

Togo

Overview of CbC reporting requirements

First reporting fiscal year: Commencing on or after 1 January 2023

Consolidated group revenue threshold: CFA 492 billion

Filing deadline: 12 months following the end of the reporting fiscal year

Local filing required: Yes

Surrogate parent entity filing permitted: Yes

First review of the domestic legal framework: 2022/2023

Summary of recommendations

Area of implementation	Recommendations for improvement
Domestic legal and administrative framework	<p>It is recommended that Togo introduce or complete the definitions of a “Group”, “MNE Group”, “Constituent Entity”, “Consolidated Financial Statements”, “Fiscal Year”, “Reporting Fiscal Year”, “Reporting Entity”, and “Systemic Failure” in a manner that is consistent with the standard.</p> <p>It is recommended that Togo publish the full content and format requirements of the CbC Report.</p> <p>It is recommended that Togo take steps to ensure that local filing only occurs in the circumstances permitted under the minimum standard.</p> <p>It is recommended that Togo clarify that the annual consolidated group revenue threshold calculation rule applies in line with the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than Togo.</p>
Exchange of information framework	<p>It is recommended that Togo 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 Togo has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.</p> <p>It is recommended that Togo 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.</p>
Appropriate use	<p>It is recommended that Togo take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.</p>

The domestic legal and administrative framework

Togo’s 2020/2021 peer review report included a recommendation that Togo take steps to implement a domestic legal and administrative framework to impose and enforce CbC reporting requirements as soon as possible. Togo has now introduced a CbC reporting filing requirement which applies to all Ultimate Parent Entities of MNE Groups above a certain threshold and which requires inclusion of all constituent entities.¹

A CbC reporting filing obligation applies in Togo for fiscal years commencing on or after 1 January 2023 and filing is required 12 months after the reporting year end. Togo has enforcement requirements to ensure compliance with rules on CbC reporting.

There are several areas where there are recommendations to improve the legislation.

The definition of Group

Togo's legislation does not include a definition of "Group". It is recommended that Togo amend its legislation to include a definition of "Group" that is in line with the standard.

The definition of MNE Group

Togo's legislation does not include a definition of "MNE Group". It is recommended that Togo amend its legislation to include a definition of "MNE Group" that is in line with the standard.

The definition of Constituent Entity

Togo's legislation does not include a definition of "Constituent Entity". It is recommended that Togo amend its legislation to include a definition of "Constituent Entity" that is in line with the standard.

The definition of Consolidated Financial Statements

Togo's legislation does not include a definition of "Consolidated Financial Statements". It is recommended that Togo amend its legislation to include a definition of "Consolidated Financial Statements" that is in line with the standard.

The definition of Fiscal Year

Togo's legislation does not include a definition of "Fiscal Year". It is recommended that Togo amend its legislation to include a definition of "Fiscal Year" that is in line with the standard.

The definition of Reporting Fiscal Year

Togo's legislation does not include a definition of "Reporting Fiscal Year". It is recommended that Togo amend its legislation to include a definition of "Reporting Fiscal Year" that is in line with the standard.

The definition of Reporting Entity

Togo's legislation does not include a definition of "Reporting Entity". It is recommended that Togo amend its legislation to include a definition of "Reporting Entity" that is in line with the standard.

The definition of Systemic Failure

Togo's legislation does not include a definition of "Systemic Failure". It is recommended that Togo amend its legislation to include a definition of "Systemic Failure" that is in line with the standard.

Contents of the Country-by-Country report

The information included in Togo's legislation does not include the template of the Country-by-Country report and does not include any details of what should be included under each heading in the report. It is recommended that Togo publish the full content and format requirements of the CbC Report.

The local filing provision

Togo has a legislative requirement for local filing which is in effect despite Togo not yet meeting all of the consistency, confidentiality and appropriate use conditions. It is therefore recommended that Togo take steps to ensure that local filing only occurs in the circumstances permitted under the minimum standard.

Currency fluctuations

Where an MNE Group draws up, or would draw up, its Consolidated Financial Statements in a currency other than that specified by Togo, the reference to Togo's threshold has the effect as if it were a reference to the equivalent in that currency at the average exchange rate for the accounting period. While this provision would not create an issue for MNE Groups whose Ultimate Parent Entity is a tax resident in Togo, it may 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 a Togolese tax resident) of an MNE Group which does not reach the threshold as determined in the jurisdiction of the Ultimate Parent Entity of such a Group.

It is recommended that Togo clarify that the annual consolidated group revenue threshold calculation rule applies in line with the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than Togo.

The exchange of information framework

Togo has no bilateral relationships in place for the exchange of CbC reports nor 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.

It is recommended that Togo 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 Togo has an international exchange of information agreement in effect that allows for the automatic exchange of tax information. This recommendation remains in place since the 2021/2022 peer review.

It is recommended that Togo 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. This recommendation remains in place since the 2021/2022 peer review.

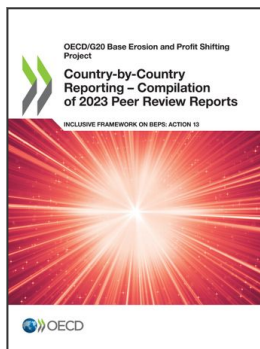
Appropriate use of CbC reports

Togo does not yet have controls in place to ensure the appropriate use of CbC reports.

It is recommended that Togo take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. This recommendation remains in place since the 2021/2022 peer review.

Note

¹ <https://www.otr.tg/index.php/fr/impots/reglementations-fiscales/code-general-des-impots/352-code-general-des-impots-mise-a-jour-2023.html>



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