

Burkina Faso

Burkina Faso has met all aspects of the terms of reference (OECD, 2021^[1]) (ToR) for the transparency framework and to commence administrative preparations to ensure that it establishes an information gathering process (ToR I.A) and that information on rulings will be identified and exchanged in a timely manner (ToR II.B). Burkina Faso receives two recommendations on these points for the year in review.

In the 2017-2019 peer reviews, it was determined that Burkina Faso could not issue advance rulings under the transparency framework due to the lack of an administrative process to make such rulings binding within the tax administration. The administrative process was put in place in 2020.

In the prior year's report, as well as the 2020 report, Burkina Faso had received two recommendations. As they have not been addressed, the recommendations remain in place.

Burkina Faso can legally issue four types of rulings within the scope of the transparency framework.

In practice, Burkina Faso has not issued rulings within the scope of the transparency framework.

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

Information gathering process (ToR I.A)

207. Burkina Faso can legally issue the following four types of rulings within the scope of the transparency framework: (i) preferential regimes; (ii) rulings providing for unilateral downward adjustments; (iii) permanent establishment rulings; and (iv) related party conduit rulings.

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

208. For Burkina Faso, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 April 2017; or (ii) on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as at 1 January 2015.

209. In the prior years' peer review reports, it was determined that Burkina Faso could not issue rulings under the transparency framework before 2020, therefore this section is not evaluated.

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

210. For Burkina Faso, future rulings are any tax rulings within scope that are issued on or after 1 April 2017.

211. Based on the responses to the questionnaire for the year 2021, Burkina Faso indicates that it has issued a decision on preferential regimes, but it is unclear what specific regime the decision was issued on and whether it is a regime allowing preference to income from geographically mobile activities (such as financial and other services) or the provision of intangibles, which would therefore fall under Action 5. Furthermore, during the year in review, Burkina Faso has not yet put in place a process to report rulings for the purposes of the transparency framework.

Review and supervision (ToR I.A.3)

212. During the year in review, it was determined that Burkina Faso did not yet have a review and supervision mechanism for past rulings under the transparency framework.

Conclusion on section A

213. Burkina Faso is recommended to put in place its information gathering process for identifying all past and future rulings and all potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible (ToR I.A).

Exchange of information (ToR II.B)

214. Burkina Faso has the necessary domestic legal basis to exchange information spontaneously. Burkina Faso 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.

215. Burkina Faso signed the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[2]) ("the Convention") in August 2016, deposited the instrument of ratification in December 2022 and became a party to the Convention in April 2023. Burkina Faso has international agreements permitting spontaneous exchange of information, including bilateral agreements in force with two jurisdictions.¹

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

216. During the year in review, Burkina Faso has not made exchanges of information nor put in place a process to develop templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions.

Conclusion on section B

217. Burkina Faso is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and 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).

Statistics (ToR IV.D)

218. As there was no rulings exchanged by Burkina Faso for the year in review, no statistics can be reported.

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

219. Burkina Faso does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[3]) were imposed.

Summary of recommendations on implementation of the transparency framework

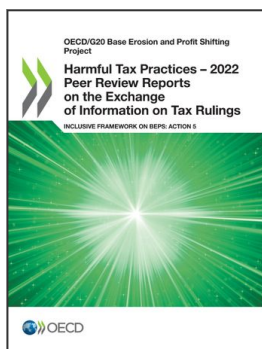
Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Burkina Faso has not taken all measures to put in place the required information gathering process.	Burkina Faso is recommended to finalise its information gathering process and implement a review and supervision mechanism as soon as possible. This recommendation remains unchanged since the 2020 and 2021 peer review reports.
Burkina Faso has not yet put in place the process to develop templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions.	Burkina Faso is recommended to establish a process to develop templates on relevant rulings and ensure that information on these rulings is exchanged in a timely manner and in the format required by the transparency framework. This recommendation remains unchanged since the 2020 and 2021 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, <https://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [1]
- 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>. [3]
- 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>. [2]

Note

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. Burkina Faso also has bilateral agreements with France and Tunisia within WAEMU and ECOWAS.



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