

Transfer Pricing Country Summary

Gabon

May 2022

1. Introduction	3
2. Laws & Regulations	3
a) References to OECD/EU/Local Rules	3
b) Definition of Related Party	3
c) Nature of Transfer Pricing Documentation	3
d) Tax Havens & Blacklists	4
e) Advance Pricing Agreement (APA)	4
f) Audit Practice	4
3. Transfer Pricing Documentation.....	5
a) Level of Documentation	5
b) Industry Analysis	5
c) Company Analysis	5
d) Functional Analysis	5
e) Choice of Transfer Pricing Method.....	6
f) Economic Analysis – Benchmark Study.....	6
g) Inter-company (IC) Legal Agreement.....	6
h) Financial Statements.....	6
i) Production Process for TP Relevant Returns, Documents, Forms and Financials	6
j) Mandatory Language	8
k) Notification Requirement	9
l) Record Keeping	9
m) Penalties and Interest Charges	9

1. Introduction

Gabon implemented transfer pricing regulations in April 2009. The 2014 Finance Bill strengthened these regulations.¹

2. Laws & Regulations

a) References to OECD/EU/Local Rules

As early as 2009, the General Tax Code includes a TP reference. The General Tax Code, however, has effective TP rules, paperwork filing duties and deadlines, as well as penalties, as of January 1, 2017.

Regarding Local regulation, Sections P 831, P 831 bis, P 831 ter, P 832, and P 860 (TP documentation content, filing obligation, and deadlines); Sections P-1010 bis and P-1010 ter (noncompliance penalties); and Section 11-a of the special regime for group of companies (definition of related party as companies that are directly or indirectly under common control whether from a legal perspective or that are in a related party relationship).

The substance of the TP paperwork is detailed in the Tax Administration's Tax Statement of Practice.²

b) Definition of Related Party

According to domestic tax law, "related parties" are companies or groups of companies that participate in the management, control, or capital of a Gabonese company directly or indirectly, or through one or more intermediaries. There is no minimum percentage for capital ownership, but the law considers ownership to be a majority of the capital. When transactions are carried out with companies established in non-cooperative countries or countries with alleviated tax regimes, i.e., an absence of taxation or taxation lower than more than 50% of the standard taxation rate applicable in Gabon, the status of "associated enterprises" is not required.

c) Nature of Transfer Pricing Documentation

As early as 2009, the General Tax Code includes a TP reference. The General Tax Code, however, has effective TP rules, paperwork filing duties and deadlines, as well as penalties, as of January 1, 2017. On June 22, 2018, the Tax Administration issued a Tax Statement of Practice outlining the contents of the TP paperwork package.

The primary legislative provisions concerning TP are found in Section 12 and Sections P 831, P 831 bis, P 831 ter, P 832, and P 860 of the General Tax Code, which became effective on January 1, 2017.³

¹ [The ins and outs of Gabon's tax system | Gabon 2015 | Oxford Business Group](#)

² [ey-worldwide-transfer-pricing-guide-10-september-2020 \(2\).pdf](#), p. 225.

³ [ey-worldwide-transfer-pricing-guide-10-september-2020 \(2\).pdf](#), p. 225

d) Tax Havens & Blacklists

Gabon enacted transfer pricing regulations in April 2009. The 2014 Finance Bill strengthened these regulations. If sums corresponding to industrial property rights, interest, or services are paid in a tax haven or to a resident of a low-tax country, those sums can be considered taxable revenues in Gabon if the Gabonese Tax Administration cannot demonstrate that the payments are fair and correspond to true services provided.⁴

e) Advance Pricing Agreement (APA)

There are APA programs accessible on a unilateral, bilateral, and multilateral basis. APAs are issued for a set period of time that is not specified in the statute and is determined by the taxpayer's industry. There is no clear mechanism in the statute for APA rollbacks, and its acceptance for previous years will be contingent on conversations with authorities.

f) Audit Practice

The Gabonese Tax Code specifies the rules for the tax audit procedure. There are no specific rules governing the selection of companies for tax audits. However, it should be noted that, in general, tax administration is carried out by sector of activity. Tax Inspectors conduct audits at the taxpayer's headquarters or principal place of business. The following are the main steps in a tax audit:

- Notification of a tax audit in which the taxpayer is informed of the date on which the tax audit will be performed.
- The audit's performance.
- Provisions for reassessment notification.
- Provision of the taxpayer's responses to the notification of reassessment (to be provided within 20 days of receipt of the notification). According to the new Article P-847 paragraph 3 of the Gabonese Tax Code, the taxpayer can request a postponement of the response delay (which cannot exceed ten days).
- Response of the tax administration to the taxpayer's responses (to be provided within a delay of 60 days from the receipt of the above-mentioned answer from the taxpayer).
- Closing of the tax audit.

Without prior notification of a tax audit, the tax administration may proceed with on-site verification in the event of discovery of hidden activities and noncompliance with filing and payment requirements.

⁴ [The ins and outs of Gabon's tax system | Gabon 2015 | Oxford Business Group](#)

3. Transfer Pricing Documentation

a) Level of Documentation

The law No. 026/2016, enacted on January 6, 2017, setting the state's resources and charges for the year 2017, established a country-by-country report (CbC report) filing requirement and detailed the transfer price documentation obligation.

Article P-831 of the GTC imposes an annual obligation on Gabonese enterprises with commercial ties to affiliated companies based abroad to transmit transfer pricing paperwork. The format for delivering this documentation was changed by the Finance Law of 2017.

The documentation must now comprise two files in French: a main file and a local file, both of which must be presented in a dematerialized format.⁵

b) Industry Analysis

By identifying value drivers for the relevant industry, a first indication of the level of profitability common in the industry is being given.

c) Company Analysis

A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.

A detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.

d) Functional Analysis

In conducting a functional analysis, an assessment is made of the significant activities and responsibilities that are performed by the related parties relevant to the Intercompany Transactions under review, the tangible and intangible assets that are employed and the risks that are borne in undertaking the business activities. Such an assessment is consistent with the recommendations that have been made in the OECD Guidelines at paragraph 1.51.

⁵ [Document - Gabon - Implementation of country-by-country report and transfer pricing regulations - Tax Research Platform - IBFD](#)

e) Choice of Transfer Pricing Method

The CUP method is an appropriate transfer pricing method for commodity transactions between associated enterprises.⁶

f) Economic Analysis – Benchmark Study

Actual business transactions are detected, and transfer pricing is not based on contractual agreements that do not reflect economic reality.⁷

g) Inter-company (IC) Legal Agreement

Although an Inter-company legal agreement formalizes the business and financial relationship between group entities, the legal agreements have a lower ranking since the OECD 2017 Guidelines made the “conduct of parties” the prevailing concept.

h) Financial Statements

Companies must publish a balance sheet, a profit and loss account, a statement of cash flows, and notes to the financial statements, according to Article 8 of the Accounting Act of the Organization for the Harmonisation of Business Law in Africa.

All publicly traded companies and those making a public capital raise must use IFRS standards for their financial statements.

i) Production Process for TP Relevant Returns, Documents, Forms and Financials

In the chart below, the existence of the filing requirements with the details of which format is used, the latest filing date, notification requirement and its deadline, thresholds to be applied in case it exists, and the required languages are demonstrated. This information can be seen respectively for CIT, master file, local file, CbCR, local forms, annual accounts and segmented P&L documentations.

⁶ [Document - Gabon - BEPS Country Monitor - Tax Research Platform - IBFD](#)

⁷ [Document - Gabon - BEPS Country Monitor - Tax Research Platform - IBFD](#)

	Prepare or File?	Format	Deadline	Notification Deadline*	Threshold* (Yes/No)	Local Language (Yes/No)*(If "No", it can be filed in English)
Corporate Income Tax	File	Local IFRS	30 April	n.a.	Yes	Yes (French)
Master File	File	PT01	needs to be filed together with the corporate income tax return, by 30 April of the following fiscal year	n.a.	Not specified	Yes (French)
Local File	File	PT 02	needs to be filed together with the corporate income tax return, by 30 April of the following fiscal year	n.a.	Not specified	Yes (French)

CbCR	File			No later than the statutory deadline for the filing of the annual corporate income tax return (30 April)	Yes	Yes (French)
P-831	Prepare	Not specified	Beginning of fiscal year	n.a.	Not specified	Yes (French)
Annual Accounts	File	AUDCIF and local IFRS	n.a.	n.a.	n.a.	Yes (French)
Segmented P&L	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
* Gabon has signed the MCAA agreement for the filing of CBCR.						
* Gabon does not request as much and detailed information from smaller and less complex enterprises (SME's included) than it does from large and complex enterprises.						

j) Mandatory Language

Language in which documentation needs to be filed in French.⁸

⁸ [Document - Gabon - Transfer Pricing Documentation Tables - Tax Research Platform - IBFD](#)

k) Notification Requirement

No later than the statutory deadline for the filing of the annual corporate income tax return (30 April), and the form must be filed both electronically and hard copy to the transfer pricing department of the tax authorities.⁹

l) Record Keeping

Taxpayers are required to keep the record for a period of 5 years in accordance with the statute of limitations.

m) Penalties and Interest Charges

The highest of the following penalties for not filing or for incomplete/incorrect filling may apply:

- 0.5% of the group consolidated turnover; or
- FCFA 100,000,000 per fiscal year.¹⁰

⁹ [Document - Gabon - Transfer Pricing Documentation Tables - Tax Research Platform - IBFD](#)

¹⁰ [Document - Gabon - Transfer Pricing Documentation Tables - Tax Research Platform - IBFD](#)