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taxation, University of Leiden . On the other hand, how to either Contracting States will be able to demonstrate that the other State uses information for inappropriate purposes? Speaking strictly, the requirement that taxpayers archive a type of international income statement, which would be exchanged between tax administrators are not new and some legal standards National for international reporting have already been developed for various economic sectors (mainly the extractive sector) within the European Union, although with a more restricted scope (ie, domestic law) or content (ie, reporting of the Payments to government entities related to particular countries and projects) 34. Considering the requested information (jurisdiction, income from unrelated parts and related parties, total income, profit or loss of income tax, paid and due income tax, capital actions, kept earnings, tangible goods $\hat{A} \hat{e} \hat{a} \hat{r}$ "except cash and cash equivalents" and number of employees), it is difficult difficult Imagine how it could be useful for the evaluation of transfer prices within the current configuration of the Brazilian transfers prices. Although the meaning of expression is $\hat{A} \hat{e} \hat{a} \hat{r}$ "in other tax issues during a tax audit can be rather broad, a closer construction in its interpretation is necessary - otherwise the exception provided in the rule undermines the rule itself. Nevertheless, the use of presumption in the transfer price law does not eliminate the need to collect relevant information for the identification of the price of the length of the arm, in particular for these methods based on comparability. Even if it is the declaration and the report of the Country by country seek information on the annual quantity of revenue, it is expected that different values will be identified in each of them. The idea is that information relating to high-level transfer The risks of prices collected by a jurisdiction could be used for notify other tax administrations on, for example, the fact that some taxpayers are engaging in A substantial volume of activity in their territory, with a significant profit margin but subject to a very low tax burden 33. According to action 13 final report, such information may not take the place of an analysis of the singles detailed transfer prices Transactions and prices based on a complete functional analysis and a complete analysis comparability, Norbs used as a final test that the transfer prices are or are not appropriate 40. Second, while the OECD speech was to reaffirm, again Once, the supremacy of the standard length of the arm (and of the denial of all other methods clearly incompatible with it) is not clear whether the adoption in the future of other models of transfer, as a possible means to prevent the erosion of the ax base, are discarded. The Brazilian approach to Beps Action 13 The consumption of $\hat{A} \hat{e} \hat{a} \hat{r}$ "A "appropriate use" of national relations by country country For the transfer of prices or for the analysis of peeps-related risks) is a fundamental requirement for the use of the information obtained by implementing the counry's report by country in its national legislation or through the exchange of relationships on country By country with other states according to this theory, international treaties would act as a mask that is placed on the internal law, blocking parts of it. Furthermore, the use of the country ratio by country for other purposes - not allowed by the OECD - would be at the expense of Brazil in the OECD analysis of the demand to belong to Brazil, which was presented on 29 May 2017 60. Given the narrow Relationship between the rules on transfer prices (strongly based on the standard length standard) and the phenomenon of basic erosion and shifting profits (Beps), was up to the member countries of the OECD and others Participants in the Beps project to decide whether the ideal solution in this scenario would be to insist on the current transfer price price based on the standard length standard, or to move towards a break of the current paradigm a movement to a base on the formulary presentation 8. At first glance, the question leads to the intense debate on the fact that the transfer of price rules has been designed to be an anti-avoidance mechanism for Prevent profit movement strategies or if the main scope of these rules mentally allow the assignment of profits taxable from activities carried out by a multinational company (MNE) between its different entities in various countries 1. Even if there is not no provision that expressly limits the use of information obtained from national reports (as in the Brazilian case), tax administrations are still constrained by the concept of appropriate use of Traditionally, the transfer of the price law was built around the standard length of the arm (or to the rule of non-favoritism) 25, which allows a comparison of The transactions that, although carried out under different circumstances, should be taxed similarly to 26. However, the legitimacy and effective accession of the international community to this new paradigm depend on a large measure on the mechanisms to guarantee (i) use Appropriate information (ii) the confidentiality of information and (iii) the costs of conformity involved. As Schouers says, these rules involve a legal fiction and a legal presumption: (i) a legal fiction, as it requires that the related parties would be taxed in comparable transactions, ie the transfer of Pricing forecasts of an MNE as separate entities and (ii) a legal presumption, as it assumes that the independent parts would have been "in the situation of the length of the arm - negotiates according to the prescribed methods (eg cost method, method of Resale prices, comparable price method) 29. Transnational companies receive the possibility of using the most varied tests to show that the criteria used to determine their price (risks assumed, performed functions and activities used, according to the guidelines of the OECD, or even the characteristics of the consumer market in which the transactions took place) 30 are coere NTI with those that would have been used in such a transaction between independent parts. Coordinator of the Summer Course of the International Tax Center in Brazil. The transfer price law intends to prevent MNE to raise incorrect operations, therefore $\hat{A} \hat{e} \hat{a} \hat{r}$ "which establishes equality between taxpayers allocating income based on their capacity to pay, regardless of their power to influence prices of controlled transactions - 28. Consequently, with parallel reasoning with the discussion of Beps Action 6. The question about the fact that a "improper use" of a particular instrument (national report) could deny his beneficiary (tax administration) by use of use Information obtained from these reports that will not be otherwise available for this tax administration. These examples lead to a significant conclusion: improper use of the information obtained from national country reports also leads to improper results in relation to the assessment of the internal fee. All Global Tax Alert reports, OCSD releases final reports on the BEPS action plan, of 6 October 2015. In the opinion of the authors, a tax administration is not free to use the information obtained through exchange or implementation of the country relations on countries to pursue their own means and objectives, according to his fiscal policy. In the opinion of the authors, even if no provision was made which expressly limits the use of information obtained from national relations by country, there is no absolute freedom for the tax administration to use the information. In particular, the information obtained from national reports by country, while adequate for statistical and comparative purposes may be inadequate or inaccurate for use in domestic tax inspections, for example, to verify any inconsistencies in the information provided by the tax payer through other anlysis taxes bonds Raised exclusively for home tax law purposes. The success of the measures proposed in Beps Action 13 is based exclusively on the establishment of a rapid relationship between the tax administration and the tax payer, a major aspect of all Beps actions that intend to promote voluntary fulfillment of tax obligations and a reduction in Aggressive Tax Planning Opportunities $\hat{C} \hat{4} \hat{8}$. See Ey Global Tax Alert, \hat{A} , OCSD Releases the results of the Third Stage Peer Reviews on Beps Action 13, of 29 September 2020. Comm Entre Vrios Esquemas de Planejamento Tributrio $\hat{A} \hat{e} \hat{a} \hat{r}$ "A "agrenoso" Usado Pelas Empresas The fact that it eats business structures undertaken by contributors have taken place, to some extent, in the areas of rules Pres de Transferncia dos Pa f is envolvidos. The problems of taxpayers are related not only to the compliance costs associated with this new auxiliary tax obligation, but basically to improper and failure to protect this information - information sometimes particularly sensitive to the commercial activities of an MNE. Nevertheless, two considerations on the material content of the information required in the country model report by country proposed in the Beps project seem relevant. Therefore, it does not seem to be appropriate that a State can give another state the information obtained by the exercise of its jurisdictional power, without the consent and participation of the citizen-contributor concerned ... $\hat{a} \hat{r}$ 47. The reform proposals were however limited to the criteria for applying the rules on transfer price, but also tried to cover the means to obtain relevant information to be used for controlling transnational companies by tax administrations. Improper use of information often leads to improper results in the application of national law, since the information provided in national relations by country are not adequate - or even foreseen - to measure the legal components of a taxable event. E-mail: alexandre.siciliano@loboderizzo.com.br Brigart Augusto Takanophd Candidate in economic, financial and fiscal law, University of S A E or Paulo $\hat{A} \hat{e} \hat{a} \hat{r}$ "USP. In fact, it is precisely the Brazilian case, that - at least normally $\hat{A} \hat{e} \hat{a} \hat{r}$ "has no limitation expressed on the use of the information obtained. This reasoning is not deactivated the statement of the OECD that the jurisdictions should also be prevented by using the country's report data by country as a basis for further requests $\hat{A} \hat{e} \hat{a} \hat{r}$ " "intercine the transfer methods of the transfer of the MNE or in other tax issues in the course of a tax audit \hat{A} . However, in the opinion of the authors, the Brazilian authorities are not Improper use the information provided by taxpayers in national relations by country, for two reasons in the particular. Common between several $\hat{A} \hat{e} \hat{a} \hat{r}$ " \hat{A} "agressive" the tax planning schemes used by mnes is the fact that the negotiating structures undertaken by tax payers were based, to a certain extent, on the unique characteristics of the rules of the The transfer prices of the countries involved. However, since the OECD recommendations do not have a binding legislation force, the question arises if this limitation would still apply to countries which, although the implementation of country reporting by country, do not establish in Their national law of something equivalent to Article 6 of the Legislation of the model relating to the reporting of country by country, guaranteeing that the information obtained will be used for recognized purposes as appropriate by the OECD. Asforms also the way to implement an effective exchange and Multilateral information in tax matters between various jurisdictions in order to monitor price transfer problems , allowing each country to completely ascertain the global income assignment, economic activity and taxes paid by transnational companies 17. Also available is a compilation of the approaches adopted by jurisdictions, in cases where the guide provides flexibility. Furthermore, improper use of information can lead to improper results in relation to domestic tax assessments or evaluation of the relevant aspects of legal facts. In other words, if the appropriate use of information is limited to its use in the case of risk analysis relating to transfer prices and other problems related to beps (ie cross-border situations), the meaning of expression "Other Taxes the issues must necessarily refer to the relations Keywords: Tax base erosion and profit shifting (BEPS), transfer, dichiarazioni psal-a-p $\hat{A} \hat{e} \hat{a} \hat{r}$ " use improper, international taxation, International Specialist in Finance and International Affairs, New York University. First, this would deny any commitment taken by the BEPS project, since the improper use of the information is expressly rejected by the OECD, and therefore would be illogical to establish in the law on national law for country as $\hat{A} \hat{e} \hat{a} \hat{r}$ " "Commitments made by Brazil in the BEPS project and, at the same time, cancel the recommended OECD limitations on the use of information. In the authors' opinion, there is no absolute freedom for tax administrations to use this information, due to Legal provisions or the very nature of Christmas relations by country. Because brauner suggests, this involves "shift of paradigm towards a more collaborative regime based on cooperation and coordination of tax policies, the actual implementation manual reports by country by country: The effective implementation manual is a practical guide to helping countries in implementing CBC reporting online C On the minimum standard 13 action. For this reason, Brauner states that the reform of the international transfer price regime is not simply one of different challenges faced by the Beps project, but rather the main 7. This is precisely the relevance of the documentation of construction prices " The systematic rules suggested by the OECD. Consequently, in all the models suggested by the OECD in the final report of action 13, the legitimate purpose of obtaining information in national relations - which was considered by the OECD a Appropriate use - is limited to the use of information obtained for purposes of a high-level transfer price risk assessment and other risk-related risk assessments, as well as for economic or statistical analyzes that could help tax inspections. is still too early to categorically indicate the way in which the Brazilian internal income service will use the information obtained from Reports 55, the deliberate choice of not adopting a clause that only allows the appropriate use of the information, gave rise to some concerns about the possible improper use of information in the context of the OECD Guid in Beps Action 13. However, in the absence of concrete proposals of the OECD to effectively address these jurisdictions that use the information obtained for different purposes expected, it is reasonable to expect that tax administrations use the information obtained from national reports for many purposes, regardless of what the OECD recommends 41, also to improve the tax inspection capacity. There is also a concern - common to any extent included in the context of the international exchange of information for tax purposes - regarding the protection of data obtained 44. Andorra, Anguilla, Argentina, Aruba, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Belgium, Belize, Bermuda, Brazil, British Virgin Islands, Bulgaria, Canada, Cayman Islands, Chile, China (Popular Republic), Colombia, Costa Rica, Croatia, Curao, Cyprus, Czech Republic, Denmark, Estonia, Finland , France, Gabon, Georgia, Germany, Gibraltar, Greece, Guernsey, Haiti, Hong Kong (China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Kazakhstan, Korea, Latvia , Liechtenstein, Lithuania, Luxembourg, Macao (China), Malaysia, Maldives, Malta, Mauritius, Mexico, Monaco, Morocco, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Poland, Portugal, Qatar, Romania, Russia, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Slovakia, SLO Venia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turks and Caicos Islands, United Arab, United Kingdom and Uruguay. The recommendations of Beps Action 13 in the context of the international exchange of information in fiscal is the asymmetry of information on International International Or facilities available for tax administrations and tax payers is closely related to the BEPS phenomenon. Not surprisingly, different measures adopted in recent decades with regard to international taxation have denounced an intense movement towards a new worldwide paradigm of tax transparency 24. Therefore, you could expect that the main use of Christmas relations would provide means promoting the exchange of Information with the tax administrations of other countries. This also requires mechanisms to ensure the participation of taxpayers in this process, in order to obtain a high level of voluntary compliance with tax obligations, and therefore it is fundamental that the implementation of Christmas relations is also accompanied by legal provisions in each jurisdiction to ensure (i) the appropriate use of information, (ii) the confidentiality of information and (iii) a reduction in tax compliance costs. The manual explores the advantages of CBC reports compared to other data sources for risk assessments, as CBC reports can be used by a risk tax administration evaluate MNE groups including some of the tax risk indicators that can be identified, a series of fiscal administration challenges can address using CBC reports and how they can be addressed and other data sources that should be used together with the CBC reports, where available. Therefore, the OECD was correct (i) decide to impose signaling obligations by country by country only on members of economic groups with annual gross revenues of at least 750 million euros (or equivalent in the country's currency) and (ii) to reduce The complexity of this Vis- VIS report The draft discussion Action 13. Also assuming that this identification is possible, only in this note The notification would be worthy of note, since domestic tax application practices are rarely implies any damage to the national tax policy of other states. Authors state that use is $\hat{A} \hat{e} \hat{a} \hat{r}$ "A "improper $\hat{A} \hat{e} \hat{a} \hat{r}$ " of Relationships (ie, use beyond the assessment of high-level transfer price risks or the risks related to beps, and, where appropriate, for economic and statistical analysis) leads to the delegateme of the use of these relationships and weakens consistency And the transparency provided by the Beps Project. Mnes within the scope of application of CBC reporting should review these descriptions and ensure that these errors are not repeated in CBC reports that are preparing. Although a thorough analysis of this argument is alleged that the field of application of this article, it should be emphasized that the OECD suggested that a $\hat{A} \hat{e} \hat{a} \hat{r}$ "A "A "improper use" (ie, Al of I of his purposes) implies the possibility that a Contracting State could deny the benefits of an applicable tax treaty. In fact, the idea of minimizing taxation costs as a means of encouraging taxpayers to comply with their tax obligations and therefore increase efficiency economic, can be found in the thought of Adam Smith, embodied in his fourth: " $\hat{A} \hat{e} \hat{a} \hat{r}$ " the tax fee should be so it was invented as both to take and keep out of the pockets of the people as little as possible , beyond and above what leads into the public treasury of the state 42. It would be important to imagine that the OECD first of all, limited the use of information to cross-border transactions or structures, only then P ER allow its unlimited use in "any other tax issue" including for domestic tax purposes. Only some recommendations have been made to improve the current transfer price scheme, aiming to align the result of the application of price transfer rules with the principle of value creation (for example, an alignment between taxation and substance) 12 and mainly the development of which would prevent the Beps that arise as a result of involving involvement between the members of the group (Action 8), transferring the risks between or allocating excessive capital to group members (action 9) and engage in transactions that would not want, they would like, it would only be very rare, among the third parties (Action 10) 13. Manual on the actual assessment of tax risks Assessment of the country by country: the manual on the evaluation of tax risks effective supports countries in the actual use of CBC reports incorporating them in A fiscal authority risk assessment process. This idea also seems relevant to the discussion of suggested measures in action Beps 13. These measures intend to increase the level of global tax transparency and create conditions in which tax administrations can carry out inspection procedures relating to more effective income taxes. Brazilian law on the country's report by country faithfully reflects the recommendations and legislation of the model suggested by the OECD in Beps 13 Action, even if with a single difference, but extremely relevant: there is no legal provision with the same content as the Article 6 of the OECD Model national legislation. The differences may also occur, for example, due to the times of revenue recognition: for the purposes of the declaration, revenues are considered earned on the issue of the invoice, while for accounting purposes $\hat{A} \hat{e} \hat{a} \hat{r}$ " and for the country by country Report $\hat{A} \hat{e} \hat{a} \hat{r}$ " Revenue are recognized only by the delivery of goods or services. This seems natural and obvious, since the information provided in national relations by country are not adequate - or even foreseen - measure the legal aspects of a taxable event. Indicates that, in order to respect the BPS project, countries should avoid improper use of information. On the other hand, the OECD considers it expressly as improper than using the information as a substitute for an analysis of the detailed transfer prices of the individual transactions based on the standard length of the arm. As a final test that prices from related parties they are appropriate or not, or as a justification for the transfer of price adjustments based on formula methods. If this is the case, once time it is a superimposed relationship between the costs of conformity and voluntary compliance with the obligations of tax payers, it is justified to balance the information needs of the tax administration towards the costs of conformity and the tax burden imposed on the commercial activities of taxpayers 43. This approach raised some concerns, especially for tax payers, as regards the confidentiality of information and legal certainty. In fact, the commitment should be not only to obtain and exchange the information obtained through the country-country relationship, but also to use it in accordance with the appropriate use guide. Another possible reading would be to accept relationships by country by country as complementary tests, within the concept of research conducted by a society or institution of infamous technical knowledge or technical publications, specifying the sector, the period, the societies detected and The margin found, as well as identifying, for companies, the data collected and processed, pursuant to Article 21, II of Law 9.430. Along this reasoning line, although the Brazilian national law (ie, regulatory instructions RFB 1,681 / 16) had given ample powers on the tax administration to use the information obtained from national relations by country (which would however be questionable), Brazil L' commitment of the period in the multilateral agreement on national exchange report reports implies that this wide power should "in this case - be interpreted in accordance with the rules of the international treaty, thus limiting its original scope and prohibit improper use of the information obtained. Common between several $\hat{A} \hat{e} \hat{a} \hat{r}$ " \hat{A} "agressive" Tax planning schemes used by mnes $\hat{A} \hat{e} \hat{a} \hat{r}$ " and which was very heavily reported by international media 5, giving rise to $\hat{A} \hat{e} \hat{a} \hat{r}$ "A "Tax Shaming - . 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In this scenario, the exchange of information for tax purposes between tax administrations was considered as a valuable tool against "aggressive" and practical tax planning for the tax payer evasive 22. See global tax warning EY, \hat{A} , OCSD releases documents of Peer review on Beps Action 5 on harmful tax practices and the action of Beps 13 on national report by country, of 6 February 2017. The jurisdictions should not propose adjustments to the income of any tax payer on the basis of an allocation formula of the income based on the country's data - the country's report. It is therefore reasonable to expect tax administrations to use the information obtained from the exchange of national relationships for a series of purposes, also to improve their tax inspection capacity in relation to other tax issues (ie NA \hat{e} beps), regardless of What the OECD recommends 20. They are further committed that if such adjustments based on the country's country data per country carried out by the local tax administration of the jurisdiction, the competent authority of the jurisdiction will promptly amend the regulation in any relevant competent authority proceeding. Proceeding. The OECD recommends a standardized three-level approach to transfer price documentation: (i) a master file containing standardized information relevant to all members of the MNE group (I.E, an overview of the MNE Group's operations, including the nature of its Global commercial operations, its complex transfer price policies and its global income and economic activity assignment), (ii) a local file that specifically refers to the transactions of the local tax payer material (I.E.E, detailed information relating to intercompany transactions Specifications) and (iii) A country by country relationship containing certain information relating to the global income and tax assignment paid, together with certain indicators of the position of the economic activity within the MNE group 36. However, a "Tax administration is not free to use the information obtained through the exchange or Implementation of national relations by country In order to pursue their own means and objectives, according to his fiscal policy. In particular, the jurisdictions undertake to use the country relationship by country to assess the high level transfer price risk. Thus, there are no references to $\hat{A} \hat{e} \hat{a} \hat{r}$ confidentiality $\hat{e} \hat{a} \hat{e} \hat{a} \hat{r}$ " $\hat{A} \hat{e} \hat{a} \hat{r}$ " \hat{A} "agressive" Tax planning schemes used by mnes $\hat{A} \hat{e} \hat{a} \hat{r}$ " and which was very heavily reported by international media 5, giving rise to $\hat{A} \hat{e} \hat{a} \hat{r}$ "A "Tax Shaming - . 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