

China (People's Republic of)

China 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.

China can legally issue one type of rulings within the scope of the transparency framework.

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

Type of ruling	Number of rulings
Past rulings	11
Future rulings in the period 1 April 2016 – 31 December 2016	6
Future rulings in the calendar year 2017	3
Future rulings in the calendar year 2018	2
Future rulings in the calendar year 2019	4
Future rulings in the calendar year 2020	15
Future rulings in the year in review	4

No peer input was received in respect of the exchanges of information on rulings received from China.

Information gathering process (ToR I.A)

260. China can legally issue one type of ruling within the scope of the transparency framework: 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.

261. There was previously a legal barrier to the exchange of information on rulings in China, which did not allow the exchange of past rulings. The legal framework in China was subsequently amended to allow exchanges on future rulings. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

262. In the prior years' peer review reports, it was determined that China'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 China's review and supervision mechanism was sufficient to meet the minimum standard. China's implementation remains unchanged, and therefore continues to meet the minimum standard.

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

Exchange of information (ToR II.B)

264. China has the necessary domestic legal basis to exchange information spontaneously. China 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.

265. China 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") and (ii) bilateral agreements in force with 100 jurisdictions.¹

266. For the year in review, the timeliness of exchanges is as follows:

Future rulings within the scope of the transparency framework	Number of exchanges transmitted within three months of the information becoming available to the competent authority or immediately after legal impediments have been lifted	Delayed exchanges		
		Number of exchanges transmitted later than three months of the information on rulings becoming available to the competent authority	Reasons for the delays	Any other comments
	31	0	N/A	N/A

Follow-up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	0	N/A	N/A

267. In the prior years' peer review reports, it was determined that China'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. China's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

268. China 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. China has met all of the ToR for the exchange of information process and no recommendations are made.

Statistics (ToR IV.D)

269. The statistics for the year in review are as follows:

Category of ruling	Number of exchanges	Jurisdictions exchanged with
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	31	Hong Kong (China), Japan, Macau (China), Russia, Singapore, United States

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

270. China 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 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. China also has bilateral agreements with Albania, Algeria, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Bulgaria, Cambodia, Canada, Chile, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Moldova, Mongolia, Montenegro, Morocco, Nepal, Netherlands, New Zealand, Nigeria, North Macedonia, Norway, Oman, Pakistan, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Serbia, Seychelles, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Trinidad and Tobago, Tunisia, Türkiye, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela, Viet Nam, Zambia and Zimbabwe.



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