation of the Convention

1. The Parties shall communicate with each other for the implementation of this Convention through their respective competent authorities. The competent authorities may communicate directly for this purpose and may authorise subordinate authorities to act on their behalf. The competent authorities of two or more Parties may mutually agree on the mode of application of the Convention among themselves.

2. Where the requested State considers that the application of this Convention in a particular case would have serious and undesirable consequences, the competent authorities of the requested and of the applicant State shall consult each other and endeavour to resolve the situation by mutual agreement.

3. A co-ordinating body composed of representatives of the competent authorities of the Parties shall monitor the implementation and development of this Convention, under the aegis of the OECD. To that end, the co-ordinating body shall recommend any action likely to further the general aims of the Convention. In particular it shall act as a forum for the study of new methods and procedures to increase international co-operation in tax matters and, where appropriate, it may recommend revisions or amendments to the Convention. States which have signed but not yet ratified, accepted or approved the Convention are entitled to be represented at the meetings of the coordinating body as observers.

4. A Party may ask the co-ordinating body to furnish opinions on the interpretation of the provisions of the Convention.

5. Where difficulties or doubts arise between two or more Parties regarding the implementation or interpretation of the Convention, the competent authorities of those Parties shall endeavour to resolve the matter by mutual agreement. The agreement shall be communicated to the co-ordinating body.

6. The Secretary General of OECD shall inform the Parties and the Signatory States which have not yet ratified, accepted or approved the Convention, of opinions furnished by the co-ordinating body according to the provisions of paragraph 4 above and of mutual agreements reached under paragraph 5 above.

Article 25: Language

Requests for assistance and answers thereto shall be drawn up in one of the official languages of the OECD and of the Council of Europe or in any other language agreed bilaterally between the Contracting States concerned.

Article 26: Costs

Unless otherwise agreed bilaterally by the Parties concerned:

- a) ordinary costs incurred in providing assistance shall be borne by the requested State;
- b) extraordinary costs incurred in providing assistance shall be borne by the applicant State.

CHAPTER VI: FINAL PROVISIONS

Article 27: Other international agreements or arrangements

1. The possibilities of assistance provided by this Convention do not limit, nor are they limited by, those contained in existing or future international agreements or other arrangements between the Parties concerned or other instruments which relate to co-operation in tax matters.

2. Notwithstanding paragraph 1, those Parties which are member States of the European Union can apply, in their mutual relations, the possibilities of assistance provided for by the Convention in so far as they allow a wider co-operation than the possibilities offered by the applicable European Union rules.

Article 28: Signature and entry into force of the Convention

1. This Convention shall be open for signature by the member States of the Council of Europe and the Member countries of OECD. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with one of the Depositaries.

2. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.

3. In respect of any member State of the Council of Europe or any Member country of OECD which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

4. Any member State of the Council of Europe or any member country of OECD which becomes a Party to the Convention after the entry into force of the Protocol amending this Convention, opened for signature on 27th May 2010 (the “2010 Protocol”), shall be a Party to the Convention as amended by that Protocol, unless they express a different intention in a written communication to one of the Depositaries.

5. After the entry into force of the 2010 Protocol, any State which is not a member of the Council of Europe or the OECD may request to be invited to sign and ratify this Convention as amended by the 2010 Protocol. Any request to this effect shall be addressed to one of the Depositaries, who shall transmit it to the Parties. The Depositaries shall also inform the Committee of Ministers of the Council of Europe and the OECD Council. The decision to invite States which so request to become Party to this Convention shall be taken by consensus by the Parties to the Convention through the co-ordinating body. In respect of any State ratifying the Convention as amended by the 2010 Protocol in accordance with this paragraph, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification with one of the Depositaries.

6. The provisions of this Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to taxable periods beginning on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party. Any two or more Parties may mutually agree that the Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to either taxable periods or charges to tax.

7. Notwithstanding paragraph 6, for tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party, the provisions of this Convention, as amended by the 2010 Protocol, shall have effect from the date of entry into force in respect of a Party in relation to earlier taxable periods or charges to tax.

Article 29: Territorial application of the Convention

1. Each State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.

2. Any State may, at any later date, by a declaration addressed to one of the Depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of

such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Depositary.

3. Any declaration made under either of the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to one of the Depositaries. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

Article 30: Reservations

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, declare that it reserves the right:

- a) not to provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in sub-paragraph b) of paragraph 1 of Article 2, provided that it has not included any domestic tax in that category under Annex A of the Convention;
- b) not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;
- c) not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of that State or, where a reservation has previously been made under sub-paragraph a) or b) above, at the date of withdrawal of such a reservation in relation to taxes in the category in question;
- d) not to provide assistance in the service of documents for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;
- e) not to permit the service of documents through the post as provided for in paragraph 3 of Article 17.
- f) to apply paragraph 7 of Article 28 exclusively for administrative assistance to taxable periods beginning on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party.

2. No other reservation may be made.

3. After the entry into force of the Convention in respect of a Party, that Party may make one or more of the reservations listed in paragraph 1 which it did not make at the time of ratification, acceptance or approval. Such reservations shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the reservation by one of the Depositaries.

4. Any Party which has made a reservation under paragraphs 1 and 3 may wholly or partly withdraw it by means of a notification addressed to one of the Depositaries. The withdrawal shall take effect on the date of receipt of such notification by the Depositary in question.

5. A Party which has made a reservation in respect of a provision of this Convention may not require the application of that provision by any other Party; it may, however, if its reservation is partial, require the application of that provision insofar as it has itself accepted it.

Article 31: Denunciation

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to one of the Depositaries.

2. Such denunciation shall become effective on the first day of the month following the expiration of period of three months after the date of receipt of the notification by the Depositary.

3. Any Party which denounces the Convention shall remain bound by the provisions of Article 22 for as long as it retains in its possession any documents or information obtained under the Convention.

Article 32: Depositaries and their functions

1. The Depositary with whom an act, notification or communication has been accomplished, shall notify the member States of the Council of Europe and the Member countries of OECD and any Party to this Convention of:

- a) any signature;
- b) the deposit of any instrument of ratification, acceptance or approval;
- c) any date of entry into force of this Convention in accordance with the provisions of Articles 28 and 29;
- d) any declaration made in pursuance of the provisions of paragraph 3 of Article 4 or paragraph 3 of Article 9 and the withdrawal of any such declaration;
- e) any reservation made in pursuance of the provisions of Article 30 and the withdrawal of any reservation effected in pursuance of the provisions of paragraph 4 of Article 30;
- f) any notification received in pursuance of the provisions of paragraph 3 or 4 of Article 2, paragraph 3 of Article 3, Article 29 or paragraph 1 of Article 31;
- g) any other act, notification or communication relating to this Convention.

2. The Depositary receiving a communication or making a notification in pursuance of the provisions of paragraph 1 shall inform immediately the other Depositary thereof.

EXPLANATORY MEMORANDUM

The purpose of this Bill is to further align the jurisdiction's legal framework inline with the OECD/G20 Base Erosion and Profit Shifting (BEPS) standards, with particular focus on Country-by-Country Reporting (CbCR) and Transfer Pricing. These measures are designed to enhance tax transparency, promote international cooperation, and ensure that multinational enterprises (MNEs) are taxed in the jurisdictions where their economic activities and value generation occur. By implementing these actions, the jurisdiction reaffirms its commitment to the global effort to combat base erosion and profit shifting (BEPS) while adapting to the evolving landscape of international tax standards.

Since 2018, the jurisdiction has been a member of the OECD/G20 Inclusive Framework on BEPS. That same year, significant amendments were made to various laws to comply with four key minimum standards. However, subsequent developments within the BEPS framework now require further action, including the implementation of Country-by-Country Reporting (CbCR) and the introduction of Transfer Pricing rules.

Under BEPS Action 13, multinational enterprises with annual revenues exceeding EUR 750 million must prepare and submit a Country-by-Country Report (CbCR), which includes key financial and operational data for each jurisdiction in which they operate. This report will be shared with tax authorities to assist with transfer pricing and BEPS risk assessments. This Bill will bring the jurisdiction's laws into alignment with the CbCR requirements, enhancing transparency and facilitating greater international cooperation in monitoring BEPS-related risks.

Additionally, under BEPS Actions 8-10 on Transfer Pricing, the goal is to protect tax bases without causing double taxation or uncertainty that could hinder foreign investment and trade. The transfer pricing rules, based on the arm's length principle as outlined in the OECD and UN Model Tax Conventions, support this objective. This Bill will enable the jurisdiction to adopt transfer pricing legislation, ensuring that the principles of fair taxation are upheld.

Ultimately, this Bill aims to further align the jurisdiction's tax framework with the OECD/G20 BEPS standards, ensuring that multinational enterprises are taxed fairly according to the economic activities they perform. The passage of this legislation will reinforce the jurisdiction's commitment as a member of the OECD/G20 Inclusive Framework on BEP.

Hon. Gaston Browne
Prime Minister.
And Minister of Finance

HoR: Sitting:
S3:S2 Feb 2025