

Haiti

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. Haiti does not yet have a legal and administrative framework in place to implement CbC Reporting. CbC requirements should first apply for taxable years commencing on or after 1 January 2018. It is recommended that Haiti finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible, taking into account its particular domestic legislative process, and put in place an exchange of information framework as well as measures to ensure appropriate use.

Part A: Domestic legal and administrative framework

2. Haiti does not have legislation yet, but the project is under study. A commission for the BEPS project has been appointed and reflections have begun. Haiti indicates that CbC requirements should apply for taxable years commencing on or after 1 January 2018. It is recommended that Haiti finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible, taking into account its particular domestic legislative process.¹

Part B: Exchange of information framework

Haiti is a not signatory of the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (the “Convention”), but intends to sign it. It is a signatory to the CbC MCAA but has not provided its notifications under Section 8 of this agreement. As of 12 January 2018, Haiti does not yet have bilateral relationships activated under the CbC MCAA. In respect of the terms of reference under review,² it is recommended that Haiti take steps to sign the Convention and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Haiti will not be exchanging CbC reports in 2018.

Part C: Appropriate use

3. In respect of the terms of reference under review,³ Haiti does not yet have measures in place relating to appropriate use. It is recommended that Haiti take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Haiti will not be exchanging CbC reports in 2018.

Part A: The domestic legal and administrative framework

4. 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.

5. Haiti does not yet have legislation in place to implement the BEPS Action 13 minimum standard.

(a) Parent entity filing obligation

Summary of terms of reference:⁴ 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).

(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).

(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).

(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).

(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).

6. Haiti does not have legislation yet, but the project is under study. A commission for the BEPS project has been appointed and reflections have begun. Haiti indicates that CbC requirements should apply for taxable years commencing on or after 1 January 2018. It is recommended that Haiti finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible, taking into account its particular domestic legislative process.

7. Haiti indicates that the implementation steps are as follows: the procedure for voting is as follows: the Ministry of Finance, once the document has been validated by its legal department, submits it to the Prime Minister for approval in the Council of Ministers. Finally, the Prime Minister's Office forwards the document to Parliament. If the Parliament wishes to introduce amendments in the text, it appeals to the Minister who is accompanied by his technicians to work with the Parliament. Once the conditions are met, Haiti will be ready to join the CbC framework.

8. Haiti reports that it does not have companies with a turnover equal to or greater than EUR 750 million.

Conclusion

9. In respect of paragraph 8 of the terms of reference (OECD, 2017), Haiti does not yet have a domestic legal and administrative framework to impose and enforce CbC requirements on the Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Haiti. It is recommended that Haiti finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible, taking into account its particular domestic legislative process.

Part B: The exchange of information framework

10. 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 network as specified in paragraph 9 (a) of the terms of reference (OECD, 2017).

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).

11. Haiti is not a signatory of the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (the “Convention”). It has however indicated that it wishes to become a signatory of the Convention.

12. Haiti is a signatory to the CbC MCAA (signed on 22 June 2017) but has not provided its notifications under Section 8 of this agreement. As of 12 January 2018, Haiti does not yet have bilateral relationships activated under the CbC MCAA.

13. It is recommended that Haiti take steps to sign the Convention and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Haiti will not be exchanging CbC reports in 2018.

Conclusion

14. In respect of the terms of reference under review, it is recommended that Haiti take steps to sign the Convention and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Haiti will not be exchanging CbC reports in 2018.

Part C: Appropriate use

15. 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).

16. Haiti does not yet have measures in place relating to appropriate use. It is recommended that Haiti take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Haiti will not be exchanging CbC reports in 2018.

Conclusion

17. It is recommended that Haiti take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Haiti will not be exchanging CbC reports in 2018.

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 Haiti finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible, taking into account its particular domestic legislative process.
Part B	Exchange of information framework	It is recommended that Haiti take steps to sign the <i>Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol</i> (OECD/Council of Europe, 2011), and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites.
Part C	Appropriate use	It is recommended that Haiti take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports.

Notes

¹ Paragraph 8 of the terms of reference (OECD, 2017).

² Paragraph 9 (a) of the terms of reference (OECD, 2017).

³ Paragraph 12 (a) of the terms of reference (OECD, 2017).

⁴ 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, 2017).

References

- OECD (2017), “Terms of reference for the conduct of peer reviews of the Action 13 minimum standard on Country-By-Country Reporting” in *BEPS Action 13 on Country-by-Country Reporting – Peer Review Documents*, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris.
www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf.
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris,
<http://dx.doi.org/10.1787/9789264115606-en>.



From:

Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 1)

Inclusive Framework on BEPS: Action 13

Access the complete publication at:

<https://doi.org/10.1787/9789264300057-en>

Please cite this chapter as:

OECD (2018), “Haiti”, in *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 1): Inclusive Framework on BEPS: Action 13*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264300057-41-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.