

**TACKLING OFFSHORE TAX EVASION
THE G20/OECD CONTINUES TO MAKE PROGRESS
JUNE 2012
(REPORT BY SECRETARY-GENERAL GURRÍA OF THE OECD)**

INTRODUCTION

In October of last year I reported on the concrete achievements that resulted from the action G20 leaders took in April 2009 to end the era of bank secrecy. Those achievements remain impressive but my report recognised the need to do more. At your meeting in Cannes in November 2011 you underlined the importance of the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes. Part I of this report sets out the further progress made by the Global Forum since then. The final declaration also mandated other specific actions to progress

the fight against offshore tax evasion and these were specified in more detail by Finance Ministers and Central Bank Governors at their meetings in February 2012 and April 2012. Part II of this report summarises the progress that has already been made in response to that mandate.

As the summary below demonstrates, much has already been achieved since Cannes and much remains to be done. I look forward to providing you with a further update and a more substantive report, in particular in the area of misuse of corporate vehicles, for the summit in Russia next year.

AGREED ACTIONS AND PROGRESS MADE

Actions mandated by G20

- **Call on all countries to sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.**

- **Call on the OECD to improve comprehensive information exchange, including automatic exchange, and to provide an interim progress report.**

- **International organisations should do further work to improve inter-agency co-operation in the fight against illicit activities ...**

... and the OECD and FATF should work to prevent the misuse of corporate vehicles.

Progress already made

- The total number of signatories is growing rapidly and currently stands at 35. India has moved particularly quickly to both sign and ratify, with the result that the convention entered into force with respect to India on 1st June 2012. With your support **many jurisdictions and developing countries could sign the Convention before your next meeting.**

- **Automatic exchange of information** proves to be a useful way to implement enhanced international tax co-operation as shown in the attached report. **The OECD stands ready to develop a multilateral platform to facilitate that practice** for the countries interested in joining the Convention.

- At the second global event on Tax and Crime, held in Rome last week (“the Oslo Dialogue”), the OECD presented ways to **enhance interagency co-operation including the launch of a pilot training programme for criminal tax investigators in developing countries.**

- **The misuse of corporate vehicles is one aspect of tax base erosion and profit shifting which harm the revenues of States, and in particular developing countries. The OECD is developing appropriate responses** to this trend and its Forum on Tax Administration is developing a practical guide to detecting vehicles and establishing ownership and control.

In order to help developing countries address these challenges, **the OECD has launched “Tax Inspectors without Borders”, which will be up and running by the end of 2013.**

I will report to you progress at your next meeting.

MULTILATERAL CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE

The French Presidency of the G20 hosted a signing ceremony involving all G20 countries in the margins of the Cannes Summit on 3-4 November 2011. At that time, Argentina, Australia, Brazil, Indonesia, Russia, South Africa, and Turkey signed the amended Convention; Japan signed the Convention and the Protocol; and Canada and Germany signed the Protocol. China, India and Saudi Arabia signed a letter of intent to sign the Convention. The Communiqué issued at the end of the G20 Leaders Summit stated “[w]e welcome the commitment made by all of us to sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and strongly encourage other jurisdictions to join this Convention.” The Finance Ministers and Central Bank Governors reiterated that call at their meeting in April 2012.

There have been significant developments over the last several months:

- The total number of signatories is now 35 and it is growing quickly;
- India has both signed and ratified the Convention which has entered into force in respect of India on 1 June 2012;
- Greece signed the Convention in February 2012;
- Costa Rica became the first Central American country to sign the Convention;
- Ghana were recently invited to join the Convention and have commenced the necessary legal procedures to sign;
- Colombia signed the Convention on 23 May 2012 and Mexico deposited its instrument of ratification on that same date.

As expected the Convention is becoming a global instrument. It allows access to an increasingly wide network of partners, covering a broad range of taxes and several forms of co-operation. There is tremendous value for all countries to join this Convention. The Convention provides additional tools to counteract international tax evasion. For instance, the Convention allows the exchange of

information on all taxes (including VAT/GST) and for simultaneous tax examinations, joint audits and assistance in tax collection. The Convention is not only a valuable tool for fighting tax evasion; it may also further other law enforcement purposes such as fighting corruption and money laundering. Countries should not only be encouraged to sign the Convention but also to quickly ratify it so that they can start taking advantage of its many benefits.

With your support, we expect a large number of jurisdictions to join the Convention quickly as well as a number of developing countries. South Africa will host a signing ceremony on the occasion of the next Global Forum meeting in Cape Town in October 2012 and I will report to you on the progress made at your next Summit.

AUTOMATIC EXCHANGE OF INFORMATION

G20 leaders have stressed the importance of comprehensive information exchange. At their meeting in April, Finance Ministers and Central Bank Governors specifically asked for an interim report on the progress made in improving automatic exchange. The report, “Automatic Exchange of Information: What it is, How it works, Benefits, What remains to be done” is attached as Annex 1.

The OECD’s work on exchange of information on request and the more recent peer review work of the Global Forum on Transparency and Exchange of Information are well known. The OECD also works on other forms of exchange of information, including automatic exchange of information, where it has been active in facilitating such exchanges for many years.

The automatic exchange of information involves the systematic and periodic transmission of “bulk” taxpayer information by the source country to the residence country concerning various categories of income (e.g. dividends, interest, royalties, salaries and pensions). Ensuring the confidentiality of taxpayer information is of utmost importance to tax administrations and the OECD recently published a guide entitled “Keeping it Safe: The OECD Guide

on the Protection of Confidentiality of Information Exchanged for Tax Purposes.”

Results of a recent survey on automatic exchange conducted by the OECD show widespread use of automatic exchange of information regarding country coverage and income types, transaction values and records exchanged. Among the most frequently exchanged income types are: interest, dividends, royalties, income from dependent services and pensions. Key findings include:

- Many countries, OECD and non OECD economies, receive information automatically from treaty partners.
- 85% of surveyed countries send information automatically to treaty partners (up to 70 partners in one case).
- The value of transactions reported to most countries in a year is measured in the € billions and five countries each received information totaling in excess of €15 billion.

Automatic exchange as a tool to counter offshore non-compliance has a number of benefits. It can provide timely information on non-compliance where tax has been evaded either on an investment return or the underlying capital sum. It can help detect cases of non-compliance even where tax administrations have had no previous indications of non-compliance. Other benefits include its deterrent effects, increasing voluntary compliance and encouraging taxpayers to report all relevant information. Automatic exchange may also help educate taxpayers in their reporting obligations, increase tax revenues and thus lead to fairness – ensuring that all taxpayers pay their fair share of tax in the right place at the right time.

While the work on automatic exchange has shown that automatic exchange can be an effective tool for compliance it has also identified some challenges and areas where more work needs to be done on both the practical and policy sides. The true measure of success is not the quantity of information exchanged but the compliance that is achieved. Also important is to reduce as much as possible related compliance

costs, through, for instance, common standards and processes, for taxpayers, intermediaries and tax administrations.

As automatic exchange of information becomes a growing practice, the OECD stands ready to offer a multilateral platform to implement this practice to all interested countries, including by standardizing technical formats and investment in information technology.

**INTER-AGENCY CO-OPERATION -
A WHOLE OF GOVERNMENT APPROACH TO
FIGHTING ILLICIT ACTIVITIES**

Financial crimes are growing in sophistication and increasingly operate across international boundaries. Criminals accumulate significant sums of money through offences such as drug trafficking, investment fraud, extortion, corruption, embezzlement and tax crimes. The UNODC recently found that criminal proceeds from all illicit activities amounted to around 3.6% of global GDP, equivalent to US\$2.1 trillion. The proceeds from transnational organised crime and drug trafficking are estimated to be approximately 1.5% of global GDP, or US\$870bn in 2009. All types of financial crime thrive in a climate of secrecy and lax regulation or enforcement. Countering these activities requires greater transparency and improved efforts to harness the capacity of different government agencies to work together to deter, detect, prosecute and recover the proceeds from these crimes through a whole of government approach.

As early as 1998, a call by G7 Finance Ministers encouraged international action to enhance the capacity of tax and anti-money laundering systems to deal effectively with tax related crimes. Since then, the OECD has carried out work to increase co-operation between different law enforcement agencies, both domestically and cross-border. The OECD has launched and fostered a global dialogue on Tax and Crime to promote the use of a whole of government approach to counter financial crimes by harnessing the skills and knowledge of different agencies through better domestic and international co-operation.

A second meeting of this dialogue was held in Rome last week, which brought together senior policy makers and experts from tax administrations, anti-corruption and anti-money laundering agencies, other law enforcement authorities, development assistance agencies and relevant inter-governmental organisations, as well as business leaders and civil society. Representatives from 60 countries adopted:

- A first in-depth report analysing the benefits to countries from adopting a whole of government approach, based on a comparison of models for inter-agency co-operation in 32 countries;
- A comprehensive catalogue of key instruments for international co-operation in combating financial crime; and
- The launch of a pilot capacity building programme for criminal tax investigators in developing countries.

The report on the benefits of adopting a whole of government approach makes recommendations to countries on how inter-agency co-operation in fighting financial crime can be improved to deliver better results, in shorter time frames and with lower costs and less resource. Clear, strong and continuous political support is needed to convert these recommendations into tangible results. It is important that countries act upon the findings and recommendations of this report to encourage greater inter-agency co-operation at home, but also that they encourage other countries to adopt the recommendations. The OECD plans to conduct further work to increase the depth of this analysis and expand its scope to include interested countries.

Addressing financial crime in a globalised world requires a global response, including efficient co-operation between countries. Many instruments for international co-operation in combating financial crime exist, in particular in the areas of tax, corruption and money-laundering. The catalogue of key instruments for international co-operation is a valuable tool in mapping the mechanisms for co-operation that exist. However, legal, practical and political barriers often impede or reduce this

co-operation. It is important that countries support the ongoing work to identify and remove these barriers.

Countering complex financial crimes requires not only the appropriate legal framework but also an in-depth knowledge of sophisticated techniques of investigation and analysis. Many countries, and in particular developing countries, do not have the skills and resources to provide training in these techniques to their criminal tax investigators. The capacity building project is developing basic and advanced training modules in up-to-date investigative techniques that can be tailored to the particular needs of a country or region. Giving investigators in developing countries the skills and knowledge to combat financial crimes is an important step in enabling governments to deal with these problems.

PREVENTING THE MISUSE OF CORPORATE VEHICLES

Corporate vehicles continue to play a part in a wide range of illicit activities, including tax fraud and evasion, money laundering, bribery, corruption and terrorist financing. Their misuse primarily lies in the way they are exploited, particularly in secrecy jurisdictions, to hide the identity of the beneficial owners and controllers of assets and the parties to illicit transactions.

Work on the whole of government approach and international co-operation in combating financial crime is also directly relevant to combating the misuse of corporate vehicles for illicit purposes. The development of a capacity building programme to improve the skills of financial crime investigators in developing countries will include specific training on identifying and dealing with issues arising from the misuse of corporate vehicles.

In my last report, I told you that the OECD's Forum on Tax Administration had created a dedicated network of specialists in the field of Offshore Tax Compliance, led by France. That network is undertaking a specific project to look at best practice in countering offshore evasion. Specifically, the network is collating information from member countries about the types of

structures, entities and territories they observe being used in offshore evasion into a practical guide to the basic “building blocks” of offshore structures. This will take the form of a catalogue of observed entities, with an explanation of their characteristics, how these vary according to the territory in which they are located and, critically, information about the techniques used to identify when taxpayers are exploiting these entities and how tax administration have been able to determine the beneficial ownership of the underlying assets.

All countries, OECD as well as non OECD, lose revenue because of base erosion and profit shifting. The misuse of corporate vehicles is one aspect of this challenge on which the G20 has asked the OECD together with the FATF to work on.

The OECD is taking seriously this broader issue of base erosion and profit shifting in all its aspects and will deliver instruments for countries

to better assess their own taxes. In order to support developing countries, the OECD has launched the initiative of Tax Inspectors without Borders, which will be developed before the end of 2013 in the context of our task force on tax and development, which includes emerging and developing countries.

This interim report sets out the progress that has been made in the few months since the meeting in Cannes. The work will continue and will enable me to provide a comprehensive report of the results at the meeting in Russia.

The OECD will continue to advance these initiatives and I would be pleased to report on their outcomes at future meetings of your Finance Ministers. I would also be pleased to take forward any new areas of work, which you consider could be usefully explored.

ANNEX 1

AUTOMATIC EXCHANGE OF INFORMATION:

**WHAT IT IS, HOW IT WORKS, BENEFITS,
WHAT REMAINS TO BE DONE**

I. INTRODUCTION

1. As the world becomes increasingly globalized and cross-border activities become the norm, tax administrations need to work together to ensure that taxpayers pay the right amount of tax to the right jurisdiction. An open international architecture where taxpayers operate cross-border but tax administrations remain confined to their national borders, can only be sustained where tax administrations co-operate. One key aspect of international tax co-operation is exchange of information.

2. Exchange of information comes in different forms and includes exchange upon request, spontaneous information exchange and automatic exchange of information. The OECD has a long history of working on all forms of information exchange and Article 26 of the OECD Model Convention provides a basis for all three forms of information exchange.

3. The OECD's work on exchange upon request and the more recent peer review work of the Global Forum on Transparency and Exchange of Information¹ are well known. The OECD also works on other forms of exchange of information, including automatic exchange of information, where it has been active in facilitating such exchanges for many years. The OECD's work in this area is focused on helping make automatic information exchange into an effective compliance tool for countries wishing to use it and does not suggest a change in the current international standard, which is information exchange upon request.

4. The work has ranged from creating the legal framework for such information exchanges to developing technical standards and seeking to improve automatic exchange at a practical level. In addition, the OECD has produced guidance on automatic exchange and provided training to countries interested in developing the necessary framework and operating automatic exchange on a practical level.

5. Another key component in connection with automatic exchange of information is the need to ensure that information exchanged is kept confidential. This aspect has long been a key focus for the OECD in respect of all forms of exchange of information, not just automatic exchange, but it is particularly pronounced in the automatic exchange area. To engage in exchange of information, and in particular automatic exchange of information, countries need a high degree of comfort that the information is kept confidential both in law and in practice and is only used for the purposes allowed under the applicable exchange instrument.

6. This report is intended to inform the wider public on key aspects of automatic exchange of information and the work of the OECD in this area. In particular it tries to give answers to the following basic questions:

- What is automatic exchange of information?
- How does it work?
- What is the legal basis?

¹ See www.oecd.org/tax/transparency

- What is the current state of play?
- Does automatic exchange work?
- What is the OECD doing in this area and what still needs to be done?

II. WHAT IS AUTOMATIC EXCHANGE OF INFORMATION?

7. The automatic exchange of information² is understood to involve the systematic and periodic transmission of “bulk” taxpayer information by the source country to the residence country concerning various categories of income (*e.g.* dividends, interest, royalties, salaries, pensions, etc.).

8. The information which is exchanged automatically is normally collected in the source country on a routine basis, generally through reporting of the payments by the payer (financial institution, employer, etc). Automatic exchange can also be used to transmit other types of useful information such as changes of residence, the purchase or disposition of immovable property, value added tax refunds, etc. As a result, the tax authority of a taxpayer’s country of residence can check its tax records to verify that taxpayers have accurately reported their foreign source income. In addition, information concerning the acquisition of significant assets may be used to evaluate the net worth of an individual, to see if the reported income reasonably supports the transaction.

² Also called routine exchange by some countries.

III. HOW DOES AUTOMATIC EXCHANGE OF INFORMATION WORK?

9. The basic process of automatic exchange of information can be divided into 7 steps:
1. payer or paying agent collects information from the taxpayer and/or generates information itself.³,
 2. payer or paying agent reports information to the tax authorities,
 3. tax authorities consolidate information by country of residence,
 4. information is encrypted and bundles are sent to residence country tax authorities,
 5. information is received and decrypted,
 6. residence country feeds relevant information into an automatic or manual matching process, and
 7. residence country analyses the results and takes compliance action as appropriate.

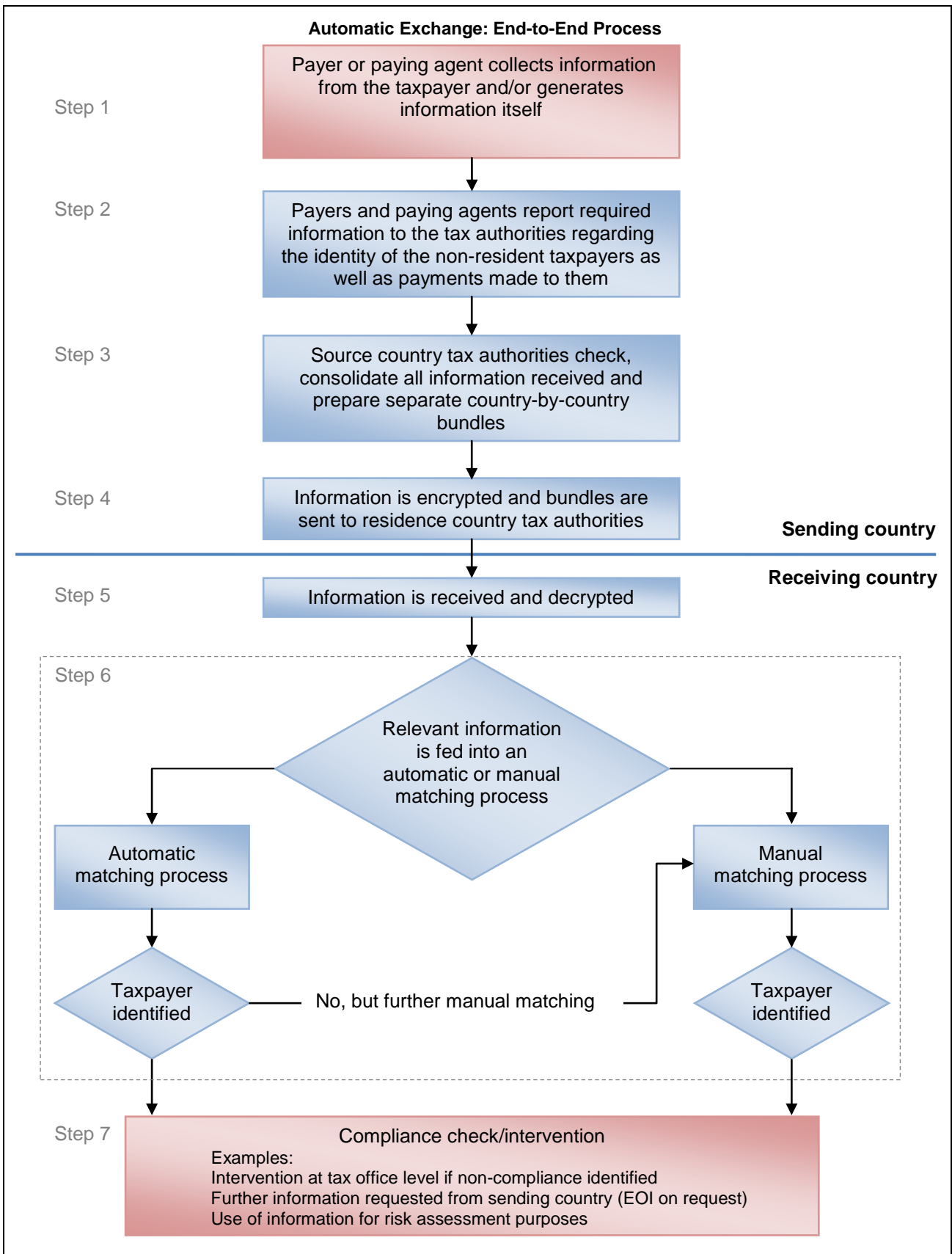
10. The process starts with the provision, by a taxpayer, of information regarding his or her identity to a payer or paying agent and/or with the generation of information by the payer or paying agent (first step). According to domestic rules in the source country, payers and paying agents are required to report to the tax authorities information regarding the identity of the non-resident taxpayer as well as payments made to them (second step). Once the information has been received by the source country tax authorities the information will be consolidated and bundled according to the country of residence (third step). Next, information is transmitted from the source country to the residence country. The source country must ensure that the transmission is done securely, with a sufficient level of encryption. Information may be transmitted electronically or by CD ROMs. If the CD ROMs are sent by mail, it must be done via an international registration system where a mail tracking function is in place (fourth step).

11. The fifth step in the process is the receipt and decryption of the information by the residence country tax authorities. Next, relevant information will be fed into an automatic or manual matching process. The processing and use of the information varies from country to country depending on the risk assessment parameters, processing and technology systems used. The key aspect is to be able to identify the taxpayer and “match” the information with the domestic records. In this respect many countries have developed sophisticated automatic matching systems, allowing them to run all of the information received through a database to identify matches. This is often followed up by manual matching of the previously unmatched data. Other countries use only a manual matching system (sixth step). Based on the results of the matching process, the tax authorities may commence compliance action against a taxpayer that may not have complied with reporting obligations, or make a specific request for information from the source

³ While most tax systems operate in this way, some tax systems require the taxpayer to file a refund claim directly to the tax administration. It is from this refund claim that the tax administration obtains the information to exchange.

country to obtain additional information. In addition to using the specific information received, some countries use the information for more general risk assessment (seventh step).

12. Throughout the entire process feedback can be given from the receiving to the sending country, but also from the country collecting the information to the reporting payers or paying agents.



IV. WHAT IS THE LEGAL BASIS FOR AUTOMATIC EXCHANGE?

13. The legal basis for the automatic exchange of information is generally (1) the exchange of information provision of a double taxation convention based on Article 26 of the OECD or UN Model Convention, (2) Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters, or (3) for EU member countries, domestic laws implementing EU directives which provide for automatic exchange.

14. While the treaty law contains the legal basis for automatic exchange including rules on reciprocity some countries require, and others have a policy to require, a special working agreement or memorandum of understanding (MOU) setting forth the terms and conditions of the proposed automatic exchange. Such an MOU typically sets forth the types of information to be exchanged automatically, details about the procedures of sending and receiving information and the appropriate format to use. The OECD has designed a Model Memorandum of Understanding on Automatic Exchange⁴ that can be used as a basis for an operational working agreement between tax administrations. The Multilateral Convention on Mutual Administrative Assistance in Tax Matters specifically requires an agreement between the Parties willing to provide each other information automatically.

⁴ See [C\(2001\)28/FINAL](#) (available under [www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=C\(2001\)28/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=C(2001)28/FINAL&docLanguage=En))

V. CURRENT STATE OF PLAY

15. Results of a recent survey on automatic exchange conducted by the OECD^{5,6} shows widespread use of automatic exchange of information regarding country coverage and income types, transaction values and records exchanged. Certain facts and figures in each of these areas are summarized below.

Country coverage and income types

16. Automatic exchange is widely used both within and outside the European Union with many non EU members having extensive automatic exchange relationships. Among the most frequently exchanged income types are: interest, dividends, royalties, income from dependent services and pensions. All 38 countries (100 %) receive information automatically from treaty partners and 33 (85%) of them send information automatically to treaty partners. Denmark, as the country with the largest number of automatic exchange relationships sends information automatically to 70 countries. The charts below give further details on country coverage.

⁵ Responses were received from the following countries that participate in the work of the OECD's Committee on Fiscal Affairs: Argentina, Australia, Austria, Belgium, Canada, Chile, China, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Russia, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Turkey, the United Kingdom and the United States.

⁶ The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Figure 1. Automatic exchange relationships - Information sent automatically to number of countries by

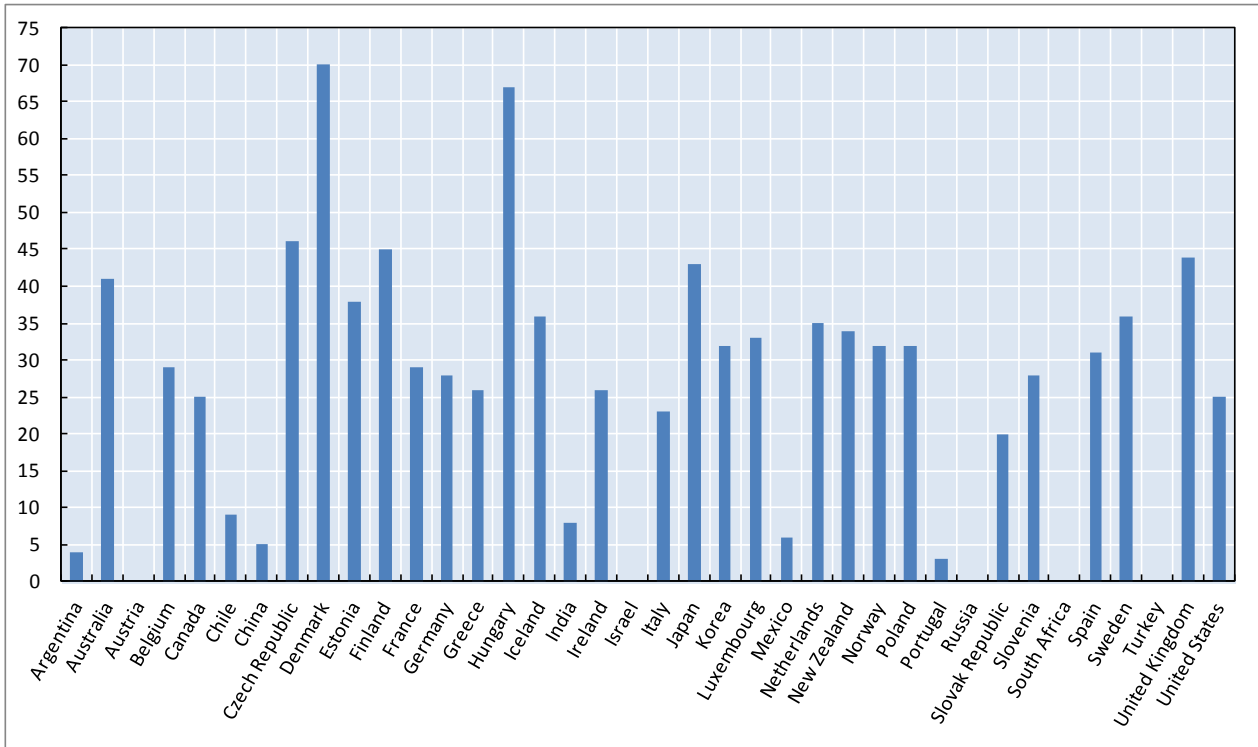
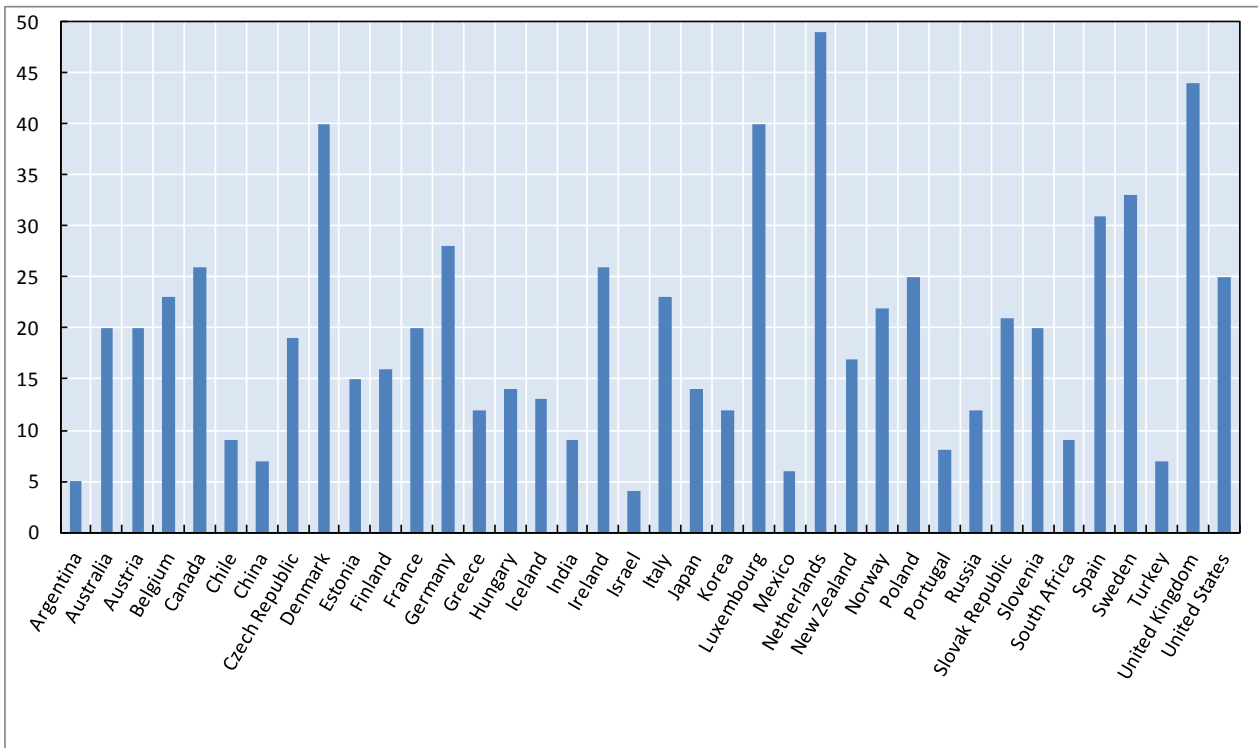


Figure 2. Automatic exchange relationships - Information received automatically from number of countries by



Transaction value

17. Transaction value relates to the amounts of income and capital reported on records exchanged automatically. The survey shows that the amounts represented by records received can range from as little as EUR several million to well over EUR 200 billion for a particular year.⁷ Five countries, including Italy, reported receiving records relating to more than EUR 15 billion each in a particular year. Further, most countries reported exchanging information in the EUR billions. While these amounts do not represent tax but income and assets, applying average tax rates to such amounts and even assuming a low non-compliance rate can add up to significant numbers.

Records exchanged

18. Many countries also keep statistics on the numbers of records exchanged:

- 8 countries⁸ sent more than 1 million records in a particular year⁹
- One country (United States) sent 2.5 million records in a particular year⁹
- 31 countries¹⁰ combined sent 17.8 million records in a particular year⁹.

⁷ Depending on the last year of available statistics in a country, the year for which the information was provided may vary.

⁸ Australia, Belgium, Canada, France, Spain, Sweden, United Kingdom, United States.

⁹ Depending on the last year of available statistics in a country, the year for which the information was provided may vary.

¹⁰ The following 31 countries provided numbers of records sent: Argentina, Australia, Belgium, Canada, Chile, China, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, India, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovenia, Spain, Sweden, the United Kingdom and the United States.

VI. DOES AUTOMATIC EXCHANGE WORK?

19. As a tool to counter offshore non-compliance automatic exchange has a number of benefits. It can provide timely information on non-compliance where tax has been evaded either on an investment return or the underlying capital sum. It can help detect cases of non-compliance even where tax administrations have had no previous indications of non-compliance. Other benefits include its deterrent effects, increasing voluntary compliance and encouraging taxpayers to report all relevant information. Automatic exchange may also help educate taxpayers in their reporting obligations, increase tax revenues and thus lead to fairness – ensuring that all taxpayers pay their fair share of tax in the right place at the right time. In a small number of cases countries have been able to integrate the information received automatically with their own systems such that income tax returns can be prefilled.

20. In a purely domestic context the impact of information reporting can be seen when the compliance rates of salaried employees are compared with the compliance rate of self-employed individuals. An employee who knows that his or her salary will be reported to the tax administration is far less likely to under report that income than someone whose income has not been directly reported to the tax authority. Similarly in an international context the same holds true. The EU experience with the Savings Directive suggests that in the absence of automatic exchange of information in excess of 75% of taxpayers may not have complied with their residence country tax obligations.¹¹

21. The risk of non-compliance on foreign source income is also borne out in practice as illustrated by examples from Norway and Denmark:

- In 2009, Norway received automatic exchange of information from a number of its treaty partners. Files above a certain threshold were verified against the returns of income filed by taxpayers in Norway. Results of the investigation disclosed that in **38.7% of the cases income** which was taxable in Norway **had not been reported**.
- Under a special project, Denmark used information received automatically to conduct 1000 audits, resulting in additional tax revenue. In addition 1100 letters were sent out to other taxpayers with the information that the Danish Tax Administration received on foreign income. This resulted in 440 persons reporting **foreign income** in their tax return which they had not reported in previous years, indicating a **non-compliance rate of 40%**.

22. Ultimately the goal of tax administrations is to increase the voluntary compliance rate on foreign income on a go-forward basis. One way to achieve this goal is to educate taxpayers about the amount of information being exchanged automatically as evidence shows that the compliance rate increases with increased information reporting.

¹¹ This number is calculated taking into account the number of taxpayers that chose withholding over information reporting based on published numbers. See *Accord sur la fiscalité de l'épargne / statistique du 01.01.2008 au 31.12.2010*, Switzerland (available on www.estv.admin.ch). The underlying assumption is that there is practically no reason for anybody wishing to comply with the tax laws in his/her home jurisdiction to opt for withholding.

VII. WHAT IS THE OECD DOING IN THIS AREA AND WHAT STILL NEEDS TO BE DONE?

23. The OECD has been active in facilitating automatic exchange for many years by creating the legal framework, developing technical standards, providing guidance and training and seeking to improve automatic exchange at a practical level.

24. The OECD's work has identified eight key components in successful automatic exchange. Those elements are with respect to both the sending and receiving country and all require some degree of international understanding or agreement to maximize the benefits and efficiency of the automatic exchange.

Eight key components in successful automatic exchange

From the perspective of the **receiving country**:

1. **What** – Defining the scope of income / transactions to cover
2. **Who** – Defining the information to capture regarding the taxpayer / beneficial owner
3. **Quality** – Ensuring data quality; e.g. data validation, TIN verification, general due diligence standards
4. **When** – When to receive the information
5. **How to exchange** – The format to use, encryption and transmission system
6. **How to use** – Risk assessment, matching, compliance action

From the perspective of the **sending country**:

7. **Confidentiality** – Keeping information protected both in law and in practice
8. **Reciprocity, Acknowledgement and feedback**

25. The OECD has developed a number of guidance and training materials to facilitate the implementation and use of automatic exchange by countries. In particular, the OECD has developed the following documents:

- A Model Memorandum of Understanding on Automatic Exchange¹²;

¹² See footnote 3.

- Manual on the implementation of exchange of information provisions for tax purposes (which contains a specific module on automatic exchange)¹³;
- A toolkit on automatic exchange¹⁴; and
- Country profiles on automatic exchange have been compiled (on the type of information exchanged automatically, the preferred standard to receive information etc).

26. The OECD has also been very active on technical standards. The standardization of formats is crucial so that information can be captured, exchanged and processed quickly and efficiently in a cost effective manner by the receiving country. OECD work on standardization has taken advantage of technological developments starting with a paper standard format, then moving to the standard magnetic format (“SMF”), and finally to a more advanced standard using XML language (“STF”)¹⁵. As currently the SMF and STF both exist depending on the tax administration, bridging programmes have been developed to achieve conversion between the two formats, thus enabling treaty partners to engage in bilateral automatic exchange notwithstanding that they might each use a different standard format.

27. The EU Council has adopted standard formats for the implementation of the EU Savings Directive which are largely based on the OECD STF (into FISC 153 format). In addition to the adaptation of the STF format, the EU has also developed specifications to ensure a good quality of data and monitors the functioning of the format. In 2011 the EU adopted a new Directive on administrative co-operation which provides for the development of new formats for 5 income types: income from employment, income from immoveable property, director’s fees, pensions and life insurance products not covered by another EU legislation on administrative co-operation. To develop the formats the EU works in close collaboration with the OECD with the common objective to have one technical standard for the automatic exchange of information with schemas being released as much as possible at the same time by both the OECD and the EU.

28. While the work on automatic exchange has shown that automatic exchange can be an effective tool for compliance it has also identified some challenges and areas where more work needs to be done on both the practical and policy sides. The true measure of success is not the quantity of information exchanged but the compliance that is achieved. Also important is to reduce as much as possible related compliance costs, through, for instance, common standards and processes, for third parties and tax administrations. Finally, a cost/benefit analysis in respect of the different types of information exchanged and the level of detail needed to support it may allow countries to focus on further efficiencies.

29. The remainder of this section highlights some of the focus areas of ongoing and future work.

Developing common standards on capturing information

30. In order to ensure concrete results from automatic exchange it is essential that the receiving country is able to match the information received and use it within their tax administration. Given that the

¹³ www.oecd.org/ctp/eoi/manual

¹⁴ www.oecd.org/tax/eoi/toolkit

¹⁵ The STF has many advantages including separation of the content of a message from any display structure, readability both by humans and machines, modularity and flexibility and validation of the information i.e. ability to check the conformance of documents with the “contract” about its structure.

information is “bulk” information a process of automatic matching will often be essential. Thus, if the information collected in one country is aligned with the information needed in the other countries, a common standard of what is collected and what is used in matching and compliance can greatly improve effectiveness of automatic exchange. Standardisation of reporting and due diligence will also reduce compliance costs.

31. For instance, the OECD survey indicates that when the residence country receives information which contains a Tax Identification Number (TIN), the matching rate is increased significantly and as a result the identification of the taxpayer. For example, the results of the survey indicate that on average the matching rate increases by 30% if the residence country TIN is provided. Absent a TIN, the data items most frequently required by the residence country to identify its taxpayer are name, address and date of birth, with almost all countries already requiring the capture of name and address.

Improving data quality

32. It is one thing to capture the information, but for that information to be useful it must be included in the data package transmitted to the residence country and it must be accurate. For example, for a TIN to be useful it must be the residence country TIN (not a source country TIN) and it must be a valid number without errors.

33. The quality of the information begins with the capture of the information by the payer or paying agent and the accurate transmission of that information by the source country to the residence country. The quality and accuracy of a TIN for instance, is significantly higher where the TIN is included in an official document (which is the case in many Nordic countries) which can then be verified by the payer or paying agent. The quality is also improved where the country provides the algorithm against which the structure of the TIN can be verified and validated by the payer or paying agent (this will not, however, confirm that the TIN actually belongs to the particular taxpayer).

34. Similar quality issues exist with the name and address which is further complicated by different languages, multiple first names and family names, different alphabets and different address formulations from country to country. The quality of the address and the ease of use in the residence country can be significantly improved if the name and address are provided in a fixed format XML as opposed to a free format. XML based format allows automatic validation of the data and the structured format allows the receiving country to more easily identify and distinguish the particular data pieces. For example, this will avoid the difficulty of distinguishing the first name from the family name and in the address, the apartment number from the street number.

Timely receipt of information

35. Timely receipt of the information is critical for the information to be able to be effectively used in the receiving country. All countries have limitation periods beyond which they cannot make an adjustment to the amount of tax owed for a particular taxation year (in some cases there are exceptions in the case of fraud). Taking into account the limitation period, a taxing authority must receive the information with enough time to allow it to assess the information and evaluate whether or not a particular taxpayer has been compliant.

Standardizing technical formats and investment in IT

36. Standardization of formats is critical to the efficiency and effectiveness of automatic exchange. As technology continues to evolve, the applicable technical standards and processes must evolve and it is critical for governments to make sufficient investments in IT and related back office functions to keep pace

with the developments. At a time when business uses advanced technology to securely transmit and use effectively large data sets, governments cannot stand behind.

Confidentiality and related issues

37. To engage in automatic exchange of information, countries need a high degree of comfort that the information is kept confidential both in law and in practice and is used only for the purposes allowed under the applicable exchange instrument. Furthermore, a sending country may want to consider issues of reciprocity in its exchange relationship.