

CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

Procedural Fact Sheet

Non-OECD/Council of Europe Member

The OECD and the Council of Europe are co-Depositaries of the Convention.

1. Invitation to Become a Party

A State which is not a Member of the OECD or the Council of Europe can become party to the amended Convention following an invitation by the Parties to the Convention (*cf.* Article 28(5) of the Convention).

- **Request to Become a Party:** The State should make a request, addressed to one of the Depositaries, to become a Party to the Convention. This request should come from the Ministry of Foreign Affairs or the Ministry of Foreign Affairs should be on copy of the request.
- **Notification of Request:** The Depositaries transmit the request to the Parties to the Convention and inform the OECD Council and the Council of Europe Committee of Ministers.
- **Decision of the Parties to Invite:** The decision to invite a requesting State to become a Party to the Convention will be taken by consensus by the Parties through the Coordinating Body of the Convention. In taking this decision, the Parties will take into account, *inter alia*, the confidentiality rules and practices of the State concerned and whether the State is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes.
- **Invitation to Become a Party:** Once the Parties have agreed to invite a State to become a Party to the Convention, the Secretariat of the Coordinating Body (the OECD Secretariat) will send a letter to that State inviting it to sign and ratify/accept/approve the Convention.

2. Signature and Deposit of Instruments

An invited State that wishes to become a Party to the Convention can decide to sign and deposit its instrument of ratification/acceptance/approval with either Depositary. The procedural steps for signature and deposit are as follows:

- **Signature:** Once the invitation has been issued, the State informs the Depositary that it is ready to sign the Convention. The Depositary proceeds to make the necessary practical arrangements for the signature. If necessary, full powers for the person signing will need to be presented at the time of signature. A copy of the full powers should be sent to the Depositary at least 24 hours before the signature. Following the signature, the Depositary transmits a *procès-verbal* to the State, recording the signature of the Convention.
- **Notification of Signature:** The Depositaries notify the Members of the OECD and the Council of Europe and any non-OECD/Council of Europe Parties of the signature of the Convention.
- **Declarations, reservations and notifications:**
 - Mandatory Notifications:* Either upon signature or deposit of the instrument of ratification/acceptance/approval, the State must transmit the relevant information for inclusion in Annex A (list of taxes) and Annex B (list of competent authorities).
 - Declarations:* the Convention provides for certain declarations that States may formulate (*cf.* Articles 3(1), 4(3), 9(3) and 29 of the Convention).
 - Reservations:* States may formulate reservations permitted by Article 30 of the Convention at the time of signature or deposit of the instrument of ratification/acceptance/approval.
 - Timing of Notifications, Declarations and Reservations:* States are strongly encouraged to file the mandatory notifications and any declarations or reservations at the time of the deposit of the instrument of ratification/acceptance/approval and to share the draft texts with the Depositary well in advance. This practice gives States sufficient time to formulate their notifications and any declarations or reservations

and allows the Depositary sufficient time to ensure their conformity with the provisions of the Convention.

- **Ratification, Acceptance or Approval:** The signatory State completes its domestic procedures for the ratification/acceptance/approval of the Convention and produces its instrument.
- **Deposit of Instrument:** The signatory State informs the Depositary that it is ready to deposit (either in person or by mail) its instrument of ratification/acceptance/approval. The Depositary proceeds to make the necessary arrangements for the deposit of the instrument of ratification/acceptance/approval. The signatory State deposits its instrument and files any accompanying notification, declaration or reservation (or confirms any notification, declaration or reservation made at the time of signature). The Depositary transmits a *procès-verbal* to the State recording the deposit of the instrument.
- **Notification of Deposit:** The Depositaries notify the Members of the OECD and the Council of Europe and any non-OECD/Council of Europe Parties of the deposit of the instrument of ratification/acceptance/approval and transmits any accompanying notification, declaration or reservation. The notification of deposit also specifies the date of entry into force of the Convention for the depositing State.
- **Entry into Force:** The Convention enters into force for the State concerned on the first day of the month following the expiration of a period of three months after the deposit of the instrument of ratification, acceptance or approval (*cf.* Article 28(5) of the Convention).

For further information on the above procedures, please contact the OECD Legal Directorate (Celine.Folsche@oecd.org) or the Council of Europe Treaty Office (treaty.office@coe.int).