

## Congo

Congo is taking steps to implement the legal basis for 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, 2017<sup>[3]</sup>) (ToR). Congo is recommended to ensure that it has put in place an effective information gathering process and to implement a review and supervision mechanism, as soon as possible (ToR I.4). In addition, Congo is recommended to develop a process to complete the templates on relevant rulings, to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework going forward (ToR II.5).

Congo can legally issue two types of rulings within the scope of the transparency framework. In the prior year peer review report, it was noted that it was not known whether Congo has implemented the transparency framework. However, it has since been confirmed that Congo can issue rulings to which the transparency framework applies.

In practice, Congo has issued no rulings in the year in review.

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

## Introduction

This peer review covers Congo's implementation of the BEPS Action 5 transparency framework for the year 2018. The report has four parts, each relating to a key part of the ToR. Each part is discussed in turn. A summary of recommendations is included at the end of this report.

### A. The information gathering process

Congo can legally issue two types of rulings within the scope of the transparency framework: i) 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 application of transfer pricing principles and ii) PE rulings.

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

In Congo, rulings are issued by the directorate of Legislation, within the Tax Administration. This unit is responsible for storing and reviewing such rulings and has reviewed its files, being able to confirm that no past rulings have been issued. To date no rulings have been issued. 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)***

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

No rulings were issued by Congo during the future rulings period in the year of review. However, Congo indicates that there are no processes in place for the record keeping of rulings for the purposes of the transparency framework. It is noted that Congo intends to implement guidelines and practices to make sure the necessary information to meet the requirements of the transparency framework is required in all cases.

#### ***Review and supervision (ToR I.4.3)***

Congo did not yet have a review and supervision mechanism under the transparency framework for the year in review. Congo is discussing the implementation of a revision and supervision mechanism for ensuring implementation of the transparency framework.

#### ***Conclusion on section A***

Congo is recommended to finalise its information gathering, with a review and supervision mechanism, as soon as possible (ToR I.4).

## B. The exchange of information

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

Congo is currently in the process of putting in place the necessary domestic legal basis to exchange information spontaneously.

Congo currently has three agreements in effect which would allow for spontaneous exchange of information under the transparency framework.<sup>1</sup> Congo is not a Party to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011<sup>[4]</sup>) (“the Convention”). Congo is encouraged to continue its efforts to expand its international exchange of information instruments to be able to exchange rulings. It is however noted 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.5.3, II.5.4, II.5.5, II.5.6, II.5.7)**

Congo is still 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.

As no exchanges were required to take place in the year of review, no data on the timeliness of exchanges can be reported.

### **Conclusion on section B**

Congo 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.5).

## **C. Statistics (ToR IV)**

As no rulings are issued, no statistics can be reported.

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

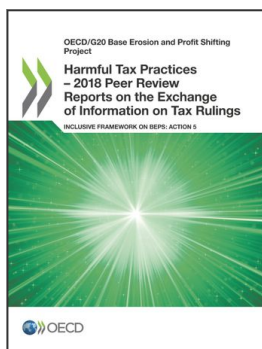
Congo does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[5]</sup>) were imposed.

## **Summary of recommendations on implementation of the transparency framework**

<b>Aspect of implementation of the transparency framework that should be improved</b>	<b>Recommendation for improvement</b>
Congo has not yet finalised the steps to have in place its necessary information and gathering process.	Congo is recommended to finalise its information gathering process, with a review and supervision mechanism, as soon as possible.
Congo has not yet finalised the steps to have effective compulsory spontaneous exchange of information on the tax rulings within the scope of the transparency framework.	Congo is recommended to continue 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 the timely exchange of information on rulings in the form required by the transparency framework.

## **Notes**

<sup>1</sup> Congo has bilateral agreements in force with France, Italy and Mauritius.



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