

Question	Answer	Governance Recommendations
<p><b>What does characterize international transfer of personal data according to the ANPD Resolution?</b></p>	<p>It is the processing operation with personal data through which a processing agent transmits, shares or makes access available to another processing agent located in a foreign country or international organization of which the country is a member.</p> <p>The direct international collection of data from the data subject, as well as the direct remittance of the data subject outside the country do not constitute an international transfer of personal data.</p>	<p>Identify in the records of processing operations which of them constitute an international transfer of personal data and adopt, if it has not already been done, one of the mechanisms provided for in article 33 of the Brazilian General Data Protection Law ("LGPD"), now partially regulated by Resolution 19/24.</p>
<p><b>If I previously used consent to validate the international transfer of personal data, has anything changed?</b></p>	<p>No.</p>	<p>Reassess the adequacy of this international transfer mechanism according to requirements provided for in the LGPD. Remember that the consent of the data subject must be free, informed, unambiguous, prominent, and specific to the international transfer of personal data.</p>
<p><b>Is there any adequacy decision given by the ANPD?</b></p>	<p>Not yet.</p>	<p>Considering the possibility that public agencies may also request the ANPD to assess the data protection adequacy of a country or international organizations, it is recommended that organizations from regulated sectors suggest to the respective regulatory body to initiate the procedure in relation to countries or international organizations relevant to the sector.</p>
<p><b>How soon do I have to adapt?</b></p>	<p>International transfers of personal data should already be supported by one of the applicable mechanisms listed in article 33 of the LGPD.</p> <p>However, if you intend to validate your international transfer of personal data by the ANPD's Standard Contractual Clauses, the deadline for compliance is 12 months, that is, until 08/23/2025.</p> <p>In the other cases provided for in the Resolution, the rule has immediate application, however its validation will depend on approval by the ANPD.</p>	<p><b>Will you use the Standard Contractual Clauses?</b> Be careful with the deadline because they have a series of complements to be made and will require negotiations with suppliers (Annex II of the Resolution). It is important to be aware that they need to be adopted entirely.</p> <p><b>Will you use any of the other mechanisms provided for in the Resolution or in the LGPD (art. 33)?</b> Except for the decision on the country's and international organism's adequacy (ANPD competence issuance procedure), the other mechanisms of the Resolution, such as Equivalent Standard Contractual Clauses, Specific Contractual Clauses, and Global Corporate Standards, can already be used, however they need ANPD approval).</p> <p>The other mechanisms provided for in the LGPD remain valid and can be used, as long as they do not depend on regulation, such as consent; contract execution; legal or regulatory obligation; regular exercise of rights, among others.</p> <p>However, seals, certificates and codes of conduct, for example, as they still depend on ANPD regulation, cannot yet be adopted.</p>
<p><b>Whose duty is it to ensure the lawfulness of the international transfer of personal data and its adequacy with the Resolution?</b></p>	<p>From the Controller-exporter.</p>	<p>Review the Contracts with Controller-Importers and Operator-Importers to reassess the adequacy of the existing contractual clauses to those established by the ANPD, if the mechanism chosen is the Standard Contractual Clauses (Annex II of the Resolution). It is up to the controller to choose the mechanism that best suits his reality, in each concrete case.</p>
<p><b>How to ensure a lawful international transfer?</b></p>	<p>It is necessary to indicate one of the legal bases (articles 7 and 11 of the LGPD) and, cumulatively, one of the mechanisms that validate the international transfer of personal data.</p>	<p>Identify the processing operations that constitute an international transfer of personal data and indicate (record) the legal basis, as well as the international transfer mechanism adopted.</p>
<p><b>Should I provide information to the Data Subject?</b></p>	<p>Yes, the controller must publish on its website the information on the international transfer of personal data, providing the subjects with the information provided for in article 17, paragraph 2 of the Resolution.</p>	<p>Review Privacy Notices or Policies and update the information contained therein on the international transfer of personal data by providing the information required by the regulation.</p>
<p><b>I have adopted a European Standard Contractual Clause model, is it possible to reuse it?</b></p>	<p>Yes. The Resolution provides for a procedure for recognition of equivalence for Standard Contractual Clauses from other countries or international organizations.</p>	<p>Request approval of the equivalence as soon as possible from the ANPD. The process can be lengthy, and its compliance will depend on the approval of the equivalence.</p>
<p><b>How do I adopt the ANPD's Standard Contractual Clauses in contracts already signed and in force?</b></p>	<p>Via contractual amendment to integrate the Standard Contractual Clauses into the existing contract.</p>	<p>The processing agents involved in the international transfer of personal data must sign the respective contractual amendment.</p>
<p><b>Can I change the Standard Contractual Clauses content to be more appropriate to my reality?</b></p>	<p>No. Except for the choices present in the model itself (Annex II of the Resolution), it is not lawful to make any changes to the content of the Standard Contractual Clauses that must be adopted in their entirety.</p>	<p>If the model proposed by the ANPD is inadequate, evaluate the possibility of using Specific Contractual Clauses, whose validity will depend on ANPD's approval.</p>
<p><b>Can I always choose to use Specific Contractual Clauses?</b></p>	<p>No. Only when, due to exceptional circumstances, the Standard Contractual Clauses cannot be used.</p>	<p>Before deciding to adopt this specific mechanism, it is recommended to analyze the technical and legal analysis to verify the inadequacy of the Standard Contractual Clauses to your case.</p>
<p><b>If I change the already approved Specific Contractual Clauses or the Global Standards, will I need new approval by the ANPD?</b></p>	<p>Yes.</p>	<p>The ANPD will always need to approve these mechanisms to validate them, as required by the LGPD, including in case of changes or updates.</p>
<p><b>Will my Standard Contractual Clauses or Specific Contractual Clauses and/or Global Corporate Standards be kept confidential?</b></p>	<p>No. Except for business secrets, copies of these mechanisms can be made available to the data subject if he/she so requests.</p> <p>In addition, after approval, the ANPD will publish on its website: (i) the list of the Specific Contractual Clauses, the Global Corporate Standards and the name of the processing agent that requested the approval, as well as (ii) the Specific Contractual Clauses, when they can be used by other processing agents, respecting the applicant's business secrets.</p>	<p>Adapt the procedure for complying with the rights of data subjects so that a copy of the instruments can be made available upon request.</p>
<p><b>How do I initiate the procedure for approving Specific Contractual Clauses and Global Corporate Standards?</b></p>	<p>This procedure is similar for both situations and is provided for in articles 29 and 30 of the Resolution and will be developed at the ANPD.</p>	<p>The request for approval must be sent to the ANPD with the documents required in the Resolution. The ANPD may request additional documents or information. If documents are missing or the ANPD's request is not met, the request may be summarily shelved.</p>