



THE GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

A Background Information Brief

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Global Forum makes public its findings on transparency and exchange of information in another 10 jurisdictions

1. Responding to the G20 call for improving tax transparency, the Global Forum delivers 10 new peer review reports on exchange of information, including bank information. The 10 reports show progress made in the reviewed jurisdictions but also deficiencies which need to be addressed. These 10 reports follow the [first 8 reports published in September](#) (all reports are available at www.oecd.org/tax/transparency).

2. Five reports analyse the legal and regulatory framework of the reviewed jurisdictions (Phase 1 reports) and, for the first time combined reviews are issued which assessed both the legal and regulatory framework and the practical implementation of the standard.

3. Four jurisdictions, **Barbados, the Seychelles, San Marino and Trinidad and Tobago** fall short of the international standard and will need to implement the recommendations made in their reports before moving to the next phase of their evaluations. It has been noted in the case of San Marino that important legislation has recently been passed (see annex 1 of the report) and will further be examined by the Global Forum.

The report on Guernsey shows that a satisfactory legal framework is in place but that there are minor issues that Guernsey has been asked to address.

4. The four other “combined” reviews show that the systems in place in **Australia, Denmark, Ireland and Norway** have achieved effective exchange of information in practice. However, there are some minor issues related to information on bearer shares or nominees which will have to be addressed..

5. This latest batch of reviews brings to 18 the number of reports adopted and shows that the Global Forum continues to take forward the G20 agenda. They also show that almost all countries have room for improvement. More than 60 reports will be completed by year end.

6. The reports provide an in-depth analysis of the legal and regulatory frameworks for transparency and exchange of information in place in the eighteen jurisdictions. Each report contains determinations on 9 essential elements¹ on the implementation of the standards and an executive summary that encapsulates the main findings of the review and what areas, if any, the jurisdiction should address to provide more effective exchange of information. The combined reports (and eventually the phase 2 reports) will also contain a rating indicating the jurisdiction’s compliance with each essential element as well as an overall rating. This rating will only be given once a representative subset of combined reviews have been completed.

7. The Global Forum has also recently welcomed the Former Yugoslav Republic of Macedonia as a new member, and more are interested in joining. In particular, the Global Forum is actively pursuing means of extending its membership to developing countries, to ensure that they are able to take advantage of the new environment of transparency. The Global Forum has approached a number of jurisdictions to become members, and should add 20 – 30 new members by the end of 2011.

8. The aim of the Global Forum is to ensure that all jurisdictions fully implement the international standards on transparency and exchange of information. The reports adopted so far by the Global Forum have identified a number of deficiencies regarding the implementation of the standards and have made recommendations for improvement. The Global Forum is currently putting in place a process whereby jurisdictions will be able to request a supplemental report reflecting the changes they have made in their legal and regulatory framework subsequent to peer review. Making sure the public is able to keep track of changes made in each of the jurisdictions covered by the Global Forum is key to its relevancy. A public website – the EOI Portal – will soon be launched that gathers all the information collected by the Global Forum. The EOI Portal will present this information in a dynamic and user-friendly way and be kept up to date to reflect changes made as they happen.

Background

9. Tax avoidance and tax evasion threaten government revenues throughout the world. In many developed countries the sums run into billions of Euros and developing countries lose vital revenue through tax evasion. This translates into fewer resources for infrastructure and affects the standard of living for all in both developed and developing economies. Globalisation generates opportunities to increase global wealth but also results in increased risks. The increase in cross-border flows that come with a global financial system require more effective tax cooperation. Better transparency and information exchange for tax purposes are key to ensuring that taxpayers have no place to hide their income and assets and that they pay the right amount of tax in the right place.

10. Since the beginning of 2008 international tax evasion and the implementation of international standards of transparency and exchange of information have been high on the political agenda. This trend reflects scandals over the past few years that have affected countries around the world and the spotlight that the global financial crisis has put on financial centres generally. Since 2009, more progress toward full and effective exchange of information has been made than in the past decade.

11. Tax transparency has been a key feature of the G20 Summits since 2008 (see Annex I for a history of the G7/G8/G20 support for this work), and in the run up to the G20 summit held in London on 2 April 2009, the standards on transparency and exchange of information developed by the OECD were endorsed by all key players. In November 2010 at their summit in Seoul, Korea the G20 leaders urged:

The Global Forum to swiftly progress its Phase 1 and 2 reviews to achieve the objective agreed by Leaders in Toronto and report progress by November 2011. Reviewed jurisdictions identified as not having the elements in place to achieve an effective exchange of information should promptly address the weaknesses. We urge all jurisdictions to stand ready to conclude Tax Information Exchange Agreements where requested by a relevant partner.

12. The standard of information exchange on request, including bank and fiduciary information, is now universally endorsed – the UN has incorporated the OECD standard in the UN Model Tax Convention in October 2008. Not only has the standard been endorsed – it is being implemented. To date more than 600 agreements have been signed by jurisdictions which were identified by the OECD as not substantially implementing the standard in the progress report published on 2 April in conjunction with the G20. Signing agreements is a necessary step towards full implementation of the standard. It is also necessary that these agreements enter into force and are effectively implemented. In order to monitor and encourage effective exchange, the Global Forum was restructured and strengthened as decided at its Mexico meeting on 1-2 September 2009.

The Global Forum Mandate

13. The original Global Forum was established by OECD member countries and certain participating partners in 2000. Whereas this had been ad hoc group, it was dramatically restructured at its meeting in Mexico in September 2009. The Global Forum now includes 97 members, each of which participates on an equal footing. Membership includes all G20 members, all OECD countries and all major financial centres. The Global Forum agreed a three year mandate to promote the rapid implementation of the standards through the peer review of all its members and other jurisdictions which may require special attention.

The Global Forum's Mandate

- An initial 3-year mandate to create a strengthened Global Forum to promote rapid and consistent implementation of the standards through a robust and comprehensive peer review process.
- Two-phase peer review of each jurisdiction's legal and regulatory framework (Phase 1) and practical implementation (Phase 2) of the standards on transparency and the exchange of information for tax purposes.
- In-depth ongoing monitoring of legal instruments which allow for exchange of information.
- A Peer Review Group, made up of 30 Global Forum members, will oversee the process.

14. The restructured Global Forum is a consensus-based programme under Part II of the OECD budget, which means that its €2.9 million budget is entirely financed by its members. This ensures that all members are on an equal-footing. The Global Forum is served by a self-standing, dedicated Secretariat based within the OECD's Centre for Tax Policy and Administration.

15. A Steering Group made up of 15 members representing a cross-section of its diverse membership guides the Global Forum's work. The Steering Group is chaired by Mike Rawstron from Australia, assisted by three vice-chairs (China, Germany, Bermuda). The members of the Steering Group are:

Composition of the Global Forum Steering Group		
Australia (Chair)	Bermuda (Vice-Chair)	China (Vice-Chair)
Germany (Vice-Chair)	Brazil	Cayman Islands
France	India	Japan
Jersey	Singapore	South Africa
Switzerland	United Kingdom	United States

The Peer Review Process

16. All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, will undergo reviews of their systems for the exchange of information in tax matters. The peer review process is overseen by the 30 member Peer Review Group, which is chaired by France, assisted by four vice-chairs (India, Japan, Singapore and Jersey).

The members of the PRG are:

Composition of the Global Forum Peer Review Group				
France (Chair)	India (Vice-Chair)	Japan (Vice-Chair)	Singapore (Vice-Chair)	Jersey (Vice-Chair)
Argentina	Australia	Brazil	British Virgin Islands	Cayman Islands
China	Germany	Ireland	Isle of Man	Italy
Denmark	Korea	Luxembourg	Malaysia	Malta
Mauritius	Mexico	St. Kitts and Nevis	Samoa	South Africa
Switzerland	The Bahamas	The Netherlands	United Kingdom	United States

17. The PRG has developed the guiding documents for the peer review process, which were approved by the Global Forum at the beginning of 2010. These are:

- Methodology for Peer Reviews and Non-Member Reviews;
- Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information;
- Note on Assessment Criteria; and
- Schedule of Reviews.

These documents are included in the Global Forum publication *Implementing the Tax Transparency Standards - Handbook for Assessors and Jurisdictions* or also available on the Global Forum web site at www.oecd.org/tax/transparency.

The Terms of Reference

18. The standards of transparency and exchange of information that have been developed by the OECD are primarily contained in the Article 26 of the OECD Model Tax Convention and the 2002 Model Agreement on Exchange of Information on Tax Matters. The standards strike a balance between privacy and the need for jurisdictions to enforce their tax laws. They require:

- Exchange of information on request where it is “foreseeably relevant” to the administration and enforcement of the domestic laws of the treaty partner.
- No restrictions on exchange caused by bank secrecy or domestic tax interest requirements.
- Availability of reliable information and powers to obtain it.
- Respect for taxpayers’ rights.
- Strict confidentiality of information exchanged.

19. The Terms of Reference developed by the Peer Review Group and agreed by the Global Forum break these standards down into 10 essential elements against which jurisdictions are reviewed.

**THE 10 ESSENTIAL ELEMENTS OF TRANSPARENCY AND
EXCHANGE OF INFORMATION FOR TAX PURPOSES**

A AVAILABILITY OF INFORMATION

A.1. Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

A.2. Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

A.3. Banking information should be available for all account-holders.

B ACCESS TO INFORMATION

B.1. Competent authorities should have the power to obtain and provide information that is the subject of a request under an EOI agreement from any person within their territorial jurisdiction who is in possession or control of such information.

B.2. The rights and safeguards that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

C EXCHANGING INFORMATION

C.1. EOI mechanisms should provide for effective exchange of information.

C.2. The jurisdictions' network of information exchange mechanisms should cover all relevant partners.

C.3. The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.

C.4. The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.

C.5. The jurisdiction should provide information under its network of agreements in a timely manner.

Methodology

20. Reviews are undertaken by assessment teams which will prepare a report on the reviewed jurisdiction. Assessment teams will normally consist of two expert assessors who act in an independent capacity. One member of the Global Forum Secretariat is also appointed to coordinate each review.

21. Based on a two phase model, each of the Peer Reviews includes an assessment of the jurisdiction's legal and regulatory framework (Phase 1) as well as assessing the application of the standards in practice (Phase 2), against the 10 elements. Most jurisdictions commence with a Phase 1 review which is followed about 18-24 months later by a Phase 2 review. Combined Phase 1 and Phase 2 reviews are being undertaken in a limited number of cases. A Phase 1 review includes an examination of the domestic laws as well as the jurisdiction's agreements for the exchange of information. A Phase 1 review takes 20 weeks

to complete, at which point the assessment team's report is provided to the PRG members for their consideration.

22. A Phase 2 review focuses on the effectiveness of exchange of information. Even if satisfactory international instruments are in place together with a sound domestic legal framework, the effectiveness of exchange of information will depend on the practice of the competent authorities. To properly assess this practical aspect, the assessment team conducts an on-site visit, to allow a meaningful review of the treatment of requests, as well as the reliability of the information exchanged and the effectiveness of internal processes. Each Phase 2 review takes about 26 weeks before the report is circulated to the PRG members for their consideration. A combined Phase 1 and 2 review lasts about 30 weeks.

23. In addition to the information supplied to the assessment team by the jurisdiction itself, all Global Forum members are invited to provide input into the review process. For a Phase 1 review, all Global Forum members are invited to indicate any issue that they would like to see raised and discussed during the evaluation. Prior to the commencement of the Phase 2 review, members with an EOI relationship with the reviewed jurisdiction are again invited to provide comments, using a Peer Questionnaire. This takes a standard format, requiring input on the quality of the EOI relationship with the reviewed jurisdiction.

24. The aim of the Global Forum is to ensure that all jurisdictions fully implement the international standards on transparency and exchange of information. The reports adopted so far by the Global Forum have identified a number of deficiencies regarding the implementation of the standards and have made recommendations for improvement. It is essential to ensuring the credibility and currency of the Global Forum that it is able to take into account actions taken by jurisdictions to respond to the recommendations made. Accordingly, the Global Forum agreed at its meeting in Singapore in September 2010 that the Methodology for conducting the reviews would be revised to allow supplemental reports to be published where a jurisdiction has taken action to improve their standing in relation to the standards. A revised draft of the Methodology is being considered by the Peer Review Group and should be adopted by the Global Forum soon. Once the revised Methodology is adopted, jurisdictions will be able to request that a supplemental report be conducted to evaluate changes they have made to their systems for exchange of information.

Assessment Criteria

25. Phase 1 reviews will include a determination of whether each element is "in place", "in place, but certain aspects of the legal implementation of the element need improvement", or "not in place". Phase 2 and combined reviews will include a rating as to whether the jurisdiction is "compliant", "largely compliant", "partially compliant", or "not compliant" with each of these elements in practice. In addition, an overall rating will be assigned. It will be necessary to complete Phase 2 reviews for a subset of jurisdictions representing a geographic and economic cross-section of the Global Forum before finalising ratings, in order to ensure that application of the ratings system is consistent across jurisdictions. This is because the ratings determination is likely to require some comparative perspective, without which early ratings may not be consistent.

The Schedule of Reviews

26. The Schedule of Reviews sets out the timeline in accordance with which all members – and non-members considered to be relevant to the Global Forum's work – will be reviewed (see Annex II for the complete schedule). By the end of 2011, reviews will have been completed or be well underway for 80 of the Global Forum's members. Most of these reviews will be Phase 1 reviews of the legal and regulatory framework, and some will be combined Phase 1 and 2 reviews that also cover the practical aspects of exchange of information.

Reviews of Non-members

27. Review of non-members of the Global Forum will occur in a manner similar to reviews of members to the greatest extent possible. The purpose of a review of a non-member jurisdiction is to prevent jurisdictions from gaining a competitive advantage by refusing to implement the standards or participate in the Global Forum. When a non-member jurisdiction is to be reviewed, the jurisdiction will first be invited to become a member of the Global Forum. Even if the jurisdiction declines to join the Global Forum, it will generally be given the same opportunities to participate in its review as Global Forum members. However, in all cases, the Peer Review report will be prepared using the best available information even if the jurisdiction does not participate.

28. To date the Global Forum has completed reviews of 2 non-members: Botswana, and Trinidad and Tobago. Both jurisdictions have generally been co-operative during the review and Botswana has since become member of the Global Forum.

29. At its meeting in Singapore in September 2010, the Global Forum identified Lebanon and the Former Yugoslav Republic of Macedonia as relevant to its work and these jurisdictions have been added to the review schedule for 2011. The Former Yugoslav Republic of Macedonia has already joined the Global Forum as a member.

The first peer review reports

30. The main output of the Global Forum are the peer review reports. The first 18 reports adopted represent a considerable achievement so soon after the adoption of the Global Forum's mandate in 2009. More than 25 reviews are on-going. Of these, reports in respect of 7 jurisdictions will be considered by the PRG at its meeting in February and 11 more will be considered at its meeting in April. It is expected that all of these reports will be adopted at or before the Global Forum's meeting that will take place in Bermuda on 29 – 30 May 2011. The Global Forum will undertake approximately 40 reviews each year.

Speeding up the Process

31. The OECD is currently pursuing important strategies to help accelerate the development of adequate exchange of information networks. One stream is a process of multilateral negotiations toward bilateral agreements for the exchange of information. The OECD has initiated three pilot projects, two in the Caribbean and one in the Pacific. All of the pilot projects have been very successful. More than 100 agreements have already been signed or are currently being concluded as a result of the initiative. The initiative has allowed a number of smaller jurisdictions such as Antigua and Barbuda, the Cook Islands, Samoa and the Turks and Caicos Islands to quickly put in place a significant network of agreements. It has also allowed some of these jurisdictions to move into the "substantially implemented" category in the Progress Report. These initiatives have been extended to Costa Rica and Liberia. Liberia has now signed 11 exchange of information agreements as a result of this process and expects to sign a number more in 2011. The Secretariat is now also working with Kenya, which joined the Global Forum in July 2010, to develop its network of information exchange agreements.

32. A significant step in 2010 which broadened the reach of the international standard for exchange of information was the approval by the OECD and Council of Europe in March 2010 of an amending protocol to the multilateral Convention on Mutual Assistance in Tax Matters.²

33. The 2010 protocol made two key changes in respect of the exchange of information. First, it updated the Convention to meet the internationally agreed standards for exchange of information, in particular by introducing paragraphs into Article 21 of the Convention which are based on Articles 26(4) and 26(5) of the OECD Model Tax Convention. Changes were also made to align the Convention to the standards in respect of limitations on obligations to provide assistance, and the obligations to maintain confidentiality.

34. Second, the 2010 protocol opened the Convention, and the protocol itself, to signature by jurisdictions which are neither members of the OECD nor the Council of Europe. However, while the protocol provides that non-members of the Council of Europe or OECD may adhere to the Convention, this will be subject to a decision by consensus of the parties to the Convention, with particular attention being paid to the obligation on an applicant country to protect the confidentiality of the information exchanged.

35. The approval of this amendment to the Convention is a key step forward in expanding international tax cooperation between jurisdictions, and in particular in respect of information exchange for tax purposes. Already a number of jurisdictions that were not previously members of the Convention – Korea, Mexico, Portugal and Slovenia – have taken the opportunity to sign the Convention and the 2010 protocol.

² The joint OECD Council of Europe Convention on Mutual Assistance in Tax Matters and the 2010 protocol can be found at www.oecd.org/ctp/eoi/mutual.

**ANNEX I:
CHRONOLOGY OF G7/G8/G20 SUPPORT FOR THE OECD'S WORK ON
TRANSPARENCY AND EXCHANGE OF INFORMATION**

*G 20 Leaders's Declaration
Seoul, Summit 11-12 November, 2010*

"The Global Forum to swiftly progress its Phase 1 and 2 reviews to achieve the objective agreed by Leaders in Toronto and report progress by November 2011. Reviewed jurisdictions identified as not having the elements in place to achieve an effective exchange of information should promptly address the weaknesses. We urge all jurisdictions to stand ready to conclude Tax Information Exchange Agreements where requested by a relevant partner."

*G 20 Leaders' Statement
Toronto, Canada 26-27 June 2010*

"We fully support the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and welcomed progress on their peer review process, and the development of a multilateral mechanism for information exchange which will be open to all interested countries. Since our meeting in London in April 2009, the number of signed tax information agreements has increased by almost 500. We encourage the Global Forum to report to Leaders by November 2011 on progress countries have made in addressing the legal framework required to achieve an effective exchange of information. ..We stand ready to use countermeasures against tax havens."

*G20 Communiqué: Meeting of Finance Ministers and Central Bank Governors
Washington D.C., U.S. 23 April 2010*

"We also welcomed the report by the Global Forum on Tax Transparency and Exchange of Information, the launch of the peer review process, and the development of a multilateral mechanism for information exchange which will be open to all countries."

*G20 Leaders' Statement
Pittsburgh, U.S. 25 September 2009*

"We are committed to maintain the momentum in dealing with tax havens...We stand ready to use countermeasures against tax havens from March 2010."

*G-8 Declaration: Meeting of Heads of Government
L'Aquila, Italy 8 July 2009*

“[A]ll jurisdictions must now quickly implement their commitments. We cannot continue to tolerate large amounts of capital hidden to evade taxation.”

*Statement of G8 Finance Ministers
Lecce, Italy, 13 June, 2009*

“It is also essential to develop an effective peer-review mechanism to assess compliance...delivered by an expanded Global Forum.”

*G20 Communiqué: The Global Plan for Recovery and Reform
London, U.K. 2 April 2009*

[W]e agree...to take action against non-cooperative jurisdictions, including tax havens...We note that the OECD has today published a list of countries assessed by the Global Forum against the international standard for exchange of tax information...

*G20 Declaration: Strengthening the Financial System
London, U.K. 2 April 2009*

“We stand ready to take agreed action against those jurisdictions which do not meet international standards in relation to tax transparency.”

“We are committed to developing proposals, by end 2009, to make it easier for developing countries to secure the benefits of a new cooperative tax environment.”

G20 Working Group on Reinforcing International Cooperation and Promoting Integrity in Financial Markets (WG2), Final Report: 27 March 2009

“We urge the international bodies responsible for prudential and regulatory standards, anti money laundering and terrorist financing, and tax matters - the FSF, the FATF and the OECD - to accelerate their work of identifying uncooperative jurisdictions and developing a toolbox of effective countermeasures against these jurisdictions...”

*G20 Declaration of the Summit on Financial Markets and the World Economy
Washington, D.C. 15 November 2008*

“the Organization for Economic Cooperation and Development (OECD), should continue efforts to promote tax information exchange. Lack of transparency and a failure to exchange tax information should be vigorously addressed.”

*G-8 Communiqué: Meeting of Heads of Government
Hokkaido Japan 9 July 2008*

“We urge all countries that have not yet fully implemented the OECD standards of transparency and effective exchange of information in tax matters to do so without further delay, and encourage the OECD to strengthen its work on tax evasion and report back in 2010.”

*G-8 Communiqué: Meeting of Finance Ministers
Osaka Japan 14 June 2008*

“In view of the recent developments, we urge all countries that have not yet fully implemented the OECD standards of transparency and effective exchange of information in tax matters to do so without further delay. We welcome the efforts of the OECD in this regard, and ask the OECD to strengthen its work on tax evasion.”

*G20 Communiqué: Meeting of Ministers and Governors in Melbourne
18-19 November 2006*

“Further progress is needed and we encourage continuing implementation efforts and call on those countries and territories that have not yet implemented high standards of transparency and exchange of information to do so.”

*G20 Communiqué: Meeting of Finance Ministers and Central Bank Governors
Xianghe, Hebei, China, 15-16 October 2005*

“[W]e welcome the efforts of the OECD Global Forum on Taxation to promote high standards of transparency and effective exchange of information for tax purposes.”

*G8 Communiqué on Africa
Gleneagles, UK 14 July 2005*

“We will continue to support Financial Stability Forums ongoing work to promote and review progress on the implementation of international standards, particularly the new process concerning offshore financial centres that was agreed in March 2005, and the OECD’s high standards in favour of transparency and exchange of information in all tax matters.”

*G20 Statement on Transparency and Exchange of Information for Tax Purposes
Meeting of Finance Ministers and Central Bank Governors
Berlin, Germany 20–21 November 2004*

“The G20 therefore strongly support the efforts of the OECD Global Forum on Taxation to promote high standards of transparency and exchange of information for tax purposes and to provide a cooperative forum in which all countries can work towards the establishment of a level playing field based on these standards.”

*G7 Economic Communiqué: Making a success of globalization for the benefit of all
Lyon, France 28 June 1996*

“We strongly urge the OECD to vigorously pursue its work in this field, aimed at establishing a multilateral approach under which countries could operate individually and collectively to limit the extent of these practices. We will follow closely the progress on work by the OECD, which is due to produce a report by 1998.”

**ANNEX II:
THE SCHEDULE OF REVIEWS**

2010				2011			
1 st Half		2 nd Half		1 st Half		2 nd Half	
Australia	Canada	Belgium	Bahrain	Anguilla	Andorra	Chile	Cook Islands
Barbados	Denmark	France	Estonia	Antigua and Barbuda	Brazil	China	Czech Republic
Bermuda	Germany	Isle of Man	Guernsey	Turks and Caicos	Brunei	Costa Rica	Grenada
Botswana	India	Italy	Hungary	Austria	Hong Kong, China	Cyprus	Liberia
Cayman Islands	Jamaica	Liechtenstein	Japan	British Virgin Islands	Macao, China	Gibraltar	Malta
Ghana	Jersey	New Zealand	Philippines	Indonesia	Malaysia	Greece	Russian Federation
Ireland	Monaco	San Marino	Singapore	Luxembourg	Spain	Guatemala	Saint Lucia
Mauritius	Panama	Saudi Arabia	Switzerland	Netherlands	United Arab Emirates	Korea	Slovak Republic
Norway	Seychelles	The Bahamas	Aruba	Netherlands Antilles	Uruguay	Mexico	South Africa
Qatar	Trin. and Tobago	United States	United Kingdom	Saint Kitts and Nevis	Vanuatu	Montserrat	St. Vincent and the Gren.
				Former Yugoslav Republic of Macedonia			
				Lebanon			

- Phase 1 review
- Phase 2 review
- Combined reviews

THE GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

2012				2013				2014	
1 st Half		2 nd Half		1 st Half		2 nd Half		1 st Half	
Samoa	Turkey	Belgium	British Virgin Islands	Bahrain, Kingdom of	Malaysia	Anguilla	Andorra	Belize	Czech Republic
Argentina	Portugal	Bermuda	Austria	Estonia	Samoa	Antigua and Barbuda	Botswana	Dominica	Gibraltar
Belize	Finland	Cayman Islands	Hong Kong, China	Jamaica	Slovak Republic	Chile	Ghana	Marshall Islands	Hungary
Dominica	Sweden	Cyprus	India	Philippines	Slovenia	China	Grenada	Nauru	Netherlands Antilles
Israel	Iceland	Guernsey	Liechtenstein	Argentina	U. S. Virgin Islands	Costa Rica	Israel	Niue	Poland
Marshall Islands	Slovenia	Malta	Luxembourg	Turks and Caicos	Vanuatu	Guatemala	Liberia	Saudi Arabia	
Nauru		Qatar	Monaco	United Arab Emirates	Indonesia	Korea	Russian Federation	Cook Islands	
Niue		San Marino	Panama	Barbados		Mexico	Saint Kitts and Nevis	Portugal	
Poland	Brazil	Singapore	Switzerland	Brunei		Montserrat	Saint Lucia	Uruguay	
US Virgin Islands	Seychelles	The Bahamas		Macao, China		Trinidad and Tobago	St. Vincent and the Gren.	Aruba	
				Kenya					

- Phase 1 review
- Phase 2 review
- Combined reviews

ANNEX III:
OECD PROGRESS REPORT

A PROGRESS REPORT ON THE JURISDICTIONS SURVEYED BY THE OECD GLOBAL FORUM IN IMPLEMENTING THE INTERNATIONALLY AGREED TAX STANDARD*¹

Progress made as at 9 March, 2011 ([Original Progress Report 2nd April 2009](#))

Jurisdictions that have substantially implemented the internationally agreed tax standard			
Andorra	Cyprus	Jersey	St Vincent and the Grenadines
Anguilla	Czech Republic	Korea	Samoa
Antigua and Barbuda	Denmark	Liberia	San Marino
Argentina	Dominica	Liechtenstein	Seychelles
Aruba	Estonia	Luxembourg	Singapore
Australia	Finland	Malaysia	Slovak Republic
Austria	France	Malta	Slovenia
The Bahamas	Germany	Marshall Islands	South Africa
Bahrain	Gibraltar	Mauritius	Spain
Barbados	Greece	Mexico	Sweden
Belgium	Grenada	Monaco	Switzerland
Belize	Guernsey	Netherlands	Turkey
Bermuda	Hungary	Netherlands Antilles	Turks and Caicos Islands United
Brazil	Iceland	New Zealand	Arab Emirates
British Virgin Islands	India	Norway	United Kingdom
Brunei	Indonesia	Philippines	United States
Canada	Ireland	Poland	US Virgin Islands
Cayman Islands	Isle of Man	Portugal	
Chile	Israel	Qatar	
China ²	Italy	Russian Federation	
Cook Islands	Japan	St Kitts and Nevis	
		St Lucia	

Jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented					
Jurisdiction	Year of Commitment	Number of Agreements	Jurisdiction	Year of Commitment	Number of Agreements
Tax Havens³					
Montserrat	2002	(11)	Niue	2002	(0)
Nauru	2003	(0)	Panama	2002	(10)
			Vanuatu	2003	(10)
Other Financial Centres					
Costa Rica	2009	(1)	Uruguay	2009	(7)
Guatemala	2009	(0)			

Jurisdictions that have not committed to the internationally agreed tax standard			
Jurisdiction	Number of Agreements	Jurisdiction	Number of Agreements
All jurisdictions surveyed by the Global Forum have now committed to the internationally agreed tax standard			

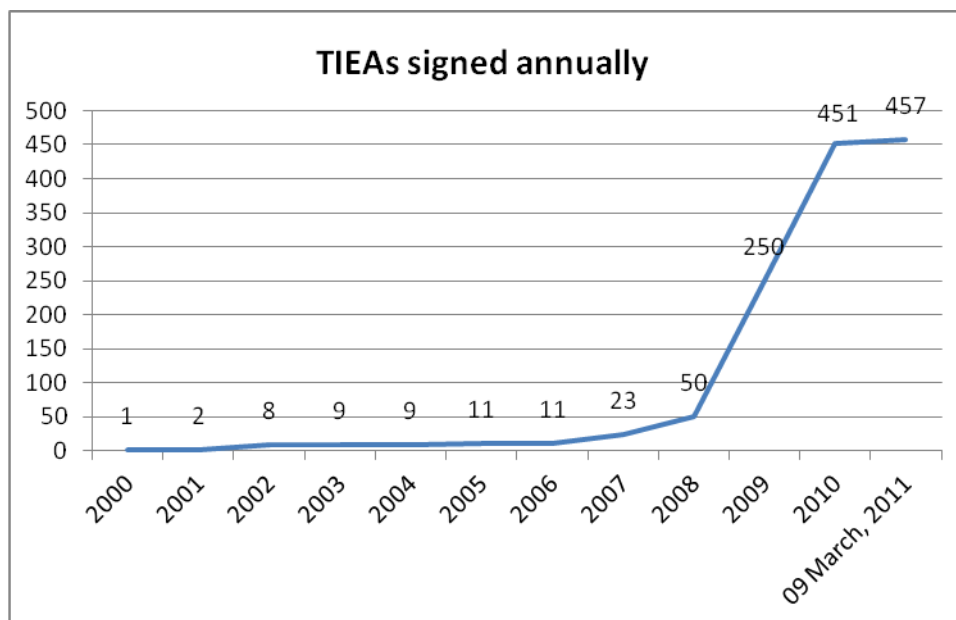
* Readers are referred to the outcomes from the Global Forum peer reviews for an in-depth assessment of a jurisdiction's (a) legal and regulatory framework (Phase 1 reviews) and (b) implementation of the standard in practice (Phase 2 reviews). [<http://www.oecd.org/tax/transparency>].

¹ The internationally agreed tax standard, which was developed by the OECD in co-operation with non-OECD countries and which was endorsed by G20 Finance Ministers at their Berlin Meeting in 2004 and by the UN Committee of Experts on International Cooperation in Tax Matters at its October 2008 Meeting, requires exchange of information on request in all tax matters for the administration and enforcement of domestic tax law without regard to a domestic tax interest requirement or bank secrecy for tax purposes. It also provides for extensive safeguards to protect the confidentiality of the information exchanged.

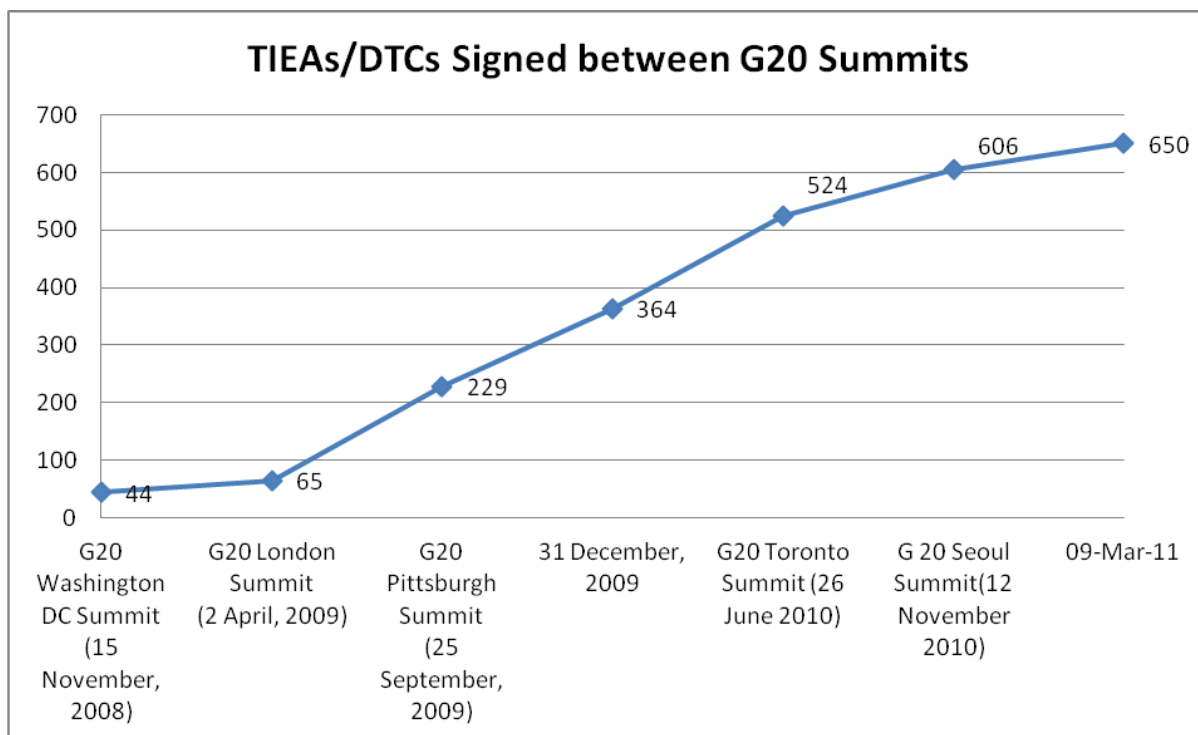
² Excluding the Special Administrative Regions, which have committed to implement the internationally agreed tax standard.

³ These jurisdictions were identified in 2000 as meeting the tax haven criteria as described in the 1998 OECD report.

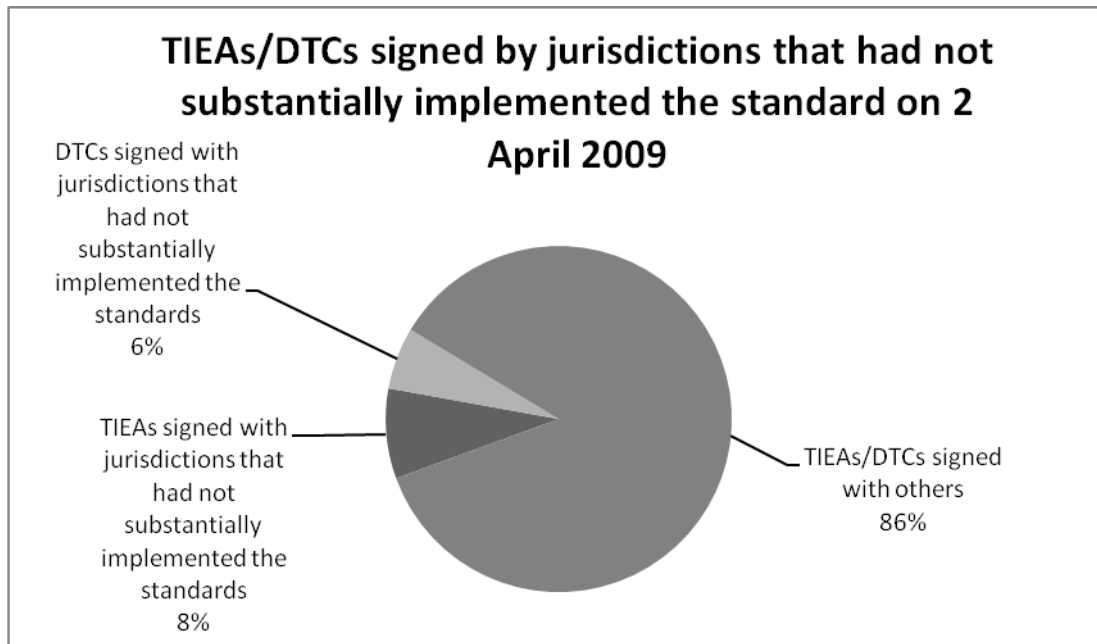
**ANNEX IV:
2009 –2011 Year of the G20: Impact on Implementation**



Up to the G20 Washington Summit on 15 November 2008 a total of 44 tax information exchange agreements (TIEAs) had been signed. Very few of the jurisdictions identified as not having substantially implemented the internationally agreed tax standard in the Progress Report issued in conjunction with the G20 Summit in London on 2 April had signed any double taxation conventions (DTCs) that met the standard. The 23 TIEAs agreed in 2008 were double the total number of agreements that had been signed since the Global Forum began in 2000. Following the G20 summit in Washington and in the run-up to the London Summit in April 2009 TIEA signings skyrocketed, as well as the negotiation of new DTCs or protocols to existing DTCs that incorporated the standard on exchange. A further 21 TIEAs/DTCs were agreed in just four months, and between the London Summit and the G20 meeting in Pittsburgh in September 164 more agreements were in place. The pace continued and by the end of the year a total of 36 jurisdictions working to substantially implement the standard had signed 200 TIEAs and upgraded 118 DTCs. Since January 2010, 147 TIEAs and 46 upgraded DTCs have been signed.

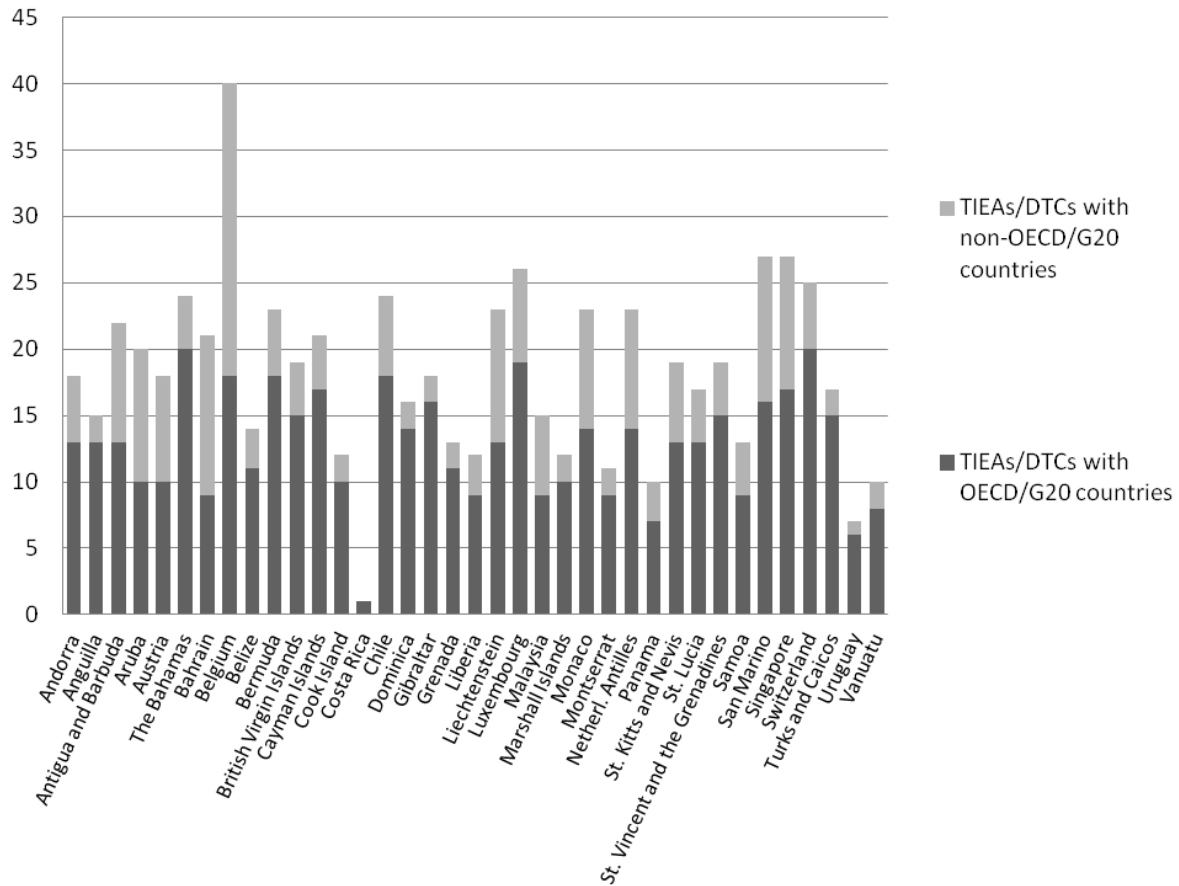


34 jurisdictions have been moved to the category of those jurisdictions having substantially implemented the standards for having signed at least 12 agreements to the standards. Even though some offshore financial centres (OFCs) have signed agreements with other OFCs, the vast majority of agreements are with countries which have an interest in obtaining information for tax purposes. The chart below shows that only a very small percentage (12%) of the agreements signed since the November 2008 G20 Summit have been entered into between jurisdictions that had not substantially implemented the standards on 2 April 2009.



Virtually all of the 34 jurisdictions which have reached the threshold of 12 agreements continue negotiating and signing more agreements.

TIEAs/DTCs Signed with OECD/G20 Countries



GLOBAL FORUM FAST FACTS

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| 98 | Number of Global Forum members – Colombia and the Former Yugoslav Republic of Macedonia are our newest members. |
| 175 | Number of reviews scheduled to be conducted by the Global Forum before the end of 2014. |
| 44 | Number of reviews launched since March 2010. |
| 18 | Reviews adopted by the Global Forum. 8 reports were adopted at its meeting in Singapore on 29-30 September 2010 covering Bermuda, Botswana, Cayman Islands, India, Jamaica, Monaco, Panama and Qatar. Another five combined reports of Australia, Denmark, Ireland, Mauritius and Norway and five Phase 1 reports in the cases of Barbados, Guernsey, San Marino, Seychelles and Trinidad and Tobago adopted by the Global Forum and published on 27 January 2011. |
| 71 | Assessors appointed from 37 different member jurisdictions. |
| 14 | Languages spoken by Global Forum Secretariat staff – Chinese, Danish, Dutch, English, French, German, Greek, Hindi, Italian, Mandarin, Norwegian, Portuguese, Spanish and Swedish. |

FREQUENTLY ASKED QUESTIONS

1. What is the Global Forum?

In charge of promoting tax cooperation and information exchange among tax administration, the Global Forum was restructured in September 2009 in Mexico in response to the G20 call to strengthen exchange of information in the context of major progress made towards full transparency. The Global Forum is the continuation of a forum which was created in the early 2000s in the context of OECD work on tax havens. The restructured Global Forum now ensures that all its members are on an equal footing and will fully implement the standard on exchange of information they have committed to implement. Technically, the Global Forum on Transparency and Exchange of Information for Tax purposes is a part II programme of the OECD.

2. Who are the members of the Global Forum?

As of January 2011, there are 97 members (www.oecd.org/tax/transparency). As agreed in Mexico the initial potential members are : all the financial centres which participated to the previous Global Forum; all OECD countries and all G20 economies. The initial 91 potential members have confirmed their membership. In addition, in order to maintain a level playing field, the Global Forum has identified countries of relevance to its work. This has been the case of Botswana, Ghana, Jamaica, Former Yugoslav Republic of Macedonia, Lebanon, Qatar and Trinidad & Tobago. Botswana, Jamaica, Former Yugoslav Republic of Macedonia and Qatar have now joined the Global Forum. Finally, as requested by the G20, developing countries are invited to join the Global Forum to benefit from the new environment of transparency; this is the case of Kenya.

3. How did the peer review process come about?

Tax evasion and the need for effective international co-operation in tax matters has been very high on the political agenda in recent years, and has received a lot of attention from the G20. In 2009, unprecedented progress has been made by the international community in the fight against tax fraud and evasion, however there was a need to ensure that the progress made results in full transparency and effective exchange of information for tax purposes. Reflecting this, the Global Forum on Transparency and Exchange of Information for Tax Purposes was dramatically restructured at its Mexico meeting in September 2009 to make it a more effective and open body and it was mandated to put in place a robust and in-depth peer review mechanism. The aim is to safeguard the commitments jurisdictions made and to respond in particular to the G20 call for rapid and effective implementation of the standards of transparency and exchange of information. All members of the Global Forum as well as jurisdictions identified by the Global Forum as relevant to its work, will undergo reviews of the implementation of their systems for the exchange of information in tax matters. The peer review process is overseen by the 30 members of the Peer Review Group, which is chaired by France, assisted by four vice-chairs from India, Japan, Singapore and Jersey.

4. How does the peer review process work?

The Peer reviews happen in two Phases: Phase 1 is a review of each jurisdiction's legal and regulatory framework for transparency and the exchange of information for tax purposes and Phase 2

involves a survey of the practical implementation of the standards. Some jurisdictions have been selected to do a combined Phase 1 and Phase 2 review. Reviews are conducted in accordance with the Methodology, which guarantees that peer input is provided at each stage. Once a review is launched, all members of the Global Forum are asked to provide input regarding the assessed jurisdiction, particularly in Phase 2 reviews where all exchange of information partners are asked to complete a detailed questionnaire about their practical experience with the jurisdiction. Reviews are conducted by an assessment team composed of 2 expert assessors provided by peer jurisdictions and co-ordinated by a member of the Global Forum Secretariat. The assessment team's report is presented to the 30 member Peer Review Group and, once approved, it becomes a report of the PRG. Finally, all members of the Global Forum are asked to adopt the PRG report. As all members are on equal footing, this is done on a consensus-minus-one basis, so that no one jurisdiction can block the adoption of a report.

5. What is the Peer Review Group?

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, will undergo reviews of their systems for the exchange of information in tax matters. The peer review process is overseen by the 30 member Peer Review Group, which is chaired by France (Mr. Francois d'Aubert), assisted by four vice-chairs (India, Japan, Singapore and Jersey). The members of the PRG are:

Composition of the Global Forum Peer Review Group							
France (Chair)	India (Vice-Chair)	Japan (Vice-Chair)	Singapore (Vice-Chair)	Jersey (Vice-Chair)			
Argentina	Australia	Brazil	BVI	Cayman Islands			
China	Germany	Ireland	Isle of Man	Italy			
Denmark	Korea	Luxembourg	Malaysia	Malta			
Mauritius	Mexico	St. Kitts and Nevis	Samoa	South Africa			
Switzerland	The Bahamas	The Netherlands	United Kingdom	United States			

6. Against what standards are the reviews based?

Countries are assessed against the standard of information exchange on request. The standard provides for exchange of information on request where the information is foreseeably relevant to assess the taxes of the requesting party including bank and fiduciary Information regardless of a domestic tax interest. The standard is included in article 26 of the OECD and the UN model tax conventions and in the 2002 Model Agreement on Exchange of Information on Tax Matters. For the purposes of the peer review, the standard has been broken down into 10 essential elements in the Terms of Reference.

7. What are the Terms of Reference?

The Terms of Reference is one of the fundamental documents of the Global Forum (along with the Methodology, the Assessment Criteria and the Schedule of Reviews). The terms of reference are available at <http://www.oecd.org/dataoecd/37/42/44824681.pdf>. They break the international standards down into 10 essential elements:

A AVAILABILITY OF INFORMATION

A.1. Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

A.2. Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

A.3. Banking information should be available for all account-holders.

B ACCESS TO INFORMATION

B.1. Competent authorities should have the power to obtain and provide information that is the subject of a request under an EOI agreement from any person within their territorial jurisdiction who is in possession or control of such information.

B.2. The rights and safeguards that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

C EXCHANGING INFORMATION

C.1. EOI mechanisms should provide for effective exchange of information.

C.2. The jurisdictions' network of information exchange mechanisms should cover all relevant partners.

C.3. The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.

C.4. The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.

C.5. The jurisdiction should provide information under its network of agreements in a timely manner.

8. What is the rationale for the Terms of Reference?

For information to be exchanged, a jurisdiction needs to make sure that information is available. Relevant information is about the owners or beneficiaries of legal entities and arrangements (companies, trusts) as well as the accounts (Profit and loss, assets & liabilities) of these entities. This is the first category (A – availability of information). Where it exists, the information must still be accessed by the tax authorities. This is the second main category: access to information (section B of the Terms of Reference). Finally, information has to be exchanged. The Terms of Reference then considers the ability of the reviewed jurisdiction to exchange information. This includes high scrutiny of the information exchange agreements (*i.e.*, which ones are to the standard) and with which jurisdiction they have been concluded (relevance of the treaty network). This category of the Terms of Reference also includes consideration on the protection of confidentiality of the information and the timeliness of the information exchange in practice.

9. What will be the output of the peer review process?

The core output of the peer review process comes in the form final reports which will identify and describe the strengths and any shortcomings that exist and provide recommendations as to how the shortcomings might be addressed by the reviewed jurisdiction. Phase 1 reports on a jurisdiction's legal and regulatory framework for transparency and exchange of information will include a **determination** of whether each essential element, identified in the *Terms of Reference* [<http://www.oecd.org/dataoecd/37/42/44824681.pdf>], is in place, in place, but certain aspects of the legal implementation of the element need improvement, or not in place. Phase 2 and combined reviews will include a rating as to whether the jurisdiction is compliant, largely compliant, partially compliant, or not compliant with each of these elements in practice. In addition, an overall rating will be assigned. Before finalising the ratings attached to Phase 2 and combined reviews, it will be important to complete Phase 2 reviews for a subset of jurisdictions representing a geographic and economic cross-section of the Global Forum before finalising ratings, in order to ensure that application of the ratings system is consistent across jurisdictions. This is because the ratings determination is likely to require some comparative perspective, without which early ratings may not be consistent. Thus, the publication of ratings should be taken up by the Peer Review Group and ultimately the Global Forum at such time as a representative subset of Phase 2 reviews is completed, which would be expected to be within the first mandate. The *Note on Assessment Criteria* [<http://www.oecd.org/dataoecd/37/40/44824732.pdf>] describes this in detail.

10. How are the jurisdictions to be reviewed selected?

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, will undergo reviews of the implementation of their systems for the exchange of information in tax matters. A schedule [<http://www.oecd.org/dataoecd/37/39/44824743.pdf>] has been established which ensures that a phase 1 review of every jurisdiction will be finalised by 2012. A jurisdiction can be identified by the Global Forum as relevant to its work in case concerns arise with respect to its implementation of the internationally agreed standard. To date, seven jurisdictions have been so identified (Botswana, Ghana, Former Yugoslav Republic of Macedonia, Jamaica, Lebanon, Qatar and Trinidad and Tobago.). Botswana, Former Yugoslav Republic of Macedonia, Jamaica and Qatar have all undergone or are undergoing phase 1 reviews and have now joined the Global Forum.

11. Can a jurisdiction choose not to participate in the review?

Jurisdictions cannot obtain any advantage by staying outside the process. When a jurisdiction is identified as relevant to the work of the Global Forum it will be invited to become a member and undergo a peer review. In case a jurisdiction chooses not to participate, a review will still be conducted using publicly available information and the jurisdiction will be given every opportunity to provide its comment and input should it wish to do so. As the review will be conducted in any event, jurisdictions have every incentive to join the Global Forum and take part in its decisions on an equal footing. At its Singapore meeting, the Global Forum will identify jurisdictions of relevance to its work and will invite them to join the Global Forum.

12. Can a jurisdiction be “whitened” by signing with any 12 partners?

The peer review exercise is not limited to a number's game, but goes much more in-depth. Countries will be assessed on their ability to effectively exchange information. This includes their ability to maintain and enlarge a network of agreements to the standards with all relevant partners. This means

that 12 agreements to the standards with partners of no relevance would not be sufficient. It is to be noted that, among the 600 agreements signed or brought up to the standards, fewer than 10 percent were concluded among jurisdictions which were considered as not having substantially implemented the standard in April 2009.

13. How can you ensure that the reviews are consistent among countries?

Responsibility for ensuring a fair and consistent outcome of the reviews as a whole and the application of the rating system in particular will fall to the PRG, which should have an active role in ensuring that similar cases are treated similarly and that real distinctions in the effectiveness of the systems for the exchange of information in different jurisdictions are reflected in the assessments given to each. Of course, the assessment teams will play a crucial role in this regard as they will be charged with crafting the draft report for approval of the PRG. In addition, before finalising the ratings attached to Phase 2 and combined reviews, it will be important to complete Phase 2 reviews for a subset of jurisdictions representing a geographic and economic cross-section of the Global Forum before finalising ratings, in order to ensure that application of the ratings system is consistent across jurisdictions. This is because the ratings determination is likely to require some comparative perspective, without which early ratings may not be consistent. Thus, the publication of ratings should be taken up by the Peer Review Group and ultimately the Global Forum at such time as a representative subset of Phase 2 reviews is completed, which would be expected to be within the first mandate.

14. Can civil society participate in the process?

The peer reviews are an intergovernmental process, however, as the Schedule of Reviews is public, NGOs, private practitioners or any other stakeholder may inform the Global Forum of its views on issues related to the reviewed jurisdiction.

15. What happens when a jurisdiction does not agree with its peer review report?

The reviewed jurisdiction can express its views in an annex to the report but cannot block the adoption of a report, nor can any one jurisdiction. This is the rule of consensus minus one.

16. What is the rule for a report to be adopted?

In adopting peer review reports, the Global Forum shall use an approach to consensus that ensures that no one jurisdiction can block the adoption or publication of a review (consensus minus one). In the exceptional circumstance that the Global Forum fails to adopt a report, the public will be provided with an explanation for the absence of a report in order to maintain the credibility of the Global Forum process.

17. What happens if a jurisdiction has too many deficiencies?

Where a jurisdiction is found to have too many elements not in place during the phase 1 review, the report will indicate that the jurisdiction cannot move to a phase 2 review. Indeed, it is not necessary to check whether information is exchanged in practice where the legal and regulatory framework is not in place. The jurisdiction will have to take action and fix the deficiencies so that it can report progress to the Global Forum for its report to be re-examined.

18. Will a non-tax person be able to understand the reports?

The reports are short (around 40 pages) and reader-friendly. They include a short executive summary which clearly indicates where the jurisdiction stands. They also include a table summarising the 10 determinations/ratings as well as the recommendations made to the jurisdiction. The report is generally divided into three main sections dealing with availability of information, access to information and exchange of information mechanisms. Each of the three sections starts with an overview that describes in layman's terms what the situation is in the jurisdiction. The core of the text is technical and all the relevant information and references can be found in the text of the report.

19. How will the Global Forum take into account improvements jurisdictions make after their reviews are accepted?

The reports will be followed-up on and an effective system to monitor developments as they occur is being put in place where jurisdictions can alert the Global Forum that they have made a change that will affect a determination or rating, these changes will be reviewed and a supplemental report will be prepared for adoption by the Global Forum. For less significant changes there is a requirement that jurisdictions provide a detailed written report to the Peer Review Group within 12 months of the adoption of the phase 1 report by the Global Forum.

20. What is the status of the Global Forum annual report?

The annual report, which is based on information provided by members, provides the only comprehensive and objective compilation of such information. It includes summary assessments for each jurisdiction which will facilitate the identification of the progress made. This annual assessment will be significantly expanded by the in-depth peer reviews for each jurisdiction, which has only just begun. In these early stages, a majority of jurisdictions will not have been subject to the first phase of a peer review until the end of 2011. Therefore, in 2010 the Global Forum's Tax Cooperation Report is the leading source of information on the legal and regulatory framework for transparency and exchange of information in place around the world.

21. Is the internationally agreed standard subject to change, for example on the basis of findings in the peer review process?

The internationally agreed standard on transparency and exchange of information is primarily reflected in the 2002 Model Agreement on Exchange of Information on Tax Matters and in Article 26 of the OECD's and UN's Model Tax Convention on Income and on Capital and their respective commentaries. The Terms of Reference [www.oecd.org/dataoecd/37/42/44824681.pdf] have broken down the standard into ten essential elements based on these primary authoritative sources. It is possible that, as the interpretation of these sources evolves, either on the basis of findings in the peer review process or otherwise, the Terms of Reference may be amended to reflect this.

22. The G20 has stated that it stands ready to implement sanctions, are the results of the peer review process going to be used to determine these?

Neither the Global Forum nor the OECD has the power to impose sanctions on countries that do not implement the standards. Individual countries whether OECD or non- OECD will decide for themselves what actions they consider necessary to ensure the effective enforcement of their tax laws. The G20 has produced a list of potential measures based upon an analysis provided by the OECD. The OECD will continue to provide a forum where countries can discuss how to make these measures more effective.

23. Does the Global Forum provide technical assistance to jurisdictions in meeting the standard and during the peer review process?

Yes. The Global Forum has already facilitated multilateral negotiations for some jurisdictions to enable them to expand their network of exchange of information agreements rapidly. In addition, the Global Forum assists jurisdictions in preparing for their peer reviews in order to bring jurisdictions with fewer resources in the same position as other jurisdictions and thus maintaining a level playing field. The Global Forum, in conjunction with International Organisations and Regional Groups (such as the World Bank, IMF, the Caribbean Community, and the African Tax Administrators Forum) is organising seminars in the Caribbean, the Pacific region and in Africa.

24. What is the connection between the Global Forum and the G20?

In the context of the financial crisis that developed in 2008, the G20 called for actions against non-cooperative jurisdictions, including tax havens. As this is a key element, the G20 calls for countries to adopt the internationally agreed standards. The G20 continues to monitor the progress in this area and acknowledges the work performed by the Global Forum on transparency and exchange of information in tax matters, especially the peer review process which is one of the pillars of its work. The Global Forum regularly provides an update on its work to the G20.

25. Where jurisdictions listed as tax havens by the OECD have done well on the peer review, does this mean they should no longer be considered “tax havens”?

The list of tax havens published in 2000 is comprised of those jurisdictions that met the criteria described in the OECD’s 1998 Report Harmful Tax Competition: An Emerging Global Issue. The list of unco-operative tax havens was comprised of tax havens identified by the OECD under criteria it established in 1998 and which have not made formal commitments to the OECD, after being requested to do so. There have been many positive changes in jurisdictions’ transparency and exchange of information practices since that time. Following the removal of Andorra, Liechtenstein and Monaco from the list, no jurisdiction is currently listed as an unco-operative tax haven by the OECD. While these lists are not replaced by the progress report, they should be seen in their historical context and the OECD will have to reassess their relevance in light of current developments.

26. How does exchange of information on request work?

Exchange of information on request occurs where one jurisdiction’s competent authority asks for particular information from another competent authority. Typically, the information requested relates to an examination, inquiry or investigation of a taxpayer’s tax liability for specified tax years. The standard prohibits fishing expeditions. Before sending a request, the requesting jurisdiction should use all means available in its own territory to obtain the information except where those would give rise to disproportionate difficulties. The request should be made in writing, but in urgent cases an oral request may be accepted, where permitted under the applicable laws and procedures. Requests should be as detailed as possible and contain all the relevant facts, so that the competent authority that receives the request is well aware of the needs of the applicant contracting party and can deal with the request in an efficient manner. The OECD has developed **guidance** on what could be included in a request.

27. Why information exchange on request and not automatic?

The standard for exchange of information in both cases is the same: the information must be “foreseeably relevant” to the administration or enforcement of the domestic tax laws of the country concerned or to the application of the treaty concerned but the form in which the exchange of information takes place can vary. Article 26 of the OECD Model Tax Convention provides “rules under which information may be exchanged to the widest possible extent” and includes exchange on request, automatic exchange and other forms of information exchange. Most OECD countries do engage in automatic exchange of information on a range of different types of income. In the context of the development of the 2002 Model Agreement on Exchange of Information on Tax Matters, it was agreed that for purposes of implementing the commitments made by jurisdictions identified as tax havens in 2000, exchange of information on request would be sufficient. Similarly, in the 2000 report, *Improving Access to Bank Information for Tax Purposes*, it was agreed to focus on exchange of information on request. In both cases, the decisions reflected the major step forward exchange on request would imply for the jurisdictions concerned.

28. Do the standards allow for exchange of information on companies and trusts and their owners and beneficiaries?

Yes. The standards impose an obligation to exchange all types of information foreseeably relevant to the administration and enforcement of the requesting country’s domestic tax laws. This could include information on companies and trusts and their owners and beneficiaries. Moreover, a jurisdiction cannot decline to provide information in response to a request for exchange of information solely because it is held by a person acting in an agency or fiduciary capacity, such as a trustee.

29. What are the safeguards to protect confidentiality?

The protection of taxpayers confidentiality is key to the success of exchange of information. The Global Forum has published terms of reference that break down the internationally agreed standard (which can be found in the OECD and the UN Model Tax Conventions) on information exchange into 10 essential elements. Two of these elements relate to the confidentiality and protection of rights and safeguards of taxpayers and third parties. Tax evasion undermines the fairness of tax systems and costs governments, and honest taxpayers, billions of dollars every year. Now, all jurisdictions can benefit from the standard developed by the OECD. It provides for information exchange on request, but only when the information is relevant to the assessment of taxes. This is a balanced standard – one that includes a high level of protection of taxpayers rights, including the right to confidentiality. This right is and will be closely monitored by the Global Forum.

30. What if countries want to use tax information for other purposes?

First, tax information received from another country can only be used for the purposes stated in the agreements. Second, a country is free to decline a request for information in a number of situations. One reason for declining to provide information relates to the concept of public policy/ordre public. “Public policy” generally refers to the vital interests of a country, for instance where information requested relates to a state secret. A case of “public policy” may also arise, for example, where a tax investigation in another country was motivated by racial or political persecution.

31. Is bank secrecy incompatible with this standard?

No. All countries have some form of bank secrecy. What is important is that it can be lifted in well defined circumstances to enable countries to enforce their own tax laws and to respond to requests for information pursuant to TIEAs or tax treaties so that treaty partners can administer their own laws.

32. What is the status of the progress report issued on 2 April?

The so called OECD list was issued by the OECD Secretary General in conjunction with the G20's London Summit in April 2009. It is a progress report on the implementation of the internationally agreed tax standard that identifies (i) jurisdictions that have substantially implemented the standard (i.e. jurisdictions which have signed 12 or more agreements to the standard) (ii) other jurisdictions that have committed to but not yet implemented the standard and tax havens that have committed to but not yet implemented the standard (i.e. which have signed fewer than 12 agreements to the standard) and (iii) jurisdictions that have not even committed to the standard. Since April 2009, the progress report has been updated and still is. Today there are no longer any jurisdictions in the third category while 34 jurisdictions have moved from the second to the first category. When all jurisdictions have moved to the first category the progress report will clearly be superseded by the outcomes of the peer review process which are much more in-depth than just counting agreements.