

Gabon

Gabon is taking steps to implement the transparency framework and to commence administrative preparations to ensure that information on rulings will be exchanged in a timely manner, in line with the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2020 (year in review). Gabon receives two recommendations covering the information gathering process (ToR I.A), exchange of information (ToR II.B) for the year in review.

In the prior year report, as well as in the 2018 peer review, Gabon received the same recommendations. As they have not been addressed, the recommendations remain in place.

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

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

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

A. The information gathering process (ToR I.A)

448. Gabon can legally issue the following two types of rulings within the scope of the transparency framework: (i) rulings related to a preferential regime,¹ and (ii) cross-border unilateral APAs any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles.

Past rulings (ToR I.A.1.1, I.A.1.2, I.A.2.1, I.A.2.2)

449. For Gabon, 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 they were still in effect as at 1 January 2016.

450. In the 2018 peer review report, it was determined that Gabon issued no past rulings within the scope of the transparency framework. As such, there was no need to identify potential exchange jurisdictions.

Future rulings (ToR I.A.1.1, I.A.1.2, I.A.2.1)

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

452. In the 2018 peer review report, Gabon indicated that there were no processes in place for the record keeping of rulings for the purposes of the transparency framework. It was noted that Gabon intended to implement guidelines and practices to make sure the necessary information to meet the requirements of the transparency framework is required in all cases. Gabon was recommended to finalise its information gathering process as soon as possible.

453. During the year in review, Gabon established the “Cellule Prix de Transfert” which is not yet fully operational and its activities are still limited to tax audits. Gabon is also negotiating with taxpayers with a view to concluding APAs. No additional steps to finalise its information gathering process were taken, and therefore the prior year recommendation remains.

Review and supervision (ToR I.A.3)

454. In the 2018 peer review report, it was determined that Gabon did not yet have a review and supervision mechanism under the transparency framework. Gabon was in the process of considering the implementation of a revision and supervision mechanism for ensuring implementation of the transparency framework.

455. During the year in review, no additional steps were taken, and therefore the prior year recommendation remains.

Conclusion on section A

456. Gabon is recommended to finalise its information gathering process, with a review and supervision mechanism, as soon as possible (ToR I.A).

B. The exchange of information (ToR II.B)

Legal basis for spontaneous exchange of information (ToR II.B.1, II.B.2)

457. During the year in review, Gabon has put in place the necessary domestic legal basis to exchange information spontaneously. Gabon has international agreements permitting spontaneous exchange of information, including bilateral agreements in force with 5 jurisdictions.² Gabon signed the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[4]) ("the Convention").³ Gabon is encouraged to continue its efforts to expand its international exchange of information instruments to be able to exchange information on rulings. It is noted, however, that jurisdictions are assessed on their compliance with the transparency framework in respect of the exchange of information network in effect for the year of the particular annual review.

Completion and exchange of templates (ToR II.B.3, II.B.4, II.B.5, II.B.6, II.B.7)

458. In the 2018 peer review report, it was determined that Gabon was developing a 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.

459. During the year in review, no additional steps were taken, and therefore the prior year recommendation remains.

460. As no exchanges took place for the year in review, no data on the timeliness of exchanges can be reported.

Conclusion on section B

461. Gabon is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to continue its efforts to complete the templates for all relevant rulings and to ensure that the exchanges of information on rulings occur as soon as possible (ToR II.B).

C. Statistics (ToR IV)

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

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

463. Gabon 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
Gabon has not finalised the steps to have in place its necessary information gathering process, with a review and supervision mechanism.	Gabon is recommended to finalise its information gathering process, with a review and supervision mechanism, as soon as possible. This recommendation remains unchanged since the 2018 and 2019 peer review reports.
Gabon has not finalised the steps to have effective compulsory spontaneous exchange of information on the tax rulings within the scope of the transparency framework.	Gabon is recommended to continue its efforts to complete the templates for all relevant rulings and to ensure that the exchanges of information on rulings occur as soon as

possible. This recommendation remains unchanged since the 2018 and 2019 peer review reports.

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://dx.doi.org/10.1787/9789264241190-en>. [1]
- OECD (ed.) (2017b), *Harmful Tax Practices - 2017 Progress Report on Preferential Regimes*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264283954-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://dx.doi.org/10.1787/9789264115606-en>. [4]

Notes

¹ With respect to the following preferential regime: Special economic zone.

² Gabon has bilateral agreements in force with Belgium, Canada, France, Korea and Morocco.

³ 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.



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