

Sri Lanka

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. Sri Lanka does not yet have a complete legal and administrative framework in place to implement CbC Reporting and indicates that it will not apply CbC requirements for the 2019/2020 fiscal year.¹ It is recommended that Sri Lanka finalise the domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.

Part A: Domestic legal and administrative framework

2. Sri Lanka does not yet have legislation in place to implement the BEPS Action 13 minimum standard.² Sri Lanka indicates that amendments are needed in secondary law. At this time, Sri Lanka estimates that amendments to secondary legislation³ will come into effect in 2018. Sri Lanka indicates that it will apply CbC requirements as of 1 April 2019. Sri Lanka has draft secondary legislation, following the model legislation provided by BEPS Action 13 which is to be passed sometime soon. It is recommended that Sri Lanka finalise the domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.

Part B: Exchange of information framework

3. Sri Lanka currently does not have a network for exchange of information in effect which would allow for Automatic Exchange of Information for CbC Reporting. Sri Lanka is not a Party to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (“the Convention”). Sri Lanka does not yet have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is recommended that Sri Lanka take steps to join the Convention and have it in force for taxable years starting as from 1 April 2019 and have QCAAs in effect yet with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Sri Lanka will not be exchanging CbC reports in 2018.⁴

Part C: Appropriate use

4. In respect of the terms of reference under review,⁵ it is recommended that Sri Lanka take steps to ensure that the appropriate use condition is met ahead of the first

exchanges of information. It is however noted that Sri Lanka will not be exchanging CbC reports in 2018.

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.

6. Sri Lanka 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:⁶ 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).

7. Sri Lanka does not yet have a legal and administrative framework in place to implement CbC Reporting and it indicates that it will implement CbC Reporting requirements for the 2019/2020 fiscal year.

8. Sri Lanka indicates that the legislation for CbC Reporting is currently in draft stages. At this time, Sri Lanka estimates that the legislation will come into effect during 2018.

9. Sri Lanka is willing to introduce an obligation on the ultimate parent entities to file a CbC report within 12 months of the end of the fiscal year if the consolidated annual turnover is equal to or higher than LKR 115 billion (Sri Lankan rupee).⁷ Sri Lanka affirms that it intends to introduce definitions in accordance with those in Action 13 minimum standard.

Conclusion

10. In respect of paragraph 8 of the terms of reference, Sri Lanka does not yet have 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 Sri Lanka. It is recommended that Sri Lanka take steps to implement a domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.

Part B: The exchange of information framework

11. 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).

12. Sri Lanka does not yet have domestic legislation that permits the automatic exchange of CbC reports in place and thus may not implement CbC Reporting requirements for the 2018 fiscal year. Since Sri Lanka is not a Party to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (“the Convention”), it will not be in effect at the start of the commencement of CbC Reporting in Sri Lanka on 1 January 2019. Sri Lanka has a

treaty network for exchange of information that includes Double Tax Agreements with forty-four jurisdictions plus a multilateral Agreement with SAARC.⁸

13. Sri Lanka does not have QCAAs in effect yet with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Sri Lanka will not be exchanging CbC reports in 2018.

Conclusion

14. It is recommended that Sri Lanka take steps to complete its exchange of information framework that allows Automatic Exchange of Information and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites.

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

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

Conclusion

17. In respect of paragraph 12 (a) of the terms of reference (OECD, 2017), Sri Lanka is recommended to take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports. It is however noted that Sri Lanka 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 – parent entity filing obligation	It is recommended that Sri Lanka finalize its steps to implement a legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.
Part B	Exchange of information framework	It is recommended that Sri Lanka take steps to join the Convention and have it in force for taxable years starting as from 1 January 2019 and have QCAAs in effect yet with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites.
Part C	Appropriate use	It is recommended that Sri Lanka take steps to ensure that the appropriate use condition is met.

Notes

¹ The Fiscal Year is the period of 12 months commencing from 1 April and ending on 31 March of the following year.

² Paragraph 8 of the terms of reference (OECD, 2017).

³ Sri Lanka affirms that intends to follow the model legislation provided by BEPS Action 13 subject to the laws and provisions of the domestic Acts.

⁴ Paragraph 9 (a) of the terms of reference (OECD, 2017).

⁵ Paragraph 12 (a) of the terms of reference (OECD, 2017).

⁶ 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).

⁷ According to the January 2015 average exchange rate of Euro to Sri Lankan Rupee measured by the Sri Lankan Central Bank.

⁸ Sri Lanka indicates that it has already carried out exchanges of information on request under its existing double tax agreements.

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.
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