

Brazil

Brazil has met all aspects of the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2021 (year in review), and no recommendations are made.

Brazil can legally issue two types of rulings within the scope of the transparency framework.

In practice, Brazil issued rulings within the scope of the transparency framework as follows:

Type of ruling	Number of rulings
Past rulings	10
Future rulings in the period 1 April 2016 – 31 December 2016	1
Future rulings in the calendar year 2017	2
Future rulings in the calendar year 2018	5
Future rulings in the calendar year 2019	0
Future rulings in the calendar year 2020	0
Future rulings in the year in review	0

As no exchanges were required to take place, no peer input was received in respect of the exchanges of information on rulings received from Brazil.

Information gathering process (ToR I.A)

186. Brazil can legally issue the following two types of rulings within the scope of the transparency framework: (i) preferential regimes¹ and (ii) cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles.

187. For Brazil, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2014 but before 1 April 2016; or (ii) on or after 1 January 2010 but before 1 January 2014, provided they were still in effect as at 1 January 2014. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

188. In the prior years' peer review reports, it was determined that Brazil's undertakings to identify past and future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. In addition, it was determined that Brazil's review and supervision mechanism was sufficient to meet the minimum standard.

189. In the prior year's peer review report, it was noted that Brazil undertook a full review of all tax rulings issued both by the central taxation unit and the local taxation units and identified two additional rulings issued in 2018. Brazil had quickly taken steps to identify and remedy the issue and, therefore, as this is not expected to be a recurring issue, no recommendations were made. Brazil confirms that this issue has not recurred in the year in review.

190. Brazil has met all of the ToR for the information gathering process and no recommendations are made.

Exchange of information (ToR II.B)

191. Brazil has the necessary domestic legal basis to exchange information spontaneously. Brazil notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

192. Brazil has international agreements permitting spontaneous exchange of information, including: (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[1]) ("the Convention"), (ii) bilateral agreements in force with 36 jurisdictions and (iii) tax information exchange agreements in force with two jurisdictions.²

193. During the year in review, no exchanges were required to take place and no data on the timeliness of exchanges is reported.

194. In the prior years' peer review reports, it was determined that Brazil's process for the completion and exchange of templates were sufficient to meet the minimum standard. With respect to past rulings, no further action was required. Brazil's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

195. As noted in the previous section, in the prior year's peer review report, Brazil identified two additional rulings issued by the local taxation units in 2018 that were not otherwise identified in the prior year and therefore not previously transmitted to the Competent Authority for the exchanges with the relevant jurisdiction(s). No recommendations were made, because Brazil completed the exchanges on the additional future rulings as soon as the issues were identified and resolved, and this was not expected to be a recurring issue. Brazil confirms that this issue has not recurred in the year in review.

196. Brazil has the necessary legal basis for spontaneous exchange of information, a process for completing the templates in a timely way and has completed all exchanges. Brazil has met all of the ToR for the exchange of information process and no recommendations are made.

Statistics (ToR IV.D)

197. As no rulings were issued, no statistics can be reported.

Matters related to intellectual property regimes (ToR I.A.1.3)

198. Brazil does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[2]) were imposed.

Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
	No recommendations are made.

References

- OECD (2021), *BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology for the Conduct of the Peer Reviews of the Action 5 Transparency Framework*, OECD Publishing, Paris, <http://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [3]
- OECD (2015), *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/9789264241190-en>. [2]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264115606-en>. [1]

Notes

¹ PADIS – Semiconductors Industry.

² Participating jurisdictions to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Brazil also has bilateral agreements with Argentina, Austria, Belgium, Canada, Chile, China (People's Republic of), Czech Republic, Denmark, Ecuador, Finland, France, Hungary, India, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Norway, Netherlands, Peru, Portugal, Philippines, Slovak Republic, Russia, Singapore, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago, Türkiye, Ukraine, United Arab Emirates and Venezuela. The TIEAs with Jersey and the United Kingdom also permit for the spontaneous exchange of information.



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