

## France

### Summary of key findings

1. Consistent with the agreed methodology this first annual peer review covers: (i) the domestic legal and administrative framework, (ii) certain aspects of the exchange of information framework, as well as (iii) certain aspects of the confidentiality and appropriate use of CbC reports. France's implementation of the Action 13 minimum standard meets all applicable terms of reference for the year in review, except that it raises two definitional and substantive issues. The report, therefore, contains two recommendations concerning these issues. France should also ensure that the appropriate use condition is met ahead of the first exchanges of information.

#### *Part A: Domestic legal and administrative framework*

2. France has rules (primary and secondary laws) that impose and enforce CbC requirements on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in France.<sup>1</sup> The first filing obligation for a CbC report in France commences in respect of fiscal years commencing on or after 1 January 2016. France meets all the terms of reference relating to the domestic legal and administrative framework, with the exception of:

- the definition of an Ultimate Parent Entity<sup>2</sup> which appears to be incomplete,
- the local filing mechanism which does not correspond to the cases defined in the minimum standard.<sup>3</sup>

#### *Part B: Exchange of information framework*

3. France is a signatory of the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011), which is in effect for 2016, and it is also a signatory to the CbC MCAA. It has provided its notifications under Section 8 of this agreement and intends to exchange information with all other signatories of this agreement which provide notifications. As of 12 January 2018, France has 56 bilateral relationships activated under the CbC MCAA or exchanges under the EU Council Directive (2016/881/EU) and under bilateral arrangements (including with Chile and the United States). It has also signed a bilateral arrangement with Hong Kong. France 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 (including legislation in place for fiscal year 2016). Against the backdrop of the still evolving exchange of information framework, at this point in time France meets the terms of reference regarding the exchange of information framework.<sup>4</sup>

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

4. France indicates that measures are currently being developed to ensure the appropriate use of information in the six areas identified in the OECD *Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a).<sup>5</sup> It notes that such measures will be in place before the first exchanges of CbC reports. It is recommended that France take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

### **Part A: The domestic legal and administrative framework**

5. Part A assesses the domestic legal and administrative framework of the reviewed jurisdiction by reviewing the (a) parent entity filing obligation, (b) the scope and timing of parent entity filing, (c) the limitation on local filing obligation, (d) the limitation on local filing in case of surrogate filing and (e) the effective implementation of CbC Reporting.

6. France has primary and secondary laws<sup>6</sup> in place which implement the BEPS Action 13 minimum standard establishing the necessary requirements, including the filing and reporting obligations. No guidance has been published.

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

Summary of terms of reference:<sup>7</sup> Introducing a CbC filing obligation which applies to Ultimate Parent Entities of MNE Groups above a certain threshold of revenue, whereby all required Constituent Entities of the MNE Group are included in the CbC report and no entity is excluded from CbC Reporting other than permitted (paragraph 8 (a) of the terms of reference).

7. France has introduced a domestic legal and administrative framework which imposes a CbC filing obligation on Ultimate Parent Entities of MNE Groups above a certain threshold of revenue, whereby all required Constituent Entities of the MNE Group are included in the CbC report and no entity is excluded from CbC Reporting other than permitted by the Action 13 report (OECD, 2015).

8. Certain points have been identified which may raise questions in relation to the parent entity filing obligation:

- France's legislation defines an Ultimate Parent Entity by reference to a legal person<sup>8</sup> being required to prepare consolidated financial statements under accounting principles, but does not include an entity that would be required to prepare consolidated financial statements if its equity interests were traded on a public securities exchange in France ("deemed listing provision"), as required under paragraph 18 i. of the terms of reference. France notes that the French Commercial Code imposes a requirement to prepare Consolidated Financial Statements on every commercial company when certain conditions are met (control), this requirement being independent from the fact that the company is listed or not. It is however noted that this requirement does not apply to certain types of entities, in particular "civil companies" ("*sociétés civiles*"). As they are not subject to a requirement to prepare Consolidated Financial Statements, these civil companies may constitute holding companies of groups which would

therefore not be required to file a CbC report at their level. France notes that since civil companies cannot legally be listed, introducing a “deemed listing provision” would have no effect in the French legal framework. It is recommended that France introduce a provision which would have an equivalent effect as the “deemed listing provision”, i.e. ensuring that all entities that are not legally required to prepare Consolidated Financial Statements (whether under commercial / company law, or under regulations governing the relevant stock exchange / market, or other) be included in the scope of the parent entity filing obligation.<sup>9</sup>

9. In addition, under the terms of reference, the Ultimate Parent Entity shall not be held by another Constituent Entity that owns directly or indirectly sufficient interest to be considered as an Ultimate Parent Entity. This is not reflected in France’s primary law, which instead contains the following conditions in the primary filing obligation provisions:<sup>10</sup> the Ultimate Parent Entity is “*not held (...) by one or more entities located in France and [which] is (are) required to file this declaration, or established outside France and [which] is (are) required to file a similar declaration under foreign regulations*”. It appears that these provisions in fact trigger an instance of local filing for French entities when there is no requirement to file CbC report on an entity located in another jurisdiction, which would be considered as their Ultimate Parent Entity as per the terms of reference<sup>11</sup> (this may technically give rise to a duplication of the CbC reports filed under both the primary and secondary filing requirements by the parent company in France). Where such a filing obligation would occur under the “primary” filing provision of France’s legislation, there are no provisions (i) which would allow an MNE Group to designate one Constituent Entity to file the CbC report<sup>12</sup> and (ii) which would deactivate this filing obligation when a CbC report is made available through surrogate filing.<sup>13</sup> However, France confirms that it will clarify in its domestic legal and administrative framework that where the primary filing requirement would operate in the same circumstance as a local filing requirement, (i) it will be allowed that only one entity would be required to file one CbC report which would satisfy the obligation of all reporting entities and (ii) this filing obligation would not operate if the CbC report is made available through a Surrogate Parent Entity.<sup>14 15</sup> As such, no recommendation is issued but this will be monitored.

10. Under France’s legislation, the definition of the Constituent Entities that are to be included in an MNE Group’s CbC report does not mention that a permanent establishment should be separately disclosed as a Constituent Entity in a CbC Report if a separate financial statement for the permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes is prepared.<sup>16</sup> France indicates that this is how a CbC report should be prepared and this will be clarified soon in secondary law or in guidance. No recommendation is made but this will be monitored.

11. According to France’s legislation, the filing of a CbC report may be requested from a Constituent Entity in France in certain circumstances (local filing) with respect an MNE Group which would have been required to file a CbC report if it were established in France. With respect to entities established in France, the legislation provides for an annual consolidated revenue threshold of EUR 750 million or more.<sup>17</sup> While this provision would not create an issue for MNE Groups whose Ultimate Parent Entity is a tax resident in France, it may however be incompatible with the guidance on currency fluctuations for MNE Groups whose Ultimate Parent Entity is located in another jurisdiction, if local filing requirements were applied in respect of a Constituent Entity (which is tax resident in France) of an MNE Group which does not reach the threshold as

determined in the jurisdiction of the Ultimate Parent Entity of such Group.<sup>18</sup> France confirms that it will apply this guidance, the details of which will be included in secondary law or in future guidance. As such, no recommendation is made but this will be monitored.

12. No other points were identified with respect to France's domestic legal framework in relation with the parent entity filing obligation.

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

Summary of terms of reference: Providing that the filing of a CbC report by an Ultimate Parent Entity commences for a specific fiscal year; includes all of, and only, the information required; and occurs within a certain timeframe; and the rules and guidance issued on other aspects of filing requirements are consistent with, and do not circumvent, the minimum standard (paragraph 8 (b) of the terms of reference).

13. The first filing obligation for a CbC report in France commences in respect of periods commencing on or after 1 January 2016. The CbC report must be filed within 12 months after the end of the period to which the CbC report of the MNE Group relates.<sup>19</sup>

14. No other points were identified with respect to the scope and timing of parent entity filing.

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

Summary of terms of reference: If local filing requirements have been introduced, that such requirements may apply only to Constituent Entities which are tax residents in the reviewed jurisdiction, whereby the content of the CbC report does not contain more than that required from an Ultimate Parent Entity, whereby the reviewed jurisdiction meets the confidentiality, consistency and appropriate use requirements, whereby local filing may only be required under certain conditions and whereby one Constituent Entity of an MNE Group in the reviewed jurisdiction is allowed to file the CbC report, satisfying the filing requirement of all other Constituent Entities in the reviewed jurisdiction (paragraph 8 (c) of the terms of reference).

15. France has introduced local filing requirements as from the reporting period starting on or after 1 January 2016.<sup>20</sup> A legal person established in France that is owned or controlled, directly or indirectly, by a legal person established in a state or territory which is not listed in an officially published list of state or territories<sup>21</sup> (which have adopted regulations imposing the filing of a CbC report similar to that required in France, which have concluded an agreement with France for the automatic exchange of CbC reports and which comply with the obligations arising from such agreement),<sup>22</sup> and would be required to file the CbC report if it were established in France, shall file the CbC report (A) if it has been designated by the group for that purpose and has informed the tax authorities accordingly; or (B) if it cannot demonstrate that another entity of the group, located in France or in a country or territory included in the above list has been designated for that purpose.

16. With respect to the conditions under which local filing may be required (paragraph 8 (c) iv. b) of the terms of reference (OECD, 2017b)), under France's legislation, local filing applies where an MNE Group has a Constituent Entity established in France which is not the Ultimate Parent Entity of the group, and the jurisdiction of residence of the Ultimate Parent Entity of the MNE Group does not have a qualifying competent authority agreement with France. Paragraph 8 (c) iv. b) of the terms of reference (OECD, 2017b) provides that a jurisdiction may require local filing if "the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which the given jurisdiction is a Party but does not have a Qualifying Competent Authority Agreement in effect to which this jurisdiction is a Party by the time for filing the Country-by-Country Report". This is narrower than the above condition in France's legislation. Under France's legislation, local filing may be required in circumstances where there is no current international agreement between France and the residence jurisdiction of the Ultimate Parent Entity. It is recommended that France ensure that local filing only occurs in the circumstances permitted under the minimum standard and set out in the terms of reference, in particular to prevent local filing in the absence of an international agreement. It is noted that in practice this issue should only arise where local filing is imposed on a Constituent Entity in an MNE Group where the Ultimate Parent Entity is resident in a country with which France does not have an international agreement, and the other conditions where local filing is permitted, set out in the terms of reference, are not met. In this context it is further noted that, for fiscal year 2016, France was party to the Convention and also had 125 double tax conventions in force which provide for Automatic Exchange of Information.<sup>23</sup> In light of its treaty network, France expresses the view that it seems unlikely that local filing would occur in the absence of an International Agreement.

17. With respect to the conditions under which local filing may be required (paragraph 8 (c) iv. c) of the terms of reference (OECD, 2017b)), under France's legislation, local filing applies where an MNE group has a Constituent Entity established in France which is not the Ultimate Parent Entity of the Group, and the jurisdiction of the Ultimate Parent Entity has concluded an agreement with France for the automatic exchange of CbC reports but does not comply with the obligations arising from such agreement. Whether these provisions fully reflect the terms of paragraph 8 c) iv. c) of the terms of reference (OECD, 2017b) which limit local filing to the instances of "Systemic Failure" as defined in paragraph 21 of the terms of reference (OECD, 2017b) (suspension for reasons other than those that are in accordance with the terms of that agreement or persistent failure to automatically provide the CbC report) should be clarified. France confirms that its legislation implies that the obligations under the CbC MCAA are complied with (in particular the obligation for a prior consultation between Competent Authorities under Section 6 of the CbC MCAA) and will only apply local filing if there is a "Systemic Failure". This will be monitored.

18. No other points were identified with respect to the limitation on local filing.

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

Summary of terms of reference: If local filing requirements have been introduced, that local filing will not be required when there is surrogate filing in another jurisdiction when certain conditions are met (paragraph 8 (d) of the terms of reference).

19. Under paragraph 8 (d) of the terms of reference (OECD, 2017b), local filing requirements shall not apply when there is surrogate filing in another jurisdiction, including voluntary parent surrogate filing as per the OECD guidance issued in June 2016. France's local filing requirements will not apply if there is surrogate filing in another jurisdiction which is listed in a list of state or territories which have adopted regulations imposing the filing of a CbC report similar to that required in France, which have concluded an agreement with France for the automatic exchange of CbC reports and which comply with the obligations arising from such agreement. It appears that certain jurisdictions which allow voluntary parent surrogate filing for periods starting 1 January 2016 are however not included in such list, although they already have law in place to require CbC Reporting and may have a Qualifying Competent Authority Agreement in effect with France by the first filing deadline of a CbC report. France indicates that when the law introducing the CbC Reporting requirements was voted, voluntary filing was not yet envisaged. However, France states that it recognises this mechanism<sup>24</sup> and has released a public communication in December 2017<sup>25</sup> indicating that: *"In accordance with the OECD recommendations, if a parent company located in a State or territory which is not included in the list provided for in paragraph II of Article 223 quinquies C of the French Tax Code voluntarily submits a country-by-country declaration for a financial year opened as from 1 January 2016, in accordance with the international standard, and that the latter is communicated by the foreign tax administration to the French competent authority, subsidiaries or branches located in France will not be subject to the filing obligation"*.

20. No other points were identified with respect to the limitation on local filing in case of surrogate filing.

#### *(e) Effective implementation*

Summary of terms of reference: Providing for enforcement provisions and monitoring relating to CbC Reporting's effective implementation including having mechanisms to enforce compliance by Ultimate Parent Entities and Surrogate Parent Entities, applying these mechanisms effectively, and determining the number of Ultimate Parent Entities and Surrogate Parent Entities which have filed, and the number of Constituent Entities which have filed in case of local filing (paragraph 8 (e) of the terms of reference).

21. France has legal mechanisms in place to enforce compliance with the minimum standard: there are notification mechanisms in place that apply to Ultimate Parent Entities as well as Constituent Entities in France.<sup>26</sup> There are also penalties in place in relation to the filing of a CbC report<sup>27</sup> (i) for failure to file a CbC report and (ii) for late filing. In addition, France indicates that compliance with the reporting obligation is monitored in the context of tax audit operations.

22. There are no specific processes in place that would allow to take appropriate measures in case France 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. France indicates that in the event of an anomaly or a filing error, the company will be requested by the tax authorities to file an amending declaration. As no exchange of CbC reports has yet occurred, no recommendation is made but this aspect will be further monitored.

### Conclusion

23. In respect of paragraph 8 of the terms of reference (OECD, 2017b), France has a domestic legal and administrative framework to impose and enforce CbC requirements on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in France. France meets all the terms of reference relating to the domestic legal and administrative framework, with the exception of (i) the definition of the Ultimate Parent Entity required to file a CbC report (paragraphs 8 (a) i. and 18 i. of the terms of reference (OECD, 2017b)) and the conditions for local filing (paragraph 8 (c) iv. b) of the terms of reference (OECD, 2017b)).

## Part B: The exchange of information framework

24. Part B assesses the exchange of information framework of the reviewed jurisdiction. For this first annual peer review process, this includes reviewing certain aspects of the exchange of information framework as specified in paragraph 9 (a) of the terms of reference (OECD, 2017b).

Summary of terms of reference: within the context of the exchange of information agreements in effect of the reviewed jurisdiction, having QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites (paragraph 9 (a) of the terms of reference).

25. France has domestic legislation that permits the automatic exchange of CbC reports.<sup>28</sup> It is a Party to (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (signed on 27 May 2010, in force on 1 April 2012 and in effect for 2016) and (ii) multiple bilateral Double Tax Agreements and a Tax Information and Exchange Agreement which allow Automatic Exchange of Information.<sup>29</sup>

26. France signed the CbC MCAA on 27 January 2016 and submitted a full set of notifications under section 8 of the CbC MCAA on 15 May 2017. It intends to have the CbC MCAA in effect with all other Competent Authorities that provide a notification under Section 8(1)(e) of the same agreement. As of 12 January 2018, France has 56 bilateral relationships activated under the CbC MCAA or exchanges under the EU Council Directive (2016/881/EU) and under bilateral arrangements.<sup>30</sup> In addition, a bilateral arrangement has been signed by France with Hong Kong. France 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 (including legislation in place for fiscal year 2016).<sup>31</sup> Against the backdrop of the still evolving exchange of information framework, at this point in time France meets the terms of reference regarding the exchange of information framework aspects under review for this first annual peer review.

### Conclusion

27. Against the backdrop of the still evolving exchange of information framework, at this point in time France meets the terms of reference regarding the exchange of information framework.

## Part C: Appropriate use

28. Part C assesses the compliance of the reviewed jurisdiction with the appropriate use condition. For this first annual peer review process, this includes reviewing certain aspects of appropriate use.

Summary of terms of reference: (a) having in place mechanisms (such as legal or administrative measures) to ensure CbC reports which are received through exchange of information or by way of local filing are only used to assess high-level transfer pricing risks and other BEPS-related risks, and, where appropriate, for economic and statistical analysis; and cannot 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; and are not used on their own as conclusive evidence that transfer prices are or are not appropriate; and are not used to make adjustments of income of any taxpayer on the basis of an allocation formula (paragraphs 12 (a) of the terms of reference).

29. In order to ensure that a CbC report received through exchange of information or local filing can be used only to assess high-level transfer pricing risks and other BEPS-related risks, and, where appropriate, for economic and statistical analysis, and in order to ensure that the information in a CbC report cannot 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; or is not used on its own as conclusive evidence that transfer prices are or are not appropriate; or is not used to make adjustments of income of any taxpayer on the basis of an allocation formula (including a global formulary apportionment of income), France indicates that measures are currently being developed to ensure the appropriate use of information in the six areas identified in the *OECD Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a). It notes that such measures will be in place before the first exchanges of CbC reports and has also provided details on the next steps which are being planned. It is recommended that France take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

### Conclusion

30. In respect of paragraph 12 (a), it is recommended that France take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

## 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 – parent entity filing obligation – definition of an Ultimate Parent Entity	It is recommended that France introduce a provision which would have an equivalent effect as the “deemed listing provision”, i.e. ensuring that all entities that are not legally required to prepare Consolidated Financial Statements (whether under commercial / company law, or under regulations governing the relevant stock exchange / market, or other) be included in the scope of the parent entity filing obligation.
Part A	Domestic legal and administrative framework – limitation on local filing obligation	It is recommended that France ensure that local filing only occurs in the circumstances contained in the terms of reference.
Part B	Exchange of information framework	-
Part C	Appropriate use	It is recommended that France take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

## Notes

<sup>1</sup> Paragraph 8 of the terms of reference (OECD, 2017b).

<sup>2</sup> Paragraph 8 (a) i. and 18 i. of the terms of reference (OECD, 2017b).

<sup>3</sup> Paragraph 8 (c) iv. b) of the terms of reference (OECD, 2017b).

<sup>4</sup> Paragraph 9 (a) of the terms of reference (OECD, 2017b).

<sup>5</sup> Paragraph 12 (a) of the terms of reference (OECD, 2017b).

<sup>6</sup> Primary law consists of Article 223 quinquies C and 1729 F of the French Tax Code. Secondary law consists of Article 46 quater -0 YE of Annex 3 of the French Tax Code.

<sup>7</sup> The « summary of terms of reference » is provided to facilitate the reading of the report. Reference should be made to the exact wording of the terms of reference published in February 2017 (OECD, 2017b).

<sup>8</sup> France’s legislation defines an Ultimate Parent Entity by reference to a “legal person” being required to prepare consolidated financial statements under accounting principles. This definition would therefore not apply to entities which do not have legal personality. However, France indicates that no instances have been identified where an entity which does not have legal personality (eg. a “société en participation” or a “société de fait”) could be a Ultimate Parent Entity of an MNE Group; this will be monitored.

<sup>9</sup> It is noted that a provision having an equivalent effect as the “deemed listing provision” will be deemed to satisfy the conditions set out in paragraph 8 (a) (i). and 18 i. of the terms of reference (OECD, 2017).

<sup>10</sup> See paragraph I.1. of Article 223 quinquies C of the French tax Code.

<sup>11</sup> This would correspond to the first condition for local filing described under paragraph 8.(c).iv. a) of the terms of reference (OECD, 2017b).

<sup>12</sup> Paragraph 8.(c).v. of the terms of reference (OECD, 2017b).

<sup>13</sup> Paragraph 8.(d). of the terms of reference (OECD, 2017b).

<sup>14</sup> France also indicates that where the CbC report filed by the parent company in France is filed under the primary filing obligation in such circumstances (as a form of local filing), the CbC report will be exchanged with other jurisdictions.

<sup>15</sup> France also indicates that the primary filing obligation could not operate as a form of local filing where local filing is not permitted under the terms of reference, in particular where (i) the Ultimate Parent Entity is required to file a CbC report in its jurisdiction of residence but has failed to do so; (ii) the Ultimate Parent Entity is required to file a CbC report in its jurisdiction of residence but there is no international agreement between this jurisdiction and France; (iii) the Ultimate Parent Entity is required to file a CbC report in its jurisdiction of residence but there has been failure under the QCAA other than a systemic failure between this jurisdiction and France.

<sup>16</sup> Paragraph 8 (a) iii. of the terms of reference (OECD, 2017b).

<sup>17</sup> See Article 223 quinquies C. I. paragraph 2 which refers back to paragraph 1 which contains the threshold.

<sup>18</sup> See question IV. 1. “Impact of currency fluctuations on the agreed EUR 750 million threshold (June 2016) of the *“Guidance on the implementation of Country-by-Country reporting”* (OECD, 2018).

<sup>19</sup> See Article 223 quinquies C. I. 1.

<sup>20</sup> See Article 223 quinquies C. I. paragraph 2.

<sup>21</sup> France indicates that this list of states or territories which have adopted regulations imposing the filing of a CbC report similar to that required in France, which have concluded an agreement with France for the automatic exchange of CbC reports and which comply with the obligations arising from such agreement, will be updated before the end of 2017 to take into account jurisdictions which will meet the required conditions by then.

<sup>22</sup> Decree of 6 July 2017, Arrêté du 6 juillet 2017 pris en application du II de l'article 223 quinquies C du code général des impôts, [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr) (accessed 20 April 2018).

<sup>23</sup> To date, the jurisdictions that are members of the Inclusive Framework, which with France has not concluded an International Agreement are the following: Angola, Democratic Republic of Congo, Djibouti, Haiti, Liberia, Macau, Papua New Guinea, Paraguay, Peru, and Sierra Leone. For the fiscal year 2016, jurisdictions which are signatories of the Convention which have not submitted a Unilateral Declaration to bring forward its date of entry in force for the automatic exchanges of information on CbC reports could also be concerned. The list of these latter jurisdictions has not yet been definitively determined. France indicates that it would soon submit a Unilateral Declaration.

<sup>24</sup> France indicates that the filing requirements of the CbC report in the jurisdiction allowing the voluntary surrogate parent mechanism must be consistent with the French filing requirements. It also indicates that, in accordance with the recommendations contained in document CTPA/CFA/NOE2(2016)36 paragraph 67, it does not consider itself required to send CbC reports to such States or territories.

<sup>25</sup> See [www.impots.gouv.fr/portail/actualite/declaration-pays-par-pays-mesure-transitoire](http://www.impots.gouv.fr/portail/actualite/declaration-pays-par-pays-mesure-transitoire) (accessed 20 April 2018).

<sup>26</sup> See paragraph VIII of Article 46 quater – 0 YE of Annex 3 of the French Tax Code.

<sup>27</sup> See Article 1729 F: a maximum penalty of EUR 100 000 is applicable.

<sup>28</sup> Article L114 of the French Tax Procedure Code.

<sup>29</sup> <http://bofip.impots.gouv.fr/bofip/2509-PGP.html> (accessed 20 April 2018).

<sup>30</sup> It is noted that France and the United States will be spontaneously exchanging CbC reports with respect to fiscal year beginning in 2016. In addition, a bilateral arrangement has been signed by France with Chile in order to enable exchanges for fiscal years commencing on or after 1 January 2016.

<sup>31</sup> It is noted that a few Qualifying Competent Authority agreements are not in effect with jurisdictions of the Inclusive Framework that meet the confidentiality condition and have legislation in place: this may be because the partner jurisdictions considered do not have the Convention in effect for the first reporting period, or may not have listed the reviewed jurisdiction in their notifications under Section 8 of the CbC MCAA.

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