

Senegal

Senegal has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2019 (year in review) that can be met in the absence of rulings being issued.

In the prior year report, Senegal had received two recommendations. Senegal has resolved the issues relating to finalising its information gathering process, with a review and supervision mechanism, and to having in place a process to undertake spontaneous exchange of information on tax rulings. Therefore, these recommendations have now been removed.

Senegal can legally issue one type of ruling within the scope of the transparency framework.

In practice, Senegal has issued no rulings within the scope of the transparency framework.

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

A. The information gathering process

945. Senegal can legally issue the following 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. Rulings are issued by the Minister of Finance or the Director General of taxation. The Legislation and International Cooperation directorate, within the Tax Administration, is in charge of both drafting and identifying rulings in scope of the transparency framework.

Past rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1, I.4.2.2)

946. For Senegal, past rulings are any tax rulings within scope that are issued either (i) on or after 1 January 2016 but before 1 April 2018; and (ii) on or after 1 January 2014 but before 1 January 2016, provided still in effect as at 1 January 2016.

947. In the prior year peer review report, it was determined that Senegal had not yet finalised the steps to have in place its necessary information and gathering process rulings for the purposes of the transparency framework (ToR I.4). Therefore, Senegal was recommended to finalise its information gathering process as soon as possible. During the year in review, Senegal confirmed that during the past rulings period the only decisions rendered were interpretative decisions which do not fall within the types of rulings in scope of the transparency framework. As no past rulings were issued during the past rulings period and as such there was no need to identify potential exchange jurisdictions.

Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)

948. For Senegal, future rulings are any tax rulings within scope that are issued on or after 1 April 2018.

949. In the prior year peer review report, it was determined that Senegal had not yet finalised the steps to have in place its necessary information and gathering process for the purposes of the transparency framework (ToR I.4). Therefore, Senegal was recommended to finalise its information gathering process as soon as possible.

950. During the year in review, Senegal clarified that the Legislation and International Cooperation directorate has been tasked with identifying and classifying information relating to future rulings in scope of the transparency framework. The process is centralised at the level of the Legislation and International Cooperation directorate that immediately identifies and processes any future rulings in scope of the transparency framework that might be issued.

951. In terms of identifying potential exchange jurisdictions, Senegal can only issue APA rulings; and the transfer pricing return to be filed every year in a standardised format together with additional documentary obligations imposed by the Tax Code, already provide information, in all cases, on the jurisdictions of residence of the ultimate parent entity, the immediate parent entity and related parties with which the taxpayers enter into a transaction covered by the ruling. Given Senegal can utilise a centralised information gathering process and has the possibility to identify all relevant jurisdictions in all cases, the recommendation is now removed. Senegal also indicated that it is currently working on developing a formal process to provide additional clarity to identify all relevant potential exchange jurisdictions. In practice, no future rulings were issued during the year of review.

Review and supervision (ToR I.4.3)

952. In the prior year peer review report, it was determined that Senegal did not yet have a review and supervision mechanism under the transparency framework sufficient to meet the minimum standard.

953. During the year in review, Senegal indicated the Legislation and International Cooperation directorate is a centralised office that drafts, identifies and classifies information relating to future rulings in scope of the transparency framework. Because all the activities related to the issuance of the rulings are centralised at the level of the Legislation and International Cooperation directorate, this will ensure that all the rulings in scope of the transparency framework will be correctly and immediately identified and all information needed for the exchanges will be adequately captured. The Legislation and International Cooperation directorate will supervise this process. Therefore the recommendation is now removed.

Conclusion on section A

954. Senegal has met all of the ToR for the information gathering process that can be met in the absence of rulings being issued and no recommendations are made.

B. The exchange of information

Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)

955. Senegal has the necessary domestic legal basis to exchange information spontaneously. Senegal 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.

956. Senegal has international agreements permitting spontaneous exchange of information, including being a party to the (i) *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[4]) (“the Convention”) and (ii) bilateral agreements in force with 21 jurisdictions.¹

Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)

957. In the prior year peer review report, Senegal was recommended to develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework.

958. During the year in review, Senegal indicated that the Legislation and International Cooperation directorate would be responsible for the completion of the information required in the template contained in Annex C of the Action 5 Report (OECD, 2015). The Director General of Taxes and Domains is the Competent Authority in Senegal, responsible for exchanging information on tax rulings with relevant jurisdictions.

959. According to the annual work plan, Senegal indicated that it intends to apply a quarterly deadline to monitor the implementation of the transparency framework. This pertains to deadlines for internal actions (issuance, identification, completion of the template and exchange of the information with the Competent Authority). Exchanges with relevant jurisdictions will be conducted within three months after the tax ruling becomes available to the competent authority. Senegal also indicated that training might be provided in the future to the officers involved in the transparency framework requirements, in the event that rulings are issued in practice.

960. To provide additional clarity, Senegal intends to formalise the process to complete the templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions.

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

Conclusion on section B

962. Senegal has the necessary legal basis for spontaneous exchange of information.

963. Senegal has met all of the ToR for the exchange of information process that can be met in the absence of rulings being issued and exchanged in practice and no recommendations are made.

C. Statistics (ToR IV)

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

D. Matters related to intellectual property regimes (ToR I.4.1.3)

965. Senegal does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[1]) 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 (2017), *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://dx.doi.org/10.1787/9789264241190-en>. [1]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264115606-en>. [4]

Notes

¹ Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Senegal also has bilateral agreements with West African Economic and Monetary Union jurisdictions, African and Malagasy Common Organisation jurisdictions and Belgium, Canada, Chinese Taipei, France, Italy, Kuwait, Lebanon, Malaysia, Mauritania, Mauritius, Morocco, Norway, Portugal, Spain, United Arab Emirates and United Kingdom.



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