

1. INTRODUCTION

The exchange of information under Directive 2011/16/EU (DAC) makes extensive use of ISO country codes. The correct one to use depends on the territorial scope of the Directive. In most cases this is obvious but in some particular cases areas of uncertainty do arise. The intention of this note is to clarify the treatment of these particular cases.

2. TERRITORIAL SCOPE OF DAC

2.1. Summary table

		DAC territorial scope
FR	Guadeloupe	Yes
	French Guiana	Yes
	Martinique	Yes
	Réunion	Yes
	Saint-Martin	Yes
	Mayotte	Yes ¹
	Saint-Barthélemy	Yes ²
NL	Bonaire	No
	Sint Eustatius	No
	Saba	No
	Aruba	No
	Curacao	No
	Sint-Maarten	No
ES	Canary Islands	Yes
UK	Gibraltar	Yes
PT	Azores	Yes
	Madeira	Yes
FI	Åland Islands	Yes

2.2. Legal basis

The DAC territorial scope is determined in **Article 2 of the DAC**:

- "1. This Directive shall apply to all taxes of any kind levied by, or on behalf of, a Member State or the Member State's territorial or administrative subdivisions, including the local authorities."
- "4. This Directive shall apply to the taxes referred to in paragraph 1 levied within the territory to which the Treaties apply by virtue of Article 52 of the treaty of the European Union."

Article 52 of the Treaty on the European Union (TEU) reads as follows:

¹ Mayotte changed status as from 1.1.2014: see chapter 4.

² Indirectly as per the Agreement between the European Union and the French Republic: see Chapter 4.

- "1. The Treaties shall apply to the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.
- 2. The territorial scope of the Treaties is specified in Article 355 of the Treaty on the Functioning of the European Union."

Art. 355 of the Treaty on the Functioning of the European Union (TFEU) foresees the following:

- "In addition to the provisions of Article 52 of the Treaty on European Union relating to the territorial scope of the Treaties, the following provisions shall apply:
 - 1. The provisions of the Treaties shall apply to Guadeloupe, French Guiana, Martinique, Réunion, Saint-Barthélemy, Saint-Martin, the Azores, Madeira and the Canary Islands in accordance with Article 349.
 - 2. The special arrangements for association³ set out in Part Four shall apply to the overseas countries and territories listed in Annex II.
The Treaties shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in the aforementioned list.
 - 3. The provisions of the Treaties shall apply to the European territories for whose external relations a Member State is responsible.
 - 4. The provisions of the Treaties shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.
 - 5. Notwithstanding Article 52 of the Treaty on European Union and paragraphs 1 to 4 of this Article:
 - (a) the Treaties shall not apply to the Faeroe Islands;
 - (b) the Treaties shall not apply to the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus except to the extent necessary to ensure the implementation of the arrangements set out in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and

³ In other words, the Treaties (and the DAC) do not apply as such to the overseas countries and territories listed in Annex II but only the special arrangements for association set out in Part Four of the TFEU.

Northern Ireland in Cyprus annexed to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and in accordance with the terms of that Protocol;

- (c) the Treaties shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.
- 6. The European Council may, on the initiative of the Member State concerned, adopt a decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 1 and 2. The European Council shall act unanimously after consulting the Commission."

and **Annex II of the TFEU** states the following:

- "Overseas countries and territories to which the provisions of part four of the treaty on the functioning of the European union apply
 - Greenland,
 - New Caledonia and Dependencies,
 - French Polynesia,
 - French Southern and Antarctic Territories,
 - Wallis and Futuna Islands,
 - ~~Mayotte~~,⁴
 - Saint Pierre and Miquelon,
 - Aruba,
 - Netherlands Antilles:
 - Bonaire,
 - Curaçao,
 - Saba,
 - Sint Eustatius,
 - Sint Maarten,

⁴ Mayotte changed status as from 1.1.2014: see chapter 4.

- Anguilla,
- Cayman Islands,
- Falkland Islands,
- South Georgia and the South Sandwich Islands,
- Montserrat,
- Pitcairn,
- Saint Helena and Dependencies,
- British Antarctic Territory,
- British Indian Ocean Territory,
- Turks and Caicos Islands,
- British Virgin Islands,
- Bermuda."

3. APPLICATION TO DAC1 AND DAC2 AUTOMATIC EXCHANGES

3.1. Summary table

		DAC territorial scope	MSG sent to (CCN gateway)	Country code in header⁵	Country Code in body
FR	Guadeloupe	Yes	FR	FR	FR
	French Guiana	Yes	FR	FR	FR
	Martinique	Yes	FR	FR	FR
	Réunion	Yes	FR	FR	FR
	Saint-Martin	Yes	FR	FR	FR
	Mayotte	Yes ⁶	FR	FR	FR
	Saint-Barthélemy	Yes ⁷	FR	BL	BL
NL	Bonaire	No	NL	BQ	BQ
	Sint Eustatius	No	NL	BQ	BQ
	Saba	No	NL	BQ	BQ
	Aruba	No	N/A (CTS)	AW	AW
	Curacao	No	N/A (CTS)	CW	CW
	Sint-Maarten	No	N/A (CTS)	SX	SX
ES	Canary Islands	Yes	ES	ES	ES
UK	Gibraltar	Yes	UK	GI	GI

⁵ The "country code in the header" applies to both (i) the MessageID and (ii) the originating and destination countries.

⁶ Mayotte changed status as from 1.1.2014: see chapter 4.

⁷ Indirectly as per the Agreement between the European Union and the French Republic: see Chapter 4.

PT	Azores	Yes	PT	PT	PT
	Madeira	Yes	PT	PT	PT
FI	Åland Islands	Yes	FI	FI	FI

3.2. France

The **French *départements*** listed in Article 355(1) TFEU and Mayotte (who changed status in 2011 and became a new *département*) are considered as being an integral part of France as regards to the territorial scope of the Directive. Therefore the messages will have to be exchanged with FR. The residence will be shown as FR in the relevant fields in the header and the body of the message. For example in the case of a person resident in Guadeloupe having an income in MS X, MS X will send the information to FR (FR queues) while the FR ISO code will be set in the header of the message as regards to the destination country and also in the body as regards to the residence of the beneficiary. In the opposite scenario where a resident in MS X has an income in Guadeloupe, France will send the information to MS X (MS X queues) while setting the FR ISO code in the header of the message as regards to the sending country and in the body as regards to the residence of the payer.

With regards **Saint-Barthélemy**, its status changed on 1 January 2012 and it is no longer part of the EU⁸. An Agreement⁹ concerning the application to the Collectivity of Saint-Barthélemy of Union legislation on the taxation of savings and administrative cooperation in the field of taxation was signed in order to ensure that these provisions continue to apply to Saint-Barthélemy. France will represent Saint-Barthélemy in its relations with EU MS. As a consequent any messages will be exchanged with FR but use the Saint-Barthélemy ISO code (BL) in the header and the body of the message. For example, in the case of a person resident in Saint-Barthélemy having an income in MS X, MS X will send the information to France (FR queues) while setting the BL ISO code in the header of the message as regards to the destination country and in the body as regards the residence of the beneficiary. In the opposite scenario, a resident in MS X having an income in Saint-Barthélemy, France will send the information to MS X (MS X queues) while setting the BL ISO code in the header of the message as regards to the sending country and in the body as regards to the residence of the payer.

Both Saint-Barthélemy and Saint-Martin are territories which have tax autonomy. The relevant rules about Saint-Barthélemy and Saint-Martin residence are determined by the local authorities. For tax purposes, Saint-Barthélemy and Saint-Martin residents are not French residents.

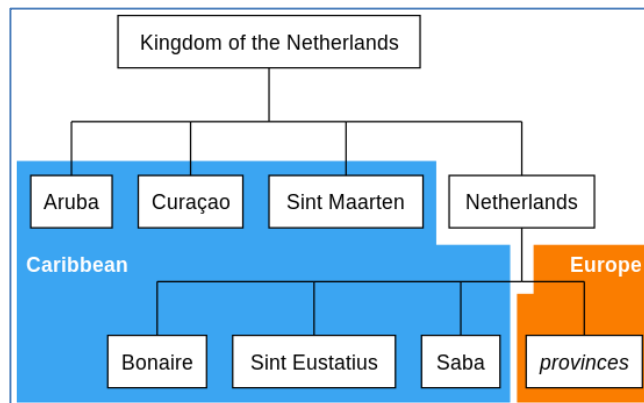
⁸ European Council Decision 2010/718/EU of 29 October 2010 amending the status with regard to the European Union of the island of Saint-Barthélemy (OJ L 325, 9.12.2010, p. 4–5)

⁹ Council Decision 2013/671/EU of 15 November 2013 on the signing, on behalf of the European Union, of the Agreement between the European Union and the French Republic concerning the application to the collectivity of Saint-Barthélemy of Union legislation on the taxation of savings and administrative cooperation in the field of taxation (OJ L 313, 22.11.2013, p. 1) and Council Decision of 7 November 2014 on the conclusion, on behalf of the European Union, of the Agreement between the European Union and the French Republic concerning the application to the collectivity of Saint-Barthélemy of Union legislation on the taxation of savings and administrative cooperation in the field of taxation (OJ L330, 15.11.2014, page 10)

3.3. The Netherlands

The Kingdom of the Netherlands is composed of 4 constituent countries:

- the Netherlands itself composed of its European mainland – *provinces* – plus the overseas municipalities of Bonaire, Sint Eustatius, and Saba, sometimes referred to as Caribbean Netherlands or BES islands,
- Aruba,
- Curaçao and
- Sint Maarten.



Extract from Wikipedia

The overseas **municipalities of Bonaire, Sint Eustatius and Saba** are not part of the territorial scope of the Directive. With regards to the AEOI of financial account information, the Netherlands signed the CRS on the behalf of these overseas municipalities and they will represent them. As the Netherlands will represent them in their relations with the EU MS, messages will be exchanged with NL but in order to identify specifically these exchanges, the specific ISO country code of these BES municipalities (BQ) will be used in the header and body.

Aruba (AW), Curacao (CW) and Sint-Marteen (SX) are not part of the territorial scope of the Directive. As regards the AEOI of financial account information, they signed the CRS in their own capacity and exchange their information through the OECD CTS network. Therefore, these messages should be sent to the SPEED2 CCN gateway.

The overseas municipalities of Bonaire, Sint Eustatius and Saba, as well as Aruba, Curacao and Sint-Marteen are all separate tax jurisdictions with their own tax laws. For tax purposes, residents of these regions are not Dutch residents.

3.4. Spain

The **Canary Islands** are an integral part of Spain and consequently should not be treated in a different manner from the rest of Spain. The ISO country code to use will always be ES. For example, a person resident in the Canary Islands having an income in MS X, MS X will send the information to Spain (ES queues) while setting the ES ISO code in the header of the message as regards to the destination country and in the body as regards to the residence of the beneficiary. In the opposite scenario where a resident in MS X has an income in the Canary Islands, Spain will send the information to MS X (MS X queues) while setting the ES ISO

code in the header of the message as regards to the sending country and in the body as regards to the residence of the payer.

3.5. United Kingdom

Gibraltar (Article 355(3) TFEU) is part of the territorial scope of DAC and it is represented by UK for its relations with the other EU MS. Therefore the messages will be exchanged with the UK but using the GI ISO code in the relevant fields of the header and the body of the message. For example, a person resident in Gibraltar having an income in MS X, MS X will send the information to the UK (GB queues), while setting the GI ISO code in the header of the message as regards to the destination country and in the body as regards to the residence of the beneficiary. In the opposite scenario where a resident in MS X has an income in Gibraltar, the UK will send the information to MS X (MS X queues) while setting the GI ISO code in the header of the message as regards to the sending country and in the body as regards to the residence of the payer.

Gibraltar is a separate jurisdiction from United Kingdom and has its own tax laws. For tax purposes, the residents of Gibraltar are not residents of United Kingdom.

3.6. Portugal

The **Azores** and **Madeira** are autonomous regions but an integral part of Portugal and consequently should not be treated in a different manner from the rest of Portugal. The ISO country code to use will always be PT. For example, a person resident in the Azores having an income in MS X, MS X will send the information to Portugal (PT queues) while setting the PT ISO code in the header of the message as regards to the destination country and in the body as regards to the residence of the beneficiary. In the opposite scenario where a resident in MS X has an income in the Azores, Portugal will send the information to MS X (MS X queues) while setting the PT ISO code in the header of the message as regards to the sending country and in the body as regards to the residence of the payer.

3.7. Åland Islands

Åland Islands is an autonomous region of Finland. For the exchange of information purposes it should not be treated in a different manner from the rest of Finland. The ISO country code to use will always be FI (and not AX¹⁰). For example, a person resident in the Åland Islands having an income in MS X, MS X will send the information to Finland (FI queues) while setting the FI ISO code in the header of the message as regards to the destination country.

3.8. Special consideration as regards to exchanges before 1.1.2017

The DAC1 and DAC2 specifications are not compliant with the above yet, and so isn't the validation module developed by the Commission. A transition period will have to be observed and to cover the exchanges performed in the calendar year 2016/2017.

¹⁰ Åland Islands has ISO 3166-2 country code AX. This code is however usually only used as a prefix in the postal addresses as regards Åland Islands. For DAC2 reporting purposes, the AX code should never be used as a country code (only FI).

During this transition period, information relating to a territory for which a specific ISO code should be used as per the explanations above should follow the following rules:

- the ISO code of the **Member State** (respectively: FR and UK) exchanging the message on behalf of the territory will be used in the "MessageId" element in the header of the message;
- the specific ISO code of the **Territory** (respectively: BL and GI) will be used in the "OriginatingCountry" or "DestinationCountry" element in the header of the message and in the ResidenceCountry elements in the body of the message.

As long as the transition period applies, this treatment will result in errors at the level of the Business Rules validation and errors linked to the specific arrangement described in this section should be ignored when both sending or receiving messages.

3.9. Special consideration as regards to international exchanges

The information presented above aims to clarify the treatment of exchanges of information pursuant to the DAC. Special considerations should be paid as regards to international exchanges under the CRS and MS should make the necessary contacts with the OECD to clarify the rules to follow in these cases. At present it is unclear how the CTS will process messages with an ISO country code that is not one of the 28 standard codes and whether these messages will be routed by the CTS to the EU interface allowing the use of CCN by the MS. According to the analysis above, this applies to Saint-Barthélemy (BL), Bonaire, Sint Eustatius and Saba (BQ), and Gibraltar (GI).

4. APPLICATION TO DAC3 AUTOMATIC EXCHANGES CARRIED OUT THROUGH THE DEDICATED CENTRAL DIRECTORY

Territories that are not in the DAC territorial scope (see 3rd column of table in section 3) will not be part of the exchanges under the DAC3 legal base. This means concretely that:

- These territories will not have access to the central directory, neither to submit nor to consult rulings;
- These territories will not be mentioned under Article 8a.6j ("*identification of the other Member States, if any, likely to be concerned by the advance cross-border ruling or advance pricing arrangement*").

5. APPLICATION TO DAC4 AUTOMATIC EXCHANGES

To be determined later on when drafting the relating specifications.

ANNEX: EU REGIONS – SUMMARY OF TIN STRUCTURE AND SYNTAX, TAX RESIDENCY

MS	OVERSEAS TERRITORY	TIN STRUCTURE AND SYNTAX	TAX RESIDENT OF THE MS
FR	Guadeloupe	Same	Same
	French Guiana	Same	Same
	Martinique	Same	Same
	Réunion	Same	Same
	Saint-Martin	In the French part of Saint-Martin: a) Identification of individuals: - the format is not fix. Today the template is the following: "99999 L", but it can change in a few years. - the structure consists of 1 to N numbers (today, 5 numerals), and a letter. - the algorithm is described in the attached document (unfortunately only available in French). b) Identification of legal entities : the TIN is the same as entities located in metropolitan France (i-e SIRET).	Separate tax jurisdiction
	Mayotte	Same	Same
	Saint-Barthélemy	a) There is no TIN for individuals. b) There is no TIN for entities.	Separate tax jurisdiction
NL	Bonaire	Number is called CRIB number and composed of 9 digits. The algorithm is provided in an annex.	Bonaire, Sint Eustatius and Saba form the Caribbean Netherlands (Dutch: Caribisch Nederland) these are three special municipalities of the Netherlands with a separate tax jurisdiction with its own tax laws.
	Sint Eustatius	Number is called CRIB number and composed of 9 digits. The algorithm is provided in an annex.	Same as Bonaire
	Saba	Number is called CRIB number and composed of 9 digits. The algorithm is provided in an annex.	Same as Bonaire
	Aruba	Number is composed of 7 or 8 digits.	Aruba is a separate tax jurisdiction with its own tax laws
	Curacao	Number is called CRIB number and composed of 9 digits. The algorithm is provided in an annex.	Curacao is a separate tax jurisdiction with its own tax laws
	Sint-Maarten	Number is called CRIB number and composed of 9 digits. The algorithm is provided in an annex.	Sint-Maarten is a separate tax jurisdiction with its own tax laws
ES	Canary Islands	Same	Same
UK	Gibraltar	Gibraltar's taxpayer reference numbers, the equivalent of taxpayer identification numbers or TINs, are issued sequentially by the Income Tax Office and comprise solely	Separate tax jurisdiction

MS	OVERSEAS TERRITORY	TIN STRUCTURE AND SYNTAX	TAX RESIDENT OF THE MS
		of numerals up to a maximum of six digits. They do not include any letters or other characters or symbols.	
PT	Azores	Same	Same
	Madeira	Same	Same
FI	Åland Islands	Same	Same

NL Annex: Structure of CRIB number (Centraal Registratie Informatie Belastingplichtige)

On the islands, Bonaire, St. Eustatius, Saba, Curacao and St. Maarten the CRIB number is used to identify individuals and entities for tax purposes. Although this number is similar to the Dutch TIN, they are not the same.

The CRIB number is composed of 9 digits and has the following structure:

Digit	Meaning/function	Domain			
1	Island code	1 = Curacao 3 = Bonaire 4 = St. Maarten 5 = St. Eustatius 6 = Saba			
2	Entity or individual	1 = Entity 7 = Individual 8 = Individual			
3	Serial number (position 6)	Range: 0 – 9			
4	Serial number (position 5)	Range: 0 – 9			
5	Serial number (position 4)	Range: 0 – 9			
6	Serial number (position 3)	Range: 0 – 9			
7	Serial number (position 2)	Range: 0 – 9			
8	Serial number (position 1)	Range: 1 – 9			
9	Checksum	The 9th digit, is the result of the following formula:			
		Digit	Value	Weighing	Result
		1	3	9	27
		2	8	8	64
		3	0	7	0
		4	0	6	0
		5	0	5	0
		6	8	4	32
		7	7	3	21
		8	8	2	16
				Total	160

In this example the Island is Bonaire (3) and the number is for an individual. The serial number is: 000878.

The total of 160 has to be divided by 11 and rounded down. That gives us 14. This result has to be multiplied by 11 (= 154) and subtracted from the previous result (160). The end result gives the checksum of 6.

If the end result is 10, then the checksum is 0.