

## Gabon

1. Gabon was first reviewed during the 2017/2018 peer review. This report is supplementary to Gabon's 2017/2018 peer review report (OECD, 2018<sup>[1]</sup>). The first filing obligation for CbC reporting in Gabon commences in respect of periods commencing on or after 1 January 2017.

### Summary of key findings

2. Gabon's domestic and administrative framework meets all applicable terms of reference (OECD, 2017<sup>[2]</sup>), except it is recommended that Gabon finalise its requirements particularly in the areas of

- complete or introduce the definitions of “Constituent Entity”, “Group” and “MNE Group” which appear to be incomplete or missing, and
- the requirements on the content of a CbC report.

This recommendation remains unchanged since the 2017/2018 peer review.

3. It is recommended that Gabon take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which Gabon has an international exchange of information agreement in effect that allows for the automatic exchange of tax information. This recommendation remains unchanged since the 2017/2018 peer review.

4. It is recommended that Gabon take steps to implement the necessary processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework.

5. It is recommended that Gabon take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports. This recommendation remain unchanged since the 2017/2018 peer review.

6. The 2017/2018 peer review included a recommendation to introduce or to complete the definitions of “Ultimate Parent Entity”. Gabon has now introduced this definition in accordance with the terms of reference.<sup>1</sup> In light of the update provided by Gabon, this recommendation on the parent filing obligation is now removed.

7. The 2017/2018 peer review included a recommendation to Gabon to complete or otherwise clarify the scope of enforcement measures. Gabon has now amended the penalties in accordance with the terms of reference.<sup>2</sup> In light of the update provided by Gabon, this recommendation on the effective implementation is now removed.

## Part A: The domestic legal and administrative framework

8. Gabon has primary law<sup>3</sup> in place to implement the BEPS Action 13 minimum standard that impose and enforce CbC requirements on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in Gabon. Gabon's 2017/2018 peer review included a recommendation that Gabon finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible. Gabon is working to implement secondary legislation.

### *(a) Parent entity filing obligation*

9. The 2017/2018 peer review included a recommendation to Gabon to complete the definition of "Ultimate Parent Entity" in a manner consistent with the terms of reference. Gabon has now amended this definition in accordance with the terms of reference, by adding a reference to the "deemed listing provision".<sup>4</sup> In light of the update provided by Gabon, the recommendation on the parent filing obligation is removed.

10. No other changes were identified with respect to the parent entity filing obligation.

### *(b) Scope and timing of parent entity filing*

11. No changes were identified with respect to the scope and timing of parent entity filing.

### *(c) Limitation on local filing obligation*

12. The 2017/2018 peer review included a monitoring point to ensure that the concept of "Systematic Failure" would apply in a manner consistent with the terms of reference. Gabon has now amended the local filing provisions and the text is consistent with paragraph 8(c) iv. c) of the terms of reference. This monitoring point is therefore removed.<sup>5</sup>

### *(d) Limitation on local filing in case of surrogate filing*

13. No changes were identified with respect to the limitation on local filing in case of surrogate filing.

### *(e) Effective implementation*

14. The 2017/2018 peer review noted that it was unclear whether the penalties would apply in cases of non-filing, incorrect filing or incomplete filing of a CbC report. Gabon has now updated the provision to state that the penalty applies to cases of (i) non-filing, and (ii) incomplete filing, as well as it has increased the penalty amount.<sup>6</sup> In light of the update provided by Gabon the recommendation on the effective implementation is now removed.

15. No other changes were identified with respect to the effective implementation.

### *Conclusion*

16. Gabon meets all the terms of reference relating to the domestic legal and administrative framework, with the exception of (i) the definitions of "Constituent Entities", "Group" and "MNE Group" (paragraphs 8(a) and 18 and 15 of the terms of reference); and (ii) the information to be reported in the CbC report (paragraph 8(b) ii. and iv. of the terms of reference). It is recommended that Gabon finalise its requirements. This recommendation remains unchanged since the 2017/2018 peer review.

## Part B: The exchange of information framework

### *(a) Exchange of information framework*

17. As of 31 May 2019, Gabon has no bilateral relationships in place for the exchange of CbC reports. It is recommended that Gabon take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which Gabon has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.

### *(b) Content of information exchanged*

18. Gabon does not have processes in place that are intended to ensure that each of the mandatory fields of information as required in the CbC template are present in the information exchanged.

### *(c) Completeness of exchanges*

19. Gabon does not have processes in place that are intended to ensure that CbC reports are exchanged with all tax jurisdictions listed in Table 1 of a CbC reporting template with which it should exchange information as per the relevant QCAAs.

### *(d) Timeliness of exchanges*

20. Gabon does not have processes in place that are intended to ensure that the information to be exchanged is transmitted to the relevant jurisdictions in accordance with the timelines provided for in the relevant QCAAs and terms of reference.

### *(e) Temporary suspension of exchange or termination of QCAA*

21. Gabon does not have processes in place that are intended to ensure that a temporary suspension of the exchange of information or termination of a relevant QCAA be carried out only as per the conditions set out in the QCAA.

### *(f) Consultation with other Competent Authority before determining systemic failure or significant non-compliance*

22. Gabon does not have processes in place that are intended to ensure that the Competent Authority consults with the other Competent Authority prior to making a determination that there is or has been significant non-compliance with the terms of the relevant QCAA or that the other Competent Authority has caused a systemic failure.

### *(g) Format for information exchange*

23. Gabon has not confirmed the format that will be used for the international exchange of CbC reports.

### *(h) Method for transmission*

24. Gabon has not indicated that it uses the Common Transmission System, or any other mechanism, to exchange CbC reports.

### *Conclusion*

25. The recommendation in the 2017/2018 peer review for Gabon to take steps to have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites and with which Gabon has

an international exchange of information agreement in effect that allows for the automatic exchange of tax information, remains in place.

26. Further, it is recommended that Gabon take steps to implement processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework ahead of its first exchanges of information.

27. It is however noted that Gabon will not be exchanging CbC reports in 2019.

### **Part C: Appropriate use**

28. Gabon does not yet have measures in place relating to appropriate use. No changes were identified in respect of appropriate use. The recommendation in the 2017/2018 peer review for Gabon to take steps to have measures in place relating to appropriate use ahead of the first exchanges of information remains in place. It is however noted that Gabon will not be exchanging CbC reports in 2019.

#### ***Conclusion***

29. There is no change to the conclusion in relation to the appropriate use for Gabon since the previous peer review. The recommendation for Gabon to take steps to ensure that the appropriate use condition is met ahead of its first exchanges of information remains in place. It is however noted that Gabon will not be exchanging CbC reports in 2019.

## Summary of recommendations on the implementation of country-by-country reporting

Aspect of the implementation that should be improved		Recommendation for improvement
Part A	Domestic legal and administrative framework	It is recommended that Gabon finalise its domestic legal and administrative framework as soon as possible. Specifically, it is recommended that Gabon: <ul style="list-style-type: none"> <li>- introduce or complete the definitions of an “MNE Group”, “Group” and “Constituent Entity” in a manner consistent with the terms of reference;</li> <li>- publish the administrative circular as soon as possible, prescribing all of, and only, the information as contained in the template in the Action 13 Report.</li> </ul>
Part B	Exchange of information framework	It is recommended that Gabon take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which Gabon has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.
Part B	Exchange of information framework	It is recommended that Gabon take steps to implement the necessary processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework.
Part C	Appropriate use	It is recommended that Gabon take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

## Notes

<sup>1</sup> See updated article 831 ter (PLFR 2019).

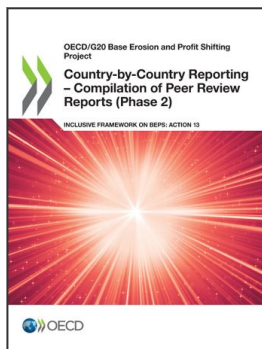
<sup>2</sup> See updated article 831 ter (PLFR 2019).

<sup>3</sup> Article 831 ter nouveau of the Tax Code.

<sup>4</sup> See Article 831 ter nouveau of the Tax Code.

<sup>5</sup> Gabon has suspended the filing obligation in cases subject to local filing, pursuant to DGI resolution No. 0006/MEPPDPIPP.

<sup>6</sup> See Article P 1010 bis nouveau of the Tax Procedures Code: Failure to comply with the documentary requirements of the CbC reports subjects the company concerned to a penalty equal to 5% of consolidated turnover (excluding tax), at a minimum amount of 65 000 000 FCFA per fiscal year.



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