

Agreement

between

the Government of the United States of America

and

the Government of the Federal Republic of Germany

on

the Exchange of Country-by-Country Reports

The Government of the United States of America  
and  
the Government of the Federal Republic of Germany  
(each, a “Party”, and together, the “Parties”),

Desiring to conclude an agreement to increase international tax transparency and improve access of their respective tax authorities to information regarding the global allocation of income, taxes paid, and certain indicators of the location of economic activity among tax jurisdictions in which multinational enterprise groups (“MNE Groups”) operate through the automatic exchange of annual country-by-country reports (“CbC Reports”), with a view to assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate,

Whereas the CbC Report is one element of a standardized approach to transfer pricing documentation which is intended to provide tax administrations with relevant and reliable information to perform an efficient and robust transfer pricing risk assessment analysis,

Whereas the laws of the United States of America and the Federal Republic of Germany require the reporting entity of an MNE Group to annually file a CbC Report,

Whereas Article 26 of the Convention of August 29, 1989 between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes, and the related Protocol, as amended by the Protocol of June 1, 2006 (the “Convention”), authorize the exchange of information for tax purposes, including the automatic exchange of information,

Have agreed as follows:

#### Article 1

##### Exchange of Information with Respect to MNE Groups

Pursuant to the provisions of Article 26 of the Convention, the Competent Authority of each Party shall exchange CbC Reports with the Competent Authority of the other Party annually on an automatic basis. The term “Competent Authority” has the meaning it has in the Convention.

#### Article 2

##### Competent Authority Arrangement

- (1) The Competent Authorities of the Parties shall sign an arrangement which shall provide for:
- i) the scope of the exchange of CbC Reports,
  - ii) the time and manner of the exchange of CbC Reports,
  - iii) the collaboration on transmission and errors,
  - iv) the confidentiality, data safeguards, and appropriate use with respect to CbC Reports,
  - v) consultations with respect to CbC Reports, and
  - vi) term of, and modifications to, the arrangement.

- (2) The arrangement shall be consistent with this Agreement and the Convention.

### Article 3

#### Confidentiality and Data Safeguards

All information exchanged shall be subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged. Such terms of the Convention shall continue to apply to all information previously exchanged under this Agreement in the event of termination of this Agreement.

### Article 4

#### Consultations and Amendments

- (1) In case any difficulties in the implementation of this Agreement arise, either Party may request consultations to develop appropriate measures to ensure the fulfillment of this Agreement.
- (2) This Agreement may be amended by mutual written agreement of the Parties. Unless otherwise agreed upon, such an amendment shall enter into force in accordance with paragraph 1 of Article 5 of this Agreement.

Article 5  
Term of Agreement

(1) This Agreement shall enter into force on the date of the Government of the Federal Republic of Germany's written notification to the Government of the United States of America that the Federal Republic of Germany has completed its necessary internal procedures for entry into force of this Agreement. However, exchange of information under this Agreement shall not commence until the arrangement described in paragraph 1 of Article 2 of this Agreement is operative.

(2) This Agreement shall terminate on the earlier of

1. the date of termination of the Convention or
2. the first day of the month following the expiration of a period of twelve months after the date upon which either Party gives notice of termination in writing to the other Party.

Done at Berlin on August 14, 2020 in duplicate in the English and German languages, both texts being equally authentic.

For the Government of the  
United States of America

For the Government of the  
Federal Republic of Germany