

Netherlands

1. The Netherlands was reviewed as part of the 2017/2018 and the 2018/2019 peer reviews. This report is supplementary to those previous reports (OECD, 2019^[1]) (OECD, 2018^[2]).
2. The first filing obligation for a CbC report in the Netherlands applies to reporting fiscal years commencing on or after 1 January 2016.

Summary of key findings

3. The Netherlands' implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017^[3]).

Part A: The domestic legal and administrative framework

4. The Netherlands has primary and secondary laws in place for implementing the BEPS Action 13 minimum standard¹ establishing the necessary requirements, including the filing and reporting obligations. Guidance has also been published.² Since the 2017/2018 peer review, guidance has been updated. The Netherlands has provided an update with respect to the procedures it has in place to ensure effective implementation.

(a) Parent entity filing obligation

5. The Netherlands' 2017/2018 peer review included a monitoring point concerning the threshold used to determine an Excluded MNE Group. Since the 2017/2018 peer review, the Netherlands has updated national guidance³ in a manner consistent with the terms of reference relating to the threshold used to determine an Excluded MNE Group. In view of this update, the monitoring point is removed.
6. No other changes were identified with respect to the parent entity filing obligation.

(b) Scope and timing of parent entity filing

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

(c) Limitation on local filing obligation

8. No changes were identified with respect to the limitation on local filing obligation.

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

9. The Netherlands indicates that a legislative basis for voluntary parent surrogate filing has been provided⁴ by the Corporate Income Act 1969 as per 1 January 2018. No other changes were identified with respect to the limitation on local filing in case of surrogate filing.

(e) Effective implementation

10. The Netherlands' 2017/2018 peer review included a general monitoring point concerning the fact that was no specific process that would allow it to take appropriate measures in case the Netherlands is notified by another jurisdiction that such other jurisdiction has reason to believe that an error may have led to incorrect or incomplete information reporting by a Reporting Entity or that there is non-compliance of a Reporting Entity with respect to its obligation to file a CbC report. Since the 2017/2018 peer review, the

Netherlands has issued a written procedure, explaining that, in such a situation, the Central Liaison Office (CLO) will forward the message to the coordinator of the CbC team within one week. The coordinator will assess the message and, if necessary, notify the Reporting Entity within one month. Subsequently, the CbC team will monitor the appropriate action taken by the Reporting Entity. In addition, the coordinator will determine which follow-up action is to be used (penalty or other means) in case of late filing. In view of this update and specific procedure, the monitoring point is removed.

11. No changes were identified with respect to the effective implementation.

Conclusion

12. There is no change to the conclusion in relation to the domestic legal and administration framework for The Netherlands since the previous peer review. The Netherlands meets all the terms of reference relating to the domestic legal and administrative framework.

Part B: The exchange of information framework

(a) Exchange of information framework

13. As of 31 March 2020, The Netherlands has 66 bilateral relationships in place, including those activated under the CbC MCAA, under bilateral CAAs and under the EU Council Directive (2016/881/EU). Within the context of its international exchange of information agreements that allow automatic exchange of information, The Netherlands has taken steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions.⁵ Regarding The Netherlands's exchange of information framework, no inconsistencies with the terms of reference were identified.

(b) Content of information exchanged

14. The Netherlands has 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. It has provided details in relation to these processes.

15. Peer input was received from one jurisdiction in relation to the content of information exchanged. There are no concerns to be reported in respect of the content of information exchanged.

(c) Completeness of exchanges

16. The Netherlands has 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. It has provided details in relation to these processes.

17. Peer input was received from one jurisdiction in relation to the completeness of exchanges. There are no concerns to be reported in respect of the completeness of exchanges.

(d) Timeliness of exchanges

18. The Netherlands has 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. It has provided details in relation to these processes.

19. Despite these procedures, The Netherlands indicates that a few CbC reports were exchanged late.. These late exchanges were due to errors contained in the CbC reports submitted by Reporting Entities and the first exchanges were transmitted close to the deadline. The Netherlands indicates that

any future errors will be discovered and corrected before the deadline. As such, no recommendation is required.

(e) Temporary suspension of exchange or termination of QCAA

20. The Netherlands has 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. It has provided details in relation to those processes.

21. Peer input was received from one jurisdiction in relation to a temporary suspension of exchange or termination of a QCAA. There are no concerns to be reported in respect of the temporary suspension of exchange or termination of QCAA.

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

22. The Netherlands has 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. It has provided details in relation to those processes.

23. Peer input was received from one jurisdiction in relation to the requirement for a consultation before determining systemic failure or significant non-compliance. There are no concerns to be reported in respect of consultation with the other Competent Authority before determining systemic failure or significant non-compliance.

(g) Format for information exchange

24. The Netherlands confirms that it uses the OECD XML Schema and User Guide (OECD, 2017^[4]) for the international exchange of CbC reports.

25. Peer input was received from one jurisdiction in relation to the format for information exchange. There are no concerns to be reported in respect of the format of information exchange.

(h) Method for transmission

26. The Netherlands indicates that it uses the Common Transmission System to exchange CbC reports.⁶

27. Peer input was received from one jurisdiction in relation to the method for transmission. There are no concerns to be reported in respect of the method used for transmission.

Conclusion

28. The Netherlands has in place the necessary processes 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. The Netherlands meets all the terms of reference regarding the exchange of information.

Part C: Appropriate use

Appropriate use

29. There are no concerns to be reported in respect of appropriate use.

Conclusion

30. The Netherlands meets all the terms of reference relating to appropriate use of CbC reports.

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	-
Part B	Exchange of information framework	-
Part C	Appropriate use	-

References

- OECD (2019), *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 2): Inclusive Framework on BEPS: Action 13*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/f9bf1157-en>. [1]
- OECD (2018), *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 1): Inclusive Framework on BEPS: Action 13*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264300057-en>. [2]
- OECD (2017), *Terms of reference for the conduct of peer review of the Action 13 minimum standard on country-by-country reporting*, OECD Publishing, <https://www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf>. [3]

Notes

¹ Primary law consists of Chapter VIIA of the Corporate Income Tax Act 1969 (CITA): <http://wetten.overheid.nl/BWBR0002672/2017-01-01#HoofdstukVIIa>. Secondary law consists of Government Gazette No. 47457/2015, providing for regulations on additional transfer pricing documentation requirements: <http://wetten.overheid.nl/BWBR0037475/2016-01-01> (accessed on 24 August 2020).

² Guidance consists on the 2016 Manual for Filing CbC Reports which was replaced by the 2018 Manual for Filing CbC Reports, from the Tax and Customs Administration. The Netherlands indicates that this explains more details about CbC and contains instructions for filling out the fields in the notification portal and important remarks and is available at: <https://gegevensportaal.belastingdienst.nl/portal/document/74/> (accessed on 24 August 2020). In addition, the Netherlands published a Policy decision on notification aspects dated November 15, 2016, nr. DGBel 2016-0000184128M, Staatscourant (Official Gazette), November 21, 2016, nr. 63121, <https://zoek.officielebekendmakingen.nl/stcrt-2016-63121.html> (accessed on 24 August 2020).

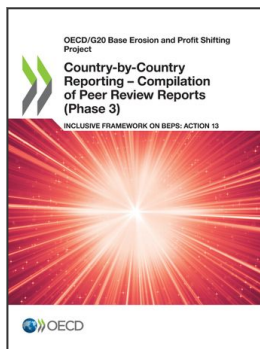
³ The Netherlands indicates that national guidance has been updated as follows: As set out in the Action 13 Report, the agreed threshold is EUR 750 million or a near equivalent amount in domestic currency as of January 2015. Provided that the jurisdiction of the Ultimate Parent Entity has implemented a reporting

threshold that is a near equivalent of EUR 750 million in domestic currency as it was at January 2015, a MNE Group that complies with this local threshold will not be exposed to local filing in the Netherlands.

⁴ See articles 34f and 34g of the Corporate Income Act 1969.

⁵ No inconsistency with the terms of reference will be identified where a QCAA is not in effect with one or more jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions, but this is due to circumstances that are not under the control of the reviewed jurisdiction. This may include, for example, where the other jurisdiction intends to exchange CbC reports using the MCAA but it does not have the Convention in effect for the relevant fiscal period, or where the other jurisdiction has declined to have a QCAA in effect with the reviewed jurisdiction.

⁶ Countries exchanging under the EU Council Directive (2016/881/EU) use the Common Communication Network (CCN).



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