

# Brazil

Brazil has met all aspects of the terms of reference (OECD, 2021<sup>[3]</sup>) (ToR) for the calendar year 2020 (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 year of review	0

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

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

180. Brazil can legally issue the following two types of rulings within the scope of the transparency framework: (i) preferential regimes<sup>1</sup> 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.

181. 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.

182. 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.

183. During the year in review, Brazil undertook a full review of all tax rulings issued both by the central taxation unit and the local taxation units and experienced difficulties in the identification of future rulings issued by local taxation units. As a result of the review, Brazil identified two additional rulings issued by the local taxation units in 2018 that were not otherwise identified in the prior year. Brazil also corrected some errors made in the communication of the dates of issuance of future rulings in the previous peer review reports with regard to the years 2016, 2017 and 2018, as shown in the summary table.

184. For those future rulings, Brazil was able to identify all the relevant exchange jurisdictions. For the sake of completeness, it is noted that for each ruling the immediate parent entity, ultimate parent entity, and the countries of residence of all related parties with whom the taxpayer enters into transactions that are covered by the rulings are all resident in the same jurisdiction.

185. As Brazil has quickly taken steps to identify and remedy the issue and this is not expected to be a recurring issue, no recommendations are made, however if this issue persists it will be noted and addressed in the next annual peer review. Brazil has met all of the ToR for the information gathering process and no recommendations are made.

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

186. Brazil 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<sup>[4]</sup>) ("the Convention"), (ii) bilateral agreements in force with 33 jurisdictions, and (iii) tax information exchange agreements in force with three jurisdictions.<sup>2</sup>

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

Future rulings in 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
	3		See below	These exchanges pertain to rulings that were issued in 2017 and

				2018 by the local taxation units and transmitted to the Competent Authority in 2020 and for which the relevant exchange of information agreement came into force in 2018.
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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

188. 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.

189. During the year in review, 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). The two rulings issued by the local taxation units in 2018 also referred to a ruling issued by the central taxation unit in 2017 that contained the comprehensive analysis of the tax matter. Brazil noted that the relevant exchange jurisdiction with regard to the three rulings was the same jurisdiction with which the relevant tax treaty providing for the spontaneous exchange of information only came into force in 2018. Given the relevance of the information included in the ruling issued in 2017, Brazil performed the exchange even though in 2017 there was no legal basis for the exchange of information for that ruling. During the year in review, Brazil also amended their exchange of rulings mechanism to ensure that all rulings issued by local taxation units were transmitted in a timely manner to the Competent Authority responsible for the exchanges. Brazil experienced some delays in exchanging information on two future rulings due to the lack of coordination between the central taxation unit, the local taxation units and the Competent Authority as well as the misunderstanding regarding the entry into force of the relevant exchange of information agreement for the exchanges. However, as soon as the additional rulings were identified, Brazil took steps to immediately inform the Competent Authority, which then performed the exchanges shortly after receiving the information. Therefore no recommendations are made as Brazil completed the exchanges on the additional future rulings as soon as the issues were identified and resolved, and this is not expected to be a recurring issue, however if this issue persists it will be noted and addressed in the next annual peer review.

190. 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.

## C. Statistics (ToR IV)

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

Category of ruling	Number of exchanges	Jurisdictions exchanged with
Ruling related to a preferential regime	0	N/A
Cross-border unilateral advance pricing agreements (APAs) and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the	<i>De minimis</i> rule applies	N/A

application of transfer pricing principles		
<i>De minimis</i> rule	3	N/A
<b>Total</b>	3	

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

192. Brazil does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[1]</sup>) 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

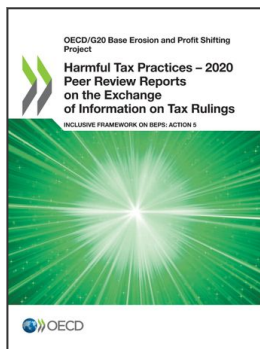
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- OECD (2015), *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241190-en>. [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]
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## Notes

<sup>1</sup> With respect to the following preferential regime: PADIS – Semiconductors Industry.

<sup>2</sup> 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](http://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, South Africa, Spain,

Sweden, Trinidad and Tobago, Turkey, Ukraine and Venezuela. The TIEAs with Jersey, Switzerland and the United Kingdom also permit for the spontaneous exchange of information.



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