

## II. Update on Progress

12. This part of the report highlights changes made to the information contained in the 2007 Report. Sections A-D summarise changes made to the information in respect of countries that participated in last years' assessment. The updated numbers take into account the information provided by Chile, which is taking part in the assessment for the first time, but Chile's changes are not highlighted. Instead, Section E contains a summary of the legal framework in place in Chile.

### A. *Exchanging Information*

13. This section outlines the main changes made to the information on exchange of information contained in tables **A1-A5**.

#### *1. Existence of Mechanisms for Exchange of Information Upon Request*

14. Table **A1** shows the number of double taxation conventions (DTCs) and tax information exchange agreements (TIEAs) by country. It includes both bilateral and multilateral agreements (e.g. the Caricom Agreement) and indicates the number of agreements under negotiation where countries have disclosed such negotiations. The total number of DTCs in force has increased from 1814 to 1878. Moreover, 4 TIEAs came into force during 2007, bringing the total number of TIEAs in force to 58. For instance, Bermuda reports that its TIEA with Australia entered into force in 2007. There remain 11<sup>13</sup> countries that do not have agreements for the exchange of tax information in the form of DTCs or TIEAs that are either signed or in force.

15. On the other hand, 16 TIEAs have been signed since the beginning of 2007, but which have not yet entered into force. These include the new TIEA between Bermuda and the UK. As reflected in Table A1, the number of agreements signed or under negotiation by Bermuda has increased from 7 to 12. Importantly, on 30 October 2007 the Isle of Man signed 7 TIEAs with the Nordic economies (Denmark, Faroe Islands, Finland, Greenland, Iceland, Norway and Sweden). The Isle of Man also signed a TIEA with Ireland on 24 April 2008.

16. Aruba, while its number of agreements in force has not changed, now indicates 11 DTCs or TIEAs signed or under negotiation compared with none as of 1 January 2007. This represents an important change to Aruba's negotiation activity. Guernsey reports 6 additional agreements under negotiation. Of these, its negotiation with the Netherlands has been concluded culminating in the signing of a TIEA on 25 April 2008. More recently, the Netherlands Antilles signed a TIEA with Spain on 10 June 2008 and Jersey signed an agreement with Germany on 4 July 2008.

17. Table **A2** shows the countries that have domestic laws that permit some type of information exchange for tax purposes with a brief description of the type of law. The British Virgin Islands reports that a law relating to mutual legal assistance in tax matters, which permits exchange of information in cases of voluntary disclosure pursuant to the EU Savings Agreement, has now come into force. In addition, there has been a change in public policy in Gibraltar to allow under its domestic laws information exchange in criminal tax

<sup>13</sup> Andorra, Anguilla, Cook Islands, Gibraltar, Liechtenstein, Nauru, Niue, Panama, Samoa, Turks and Caicos Islands and Vanuatu.

matters using letters of request. As this change only has effect from 13 March 2008 it is reflected only in a note to Table A2 for this year. In Samoa the Mutual Assistance in Criminal Matters Act, which entered into force in 2007, allows for exchange of information in criminal tax matters, subject to a dual criminality requirement.

## 2. *Scope of Information Exchange*

18. Table A3 shows the number of DTCs and TIEAs that provide for information exchange upon request. It includes both bilateral and multilateral agreements (*e.g.* the Caricom Agreement, the Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters and the Nordic Convention on Mutual Assistance). Columns 3 and 4 of the table show by country the number of DTCs and TIEAs in force, broken down between those arrangements that permit information exchange for the administration and enforcement of domestic tax laws (“broad exchange clause”) and those that are limited to the exchange of information necessary for ensuring the correct application of the convention (“limited exchange clause”). Since 2007, the number of exchange of information arrangements with broad exchange clauses has increased by 69 and the number with limited exchange clauses has decreased by 3. There are now 1675 DTCs with broad exchange clauses and 205 DTCs with limited exchange clauses. A total of 81 of the countries covered have legal mechanisms in place to exchange information in criminal tax matters in certain circumstances and 71 of the countries covered have legal mechanisms in place that permit exchange of information for both civil and criminal tax matters.

19. Table A4 is a summary of all the mechanisms that permit information exchange in tax matters and shows for each country reviewed the number and type of information exchange relationships. The entries in this table reflect not only DTCs and TIEAs as with Table A3, but also domestic laws or other arrangements such as conventions for assistance in criminal matters. However, the substantive changes made to Table A4 have been the result of additional DTCs and TIEAs that have already been highlighted in the commentary to Tables A1 and A3.

## 3. *Dual Criminality*

20. Table A5 shows the application of the dual criminality principle in all countries reviewed that restrict information exchange on request for the application or enforcement of the domestic tax law of the requesting country to criminal tax matters. It also provides a general understanding of the standard of criminality that applies. Three countries<sup>14</sup> continue to apply the principle of dual incrimination to all of their information exchange relationships.

### *Summary of Changes to Tables A1 – A5*

Country	Tables Amended	Reasons
<b>Aruba</b>	A.1	New agreements under negotiation
<b>Australia</b>	A.1, A.3, A.4	New agreements in force and under negotiation
<b>Austria</b>	A.1, A.3, A.4	New agreements in force and under negotiation
<b>Barbados</b>	A.1, A.3, A.4	New agreements in force

<sup>14</sup>

Andorra, Cook Islands and Samoa.

<b>Bahrain</b>	A.1, A.3, A.4	New agreement in force
<b>Belgium</b>	A.1, A.3, A.4	New agreements in force and signed
<b>Bermuda</b>	A.1, A.3, A.4	New agreements in force and under negotiation
<b>British Virgin Islands</b>	A.2	Amended domestic law
<b>Canada</b>	A.1, A.3	Replaced TIEA with DTC
<b>Chile</b>	A.1, A.2, A.3, A.4	First review
<b>China</b>	A.1, A.3, A.4	New agreements in force
<b>Czech Republic</b>	A.1, A.3, A.4	New agreements in force
<b>Cyprus</b>	A.1, A.3, A.4	New agreement in force
<b>Denmark</b>	A.1, A.3, A.4	New agreements in force
<b>France</b>	A.1, A.3, A.4	New agreements in force
<b>Greece</b>	A.1, A.3, A.4	New agreements in force
<b>Gibraltar</b>	A.2	Change of policy
<b>Guernsey</b>	A.1, A.4	New agreements under negotiation; clarification
<b>Hong Kong, China</b>	A.1	New agreements under negotiation
<b>Hungary</b>	A.2	New laws in force
<b>Isle of Man</b>	A.1	New agreements signed and under negotiation
<b>Italy</b>	A.1	New agreements under negotiation
<b>Jersey</b>	A.1, A.2	New agreements under negotiation
<b>Korea</b>	A.1, A.3, A.4	New agreements in force and signed
<b>Luxembourg</b>	A.1, A.3, A.4	New agreements in force
<b>Malaysia</b>	A.1, A.3, A.4	New agreements in force
<b>Malta</b>	A.1, A.3, A.4	New agreements in force
<b>Mauritius</b>	A.1, A.3, A.4	New agreements in force and under negotiation
<b>Mexico</b>	A.1, A.3, A.4	New agreements in force and signed
<b>New Zealand</b>	A.1, A.3, A.4	New agreements in force and under negotiation
<b>Portugal</b>	A.1, A.3, A.4	New agreements in force
<b>Samoa</b>	A.2, A.5	New laws in force
<b>Singapore</b>	A.1, A.2, A.3, A.4	New agreements in force and signed; amended domestic law
<b>Slovak Republic</b>	A.1, A.3, A.4	New agreements in force
<b>Spain</b>	A.1, A.3, A.4	New agreements in force
<b>Sweden</b>	A.1, A.3, A.4	Existing agreements terminated; new agreements signed and under negotiation
<b>Switzerland</b>	A.1, A.3, A.4	New agreements in force
<b>Turkey</b>	A.1, A.3, A.4	New agreements in force and signed
<b>United Kingdom</b>	A.1, A.3, A.4	New agreements in force
<b>United States</b>	A.1, A.3, A.4	New agreements in force and signed
<b>US Virgin Islands</b>	A.1, A.3, A.4	New agreements in force and signed

## ***B. Access to Bank Information***

21. This section outlines the main changes made to the information on access to bank information contained in tables **B1-B3**.

### *1. Bank Secrecy Rules*

22. In all of the countries reviewed, banks are required to treat their customers' affairs as confidential or secret towards ordinary third parties. Table **B1** shows for all countries reviewed whether the basis for bank secrecy arises purely out of the relationship between the bank and its customer (*e.g.* contract, common law) or whether it has been reinforced by statute. It further shows whether statutory provisions are limited to particular customers or market segments or whether they are of general application. The table does not deal with bank secrecy towards tax authorities, which is addressed in Table **B2**. There have been no changes made to Table **B1** apart from the inclusion of information on Chile.

## 2. Access to Bank Information for Tax Purposes

23. Table **B2** shows the extent to which countries reviewed have access to bank information for exchange of information purposes.

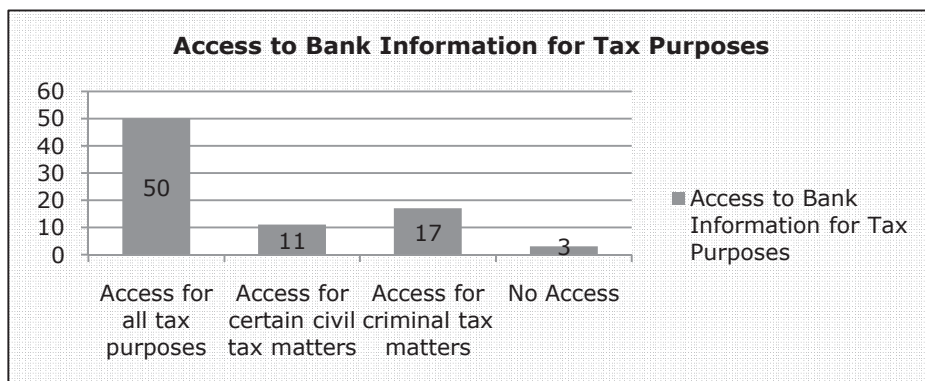
24. As noted in the 2007 Report, bank secrecy can be lifted in Belgium if a Belgian bank has conducted “abnormal banking operations” (in particular, acts supporting tax fraud) or if a tax audit reveals concrete elements of the existence or the preparation of a mechanism of tax fraud. Further, in the case of an administrative appeal, the tax authorities have access to bank information if the taxpayer refuses to provide it. Belgium will now also exchange relevant bank information on request for civil (and criminal) tax matters within the framework of its new DTC with the United States (which entered into force on 28 December 2007). The exchange of information article states that, in order to obtain bank information, the tax administration of the requested Contracting State shall have the power to ask for the disclosure of information and to conduct investigations and hearings notwithstanding any contrary provisions in its domestic tax laws. Under the law which approves the DTC, the Belgian tax administration is authorised to obtain from banks the information requested by the United States’ competent authority on the basis of the DTC. Further, Belgium has stated its openness to negotiate bilaterally exchange of bank information with other countries.

25. In the 2006 and 2007 Reports, Malta was identified as one of a number of countries that had only limited access to bank information in civil tax matters. Importantly, following changes to Malta’s laws that came into force on 18 January 2008, the tax authorities in Malta now have access to bank information for the purposes of exchanging information in all tax matters with foreign tax authorities where arrangements for reciprocal exchange of information exist. As this change only came into effect after 1 January 2008, it is reflected only in the notes on Table **B2**.

26. In addition, Cyprus has reported that legislation has now been tabled in its Parliament which will allow it to exchange bank information for all tax purposes pursuant to a DTC.

## 3. Specificity Required and Powers to Obtain and Compel Information in the Case of Refusal to Cooperate

27. Table **B3** shows for each of the countries reviewed whether the country’s competent authority has the power to obtain bank information directly or if separate authorisation is required. It also indicates whether a country has measures in place to compel the production of information if a bank refuses to provide information to the country’s authorities. There have been no significant changes made to the table.



28. As of 1 January 2008, 78 of the countries covered in the report are able to obtain and provide banking information in response to a request for information in criminal tax matters in some or all cases. Fifty of the countries covered are able to obtain and provide banking information in response to a request for information related to a civil tax matter in all cases. A further 11 countries<sup>15</sup> have access to bank information for exchange purposes in certain civil tax matters while 17 countries<sup>16</sup> only have access to bank information for the purposes of responding to a request for exchange of information in criminal tax matters. There remain 3 countries<sup>17</sup> that are unable to obtain access to bank information for any tax information exchange purpose.

### *Summary of Changes to Tables B1 – B3*

Country	Tables Amended	Reasons
<b>Belgium</b>	B.2	New agreement in force
<b>Bermuda</b>	B.2, B.3	New agreement in force; clarification
<b>Chile</b>	B.1, B.2, B.3	First review
<b>Cyprus</b>	B.2	Existing policy now under review
<b>Italy</b>	B.3	Clarification
<b>Malta</b>	B.2	Commentary changed to reflect laws in force in 2008
<b>Singapore</b>	B.2, B.3	New agreement in force

### *C. Access to Ownership, Identity and Accounting Information*

29. This section outlines the main changes made to tables **C1-C3** relating to availability of reliable information (in particular ownership, identity and accounting information) and powers to obtain and provide such information in response to a specific request.

#### *1. Information Gathering Powers*

30. Table **C1** gives an overview of the information gathering powers available to the authorities in each of the countries reviewed to obtain information in response to a request for exchange of information for tax purposes. Apart from the inclusion of information on Chile no changes in countries' information gathering powers were reported. In the 2006 and 2007 Reports, however, Cyprus indicated that its information gathering powers could only be used if it had an interest in the information for its own tax purposes (domestic tax interest requirement). Cyprus has reported that this policy is now under review and that legislation has been tabled in its Parliament to eliminate its domestic tax interest requirement. If this legislation is enacted, it will leave only 4 countries<sup>18</sup> that impose a domestic tax interest requirement.

<sup>15</sup> Anguilla; Belgium; Chile; Cyprus; Gibraltar; Hong Kong, China; Malaysia; Malta; Montserrat; Philippines and Singapore.

<sup>16</sup> Andorra; Austria; Belize; Cook Islands; Liechtenstein; Luxembourg; Macao, China; Niue; Samoa; San Marino; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Switzerland; Turks and Caicos Islands; Uruguay and Vanuatu. With respect to 2 of the countries (Brunei and Dominica) there is insufficient information to make an assessment concerning their ability to access bank information for exchange of information purposes.

<sup>17</sup> Guatemala, Nauru and Panama.

<sup>18</sup> Hong Kong, China; Malaysia; Philippines and Singapore.

31. A total of 79 of the 83 countries reviewed generally have powers to obtain information that is kept by a person subject to record keeping obligations which may be invoked to respond to a request for exchange of information. Of these, 68 countries may obtain information in both criminal and civil tax matters to respond to a request for exchange of information. In addition, 72 of the 83 countries reviewed have reported that they also generally have powers to obtain information from persons not required to keep such information, which may be invoked to respond to a request for information. Of these, 58 countries have reported that they can obtain information to respond to a request in both criminal and civil tax matters. A total of 11 countries<sup>19</sup> are able to obtain information only where the request relates to a criminal tax matter, while Guatemala and Nauru still have no powers at all to obtain information for exchange of information purposes.

## *2. Specific Secrecy Provisions*

32. Table C2 shows the countries that have specific confidentiality or secrecy provisions relating to the disclosure of ownership, identity or accounting information. Where such provisions exist, the table indicates whether the provisions are of a general or a specific nature and whether they are overridden if a request is made pursuant to an exchange of information arrangement. Andorra has reported that following the entry into force of new company and accounting laws there are no longer any secrecy provisions for companies in Andorra.

## *3. Bearer Securities*

33. Table C3 shows which of the countries reviewed allow for the issuance of bearer shares and bearer debt instruments. Where countries permit the issuance of bearer securities, the table outlines the measures adopted to identify the owners of such securities. As noted in the 2007 Report, pursuant to the law of 14 December 2005 Belgium prohibited the issuance of bearer shares from 1 January 2008. This law is now in effect. As a result, it is no longer possible to issue bearer shares in Belgium. The table shows that it is also no longer possible to issue bearer shares in Cyprus, following an amendment to the International Collective Investment Schemes Law. In the United States, Nevada and Wyoming have passed legislation prohibiting bearer shares, thereby extending the prohibition on issuing such shares to all 50 states in the United States. Furthermore, Denmark has clarified that bearer shares can only be issued by public companies and that such companies must identify any person who holds more than 5% of the vote or capital in the company in a register which is open to the public. The 2007 Report showed that Samoa was planning to adopt legislation requiring the immobilisation of bearer securities. Samoa has reported that the International Companies Act 2008 has now come into effect and requires the immobilisation of bearer shares from October 2008. In Vanuatu, legislation has also been passed which allows a company to deliver bearer shares to an authorised custodian who must keep a record of the owners of the shares. However the legislation does not require that bearer shares be immobilised. Thus the update shows that 46 countries permit the issuance of bearer shares and that 54 countries permit the issuance of bearer debt. A total of 38 of these countries have adopted mechanisms to identify the legal owners of bearer shares in some or all cases and 43 countries have adopted mechanisms to identify the owners of bearer debt instruments.

<sup>19</sup> Andorra, Anguilla, Cook Islands, Liechtenstein, Montserrat, Niue, Panama, Samoa, Saint Vincent and the Grenadines, Turks and Caicos Islands and Vanuatu.



### *Summary of Changes to Tables C1 – C3*

<b>Country</b>	<b>Tables Amended</b>	<b>Reasons</b>
<b>Andorra</b>	C.2	Amended domestic law
<b>Belgium</b>	C.3	Amended domestic law
<b>Bermuda</b>	C.1	New agreement in force
<b>Chile</b>	C.1, C.2, C.3	First review
<b>Cyprus</b>	C.1, C.3	Policy under review; amended domestic law
<b>Denmark</b>	C.3	Clarification
<b>Hong Kong, China</b>	C.3	Clarification
<b>Liechtenstein</b>	C.1, C.2	Amended domestic law; clarification
<b>Portugal</b>	C.3	Clarification
<b>Saint Kitts and Nevis</b>	C.3	Clarification
<b>Samoa</b>	C.3	Commentary changed to reflect legislation enacted in 2008
<b>Switzerland</b>	C.3	Explanatory note no longer valid
<b>United Kingdom</b>	C.3	Clarification
<b>United States</b>	C.3	Amended domestic law
<b>Vanuatu</b>	C.3	Amended domestic law

#### ***D. Availability of Ownership, Identity and Accounting Information***

##### *1. Ownership Information*

34. This section outlines the main changes made in tables **D1-D5** regarding the availability of ownership and identity information on companies, trusts, partnerships, foundations and other relevant organisational structures.

35. Table **D1** shows, in relation to companies in each of the reviewed countries, the type of ownership information required to be held by governmental authorities, at the company level and by service providers.<sup>20</sup> The update shows that all companies in Cyprus must provide information on the owners of companies to the Registrar of Companies including details of changes in owners. Previously, changes in ownership did not have to be reported. Moreover, following the transposition of the Third Money Laundering Directive (2005/60/EC) into Cypriot law, Cyprus has confirmed that banks, lawyers and other service providers are required to identify their clients, including, in the case of legal persons, their beneficial owners. Denmark has also clarified that service providers are required to identify their customers including their beneficial owners. The update also shows that in Portugal shareholdings in listed companies must be disclosed both to the company and stock-exchange supervision authority where they exceed certain thresholds in terms of voting rights. In addition St. Kitts and Nevis has clarified that Nevis Companies incorporated under the Companies Ordinance (Domestic Companies) are required to have legal and beneficial ownership information while those companies incorporated under the Nevis Limited Liability Company Ordinance are required to know who their legal owners are.

36. Table **D2** shows which countries have domestic trust laws or separate domestic trust laws that apply only to non-resident settlors and beneficiaries, and which countries without trust laws allow their residents to act as trustees of foreign trusts. During 2007, France passed new laws allowing for the creation of trusts in certain limited circumstances. Thus 56 of the 83 countries reviewed now have trust laws. In addition, the update shows

<sup>20</sup> References to service providers in this report include banks, corporate service providers and other persons.

that, although Italy does not have a trust law, special provisions introduced during 2007 establish the relevance of foreign law trusts for tax and accounting purposes.

37. Table **D3** shows, in relation to trusts in each of the countries covered, the type of identity information (on settlors and beneficiaries of trusts) required to be held by governmental authorities, resident trustees of a domestic trust or by foreign trust and service providers. In France, information on the settlors and beneficiaries of a trust formed under French law is required to be held by both a governmental authority and the trustee. Further, trustees that are not resident in France must be resident in a member state of the European Union or in a country with which France has a treaty that provides for mutual administrative assistance.

38. Table **D4** shows, in respect of partnerships, the type of identity information required to be held by governmental authorities, at the partnership level and by service providers. Cyprus has confirmed that its anti-money laundering legislation requires service providers to keep identity information on partners. In addition St. Kitts and Nevis has confirmed that information on all of the partners in a limited partnership is required to be held by a governmental authority. In the 2007 Report it was stated that information was only required to be held in respect of general partners.

39. Table **D5** shows the type of identity information required to be held in respect of foundations (founders, beneficiaries and members of foundation councils) by governmental authorities, at the foundation level and by service providers. In the 2007 Report it was stated that foundations were not specifically regulated by legislation in Malta though they were registered for income tax purposes. The update shows that legislation regulating foundations is now in force in Malta and further information regarding founders, administrators and beneficiaries may be available under that legislation. The table has also been amended in respect of St. Kitts and Nevis to show that foundations may also be established in St. Kitts and that identity information is required to be held by a governmental authority, the foundation itself and service providers.

## *2. Accounting Information*

40. This section outlines the main changes made in tables **D6-D9** on the availability and reliability of accounting records.

41. Table **D6** shows, in respect of companies in each of the countries covered, the requirements relating to the nature of the accounting records that must be created and retained, specific requirements with respect to their auditing and filing with a governmental authority and the rules regarding the retention of the records. In Andorra a new law on public and limited liability companies, of 18 October 2007, and an accountancy law, of 20 December 2007, have resulted in a number of changes to auditing and filing requirements. All companies are now required to file accounts with a governmental authority and public and limited companies must have their accounts audited where they exceed certain thresholds with respect to assets, turnover and numbers of employees. Cyprus has also clarified that there is a requirement on companies to prepare financial statements and to have these audited. The Isle of Man enacted new legislation in 2007 which requires that for tax purposes records must be kept 4 years from the end of the relevant accounting period, or if later, 4 years after the delivery of the income tax return. Montserrat has clarified that companies formed under its Limited Liability Companies Act are required to keep accounting records, if regulated.

42. Table **D7** describes the requirements to keep accounting information in relation to trusts in the countries reported as having domestic trust laws. Since France enacted a new



trust law during 2007 there is now a requirement in France to keep full accounting records for trusts for a period of 10 years. In the Isle of Man changes to record keeping requirements for trusts, for tax purposes, were introduced by Income Tax (Amendment) Bill 2007. Similar requirements apply to partnerships. These specify the type of records which are required to be kept and the period for which they must be kept. Italy is also included in Table **D7** for the first time. Although Italy has no domestic trust law, foreign law trusts, insofar as they are assimilated to companies for tax purposes under domestic law, are required to maintain accounting records and file tax returns.

43. Table **D8** describes the requirements to keep accounting information on partnerships in each of the countries covered. There have been no significant changes to this table apart from the change already referred to in respect of Table **D6** above in relation to the Isle of Man.

44. Table **D9** shows the requirements to keep accounting information relating to foundations. Malta has reported that under its new legislation regulating foundations, accounting information is required to be kept regarding assets and liabilities (balance sheets), income and expenditure (profit and loss), and other accounts as may be prescribed. This information has to be kept for a period of 10 years. In St. Kitts and Nevis foundations established under St. Kitts' Foundations Act are required to keep records for 12 years. In Switzerland a new law which entered into force on 1 January 2008 requires foundations to prepare audited accounts in the same way as companies. There are some exceptions for small foundations.

#### *Summary of Changes to Tables D1 – D9*

<b>Country</b>	<b>Tables Amended</b>	<b>Reasons</b>
<b>Andorra</b>	D.6	Amended domestic law
<b>Belgium</b>	D.1	Amended domestic law
<b>Chile</b>	D.1, D.2, D.3, D.4, D.5, D6, D.9	First review
<b>Cyprus</b>	D.1, D.4, D.6, D.7	Amended domestic; correction; clarification
<b>Denmark</b>	D.1, D.6	Implementation of 3rd money-laundering directive; clarification
<b>France</b>	D.2, D.3, D.7	Amended domestic law
<b>Hong Kong, China</b>	D.1	Clarification
<b>Isle of Man</b>	D.6, D.7, D.8	Amended domestic law
<b>Italy</b>	D.1, D.2, D.3, D7	New regulations now in force; clarification
<b>Jersey</b>	D.1, D.6, D.8	Clarification
<b>Liechtenstein</b>	D.9	Amended domestic law
<b>Malta</b>	D.5, D.9	Amended domestic law
<b>Montserrat</b>	D.6, D.7, D.8,	Amended domestic law; clarification
<b>Portugal</b>	D.1	Clarification
<b>St. Kitts and Nevis</b>	D.1, D.4, D.5, D.6, D.8, D.9	Clarification
<b>Singapore</b>	D.1, D.3, D.4, D.6, D.7, D.8	Clarification
<b>Sweden</b>	D.1, D.4, D.5	To reflect progress in implementing 3rd money-laundering directive
<b>Switzerland</b>	D.9	Amended domestic law
<b>United Kingdom</b>	D.4	Clarification
<b>United States</b>	D.1	Amended domestic law

### ***E. The Global Forum Assessment Now Includes Chile***

45. An important development since last year's update is the inclusion of Chile in the assessment process. Chile is part of the OECD's program of accession and as part of this process has completed a template/questionnaire on transparency and exchange of information. The following is a summary of Chile's legal framework for transparency and exchange of information for tax purposes as described in its template/questionnaire.

#### ***Exchanging Information***

Chile reports that it has 16 DTCs allowing for information exchange upon request, as well as 9 agreements that have been signed but that are not yet in force. The agreements in force all have broad exchange clauses covering all tax matters. As a matter of domestic law, Chile's tax code allows exchange of information on the basis of reciprocity and maintenance of confidentiality by the requesting state. However, except in the case of Business Platform Companies, this does not extend to information regarding the capital movements of bank accounts. Tax authorities in Chile are also able to exchange information (including bank information) in criminal tax matters, consistent with treaties on co-operation in criminal matters and principles of international law. Chile does not impose a dual criminality standard. In addition, Chile is party to 6 mutual legal assistance treaties that allow for the exchange of information in criminal tax matters.

#### ***Access to Bank Information***

Chile's banking law provides that information regarding fund transfers and account balances is confidential. However, the tax code provides that certain other banking information may (and in some cases must) be shared with tax authorities. This includes information on the amount of interest earned on bank deposits and the identity of the accountholders, as well as all information with respect to lending operations and guarantees given for loans. Finally, all types of bank information may be obtained pursuant to a court order.

#### ***Access to Ownership, Identity and Accounting Information***

The information gathering powers in place generally allow tax authorities to obtain information from those persons required to maintain such information, however this is restricted in the case of bank information in civil matters. As regards ownership information, there are no statutory confidentiality or secrecy provisions in place. In respect of bearer securities, there is no ability for Chilean companies to issue bearer shares. Bearer debt may be issued in the way of bearer bonds (*bonos al portador*). There is no explicit rule regarding a registry of bearer bond holders, however, in practice bearer bonds are mostly issued electronically and any transfer of their ownership is recorded in a digital registry. For certain types of bearer debt (*bonos a la orden*) the securities law requires the issuer to maintain a registry of bondholders, including changes in ownership. In addition, stockbrokers and other securities intermediaries are subject to general "know your customer" obligations.

#### ***Availability of Ownership, Identity and Accounting Information***

In terms of the availability of ownership information for companies both the government and the company must maintain legal ownership information. In addition, anti-money laundering legislation requires financial service providers to undertake customer due diligence. There are no domestic trust laws in Chile, nor does Chilean law recognise a trust formed under foreign law. Similarly, Chilean law does not recognise partnerships *per se*, rather all business entities are dealt with under its company law. Chile does have rules regarding the establishment of foundations, which must be formed by way of a public deed indicating its members. A registry of foundations is maintained by the Minister of Justice.

Accounting information for companies is required to be maintained. This information must correctly explain the company's transactions, enable the company's financial position to be determined with reasonable accuracy at any time, allow for financial statements to be prepared, and include underlying documentation. Tax returns must be filed, however, there is no requirement to have financial statements audited except with respect to *Sociedades Anónimas Abiertas*, banks, financial institutions, insurances companies and pension plan administrators. Records must generally be kept for a minimum of 6 years, or longer if needed to establish a future tax liability (e.g. to use a loss carryforward). The same accounting rules apply to foundations that carry on commercial activities.

## Annex: Countries Covered by Report

### Global Forum Participating Partners

Anguilla*	Dominica	Korea	San Marino
Antigua and Barbuda	Finland	Malta	Seychelles
Aruba**	France	Mauritius	Slovak Republic
Australia	Germany	Mexico	Spain
The Bahamas	Gibraltar*	Montserrat*	Saint Kitts and Nevis
Bahrain, Kingdom of	Greece	Nauru	Saint Lucia
Belize	Grenada	Netherlands**	Saint Vincent and The Grenadines
Bermuda*	Guernsey***	Netherlands Antilles**	Sweden
British Virgin Islands*	Hungary	New Zealand	Turkey
Canada	Iceland	Niue	Turks and Caicos Islands*
Cayman Islands*	Ireland	Norway	United Kingdom
Cook Islands	Isle of Man***	Panama	United States
Cyprus	Italy	Poland	U. S. Virgin Islands****
Czech Republic	Japan	Portugal	Vanuatu
Denmark	Jersey***	Samoa	

\* Overseas Territory of the United Kingdom

\*\* The Netherlands, the Netherlands Antilles and Aruba are the three countries of the Kingdom of the Netherlands

\*\*\* Dependency of the British Crown

\*\*\*\* External Territory of the United States

### Other Countries<sup>1</sup>

Andorra	Costa Rica	Monaco
<b>Argentina</b>	Guatemala	Philippines
Austria	<b>Hong Kong, China</b>	<b>Russian Federation</b>
Barbados	Liechtenstein	Singapore
Belgium	Luxembourg	<b>South Africa</b>
Brunei	<b>Macao, China</b>	Switzerland
Chile	Malaysia	<b>United Arab Emirates</b>
<b>China</b>	Marshall Islands	Uruguay

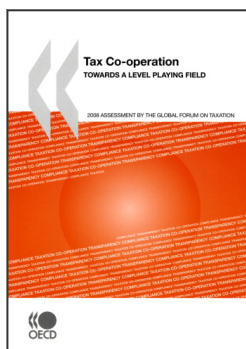
<sup>1</sup> The countries in bold have endorsed the principles of transparency and effective exchange of information in tax matters. See paragraph 4 supra.

## *Table of Contents*

<i>Executive Summary</i> .....	6
<b>I. Introduction</b> .....	<b>8</b>
<b>II. Update on Progress</b> .....	<b>11</b>
A.    Exchanging Information.....	11
1.    Existence of Mechanisms for Exchange of Information Upon Request .....	11
2.    Scope of Information Exchange .....	12
3.    Dual Criminality.....	12
B.    Access to Bank Information .....	13
1.    Bank Secrecy Rules.....	13
2.    Access to Bank Information for Tax Purposes.....	14
3.    Specificity Required and Powers to Obtain and Compel Information in the Case of Refusal to Cooperate .....	14
C.    Access to Ownership, Identity and Accounting Information .....	15
1.    Information Gathering Powers .....	15
2.    Specific Secrecy Provisions .....	16
3.    Bearer Securities .....	16
D.    Availability of Ownership, Identity and Accounting Information .....	17
1.    Ownership Information .....	17
2.    Accounting Information .....	18
E.    The Global Forum Assessment Now Includes Chile .....	20
<b>III. Country Tables</b> .....	<b>21</b>
<i>A. Exchanging Information</i> .....	21
Table A.1    Number of Double Taxation Conventions and Tax Information Exchange Agreements.....	21
Table A.2    Summary of Domestic Laws That Permit Information Exchange in Tax Matters .....	23
Table A.3    DTCs and TIEAs Providing for Information Exchange upon Request .....	32
Table A.4    Summary of Mechanisms That Permit Information Exchange in Tax Matters.....	38
Table A.5    Application of Dual Criminality Principle .....	45
<i>B. Access to Bank Information</i> .....	48
Table B.1    Bank Secrecy .....	48
Table B.2    Access to Bank Information for Exchange of Information Purposes .....	52
Table B.3    Procedures to Obtain Bank Information for Exchange of Information Purposes.....	68
<i>C. Access to Ownership, Identity and Accounting Information</i> .....	75
Table C.1    Information Gathering Powers .....	75
Table C.2    Statutory Confidentiality or Secrecy Provisions.....	84
Table C.3    Bearer Securities.....	90

---

<i>D. Availability of Ownership, Identity and Accounting Information</i> .....	103
Table D.1 Ownership Information-Companies .....	103
Table D.2 Trusts Laws .....	128
Table D.3 Identity Information-Trusts .....	132
Table D.4 Identity Information-Partnerships.....	146
Table D.5 Identity Information-Foundations.....	158
Table D.6 Accounting Information-Companies .....	164
Table D.7 Accounting Information-Trusts .....	179
Table D.8 Accounting Information-Partnerships .....	194
Table D.9 Accounting Information-Foundations .....	206
<b>Annex: Countries Covered by Report</b> .....	<b>212</b>



**From:**  
**Tax Co-operation 2008**  
Towards a Level Playing

**Access the complete publication at:**  
<https://doi.org/10.1787/9789264039261-en>

**Please cite this chapter as:**

OECD (2008), "Update on Progress", in *Tax Co-operation 2008: Towards a Level Playing*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264039261-3-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](mailto: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](mailto:info@copyright.com) or the Centre français d'exploitation du droit de copie (CFC) at [contact@cfcopies.com](mailto:contact@cfcopies.com).