

**OECD/G20 Base Erosion and Profit Shifting
Project**



Making Dispute Resolution More Effective – MAP Peer Review Report, Russian Federation (Stage 1)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

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Foreword

The integration of national economies and markets has increased substantially in recent years, putting a strain on the international tax rules, which were designed more than a century ago. Weaknesses in the current rules create opportunities for base erosion and profit shifting (BEPS), requiring bold moves by policy makers to restore confidence in the system and ensure that profits are taxed where economic activities take place and value is created.

Following the release of the report *Addressing Base Erosion and Profit Shifting* in February 2013, OECD and G20 countries adopted a 15-point Action Plan to address BEPS in September 2013. The Action Plan identified 15 actions along three key pillars: introducing coherence in the domestic rules that affect cross-border activities, reinforcing substance requirements in the existing international standards, and improving transparency as well as certainty.

After two years of work, measures in response to the 15 actions were delivered to G20 Leaders in Antalya in November 2015. All the different outputs, including those delivered in an interim form in 2014, were consolidated into a comprehensive package. The BEPS package of measures represents the first substantial renovation of the international tax rules in almost a century. Once the new measures become applicable, it is expected that profits will be reported where the economic activities that generate them are carried out and where value is created. BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

Implementation is now the focus of this work. The BEPS package is designed to be implemented via changes in domestic law and practices, and in tax treaties. With the negotiation of a multilateral instrument (MLI) having been finalised in 2016 to facilitate the implementation of the treaty related BEPS measures, over 85 jurisdictions are covered by the MLI. The entry into force of the MLI on 1 July 2018 paves the way for swift implementation of the treaty related measures. OECD and G20 countries also agreed to continue to work together to ensure a consistent and co-ordinated implementation of the BEPS recommendations and to make the project more inclusive. Globalisation requires that global solutions and a global dialogue be established which go beyond OECD and G20 countries.

A better understanding of how the BEPS recommendations are implemented in practice could reduce misunderstandings and disputes between governments. Greater focus on implementation and tax administration should therefore be mutually beneficial to governments and business. Proposed improvements to data and analysis will help support ongoing evaluation of the quantitative impact of BEPS, as well as evaluating the impact of the countermeasures developed under the BEPS Project.

As a result, the OECD established the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework), bringing all interested and committed countries and jurisdictions on an equal footing in the Committee on Fiscal Affairs and all its subsidiary bodies. The

Inclusive Framework, which already has more than 135 members, is monitoring and peer reviewing the implementation of the minimum standards as well as completing the work on standard setting to address BEPS issues. In addition to BEPS members, other international organisations and regional tax bodies are involved in the work of the Inclusive Framework, which also consults business and the civil society on its different work streams.

This report was approved by the Inclusive Framework on 9 August 2019 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

APA	Advance Pricing Arrangement
FTA	Forum on Tax Administration
MAP	Mutual Agreement Procedure
OECD	Organisation for Economic Co-operation and Development

Executive summary

The Russian Federation (“**Russia**”) has an extensive tax treaty network with almost 90 tax treaties. Russia has an established MAP programme, but has limited experience with resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and 23 cases pending on 31 December 2018. Of these cases, approximately 40% concern allocation/attribution cases. Overall the Russia meets half of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Russia is working to address some of them.

All of Russia’s tax treaties contain a provision relating to MAP. Those treaties generally follow paragraphs 1 through 3 of Article 25 of the *Model Tax Convention on Income and Capital 2017* (OECD, 2017). Its treaty network is partly consistent with the requirements of the Action 14 Minimum Standard, with the main exceptions being that;

- approximately 30% of its tax treaties do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015) stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty
- more than 20% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments
- Approximately 10% of its tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Russia needs to amend and update a significant number of its tax treaties. In this respect, Russia signed the Multilateral Instrument, through which a number of its tax treaties will potentially be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force of this Multilateral Instrument for the treaties concerned, Russia reported that it intends to update all of its tax treaties via bilateral negotiations to be compliant with the requirements under the Action 14 Minimum Standard. It, however, has not yet put in place a plan in relation hereto.

Russia does not meet the Action 14 Minimum Standard concerning the prevention of disputes. It has in place a bilateral APA programme, but this programme does not allow roll-back of bilateral APAs.

Russia meets some of the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases,

although it has since 1 January 2016 not received any MAP request concerning cases where anti-abuse provisions are applied or where there has been an audit settlement. Furthermore, Russia does not have in place a documented a bilateral consultation or notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Apart from that, Russia has recently published clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice. However, in this guidance Russia's policy as to its position on using arbitration in the framework of the mutual agreement procedure is not reflected. In addition, Russia's MAP profile does not reflect the details of its APA and MAP programme.

Concerning the average time needed to close MAP cases, the MAP statistics for Russia for the period 2016-18 are as follows:

2016-18	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2018	Average time to close cases (in months)*
Attribution/allocation cases	2	11	2	11	20.05
Other cases	0	15	2	13	8.10
Total	2	26	4	24	14.08

*The average time taken for resolving MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. For computing the average time taken for resolving pre-2016 MAP cases Russia used as a start date one week from the date of notification by the competent authority that receives the MAP request from the taxpayer or five weeks from the receipt of the taxpayer's MAP request, whichever is the earlier date; and as an end date the date of an official communication from the competent authority to inform the taxpayer of the outcome of its MAP request.

The number of cases Russia closed in the period 2016-18 is less than the number of all new cases started in those years. Its MAP inventory as per 31 December 2018 significantly increased as compared to its inventory as per 1 January 2016. During these years, MAP cases nevertheless were closed on average within a timeframe of 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the average time necessary was 14.08 months. However, some peers experienced difficulties in receiving prompt responses from Russia's competent authority to communications and position papers. It

Furthermore, Russia meets all of the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Russia's competent authority operates fully independently from the audit function of the tax authorities and its organisation is adequate and the performance indicators used are appropriate to perform the MAP function.

Lastly, Russia has a domestic statute of limitation for implementation of MAP agreements, under which there is a risk that some agreements cannot be implemented where the applicable tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. As there was no MAP agreement reached that required implementation in 2016, 2017 or 2018 in Russia, it was not yet possible to assess whether it meets the Action 14 Minimum Standard as regards the implementation of MAP agreements.

References

- OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>.
- OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

Introduction

Available mechanisms in Russia to resolve tax treaty-related disputes

Russia has entered into 89 tax treaties on income (and/or capital), 84 of which are in force.¹ These 89 treaties are being applied to the 90 jurisdictions.² All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty.

In Russia, the competent authority function to conduct MAP is assigned to the Minister of Finance and is further delegated to the International Taxation Division of the Tax and Customs Policy Department within the Ministry of Finance. The competent authority of Russia currently employs five employees, who are also assigned with other tasks such as setting interpretations of treaties and domestic laws, negotiating tax treaties and providing day-to-day assistance to taxpayers.

Russia has issued guidance on the MAP process and how it applies that process in practice. This document has been published early January 2019 on the website of Russia's Ministry of Finance and is available at (in Russian and English):

www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y

Recent developments in Russia

Russia recently signed a new treaty with Ecuador (2016), which has entered into force.

Furthermore, on 7 June 2017 Russia signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. With the signing of the Multilateral Instrument, Russia also submitted its list of notifications and reservations to that instrument.³ In relation to the Action 14 Minimum Standard, Russia has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

Where treaties will not be modified by the Multilateral Instrument, Russia reported that it strives updating them through future bilateral negotiations. Russia, however, has not reported a specific plan for such negotiations.

Basis for the peer review process

The peer review process entails an evaluation of Russia’s implementation of the Action 14 Minimum Standard through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic legislation and regulations, as well as its MAP programme guidance (if any) and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by Russia, its peers and taxpayers. The questionnaires for the peer review process were sent to Russia and the peers on 31 December 2018.

The period for evaluating Russia’s implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 31 December 2018 (“**Review Period**”). Furthermore, this report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Russia’s implementation of this minimum standard. In the update of this report, being stage 2 of the peer review process, these recent developments will be taken into account in the assessment and, if necessary, the conclusions contained in this report will be amended accordingly.

For the purpose of this report and the statistics below, in assessing whether Russia is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty. Furthermore, the treaty analysis also takes into account the treaty with the former Federal Republic of Yugoslavia which Russia continues to apply to both Serbia and Montenegro. As it concerns the same tax treaty that is applicable to multiple jurisdictions, this treaty is only counted as one treaty for this purpose. Reference is made to Annex A for the overview of Russia’s tax treaties regarding the mutual agreement procedure.

In total ten peers provided input: Austria, Denmark, Germany, Italy, the Netherlands, Sweden, Switzerland, Turkey, the United Kingdom and the United States. Out of these ten peers, eight had MAP cases with Russia that started on or after 1 January 2016. These eight peers represent 75% of post-2015 MAP cases in Russia’s inventory that started in 2016-18. Generally, some peers indicated cooperative relationship with Russia’s competent authority, but most of them reported difficulties in obtaining responses from it.

Russia provided informative answers in its questionnaire, which was submitted on time. Russia was responsive in the course of the drafting of the peer review report by responding comprehensively to requests for additional information, and provided further clarity where necessary. In addition, Russia provided the following information:

- MAP profile⁴
- MAP statistics⁵ according to the MAP Statistics Reporting Framework (see below).

Finally, Russia is a member of the FTA MAP Forum and has shown good co-operation during the peer review process. Russia provided peer input with concerned assessed jurisdictions.

Overview of MAP caseload in Russia

The analysis of the Russia’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2018 (“**Statistics Reporting Period**”). According to the statistics provided by Russia, its MAP caseload during this period was as follows:

2016-18	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2018
Attribution/allocation cases	2	11	2	11
Other cases	0	15	2	13
Total	2	26	4	24

General outline of the peer review report

This report includes an evaluation of Russia’s implementation of the Action 14 Minimum Standard. The report comprises the following four sections:

- A. Preventing disputes
- B. Availability and access to MAP
- C. Resolution of MAP cases
- D. Implementation of MAP agreements.

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).⁶ Apart from analysing Russia’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Russia. Furthermore, the report depicts the changes adopted and plans shared by Russia to implement elements of the Action 14 Minimum Standard where relevant. The conclusion of each element identifies areas for improvement (if any) and provides for recommendations how the specific area for improvement should be addressed.

The objective of the Action 14 Minimum Standard is to make dispute resolution mechanisms more effective and concerns a continuous effort. Therefore, this peer review report includes recommendations that Russia continues to act in accordance with a given element of the Action 14 Minimum Standard, even if there is no area for improvement for this specific element.

Notes

1. The tax treaties Russia has entered into are available at: www.minfin.ru/ru/performance/tax_relations/international/?id_57=124786&area_id=57&page_id=179&popup=Y. The treaties that are signed but have not yet entered into force are Estonia (2002), Ethiopia (1999), Laos (1999), Mauritius (1995) and Oman (2001). Russia also re-negotiated its treaty with Belgium (2015), which will replace the existing treaty of 1995 once it enters into force. For that reason, this newly negotiated treaty is taken into account in the treaty analysis. Reference is made to Annex A for the overview of Russia’s tax treaties regarding the mutual agreement procedure.

2. Russia continues to apply the 1995 treaty with the former Federal Republic of Yugoslavia to both Serbia and Montenegro.
3. Available at: www.oecd.org/tax/treaties/beps-mli-position-russia.pdf.
4. Available at www.oecd.org/tax/dispute/Russia-Dispute-Resolution-Profile.pdf.
5. The MAP statistics of Russia are included in Annex B and C of this report.
6. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

Part A

Preventing disputes

[A.1] **Include Article 25(3), first sentence, of the OECD Model Tax Convention in tax treaties**

Jurisdictions should ensure that their tax treaties contain a provision which requires the competent authority of their jurisdiction to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of their tax treaties.

1. Cases may arise concerning the interpretation or the application of tax treaties that do not necessarily relate to individual cases, but are more of a general nature. Inclusion of the first sentence of Article 25(3) of the OECD Model Tax Convention in tax treaties invites and authorises competent authorities to solve these cases, which may avoid submission of MAP requests and/or future disputes from arising, and which may reinforce the consistent bilateral application of tax treaties.

Current situation of Russia's tax treaties

2. Out of Russia's 89 tax treaties, 87 contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty.¹ Of the remaining two tax treaties, one does not contain such an equivalent at all, whereas the other contains such a provision, but does not contain the term "interpretation". For this reason, both treaties are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention.

Anticipated modifications

Multilateral Instrument

3. Russia signed the Multilateral Instrument. Article 16(4)(c)(i) of that instrument stipulates that Article 16(3), first sentence – containing the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention. In other words, in the absence of this equivalent, Article 16(4)(c)(i) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(i), the depositary that this treaty does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention.

4. In regard of the two tax treaties identified above that are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention, Russia listed one of them as a covered tax agreement under the Multilateral Instrument and made, pursuant to Article 16(6)(d)(i), a notification that it does not contain a provision described in Article 16(4)(c)(i). The relevant treaty partner is a signatory to the Multilateral Instrument and listed its treaty with Russia as a covered tax agreement and also made a notification pursuant to Article 16(6)(d)(i). Therefore, at this stage, one of the two tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention.

Bilateral modifications

5. For the remaining treaty that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention and will not be modified by the Multilateral Instrument, Russia reported that it intends to update them via bilateral negotiations with a view to be compliant with element A.1. Russia, however, neither has reported a specific plan for such negotiations nor has taken any action to that effect, but reported that it will contact the relevant treaty partner to bring the treaty in line with the requirements under element A.1. Regardless, Russia reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention in all of its future tax treaties.

Peer input

6. All peers that provided input, indicated that their treaty with Russia meets the requirements under element A.1, which conforms with the above analysis. For the two treaties identified that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention, the relevant peers did not provide input.

Conclusion

	Areas for improvement	Recommendations
[A.1]	Two out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention. One out of these two treaties is expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaty concerned.	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention, Russia should follow its stated intention to request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Russia should maintain its stated intention to include the required provision in all future tax treaties.</p>

[A.2] Provide roll-back of bilateral APAs in appropriate cases

Jurisdictions with bilateral advance pricing arrangement (“APA”) programmes should provide for the roll-back of APAs in appropriate cases, subject to the applicable time limits (such as statutes of limitation for assessment) where the relevant facts and circumstances in the earlier tax years are the same and subject to the verification of these facts and circumstances on audit.

7. An APA is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustment thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time.² The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The “roll-back” of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

Russia’s APA programme

8. Russia reported it has implemented an APA programme, under which it is authorised to enter into bilateral APAs. Russia reported that the legal basis of its APA programme is Article 105.20 of the Tax Code, which further defines that the procedures for requesting and granting APAs are to be established by an order of the Ministry of Finance.

9. On 29 March 2018, the Ministry of Finance issued order No. 60N, which authorises the Federal Tax Service to handle requests for bilateral APAs. With the issuing of this order, Russia also issued guidelines in relation to its APA programme. These guidelines contain further information on Russia’s APA programme and contain the following sections: (i) general provisions, (ii) preliminary negotiation of pricing agreement, (iii) filing of application for pricing agreement execution (amending), (iv) review of the application for the pricing agreement execution (amending), (v) negotiations with the competent authority of the foreign state, and (vi) implementation of the mutual understanding between the competent authorities. The guidelines also include in the appendix a special form that taxpayers need to use when submitting an APA request. The guidelines further address the several steps of the APA process and the implementation of an APA, once concluded.

10. Further to the above, Article 105.22 of the Tax Code contains a list of the information and documents that shall be accompanied with an application of an APA.

11. Russia reported that bilateral APAs may be requested for the period starting not earlier than one year before the year of application. The term of the bilateral APA thereby will be for a period of three years, with a possibility of a two-year extension. In example, where a request for a bilateral APA is submitted prior to 31 December 2019, the APA can include that year and prospective years, even if the APA is signed after 2019.

Roll-back of bilateral APAs

12. Russia reported that it is not possible to obtain a roll-back of bilateral APAs. There is no provision in the Tax Code to address roll-back of APAs.

Practical application of roll-back of bilateral APAs

13. Russia reported that since 1 January 2016 it received three requests for bilateral APAs, none of which have been concluded up to date. Furthermore, none of these requests concern a roll-back.

14. Of the peers that provided input, most of them reported that they did not receive any APA requests involving Russia, nor a roll-back of such APA. One of these peers pointed out that Russia's MAP profile indicates that a bilateral APA programme is not yet available since the relevant regulation is still under consideration.

Anticipated modifications

15. Russia indicated that it plans to update its MAP profile to address the published guidance on its APA programme.

Conclusion

	Areas for improvement	Recommendations
[A.2]	Roll-back of bilateral APAs is not available.	Russia should provide for roll-back of bilateral APAs in appropriate cases.

Notes

1. These 87 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro.
2. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines (OECD, 2017b) for Multinational Enterprises and Tax Administrations.

References

OECD (2017a), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

OECD (2017b), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, <https://dx.doi.org/10.1787/tpg-2017-en>.

Part B

Availability and access to MAP

[B.1] Include Article 25(1) of the OECD Model Tax Convention in tax treaties

Jurisdictions should ensure that their tax treaties contain a MAP provision which provides that when the taxpayer considers that the actions of one or both of the Contracting Parties result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty, the taxpayer, may irrespective of the remedies provided by the domestic law of those Contracting Parties, make a request for MAP assistance, and that the taxpayer can present the request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty.

16. For resolving cases of taxation not in accordance with the provisions of the tax treaty, it is necessary that tax treaties include a provision allowing taxpayers to request a mutual agreement procedure and that this procedure can be requested irrespective of the remedies provided by the domestic law of the treaty partners. In addition, to provide certainty to taxpayers and competent authorities on the availability of the mutual agreement procedure, a minimum period of three years for submission of a MAP request, beginning on the date of the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty, is the baseline.

Current situation of Russia's tax treaties

Inclusion of Article 25(1), first sentence of the OECD Model Tax Convention

17. Out of Russia's 89 tax treaties, three contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017a), as changed by the *Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report* (Action 14 Final Report, OECD, 2015a), and allowing taxpayers to submit a MAP request to the competent authority of either state. Furthermore, 57 tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015b), as it read prior to the adoption of the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state.

18. The remaining 29 tax treaties can be categorised as follows:

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, whereby taxpayers can only submit a MAP request to the competent authority of the contracting state of which they are resident.	28*
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, whereby taxpayers can only submit a MAP request to the competent authority of the contracting state of which they are resident and whereby the taxpayer can pursuant to a protocol provision not submit a MAP request irrespective of domestic available remedies.	1

* These 28 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro.

19. The 28 treaties mentioned in the first row of the table are considered not to have the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, for the following reasons 23 of those treaties are considered to be in line with this part of element B.1:

- the relevant tax treaty does not contain a non-discrimination provision and only applies to residents of one of the states (five treaties)
- the non-discrimination provision of the relevant tax treaty only covers nationals that are resident of one of the contracting states. Therefore, it is logical under these treaties to allow only for the submission of MAP requests to the state of which the taxpayer is a resident (18 treaties).¹

20. For the remaining five treaties, the non-discrimination provision is almost identical to Article 24(1) of the OECD Model Tax Convention and applies both to nationals that are and are not resident of one of the contracting states. The omission of the full text of Article 25(1), first sentence, of the OECD Model Tax Convention is therefore not clarified by the absence of or a limited scope of the non-discrimination provision, following which these five treaties are not in line with this part of element B.1.

21. Furthermore, the treaty mentioned in the second row of the table incorporates a provision in the protocol to this tax treaty, which reads:

with reference to paragraph 1 of Article 26, the expression “irrespective of the remedies provided by the domestic law” means that the mutual agreement procedure is not alternative with the national contentious proceedings which shall be, in any case, preventively initiated, when the claim is related with an assessment of the taxes not in accordance with this Convention.

22. As pursuant to this provision a domestic procedure has to be initiated concomitantly to the initiation of the mutual agreement procedure, a MAP request can in practice thus not be submitted irrespective of the remedies provided by the domestic law. This treaty is therefore also considered not to be in line with this part of element B.1.

Inclusion of Article 25(1), second sentence of the OECD Model Tax Convention

23. Out of Russia's 89 tax treaties, 72 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention allowing taxpayers to submit a MAP request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.²

24. The remaining 17 tax treaties that do not contain such provision can be categorised as follows:

Provision	Number of tax treaties
No filing period for a MAP request	5
Filing period less than 3 years for a MAP request (1 year in case of the submission to the treaty partner)	1
Filing period less than 3 years for a MAP request (2 years)	11

Practical application

Article 25(1), first sentence, of the OECD Model Tax Convention

25. As noted in paragraphs 22 and 23 above, in all but one of Russia's tax treaties taxpayers can file a MAP request irrespective of domestic remedies. In this respect, Russia reported that there are no legislative provisions or practices that define the interaction between domestic remedies and the MAP process, or which define that both processes shall either run in parallel or the one is pursued first. Regardless, Russia clarified that taxpayers can submit a MAP request and at the same time initiate domestic remedies. Furthermore, where a domestic court has issued a ruling, Russia reported its competent authority is bound by such a decision and is not able to derogate from it in a MAP.

Article 25(1), second sentence, of the OECD Model Tax Convention

26. For those five tax treaties mentioned in paragraph 24 above that do not contain a filing period for a MAP request, Russia reported that currently no domestic rules apply. Also Russia's MAP guidance does not include any information in relation hereto. In this respect, Russia clarified that currently a draft amendment of the Tax Code is pending, which will add a new provision to that code that establishes a three-year filing period for MAP requests for those situations where the tax treaty does not contain a filing period.

Anticipated modifications

Multilateral Instrument

Article 25(1), first sentence of the OECD Model Tax Convention

27. Russia signed the Multilateral Instrument. Article 16(4)(a)(i) of that instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report and allowing the submission of MAP requests to the competent authority of either contracting state – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report. However, this shall only apply if both

contracting parties to the applicable tax treaty have listed this tax treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified the depositary, pursuant to Article 16(6)(a), that this treaty contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report. Article 16(4)(a)(i) will for a tax treaty not take effect if one of the treaty partners has, pursuant to Article 16(5)(a), reserved the right not to apply the first sentence of Article 16(1) of that instrument to all of its covered tax agreements.

28. With the signing of the Multilateral Instrument, Russia opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Russia's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which a resident, Russia opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Russia listed 65 of its 89 tax treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for all of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report.³ One of these 65 treaties, however, concerns one of the treaties mentioned in paragraph 18 above that already allows the submission of a MAP request to either competent authority and for that reason is not taken into account in the below analysis. In other words, only 64 treaties are taken into account.

29. In total, 11 out of 64 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas two have not listed their treaty with Russia as a covered tax agreement under that instrument and 22 reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.⁴ The remaining 29 treaty partners listed their treaty with Russia as having a provision that is equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report. Therefore, at this stage, 29 of the 86 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report.

30. In view of the above, for those six treaties identified in paragraphs 21-23 above that are considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the final report on Action 14, three will be modified via the Multilateral Instrument with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.

Article 25(1), second sentence of the OECD Model Tax Convention

31. With respect to the period of filing of a MAP request, Article 16(4)(a)(ii) of the Multilateral Instrument stipulates that Article 16(1), second sentence – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention – will apply where such period is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both

notified, pursuant to Article 16(6)(b)(i), the depositary that this treaty does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention.

32. In regard of the 12 tax treaties identified in paragraph 25 above that contain a filing period for MAP requests of less than three years, Russia listed nine as a covered tax agreement under the Multilateral Instrument and for eight of them did it make, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). Of the eight relevant treaty partners, two are not a signatory to the Multilateral Instrument, whereas one did not list its treaty with Russia as a covered tax agreement under that instrument. The remaining five tax treaties partners also made a notification on the basis of Article 16(6)(b)(i). Therefore, at this stage, five of the 12 tax treaties identified above will be replaced or superseded to the extent of the incompatibility by the provision of the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention.

33. In addition, with regard to one treaty for which Russia did not make a notification pursuant to Article 16(6)(b)(i), the treaty partner listed its treaty with Russia as a covered tax agreement, but also did not make a notification on this treaty pursuant to Article 16(6)(b)(ii). In this situation, Article 16(6)(b)(i) of the Multilateral Instrument stipulates that the second sentence of Article 16(1) – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention – will supersede the provision of the covered tax agreement to the extent it is incompatible with that second sentence. Since the treaty contains a provision that deviates from Article 25(1), second sentence, the provision of the covered tax agreement is considered to be incompatible with the second sentence of Article 16(1). Therefore, at this stage, this treaty will be superseded by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention.

Bilateral modifications

34. Russia further reported that when the tax treaties that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention, as amended by the Action 14 final report, will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.1.

35. With respect to the first sentence of Article 25(1), Russia reported that it will in those bilateral negotiations propose including the equivalent as it read after the adoption of the Action 14 final report. For those treaties, which do not contain a filing period for MAP requests or a period of less than three years, Russia reported that it will also propose including the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention in its treaties. In this respect, Russia reported it is in negotiations with one treaty partner, in which it will propose the inclusion of the second sentence of Article 25(1). Furthermore, for one treaty Russia mentioned that it has been informed by the treaty partner that it will change its notifications under the Multilateral Instrument, following which it will also be modified to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention. For the remaining treaties, Russia, however, has not reported a specific plan for such negotiations nor has it conducted any actions to that effect.

36. Regardless, Russia reported it will seek to include Article 25(1) of the OECD Model Tax Convention, as amended by the Action 14 final report, in all of its future tax treaties.

Peer input

37. All peers that provided input indicated that their treaty with Russia meets the requirements under element B.1. One of these peers indicated that although its treaty with Russia does not meet these requirements, it expects that the treaty will be modified by the Multilateral Instrument to include the equivalent of Article 25(1) of the OECD Model Tax Convention, which conforms with the above analysis. Furthermore, one peer, which treaty also does not meet the requirements under element B.1, has recently notified Russia that the protocol provision requiring the taxpayer to initiate domestic available remedies when submitting a MAP request will become ineffective, once this peer ratifies the Multilateral Instrument. For the other treaties that do not meet the requirements under element B.1, the relevant peers did not provide input.

Conclusion

	Areas for improvement	Recommendations
	<p>Three out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention and the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Of these three treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include Article 25(1), first and second sentence. • Two are expected to be modified by the Multilateral Instrument to include Article 25(1), second sentence. 	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>Russia should also as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in the two treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p>
[B.1]	<p>Three out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention. Two of these three treaties are expected to be modified by the Multilateral Instrument to include the required provision.</p>	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention in those two treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining treaty that currently does not contain such equivalent and that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention, Russia should follow its stated intention to request the inclusion of the required provision via bilateral negotiations. This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either:</p> <ol style="list-style-type: none"> a. as amended in the Action 14 final report; or b. as it read prior to the adoption of Action 14 final report, thereby including the full sentence of such provision.

	Areas for improvement	Recommendations
[B.1]	<p>Eight out of 89 tax treaties do not contain the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.</p> <p>With respect to these eight treaties:</p> <ul style="list-style-type: none"> • Three are expected to be modified by the Multilateral Instrument to include a filing period of three years upon entry into force for the treaties concerned. • One will also be modified by that instrument, once the treaty partner has changed its notifications under the Multilateral Instrument. • One is currently being renegotiated, which will also include the required provision. 	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in those three treaties that currently do not contain such equivalent and that will not be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>Furthermore, Russia should continue negotiations with one treaty partner to include the required provision.</p> <p>For the remaining three treaties that currently do not contain such equivalent and that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention, Russia should follow its stated intention to request the inclusion of the required provision.</p>
		<p>To this end, Russia should put a plan in place on how it envisages updating these treaties to include the required provision.</p> <p>In addition, Russia should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as amended in the Action 14 final report in all future tax treaties.</p>

[B.2] Allow submission of MAP requests to the competent authority of either treaty partner, or, alternatively, introduce a bilateral consultation or notification process

Jurisdictions should ensure that either (i) their tax treaties contain a provision which provides that the taxpayer can make a request for MAP assistance to the competent authority of either Contracting Party, or (ii) where the treaty does not permit a MAP request to be made to either Contracting Party and the competent authority who received the MAP request from the taxpayer does not consider the taxpayer's objection to be justified, the competent authority should implement a bilateral consultation or notification process which allows the other competent authority to provide its views on the case (such consultation shall not be interpreted as consultation as to how to resolve the case).

38. In order to ensure that all competent authorities concerned are aware of MAP requests submitted, for a proper consideration of the request by them and to ensure that taxpayers have effective access to MAP in eligible cases, it is essential that all tax treaties contain a provision that either allows taxpayers to submit a MAP request to the competent authority:

- i. of either treaty partner; or, in the absence of such provision,
- ii. where it is a resident, or to the competent authority of the state of which they are a national if their cases come under the non-discrimination article. In such cases, jurisdictions should have in place a bilateral consultation or notification process where a competent authority considers the objection raised by the taxpayer in a MAP request as being not justified.

Domestic bilateral consultation or notification process in place

39. As discussed under element B.1, out of Russia's 89 treaties, three currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request

to the competent authority of either treaty partner. In addition, as was also discussed under element B.1, 29 treaties will, upon entry into force, be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

40. Russia reported that where Russia’s competent authority considers that the objection raised in the MAP request is not justified, it informs the taxpayer and the other competent authority concerned hereof. Such notification will include: (i) identification of the person who submitted the MAP request, (ii) date of receipt of the request, (iii) summary of the request and (iv) justification for consideration. Alongside this notification, a copy of the taxpayer’s request and its attachments will also be sent to the other competent authority concerned.

41. While, as a matter of practice Russia will notify the other competent authority concerned when its competent authority considers that the objection raised in the MAP request is not justified, Russia reported that it has not documented its notification process and also has not provided instructions for staff in charge of MAP cases in what cases the objection raised should be considered as not justified and how then to pursue. In a general sense, Russia clarified that in the following situations it would consider the objection raised in a MAP request as not justified:

- The MAP request was not filed within the time limits specified in the treaty.
- The person who submitted the MAP request is neither a resident or a national of the contracting states.
- The taxation is considered not to be covered by the relevant tax treaty.
- There is no taxation that is not in accordance with the provisions of the tax treaty.

Practical application

42. Russia reported that since 1 January 2016 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2016-18 MAP statistics submitted by Russia show that two of its MAP cases were closed with the outcome “objection not justified”. In this respect, Russia mentioned that the decision hereto was made by the treaty partners, not by Russia’s competent authority.

43. All but one peers that provided input indicated not being aware of any cases for which Russia’s competent authority denied access to MAP since 1 January 2016. They also reported not having been consulted/notified since that date of a case where Russia’s competent authority considered the objection raised in a MAP request as not justified, which can be clarified by the fact that no such instances have occurred in Russia during this period. The remaining peer reported that it had one MAP case with Russia, which was closed in 2017 with the outcome “objection not justified”, since the case related to the levying of VAT in Russia, which is not covered by the treaty. The peer clarified that its competent authority took the relevant decision hereto, which conforms with Russia’s statement above.

44. In addition, Russia reported that it published the MAP guidance in January 2019, which includes a section that further describes the circumstances in which Russia’s competent authority can decide not to accept a MAP request. These circumstances include:

- The taxpayer did not correct deficiencies in its MAP request, despite being requested to do so.

- The taxpayer did not submit the necessary documents for determining whether the objection raised is justified.
- The objection raised by the taxpayer is not justified.

45. This guidance, however, neither includes information on how to apply the bilateral notification process for cases where the taxpayer's objection is not considered to be justified, nor does it include instructions for staff in charge of MAP cases on how to proceed in such a situation.

Anticipated modifications

46. Russia indicated that it does not anticipate any modifications in relation to element B.2.

47. As previously discussed under element B.1, Russia signed the Multilateral Instrument with the intention to modify its covered tax agreements, inter alia, to allow taxpayers to submit a MAP request to the competent authority of either contracting state. Where tax treaties will not be amended via the Multilateral Instrument, Russia declared it will continue to apply its bilateral notification or consultation process when its competent authority considers the objection raised in a MAP request not to be justified.

Conclusion

	Areas for improvement	Recommendations
[B.2]	86 of the 89 tax treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Russia should without further delay document its bilateral notification process and set out in that document the rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Russia should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.

[B.3] Provide access to MAP in transfer pricing cases

Jurisdictions should provide access to MAP in transfer pricing cases.

48. Where two or more tax administrations take different positions on what constitutes arm's length conditions for specific transactions between associated enterprises, economic double taxation may occur. Not granting access to MAP with respect to a treaty partner's transfer pricing adjustment, with a view to eliminating the economic double taxation that may arise from such adjustment, will likely frustrate the main objective of tax treaties. Jurisdictions should thus provide access to MAP in transfer pricing cases.

Legal and administrative framework

49. Out of Russia's 89 tax treaties, 56 contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner.⁵ Furthermore, four do not contain Article 9 at all and 20 do not contain a provision that is based on or equivalent to Article 9(2).

50. For the remaining nine treaties the following analysis can be made:
- Five treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention, but the granting of a corresponding adjustment is only optional as the word “shall” is used instead of “may”, following which the provision is considered not to be equivalent to Article 9(2)
 - Two treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention, but deviate from it as corresponding adjustments can only be granted on the basis of a mutual agreement between the competent authorities
 - Two treaties contain a provision on the granting of corresponding adjustments, but deviates as regards the wording and structure of Article 9(2) of the OECD Model Tax Convention and for that reason is considered not being the equivalent thereof.
51. In view of the above treaties and the deviations from Article 9(2) of the OECD Model Tax Convention, these follow from the fact that Russia has expressed its positions on Article 9 of the OECD Model Tax Convention. These positions read:
- Russia reserves the right to replace “shall” by “may” in the first sentence of paragraph 2 (of Article 9) in its conventions
 - Russia reserves that the right not to insert paragraph 2 (of Article 9) in its conventions but is prepared in the course of negotiations to accept this paragraph based on the understanding that the other Contracting State is only obliged to make an adjustment to the amount of tax to the extent that it agrees, unilaterally in a mutual agreement procedure, with the adjustment of profits by the first-mentioned state.
52. With respect to these reservations, Russia reported that its current treaty policy is to include Article 9(2) of the OECD Model Tax Convention in its treaties and all new treaties of Russia contain such provision.
53. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Russia’s tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, Russia indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention is contained in its tax treaties.
54. Russia’s MAP guidance does not contain information on access to MAP in transfer pricing cases. Section 5 of this guidance only stipulates that there are no administrative or legal provisions in Russia that limit access to MAP. Section 7.2, however, lists what information taxpayers should include in their MAP request, which makes a reference to transfer pricing cases, following which it can be derived that MAP is available in such cases.

Application of legal and administrative framework in practice

55. Russia reported that since 1 January 2016, it has not denied access to MAP on the basis that the case concerned is a transfer pricing case.
56. All peers that provided input indicated not being aware of a denial of access to MAP by Russia since 1 January 2016 on the basis that the case concerned was a transfer pricing case.

Anticipated modifications

57. Russia reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention in its tax treaties where possible and that it will seek to include this provision

in all of its future tax treaties. In that regard, Russia signed the Multilateral Instrument. Article 17(2) of that instrument stipulates that Article 17(1) – containing the equivalent of Article 9(2) of the OECD Model Tax Convention – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 9(2) of the OECD Model Tax Convention. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument. Article 17(2) of the Multilateral Instrument does not take effect for a tax treaty if one or both of the treaty partners have, pursuant to Article 17(3), reserved the right not to apply Article 17(2) for those tax treaties that already contain the equivalent of Article 9(2) of the OECD Model Tax Convention, or not to apply Article 17(2) in the absence of such equivalent under the condition that: (i) it shall make appropriate corresponding adjustments or (ii) its competent authority shall endeavour to resolve the case under mutual agreement procedure of the applicable tax treaty. Where neither treaty partner has made such a reservation, Article 17(4) of the Multilateral Instrument stipulates that both have to notify the depositary whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention. Where such a notification is made by both of them, the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention).

58. Russia has, pursuant to Article 17(3), reserve the right not to apply Article 17(2) of the Multilateral Instrument for those treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention. In regard of the 29 treaties identified in paragraph 52 above that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (not including those five tax treaties that do not contain Article 9 at all), Russia listed 24 of them as a covered tax agreement under the Multilateral Instrument and included eight of them in the list of treaties for which Russia has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument. Furthermore, Russia did not make a notification on the basis of Article 17(4) for any of the remaining 16 treaties.

59. Of the relevant 16 treaty partners, five are not a signatory to the Multilateral Instrument and two have not listed its treaty with Russia under that instrument. Of the remaining nine treaty partners, four has, on the basis of Article 17(3)(b), reserved the right not to apply Article 17(2) on the basis that they shall make the appropriate referred to in Article 17(1) or their competent authority shall endeavour to resolve the case under the provisions of a covered tax agreement relating to mutual agreement procedure. Therefore, at this stage, five of the 29 tax treaties identified above will be superseded by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 9(2) of the OECD Model Tax Convention, but only to the extent that the provisions contained in those treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).

Conclusion

	Areas for improvement	Recommendations
[B.3]	-	As Russia has thus far granted access to MAP in eligible transfer pricing cases, it should continue granting access for these cases.

[B.4] Provide access to MAP in relation to the application of anti-abuse provisions

Jurisdictions should provide access to MAP in cases in which there is a disagreement between the taxpayer and the tax authorities making the adjustment as to whether the conditions for the application of a treaty anti-abuse provision have been met or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty.

60. There is no general rule denying access to MAP in cases of perceived abuse. In order to protect taxpayers from arbitrary application of anti-abuse provisions in tax treaties and in order to ensure that competent authorities have a common understanding on such application, it is important that taxpayers have access to MAP if they consider the interpretation and/or application of a treaty anti-abuse provision as being incorrect. Subsequently, to avoid cases in which the application of domestic anti-abuse legislation is in conflict with the provisions of a tax treaty, it is also important that taxpayers have access to MAP in such cases.

Legal and administrative framework

61. None of the Russian Federation's 89 tax treaties allows competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, also the domestic law and/or administrative processes of Russia do not include a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

62. Russia's MAP guidance, however, does currently not contain information on access to MAP in relation to the application of anti-abuse provisions. Section 5 of this guidance only stipulates that there are no administrative or legal provisions in Russia that limit access to MAP.

Practical application

63. Russia reported that since 1 January 2016 it has not denied access to MAP cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. However, no such cases in relation hereto were received since that date.

64. All peers that provided input indicated not being aware of cases that have been denied access to MAP in Russia since 1 January 2016 in relation to the application of treaty and/or domestic anti-abuse provisions.

Anticipated modifications

65. Russia did not indicate that it anticipates any modifications in relation to element B.4.

Conclusion

	Areas for improvement	Recommendations
[B.4]	Russia reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Russia is therefore recommended to follow its policy and grant access to MAP in such cases.	

[B.5] Provide access to MAP in cases of audit settlements

Jurisdictions should not deny access to MAP in cases where there is an audit settlement between tax authorities and taxpayers. If jurisdictions have an administrative or statutory dispute settlement/resolution process independent from the audit and examination functions and that can only be accessed through a request by the taxpayer, jurisdictions may limit access to the MAP with respect to the matters resolved through that process.

66. An audit settlement procedure can be valuable to taxpayers by providing certainty on their tax position. Nevertheless, as double taxation may not be fully eliminated by agreeing on such settlements, taxpayers should have access to the MAP in such cases, unless they were already resolved via an administrative or statutory disputes settlement/resolution process that functions independently from the audit and examination function and which is only accessible through a request by taxpayers.

Legal and administrative framework

Audit settlements

67. Russia reported that under its domestic law no process is available allowing taxpayers and the tax administration to enter into a settlement agreement during the course of or after the ending of an audit.

Administrative or statutory dispute settlement/resolution process

68. Russia reported it does not have an administrative or statutory dispute settlement/resolution process in place, which is independent from the audit and examination functions and can only be accessed through a request by the taxpayer.

Practical application

69. Russia reported that since 1 January 2016 it has not denied access to MAP in cases where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration, which is logical as audit settlements are not allowed in Russia.

70. All peers that provided input indicated not being aware of a denial of access to MAP in Russia since 1 January 2016 in cases where there was an audit settlement between the taxpayer and the tax administration.

Anticipated modifications

71. Russia did not indicate that it anticipates any modifications in relation to element B.5.

Conclusion

	Areas for improvement	Recommendations
[B.5]	-	-

[B.6] Provide access to MAP if required information is submitted

Jurisdictions should not limit access to MAP based on the argument that insufficient information was provided if the taxpayer has provided the required information based on the rules, guidelines and procedures made available to taxpayers on access to and the use of MAP.

72. To resolve cases where there is taxation not in accordance with the provisions of the tax treaty, it is important that competent authorities do not limit access to MAP when taxpayers have complied with the information and documentation requirements as provided in the jurisdiction's guidance relating hereto. Access to MAP will be facilitated when such required information and documentation is made publicly available.

Legal framework on access to MAP and information to be submitted

73. The information and documentation the Russian Federation requires taxpayers to include in a request for MAP assistance are discussed under element B.8.

74. Where a taxpayer has not included all required information in its MAP request, Russia reported that access to MAP will not be denied, as long as the MAP request meets the formal requirements under the MAP article included in Russia's tax treaties. Russia reported that its competent authority will upon receipt of a MAP request check whether all required information is available. If not all information is contained in the request, its competent authority will revert back to the taxpayer to require additional information in writing, or, alternatively, contact the local tax authorities in order to obtain such information. At this stage, no specific timeframe is set, which is also dependent on the nature of the information missing. In any case, the taxpayer is instructed to provide the additional information as soon as possible. If, however, the taxpayer does, after a request, still not provide sufficient information for a consideration of the case, Russia reported its competent authority may grant the taxpayer another opportunity to submit the information if it deems this appropriate (inappropriateness may occur in case of extensive delays caused by the taxpayer). In the case that a taxpayer still does not provide the requested information and such information is also not available from other sources such as local tax authorities, Russia reported its competent authority would close the case.

75. In view of the above, paragraph 7.2.5 of Russia's MAP guidance states that the competent authority may ask the taxpayer to provide additional information and documentation for determining whether the objection raised by the taxpayer was justified and for the initiation of the MAP consultations. It also states that such materials should be submitted to the competent authority in a timely manner.

Practical application

76. Russia reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements. It further reported that since 1 January 2016 it has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

77. All peers that provided input indicated not being aware of a limitation of access to MAP by Russia since 1 January 2016 in situations where taxpayers complied with information and documentation requirements.

Anticipated modifications

78. Russia did not indicate that it anticipates any modifications in relation to element B.6.

Conclusion

	Areas for improvement	Recommendations
[B.6]	-	As Russia has thus far not limited access to MAP in eligible cases when taxpayers have complied with Russia's information and documentation requirements for MAP requests, it should continue this practice.

[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties

Jurisdictions should ensure that their tax treaties contain a provision under which competent authorities may consult together for the elimination of double taxation in cases not provided for in their tax treaties.

79. For ensuring that tax treaties operate effectively and in order for competent authorities to be able to respond quickly to unanticipated situations, it is useful that tax treaties include the second sentence of Article 25(3) of the OECD Model Tax Convention, enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

Current situation of Russia's tax treaties

80. Out of Russia's 89 tax treaties, 63 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties.⁶ The remaining 26 treaties do not contain a provision that is based on, or equivalent to, Article 25(3), second sentence, of the OECD Model Tax Convention.

Anticipated modifications

Multilateral Instrument

81. Russia signed the Multilateral Instrument. Article 16(4)(c)(ii) of that instrument stipulates that Article 16(3), second sentence – containing the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. In other words, in the absence of this equivalent, Article 16(4)(c)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(ii), the depositary that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention.

82. In regard of the 26 tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Russia listed 18 treaties as a covered tax agreement under the Multilateral Instrument and for all of them did it make, pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). Of the relevant 18 treaty partners, four are not a signatory to the Multilateral Instrument. All the remaining 14 listed their treaty with Russia as a covered tax agreement under the Multilateral Instrument and also made

a notification on the basis of Article 16(6)(d)(ii). Therefore, at this stage, 14 of the 26 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention.

Bilateral modifications

83. Russia reported that when the tax treaties do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention and will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.7. In this respect, it reported that it is currently in negotiations with three treaty partners, for which it will seek to include the required provision. It furthermore mentioned, that it is planning to contact two other treaty partners for the renegotiation of the treaty. For the other treaties, Russia, however, has not put in place a specific plan to renegotiate the treaties with a view to bring them in line with the requirements under element B.7. Regardless, Russia reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention in all of its future tax treaties.

Peer input

84. All but one of the peers that provided input, indicated that their treaty with Russia meets the requirements under element B.7, which conforms with the above analysis. For the 26 treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, one of the relevant peers indicated that their treaty with Russia will be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, which conforms with the above analysis.

Conclusion

	Areas for improvement	Recommendations
[B.7]	<p>26 out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. With respect to these treaties:</p> <ul style="list-style-type: none"> • 14 are expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaties concerned. • Three are currently in the process of being renegotiated to include the required provision. • Three are expected to be renegotiated to include the required provision. 	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in those 14 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>Furthermore, for six of the remaining 12 treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Russia should initiate or continue negotiations with the relevant treaty partners to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention,</p> <p>For the remaining six treaties, Russia should follow its stated intention to request the inclusion of the required provision via bilateral negotiations. To this end, Russia should put a plan in place on how it envisages updating these six treaties to include the required provision.</p> <p>In addition, Russia should maintain its stated intention to include the required provision in all future tax treaties.</p>

[B.8] Publish clear and comprehensive MAP guidance

Jurisdictions should publish clear rules, guidelines and procedures on access to and use of the MAP and include the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance.

85. Information on a jurisdiction's MAP regime facilitates the timely initiation and resolution of MAP cases. Clear rules, guidelines and procedures on access to and use of the MAP are essential for making taxpayers and other stakeholders aware of how a jurisdiction's MAP regime functions. In addition, to ensure that a MAP request is received and will be reviewed by the competent authority in a timely manner, it is important that a jurisdiction's MAP guidance clearly and comprehensively explains how a taxpayer can make a MAP request and what information and documentation should be included in such request.

Russia's MAP guidance

86. Russia has issued guidance on the MAP process and how it applies that process in practice. This document has been published early January 2019 on the website of Russia's Ministry of Finance and is available at (in Russian and English):

[www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601
&area_id=57&page_id=179&popup=Y](http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y)

87. This MAP guidance contains information on:
- a. contact information of the competent authority or the office in charge of MAP cases
 - b. persons who can file a MAP request in Russia
 - c. the manner and form in which the taxpayer should submit its MAP request
 - d. the specific information and documentation that should be included in a MAP request (see also below)
 - e. how the MAP functions in terms of process, timing and the role of the competent authorities
 - f. rights and role of taxpayers in the process
 - g. costs of the MAP process
 - h. interest charges, refunds and penalties in relation to the MAP process.

88. The above-described MAP guidance of Russia included information that the FTA MAP Forum agreed should be included in a jurisdiction's MAP guidance, which concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request.⁷ However, despite that Russia's MAP guidance includes information on several aspects of the MAP process, various subjects are not specifically addressed. This concerns information on:

- whether MAP is available in cases of: (i) transfer pricing cases, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments
- whether taxpayers can request for the multi-year resolution of recurring issues through MAP
- the possibility of suspension of tax collection during the course of a MAP
- the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).

Information and documentation to be included in a MAP request

89. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in request for MAP assistance.⁸ This agreed guidance is shown below. Russia's MAP guidance enumerating which items must be included in a request for MAP assistance (if available) are checked in the following list:

- identity of the taxpayer(s) covered in the MAP request
- the basis for the request
- facts of the case
- analysis of the issue(s) requested to be resolved via MAP
- whether the MAP request was also submitted to the competent authority of the other treaty partner
- whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes
- whether the issue(s) involved were dealt with previously
- a statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the competent authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the competent authority in a timely manner.

90. Further to the above, Russia's MAP guidance also requires that taxpayers provide copies of (i) contracts, (ii) tax audit materials, (iii) letters that prove the taxation not in accordance with the treaty, (iv) pending or completed appeals or litigation. Specifically for transfer pricing cases, taxpayers are required to provide documents that describe the direct and indirect capital relationship or control between the associated enterprises.

Anticipated modifications

91. Russia reported that it intends to implement new legislative provisions in the Tax Code that will ensure possibility of suspension of tax collection and will contain provisions concerning implementation of a reached agreement, including the implementation of a reached agreement notwithstanding domestic time limits.

Conclusion

	Areas for improvement	Recommendations
[B.8]	-	<p>Although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance, Russia could consider including information on:</p> <ul style="list-style-type: none"> • whether MAP is available in cases of: (i) transfer pricing cases, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments • whether taxpayers can request for the multi-year resolution of recurring issues through MAP • the possibility of suspension of tax collection during the course of a MAP • the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).

[B.9] Make MAP guidance available and easily accessible and publish MAP profile

Jurisdictions should take appropriate measures to make rules, guidelines and procedures on access to and use of the MAP available and easily accessible to the public and should publish their jurisdiction MAP profiles on a shared public platform pursuant to the agreed template.

92. The public availability and accessibility of a jurisdiction’s MAP guidance increases public awareness on access to and the use of the MAP in that jurisdiction. Publishing MAP profiles on a shared public platform further promotes the transparency and dissemination of the MAP programme.⁹

Rules, guidelines and procedures on access to and use of the MAP

93. As described under element B.8, the MAP guidance of Russia is published and can be found at:

[www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601
&area_id=57&page_id=179&popup=Y](http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y)

94. As regards its accessibility, Russia’s MAP guidance can be easily found on the website of Russia’s Ministry of Finance, by searching for “mutual agreement procedure”.

MAP profile

95. The MAP profile of Russia is published on the website of the OECD. This MAP profile contains basic information, but is not necessarily complete. This profile includes external links that provide extra information and guidance where appropriate. The contents of the APA programme or the MAP guidance are not fully addressed.

Anticipated modifications

96. Russia indicated that it will update its MAP profile to reflect the contents of the new MAP guidance as well as the expected amendments of the Tax Code.

Conclusion

	Areas for improvement	Recommendations
[B.9]	The MAP profile is not complete and does not reflect the details of its APA programme and the MAP guidance.	Russia should update its MAP profile and reflect the details of its APA programme and the MAP guidance.

[B.10] Clarify in MAP guidance that audit settlements do not preclude access to MAP

Jurisdictions should clarify in their MAP guidance that audit settlements between tax authorities and taxpayers do not preclude access to MAP. If jurisdictions have an administrative or statutory dispute settlement/resolution process independent from the audit and examination functions and that can only be accessed through a request by the taxpayer, and jurisdictions limit access to the MAP with respect to the matters resolved through that process, jurisdictions should notify their treaty partners of such administrative or statutory processes and should expressly address the effects of those processes with respect to the MAP in their public guidance on such processes and in their public MAP programme guidance.

97. As explained under element B.5, an audit settlement can be valuable to taxpayers by providing certainty to them on their tax position. Nevertheless, as double taxation may not be fully eliminated by agreeing with such settlements, it is important that a jurisdiction's MAP guidance clarifies that in case of audit settlement taxpayers have access to the MAP. In addition, for providing clarity on the relationship between administrative or statutory dispute settlement or resolution processes and the MAP (if any), it is critical that both the public guidance on such processes and the public MAP programme guidance address the effects of those processes, if any. Finally, as the MAP represents a collaborative approach between treaty partners, it is helpful that treaty partners are notified of each other's MAP programme and limitations thereto, particularly in relation to the previously mentioned processes.

MAP and audit settlements in the MAP guidance

98. As previously discussed under B.5, it is under Russia's domestic law not possible that taxpayers and the tax administration enter into audit settlements. In this regard, there is no need for Russia to address in its MAP guidance that audit settlements do not preclude access to MAP.

99. Peers raised no issues with respect to the availability of audit settlements and the inclusion of information hereon in Russia's MAP guidance, which can be clarified by the fact that such settlements are not possible in Turkey.

MAP and other administrative or statutory dispute settlement/resolution processes in available guidance

100. As previously mentioned under element B.5, Russia does not have an administrative or statutory dispute settlement/resolution process in place that is independent from the audit and examination functions and can only be accessed through a request by the taxpayer. In this regard, there is no need to address the effects of such process with regard to MAP in Russia's MAP guidance.

101. All peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process that limits access to MAP in Russia, which can be clarified by the fact that such process is not in place in Russia.

Notification of treaty partners of existing administrative or statutory dispute settlement/resolution processes

102. As Russia does not have an internal administrative or statutory dispute settlement/resolution process that limits access to MAP in place, there is no need for notifying treaty partners of such process.

Anticipated modifications

103. Russia indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

Notes

1. These 18 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro.
2. These 72 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro.
3. These 64 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro, but only as regards Serbia, as Russia did not list Montenegro under the Multilateral Instrument.
4. These 22 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro, as Serbia made such a reservation under the Multilateral Instrument.
5. These 56 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro.
6. These 63 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro.
7. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
8. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
9. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.

References

- OECD (2015a), “Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report”, in *OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241633-en>.
- OECD (2015b), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>.
- OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

Part C

Resolution of MAP cases

[C.1] Include Article 25(2), first sentence, of the OECD Model Tax Convention in tax treaties

Jurisdictions should ensure that their tax treaties contain a provision which requires that the competent authority who receives a MAP request from the taxpayer, shall endeavour, if the objection from the taxpayer appears to be justified and the competent authority is not itself able to arrive at a satisfactory solution, to resolve the MAP case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the tax treaty.

104. It is of critical importance that in addition to allowing taxpayers to request for a MAP, tax treaties also include the equivalent of the first sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017a), which obliges competent authorities, in situations where the objection raised by taxpayers are considered justified and where cases cannot be unilaterally resolved, to enter into discussions with each other to resolve cases of taxation not in accordance with the provisions of a tax treaty.

Current situation of Russia's tax treaties

105. All of Russia's 89 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.

Anticipated modifications

Bilateral modifications

106. As all of Russia's tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention, there is no need for modifications. Regardless, Russia reported that it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention in all of its future tax treaties.

Peer input

107. All peers that provided input indicated that their treaty with Russia meets the requirements under element C.1, which conforms with the above analysis.

Conclusion

	Areas for improvement	Recommendations
[C.1]	-	Russia should maintain its stated intention to include the required provision in all future tax treaties.

[C.2] Seek to resolve MAP cases within a 24-month average timeframe

Jurisdictions should seek to resolve MAP cases within an average time frame of 24 months. This time frame applies to both jurisdictions (i.e. the jurisdiction which receives the MAP request from the taxpayer and its treaty partner).

108. As double taxation creates uncertainties and leads to costs for both taxpayers and jurisdictions, and as the resolution of MAP cases may also avoid (potential) similar issues for future years concerning the same taxpayers, it is important that MAP cases are resolved swiftly. A period of 24 months is considered as an appropriate time period to resolve MAP cases on average.

Reporting of MAP statistics

109. Statistics regarding all tax treaty related disputes concerning Russia are published on the website of the OECD as of 2016.¹

110. The FTA MAP Forum has agreed on rules for reporting of MAP statistics (“**MAP Statistics Reporting Framework**”) for MAP requests submitted on or after 1 January 2016 (“**post-2015 cases**”). Also, for MAP requests submitted prior to that date (“**pre-2016 cases**”), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template. Russia provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Russia and of which its competent authority was aware.² The statistics discussed below include both pre-2016 and post-2015 cases and the full statistics are attached to this report as Annex B and Annex C respectively³ and should be considered jointly to understand the MAP caseload of Russia. With respect to post-2015 cases, Russia reported having reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, Russia reported that it could match its post-2015 MAP statistics with its MAP partners.

Monitoring of MAP statistics

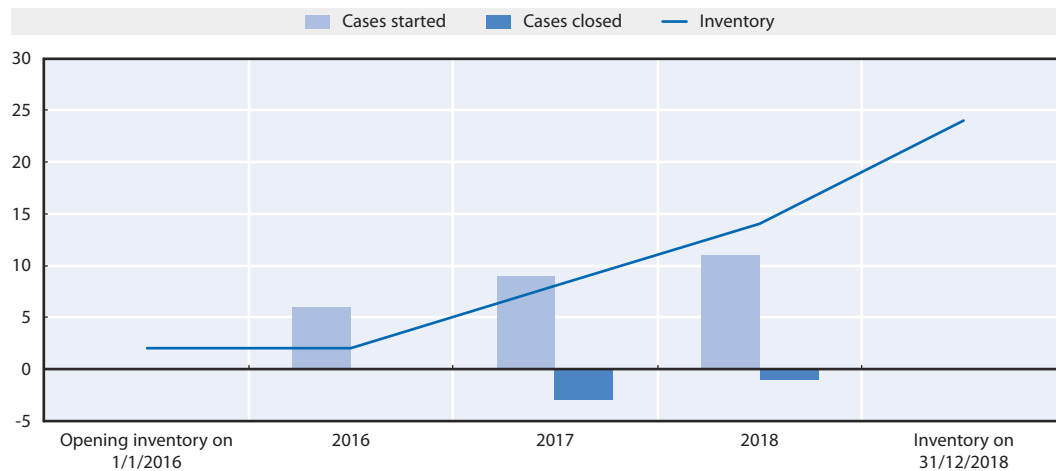
111. Russia reported that the Ministry of Finance does not have a formal framework in place for the monitoring of its MAP statistics, but does have in place a system to record and monitor all its documentation, including MAP cases. This system further allows to register all correspondence in relation to the MAP case.

Analysis of Russia's MAP caseload

Global overview

112. The following graph shows the evolution of Russia's MAP caseload over the Statistics Reporting Period.

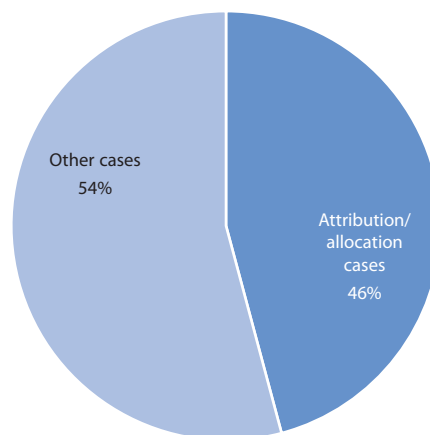
Figure C.1. Evolution of Russia's MAP caseload



113. At the beginning of the Statistics Reporting Period Russia had two pending MAP cases, all of which were attribution/allocation cases.⁴ At the end of the Statistics Reporting Period, Russia had 24 MAP cases in its inventory, of which 11 are attribution/allocation cases and 13 are other MAP cases. Russia's MAP caseload has increased with more than ten times during the Statistics Reporting Period.

114. The breakdown of the end inventory can be shown as follows:

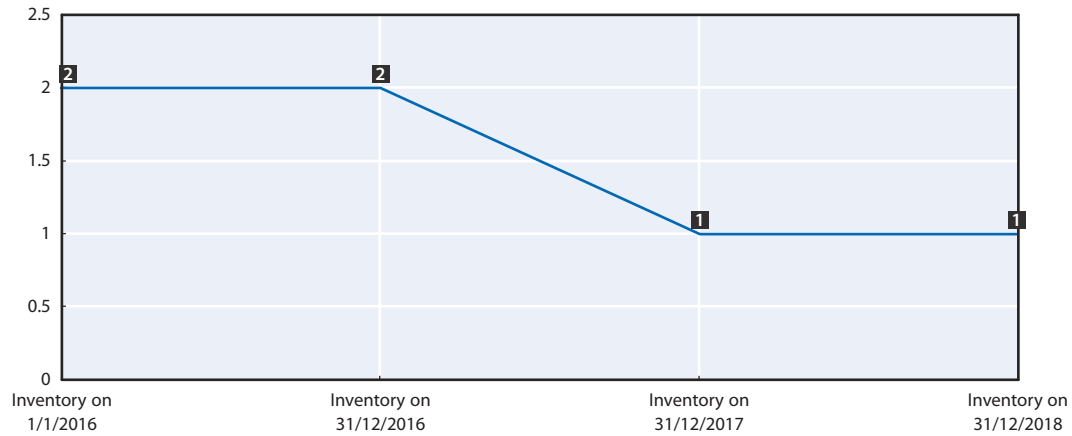
Figure C.2. End inventory on 31 December 2018 (24 cases)



Pre-2016 cases

115. The following graph shows the evolution of Russia's pre-2016 MAP cases over the Statistics Reporting Period.

Figure C.3. Evolution of Russia's MAP inventory Pre-2016 cases



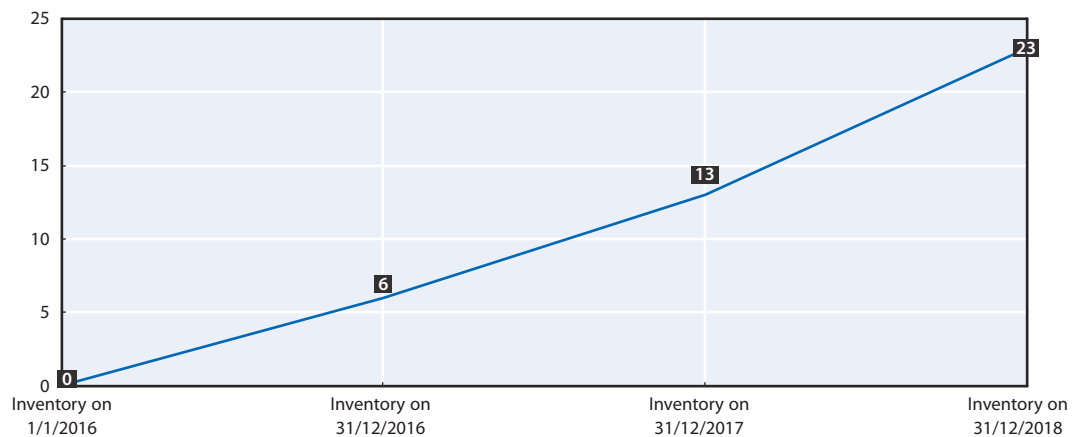
116. At the beginning of the Statistics Reporting Period, Russia's MAP inventory of pre-2016 MAP cases consisted of two cases, all of which were attribution/allocation cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases has decreased to one attribution/allocation case. The change in the number of pre-2016 MAP cases is shown in the table below.

Pre-2016 cases only	Evolution of total MAP caseload in:			Cumulative evolution of total MAP caseload over the three years (2016-18)
	2016	2017	2018	
Attribution/allocation cases	(no cases closed)	-50%	(no case closed)	-50%
Other cases	(no cases in the start inventory)	(no cases in the start inventory)	(no cases in the start inventory)	(no cases in the start inventory)

Post-2015 cases

117. The following graph shows the evolution of Russia's post-2015 MAP cases over the Statistics Reporting Period.

Figure C.4. Evolution of Russia's MAP inventory Post-2015 cases



118. In total, 26 MAP cases started during the Statistics Reporting Period, 11 of which concerned attribution/allocation cases and 15 other cases. At the end of this period the total number of post-2015 cases in the inventory was 23 cases, consisting of ten attribution/allocation cases and 13 other cases. Conclusively, Russia closed three post-2015 cases during the Statistics Reporting Period, one of them being an attribution/allocation case and two of them being other cases. The total number of closed cases represents 12% of the total number of post-2015 cases that started during the Statistics Reporting Period.

119. The number of post-2015 cases closed as compared to the number of post-2015 cases started during the Statistics Reporting Period is shown in the table below.

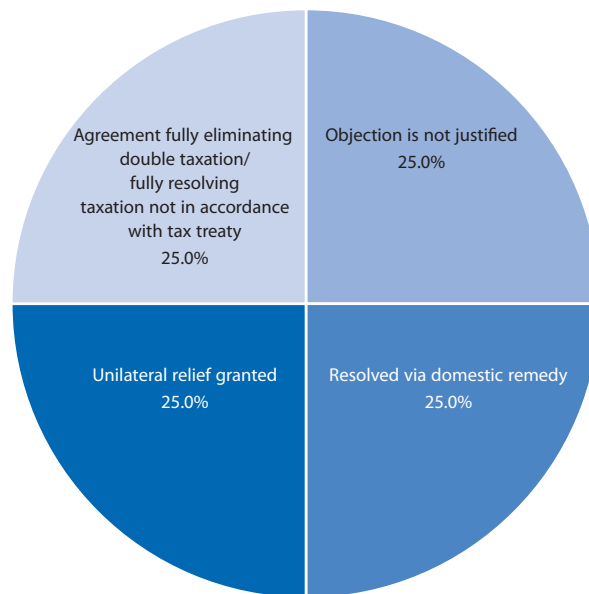
Post-2015 cases only	% of cases closed compared to cases started in:			Cumulative % of cases closed compared to cases started over the three years (2016-18)
	2016	2017	2018	
Attribution/allocation cases	(no cases closed)	33%	(no cases closed)	9%
Other cases	(no cases closed)	17%	14%	13%

Overview of cases closed during the Statistics Reporting Period

Reported outcomes

120. During the Statistics Reporting Period Russia in total closed five MAP cases for which the following outcomes were reported:

Figure C.5. Cases closed in 2016, 2017 or 2018 (four cases)



121. This chart shows that during the Statistics Reporting Period, four cases were closed with different outcomes, whereby the decision thereto was made by Russia's competent authority, as described in element B.2.

Reported outcomes for attribution/allocation cases

122. In total, two attribution/allocation cases were closed during the Statistics Reporting Period. The reported outcomes for these cases are:

- resolved via domestic remedy [50%]
- unilateral relief granted [50%]

Reported outcomes for other cases

123. In total, two other cases were closed during the Statistics Reporting Period. The reported outcomes for these cases are:

- agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty [50%]
- objection is not justified [50%]

*Average timeframe needed to resolve MAP cases**All cases closed during the Statistics Reporting Period*

124. The average time needed to close MAP cases during the Statistics Reporting Period was 14.08 months. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	2	20.05
Other cases	2	8.10
All cases	4	14.08

Pre-2016 cases

125. For pre-2016 cases Russia reported that it needed 37.50 months to close one attribution/allocation case. No other pre-2016 cases were resolved during the Statistics Reporting Period. For the purpose of computing the average time needed to resolve pre-2016 cases, Russia reported that it uses the following dates:

- *Start date*: one week from the date of notification by the competent authority that receives the MAP request from the taxpayer or five weeks from the receipt of the taxpayer's MAP request, whichever is the earlier date
- *End date*: the date of an official communication from the competent authority to inform the taxpayer of the outcome of its MAP request.

Post-2015 cases

126. For post-2015 cases Russia reported that on average it needed 2.60 months to close one attribution/allocation case and 8.10 months to close two other cases. This resulted in an average time needed of 6.27 months to close three post-2015 cases.

Peer input

127. One peer provided input in relation to Russia’s practice to seek to resolve MAP cases. This peer reported that for one transfer pricing case in which double taxation occurred, Russia holds the view that no taxation not in accordance with the treaty was caused by an adjustment made by Russia. Russia therefore concluded that there were no grounds for initiating a MAP. The peer has indicated it wishes to further discuss the matter with Russia’s competent authority.

Anticipated modifications

128. Russia indicated that it does not anticipate any modifications in relation to element C.2.

Conclusion

	Areas for improvement	Recommendations
[C.2]	Russia submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016, 2017 and 2018. Based on the information provided by Russia’s MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.	Russia’s MAP statistics show that during the Statistics Reporting Period it closed 12% (three out of 26 cases) of its post-2015 cases in 6.27 months on average. In that regard, Russia is recommended to seek to resolve the remaining 88% of the post-2015 cases pending on 31 December 2018 (23 cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.

[C.3] Provide adequate resources to the MAP function

Jurisdictions should ensure that adequate resources are provided to the MAP function.

129. Adequate resources, including personnel, funding and training, are necessary to properly perform the competent authority function and to ensure that MAP cases are resolved in a timely, efficient and effective manner.

Description of Russia’s competent authority

130. Under Russia’s tax treaties the competent authority function is assigned to the Minister of Finance or its authorised representative. Russia reported it has further delegated this function to the International Taxation Division of the Tax and Customs Policy Department within the Ministry of Finance, which is also defined in Russia’s MAP guidance. This division consists of five persons, including the Deputy Director of the Department. In 2018 two additional staff members were hired, which are included in the number of five persons.

131. Russia further reported that staff within the division is, next to handling MAP and APA cases, also assigned with other tasks such as providing interpretation of treaties and domestic law, negotiating tax treaties and rendering day-to-day assistance to taxpayers. Concerning the experience of the staff, Russia reported that the Deputy Director of the Department has joined the competent authority in 2016 and has extensive experiences, inter alia in relation to international tax issues. Furthermore, the Deputy Head of the Division has a more than ten years’ experience.

132. Concerning the level of training of the staff in charge of MAP cases, Russia reported that they regularly attend workshops on MAP and transfer pricing organised by the OECD.

Monitoring mechanism

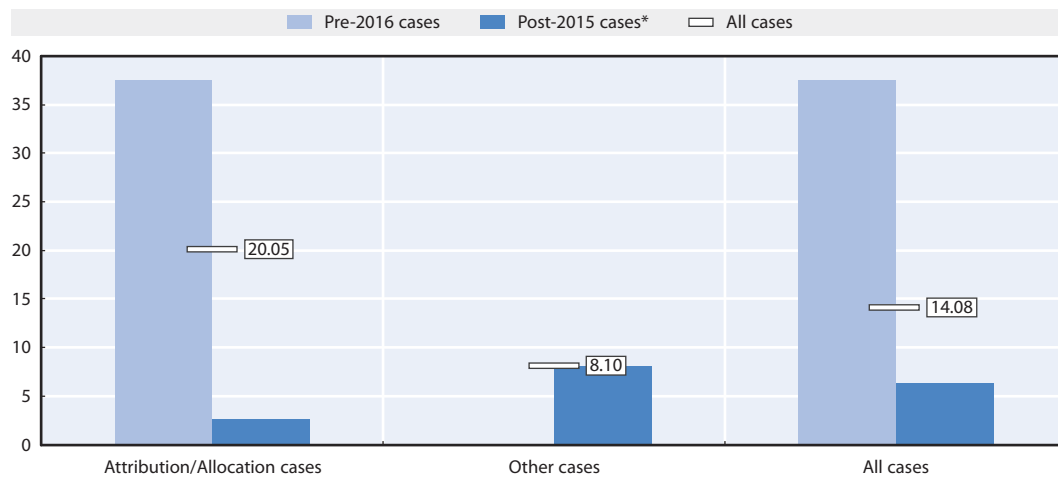
133. Russia reported that it does not have a formal framework for monitoring/assessing whether the resources to perform the MAP function are sufficient.

Practical application

MAP statistics

134. As discussed under element C.2, Russia closed its MAP cases during the Statistics Reporting Period within the pursued 24-month average. This can be illustrated by the following graph:

Figure C.6. Average time (in months) to close cases in 2016-18



*Note that post-2015 cases only concern cases started and closed during 2016-18.

135. Based on these figures, it follows that on average it took Russia 14.08 months to close MAP cases during the Statistics Reporting Period, by which Russia is considered to be adequately resourced. However, during this period Russia's MAP inventory has increased significantly, as shown in the table below.

	Evolution of total MAP caseload in:			Cumulative evolution of total MAP caseload over the three years (2016-18)
	2016	2017	2018	
Attribution/allocation cases	200%	17%	57%	450%
Other cases	(from 0 to 1 case)	250%	86%	(from 0 to 13 cases)
Total	300%	75%	71%	1 100%

Peer input

136. In total ten peers provided input on their experiences with Russia in handling and resolving MAP cases. Of these ten peers, two reported that since 1 January 2016 they did not have any MAP cases with Russia. The other peers mentioned that they have a limited number of MAP cases with Russia.

137. With regard to the working relationship with Russia's competent authority, one peer mentioned that no particular problems were faced in getting in contact with Russia's competent authority, in particular concerning the matching of MAP statistics. Another peer mentioned that it has only had one MAP case with Russia and that contacts with its competent authority were easy, as also that prompt responses were received.

138. Further to the above, one peer noted that due to the limited number of MAP cases with Russia, no robust working relationship has been established and also that no face-to-face meetings were held. However, this peer considered that the working relationship has been co-operative and that both competent authorities have worked together to resolve MAP cases in a timely and principled manner. This peer concluded that it has had a generally positive experience in resolving MAP cases with Russia and that it looks forward together with Russia's competent authority to ensure that taxpayers with existing and new cases obtain effective and efficient access to the MAP process.

139. Other peers, however, reported some more difficulties in receiving a response from Russia's competent authority. One of these peers noted that it has three MAP cases pending with Russia, two of which are pre-2016 cases. Concerning these cases, the peer mentioned that communication was rather burdensome and that it is waiting for a response to its letters. In fact, these letters were sent in the period 2009-12. For the pending post-2015 case, this peer mentioned that the last communication took place in September 2018, when the peer's competent authority sent a letter to Russia's competent authority indicating that for the MAP case its domestic court has rendered a decision to which the peer's competent authority is bound and that for that reason it is not able to derogate from that decision in MAP. The peer mentioned it is still awaiting a response from Russia's competent authority.

140. Similar input was echoed by three other peers. The first peer mentioned that for pending pre-2016 and post-2015 cases it has notified Russia's competent authority about these cases through several occasions and also sent position papers on the case, but so far never received a response. The second peer mentioned it has 1.5 years ago initiated a MAP case concerning a transfer pricing adjustment made in Russia. The response received from Russia's competent authority dates back one year, in which it was stated that the case is still under consideration. So far no position paper has been received, nor an indication of a specific timeline within which such paper will be presented. In a response, Russia mentioned that it hopes to provide this peer with the information as soon as possible.

141. Lastly, the third peer mentioned that it has very limited experience with Russia in handling and resolving MAP cases, with one transfer pricing case and one other case. The peer mentioned it has mixed experience in handling such cases with Russia's competent authority. For the transfer pricing case, the peer noted that its competent authority has made numerous attempts to engage with Russia's competent authority, but that it was unsuccessful and therefore eventually closed the case with no agreement reached. For the other case, the peer reported that after initial delays, both competent authorities are in ongoing correspondence, whereby Russia's competent authority recently submitted its position paper.

142. In addition, one peer also mentioned that it has had a few transfer pricing cases and other cases with Russia over the past few years. The peer mentioned that in its experience contacts with Russia's competent authority were difficult, but seem to improve recently. This peer further noted that a timely resolution of MAP cases could not be obtained. For that reason, this peer mentioned that Russia's competent authority could improve its efforts to resolve MAP cases in a reasonable timeframe, such by increasing its response rate to position papers issued by the peer's competent authority.

143. Other peers also made suggestions for improvement. One of these peers mentioned that establishing channels for secure economic communication may prevent future delays in responses. The second peer suggested that Russia's competent authority contacts the peer's competent authority for the pending cases. Lastly, one peer mentioned that it might be useful that both competent authorities notify each other of the expected timelines regarding the issuing of position paper, which especially regards transfer pricing case for which adjustments are made based on documentation requirements.

Anticipated modifications

144. Russia indicated that it does not anticipate any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	MAP cases were resolved in 14.08 months on average (which is the pursued average for resolving MAP cases received on or after 1 January 2016), but the MAP inventory has increased significantly since 1 January 2016 and peers indicated that there are no responses, or only responses with substantial delays, to communications on the case or to issued position papers, as well as delays in providing position papers. Therefore, there is a risk that pending post-2015 cases will in the future not be resolved within the pursued average of 24 months and this might indicate that Russia's competent authority is not adequately resourced.	Russia should ensure that adequate resources are made available for the competent authority function in order to resolve MAP cases in a timely, efficient and effective manner. In this respect, Russia should closely monitor whether the recent addition of resources for the competent authority function will enable the timely issuing of position papers and responses to such papers issued by the treaty partner, as well as timely responses to communications on new and pending MAP cases.

[C.4] Ensure staff in charge of MAP has the authority to resolve cases in accordance with the applicable tax treaty

Jurisdictions should ensure that the staff in charge of MAP processes have the authority to resolve MAP cases in accordance with the terms of the applicable tax treaty, in particular without being dependent on the approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy that the jurisdictions would like to see reflected in future amendments to the treaty.

145. Ensuring that staff in charge of MAP can and will resolve cases, absent any approval/direction by the tax administration personnel directly involved in the adjustment and absent any policy considerations, contributes to a principled and consistent approach to MAP cases.

Functioning of staff in charge of MAP

146. Russia reported that when its competent authority receives a MAP request, it seeks advice on controversial issues from the Federal Tax Service where necessary. The Federal Tax Service will then provide technical support throughout the entire MAP process. Russia clarified that this, however, only concerns providing information or documentation on the facts of the case under review. Russia further mentioned that when staff in charge of MAP prepares a position paper on the case, they will take into consideration both the position of the Federal Tax Service and those of the taxpayer.

147. Further to the above, Russia reported that staff in charge of MAP cases have the authority to resolve MAP cases in accordance with the terms of the applicable tax treaty, whereby it should take into account the Commentary to the OECD Model Tax Convention, memoranda of understanding and comparable MAP cases that have previously been resolved with the other competent authority concerned. Russia thereby clarified that its competent authority has the authority to enter into MAP agreements. When a (tentative) MAP agreement is reached, it is generally reviewed and approved by the Head of Russia's competent authority (e.g. the Deputy Director of the Tax and Customs Policy Department).

148. Russia also reported that its competent authority operates independently and has full authority to resolve MAP cases. There is neither a (formal) system in place requiring the competent authority to ask other government institutions for approval of any MAP agreements or the process for negotiating MAP agreements.

149. In regard of the above, Russia reiterated that staff in charge of MAP in practice operates independently and has the authority to resolve MAP cases without being dependent on the approval/direction of the tax administration personnel directly involved in the adjustment at issue and the process for negotiating MAP agreements is not influenced by policy considerations.

Practical application

150. Peers reported no impediments in Russia to perform its MAP function in the absence of approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy. In addition, one peer specifically mentioned that they are not being aware that staff in charge of the MAP in Russia is dependent on the approval of the tax authorities of MAP

Anticipated modifications

151. Russia did not indicated it anticipates any modifications in relation to element C.4.

Conclusion

	Areas for improvement	Recommendations
[C.4]	-	As it has done thus far, Russia should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that Russia would like to see reflected in future amendments to the treaty.

[C.5] Use appropriate performance indicators for the MAP function

Jurisdictions should not use performance indicators for their competent authority functions and staff in charge of MAP processes based on the amount of sustained audit adjustments or maintaining tax revenue.

152. For ensuring that each case is considered on its individual merits and will be resolved in a principled and consistent manner, it is essential that any performance indicators for the

competent authority function and for the staff in charge of MAP processes are appropriate and not based on the amount of sustained audit adjustments or aim at maintaining a certain amount of tax revenue.

Performance indicators used by Russia

153. Russia reported that the performance of staff in charge of MAP is evaluated on the basis of general performance indicators that apply to all personnel within the Ministry of Finance. Such indicators include (i) effective team and time management, (ii) ability to work under pressure, (iii) negotiation skills, (iv) professional qualifications and other skills.

154. The Action 14 Final Report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These indicators are shown below and Russia does not use any of these:

- number of MAP cases resolved
- consistency (i.e. a treaty should be applied in a principled and consistent manner to MAP cases involving the same facts and similarly-situated taxpayers)
- time taken to resolve a MAP case (recognising that the time taken to resolve a MAP case may vary according to its complexity and that matters not under the control of a competent authority may have a significant impact on the time needed to resolve a case).

155. In this respect, Russia reported that it does not use any the performance indicators for staff in charge of MAP that are related to the outcome of MAP discussions in terms of the amount of sustained audit adjustments or maintained tax revenue. In other words, staff in charge of MAP is not evaluated on the basis of the material outcome of MAP discussions.

Practical application

156. Peers generally provided no specific input relating to this element of the minimum standard. One peer particularly noted that they are not aware of the use of performance indicators in the Russia that are based on the amount of sustained audit adjustments or maintaining a certain amount of tax revenue.

Anticipated modifications

157. Russia did not indicate that it anticipates any modifications in relation to element C.5.

Conclusion

	Areas for improvement	Recommendations
[C.5]	-	As it has done thus far, Russia should continue to use appropriate performance indicators. Furthermore, Russia could consider using the examples of performance indicators mentioned in the Action 14 final report to evaluate staff in charge of the MAP processes.

[C.6] Provide transparency with respect to the position on MAP arbitration

Jurisdictions should provide transparency with respect to their positions on MAP arbitration.

158. The inclusion of an arbitration provision in tax treaties may help ensure that MAP cases are resolved within a certain timeframe, which provides certainty to both taxpayers and competent authorities. In order to have full clarity on whether arbitration as a final stage in the MAP process can and will be available in jurisdictions it is important that jurisdictions are transparent on their position on MAP arbitration.

Position on MAP arbitration

159. Russia reported that although it has no domestic law limitations for including MAP arbitration in its tax treaties, its tax treaty policy is not to include a mandatory and binding arbitration provision in its bilateral tax treaties. Russia's MAP profile and MAP guidance, however, do not sufficiently clarify Russia's position on arbitration.

Practical application

160. Up to date, Russia has incorporated a voluntary and binding arbitration clause in one of 89 treaties as a final stage to the MAP. In addition, three treaties contain a most-favoured nation clause concerning the inclusion of an arbitration provision. This provision stipulates that Russia will start negotiations with the treaty partner, as soon as it agrees on the inclusion of an arbitration provision in a tax treaty with a third state, or that an arbitration provision analogous to Article 25(5) of the OECD Model Tax Convention will be included in the treaty in such circumstances.

Anticipated modifications

161. Russia has indicated that it will update its MAP profile to *inter alia* reflect its position on MAP arbitration.

Conclusion

	Areas for improvement	Recommendations
[C.6]	Position on using arbitration as a supplement to the mutual agreement procedure is not transparent.	Russia should follow its stated intention to provide transparency on its position on using arbitration in the framework of the mutual agreement procedure, preferably in its MAP guidance or in its MAP profile.

Notes

1. Available at: www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm. These statistics are up to and include fiscal year 2017.
2. Russia's 2016 and 2017 MAP statistics were corrected in the course of its peer review and deviate from the published MAP statistics for 2016. See further explanations in Annex B and Annex C.
3. For post-2015 cases, if the number of MAP cases in Russia's inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five, Russia reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
4. For pre-2016 and post-2015 cases, Russia follows the MAP Statistics Reporting Framework for determining whether a case is considered an attribution/allocation MAP case. Annex D of MAP Statistics Reporting Framework provides that "an attribution/allocation MAP case is a MAP case where the taxpayer's MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the OECD Model Tax Convention); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention), which is also known as a transfer pricing MAP case".

References

- OECD (2015), "Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report", in *OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241633-en>.
- OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

Part D

Implementation of MAP agreements

[D.1] Implement all MAP agreements

Jurisdictions should implement any agreement reached in MAP discussions, including by making appropriate adjustments to the tax assessed in transfer pricing cases.

162. In order to provide full certainty to taxpayers and the jurisdictions, it is essential that all MAP agreements are implemented by the competent authorities concerned.

Legal framework to implement MAP agreements

163. Russia reported that under its domestic legislation, taxpayers are allowed to submit an adjusted tax return at any point in time. However, where the adjusted return would lead to a refund of taxes in Russia, this is only possible within three years from the date of the statutory date of the tax payment. In other words, for downward adjustments made by adjusted tax returns, there is a domestic statute of limitation of three years. Russia further specified that MAP agreements are implemented by way of such adjusted tax returns, to which the above-mentioned statute of limitation would not apply, even if it concerns making a downward adjustment, unless the treaty does not contain the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017).

164. As to the process of implementing MAP agreements, Russia explained that the information including the conditions of the MAP agreement is provided to the local tax authorities in writing, which then undertakes the steps required to implement the MAP agreement. Taxpayer's consent is not required by law for the implementation of a MAP agreement. In this respect, Russia clarified that taxpayers could still initiate domestic remedies after a MAP agreement has been implemented.

165. Russia's MAP guidance currently does not include information on the process of implementing MAP agreements.

Practical application

166. Russia reported that since 1 January 2016 it has entered into six MAP agreements. These agreements, however, did not require the implementation by Russia.

167. All peers that provided input reported that they were not aware of any MAP agreement reached on or after 1 January 2016 that was not implemented by Russia, which can be explained by the fact that no such agreements were reached since that date. In addition, however, one peer mentioned that it recommends Russia's competent authority to co-ordinate with the Federal Tax Service to ensure a prompt and streamlined implementation of MAP agreements, which entail a refund of taxes in Russia.

Anticipated modifications

168. Russia reported that it intends to amend its domestic law, which will eliminate the statute of limitation of three years in case of a MAP agreement. This amendment will further introduce a new provision that would describe the process for implementing MAP agreements in Russia. Also Russia's MAP guidance would be updated to reflect such process.

Conclusion

	Areas for improvement	Recommendations
	As there was no MAP agreement reached during the Review Period, it has not yet been possible to assess whether Russia has implemented all MAP agreements thus far.	
[D.1]	As will be discussed under element D.3, not all of Russia's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to time limits of three years in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention in Russia's relevant tax treaty, prevent the implementation of a MAP agreement, Russia should put appropriate procedures in place to ensure that such an agreement is implemented and follow its stated intention to inform taxpayers in order to mitigate the risk that an agreement cannot be implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Russia should for clarity and transparency purposes notify the treaty partner thereof without delay.

[D.2] Implement all MAP agreements on a timely basis

Agreements reached by competent authorities through the MAP process should be implemented on a timely basis.

169. Delays in implementing MAP agreements may lead to adverse financial consequences for both taxpayers and competent authorities. To avoid this and to increase certainty for all parties involved, it is important that the implementation of any MAP agreement is not obstructed by procedural and/or statutory delays in the jurisdictions concerned.

Theoretical timeframe for implementing mutual agreements

170. As described under element D.1, upon conclusion of a MAP agreement, Russia's competent authority informs its local tax authority and the taxpayer concerned of a reached agreement. The local tax administration then is responsible for implementing the agreement. In this respect, Russia specified that it currently does not have a timeframe for the implementation of MAP agreements reached in place.

Practical application

171. Russia reported that that since 1 January 2016 it has entered into six MAP agreements. These agreements, however, did not require the implementation by Russia.

172. All peers that provided input have not indicated experiencing any problems with Russia regarding the implementation of MAP agreements reached on a timely basis, which can be explained by the fact that no such agreements have been reached since 1 January 2016 and that required the implementation in Russia.

Anticipated modifications

173. Russia did not indicate it anticipates any modifications in relation to element D.2.

Conclusion

	Areas for improvement	Recommendations
[D.2]	As there was no MAP agreement reached during the Review Period that needed to be implemented in Russia, it was not yet possible to assess whether Russia has implemented all MAP agreements on a timely basis thus far.	

[D.3] Include Article 25(2), second sentence, of the OECD Model Tax Convention in tax treaties or alternative provisions in Article 9(1) and Article 7(2)

Jurisdictions should either (i) provide in their tax treaties that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law, or (ii) be willing to accept alternative treaty provisions that limit the time during which a Contracting Party may make an adjustment pursuant to Article 9(1) or Article 7(2), in order to avoid late adjustments with respect to which MAP relief will not be available.

174. In order to provide full certainty to taxpayers it is essential that implementation of MAP agreements is not obstructed by any time limits in the domestic law of the jurisdictions concerned. Such certainty can be provided by either including the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention in tax treaties, or alternatively, setting a time limit in Article 9(1) and Article 7(2) for making adjustments to avoid that late adjustments obstruct granting of MAP relief.

Legal framework and current situation of Russia's tax treaties

175. As discussed under element D.1, the Russian Federation's domestic legislation contains a general statute of limitations of three years for downward adjustments, but it is overridden in implementing MAP agreements.

176. Out of Russia's 89 tax treaties, 67 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law.¹ Furthermore, one tax treaty contains the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making transfer pricing adjustments.

177. The remaining 21 treaties are categorised as follows:

- 18 treaties neither contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor any of the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making transfer pricing adjustments.
- Three treaties do not contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention, and only contain an alternative provision Article 9(1), setting a time limit for making transfer pricing adjustments.

Anticipated modifications

Multilateral Instrument

178. Russia signed the Multilateral Instrument. Article 16(4)(b)(ii) of that instrument stipulates that Article 16(2), second sentence – containing the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention. In other words, in the absence of this equivalent, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both, pursuant to Article 16(6)(c)(ii), notified the depositary that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Article 16(4)(b)(ii) of the Multilateral Instrument will for a tax treaty not take effect if one or both of the treaty partners has, pursuant to Article 16(5)(c), reserved the right not to apply the second sentence of Article 16(2) of that instrument for all of its covered tax agreements under the condition that: (i) any MAP agreement shall be implemented notwithstanding any time limits in the domestic laws of the contracting states, or (ii) the jurisdiction intends to meet the Action 14 Minimum Standard by accepting in its tax treaties the alternative provisions to Article 9(1) and 7(2) concerning the introduction of a time limit for making transfer pricing profit adjustments.

179. In regard of the 21 tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or the alternative provisions for Articles 9(1) and 7(2), Russia listed 19 treaties as covered tax agreements under the Multilateral Instrument and for all of them did it make, pursuant to Article 16(6)(c)(ii), a notification that they do not contain a provision described in Article 16(4)(b)(ii). Of the relevant 19 treaty partners, eight are not a signatory to the Multilateral Instrument, two did not list their treaty with Russia as a covered tax agreement and two made a reservation on the basis of Article 16(5)(c). All remaining seven treaty partners made a notification on the basis of Article 16(6)(c)(ii). Therefore, at this stage, seven of the 21 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention.

Bilateral modifications

180. Russia further reported that when tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or both alternatives provided for in Articles 9(1) and 7(2) will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element D.3. Russia, however, has not reported a specific plan for such negotiations. In this respect, it reported that it is currently in negotiations with three treaty partners, for which it will seek to include the required provision. It furthermore mentioned, that it is planning to contact two other treaty partners for the renegotiation of the treaty. Furthermore, for two treaties Russia mentioned that it has been informed by the treaty partners that they will change its notifications under the Multilateral Instrument, following which it will also be modified to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. For the other treaties, Russia, however, has not put in place a specific plan to renegotiate the treaties with a view to bring them in line with the requirements

under element D.3. Regardless, Russia reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention in all of its future tax treaties.

Peer input

181. All but one of the peers that provided input, indicated that their treaty with Russia meets the requirements under element D.3, which conforms with the above analysis. For the 21 treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, or both alternative provisions, one peer provided input and reported that it is willing to accept the alternative provision and the two jurisdictions are working together on a draft of an amending protocol to adapt the treaty in line with the Action 14 Minimum Standard.

Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>21 out of 89 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2).</p> <p>With respect to these treaties:</p> <ul style="list-style-type: none"> • Seven are expected to be modified by the Multilateral Instrument to include Article 25(2), second sentence, of the OECD Model Tax Convention, upon entry into force for the treaties concerned. • Two will also be modified by that instrument, once the treaty partners have changed its notifications under the Multilateral Instrument • Three are currently being renegotiated, which will also include Article 25(2), second sentence, of the OECD Model Tax Convention or the alternative provisions. • Three are expected to be renegotiated to include the required provision. 	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention in those seven treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>Furthermore, for six of the remaining 14 treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Russia should initiate or continue negotiations with the relevant treaty partners to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, or be willing to accept the inclusion of both alternative provisions,</p> <p>For the six of the remaining eight treaties, Russia should follow its stated intention to request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>To this end, Russia should put a plan in place on how it envisages updating these six treaties to include the required provision or its alternative.</p> <p>In addition, Russia should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.</p>

Note

1. These 67 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro.

Reference

OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

Summary

	Areas for improvement	Recommendations
Part A: Preventing disputes		
[A.1]	Two out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention. One out of these two treaties is expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaty concerned.	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention, Russia should follow its stated intention to request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Russia should maintain its stated intention to include the required provision in all future tax treaties.</p>
[A.2]	Roll-back of bilateral APAs is not available.	Russia should provide for roll-back of bilateral APAs in appropriate cases.
Part B: Availability and access to MAP		
[B.1] ↓	<p>Three out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention and the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Of these three treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include Article 25(1), first and second sentence. • Two are expected to be modified by the Multilateral Instrument to include Article 25(1), second sentence. 	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>Russia should also as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in the two treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p>

	Areas for improvement	Recommendations
	<p>Three out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention. Two of these three treaties are expected to be modified by the Multilateral Instrument to include the required provision.</p>	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention in those two treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining treaty that currently does not contain such equivalent and that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention, Russia should follow its stated intention to request the inclusion of the required provision via bilateral negotiations. This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either:</p> <ol style="list-style-type: none"> as amended in the Action 14 final report; or as it read prior to the adoption of Action 14 final report, thereby including the full sentence of such provision.
↓ [B.1]	<p>Eight out of 89 tax treaties do not contain the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.</p> <p>With respect to these eight treaties:</p> <ul style="list-style-type: none"> Three are expected to be modified by the Multilateral Instrument to include a filing period of three years upon entry into force for the treaties concerned. One will also be modified by that instrument, once the treaty partner has changed its notifications under the Multilateral Instrument. One is currently being renegotiated, which will also include the required provision. 	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in those three treaties that currently do not contain such equivalent and that will not be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>Furthermore, Russia should continue negotiations with one treaty partner to include the required provision.</p> <p>For the remaining three treaties that currently do not contain such equivalent and that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention, Russia should follow its stated intention to request the inclusion of the required provision.</p>
		<p>To this end, Russia should put a plan in place on how it envisages updating these treaties to include the required provision.</p> <p>In addition, Russia should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as amended in the Action 14 final report in all future tax treaties.</p>
[B.2]	<p>86 of the 89 tax treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.</p>	<p>Russia should without further delay document its bilateral notification process and set out in that document the rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps.</p> <p>Furthermore, Russia should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.</p>
[B.3]	-	<p>As Russia has thus far granted access to MAP in eligible transfer pricing cases, it should continue granting access for these cases.</p>

	Areas for improvement	Recommendations
[B.4]	Russia reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Russia is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	-	-
[B.6]	-	As Russia has thus far not limited access to MAP in eligible cases when taxpayers have complied with Russia's information and documentation requirements for MAP requests, it should continue this practice.
[B.7]	<p>26 out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. With respect to these treaties:</p> <ul style="list-style-type: none"> • 14 are expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaties concerned. • Three are currently in the process of being renegotiated to include the required provision. • Three are expected to be renegotiated to include the required provision. 	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in those 14 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>Furthermore, for six of the remaining 12 treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Russia should initiate or continue negotiations with the relevant treaty partners to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention,</p> <p>For the remaining six treaties, Russia should follow its stated intention to request the inclusion of the required provision via bilateral negotiations. To this end, Russia should put a plan in place on how it envisages updating these six treaties to include the required provision.</p> <p>In addition, Russia should maintain its stated intention to include the required provision in all future tax treaties.</p>
[B.8]	-	<p>Although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance, Russia could consider including information on:</p> <ul style="list-style-type: none"> • whether MAP is available in cases of: (i) transfer pricing cases, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments • whether taxpayers can request for the multi-year resolution of recurring issues through MAP • the possibility of suspension of tax collection during the course of a MAP • The steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).
[B.9]	The MAP profile is not complete and does not reflect the details of its APA programme and the MAP guidance.	Russia should update its MAP profile and reflect the details of its APA programme and the MAP guidance.
[B.10]	-	-
Part C: Resolution of MAP cases		
[C.1]	-	Russia should maintain its stated intention to include the required provision in all future tax treaties.

	Areas for improvement	Recommendations
[C.2]	<p>Russia submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016, 2017 and 2018. Based on the information provided by Russia's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.</p> <p>Russia's MAP statistics show that during the Statistics Reporting Period it closed 12% (three out of 26 cases) of its post-2015 cases in 6.27 months on average. In that regard, Russia is recommended to seek to resolve the remaining 88% of the post-2015 cases pending on 31 December 2018 (23 cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.</p>	
[C.3]	<p>MAP cases were resolved in 14.08 months on average (which is the pursued average for resolving MAP cases received on or after 1 January 2016), but the MAP inventory has increased significantly since 1 January 2016 and peers indicated that there are no responses, or only responses with substantial delays, to communications on the case or to issued position papers, as well as delays in providing position papers. Therefore, there is a risk that pending post-2015 cases will in the future not be resolved within the pursued average of 24 months and this might indicate that Russia's competent authority is not adequately resourced.</p>	<p>Russia should ensure that adequate resources are made available for the competent authority function in order to resolve MAP cases in a timely, efficient and effective manner. In this respect, Russia should closely monitor whether the recent addition of resources for the competent authority function will enable the timely issuing of position papers and responses to such papers issued by the treaty partner, as well as timely responses to communications on new and pending MAP cases.</p>
[C.4]	-	<p>As it has done thus far, Russia should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that Russia would like to see reflected in future amendments to the treaty.</p>
[C.5]	-	<p>As it has done thus far, Russia should continue to use appropriate performance indicators. Furthermore, Russia could consider using the examples of performance indicators mentioned in the Action 14 final report to evaluate staff in charge of the MAP processes.</p>
[C.6]	<p>Position on using arbitration as a supplement to the mutual agreement procedure is not transparent.</p>	<p>Russia should follow its stated intention to provide transparency on its position on using arbitration in the framework of the mutual agreement procedure, preferably in its MAP guidance or in its MAP profile.</p>
Part D: Implementation of MAP agreements		
	<p>As there was no MAP agreement reached during the Review Period, it has not yet been possible to assess whether Russia has implemented all MAP agreements thus far.</p>	
[D.1]	<p>As will be discussed under element D.3, not all of Russia's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to time limits of three years in its domestic law.</p>	<p>When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention in Russia's relevant tax treaty, prevent the implementation of a MAP agreement, Russia should put appropriate procedures in place to ensure that such an agreement is implemented and follow its stated intention to inform taxpayers in order to mitigate the risk that an agreement cannot be implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Russia should for clarity and transparency purposes notify the treaty partner thereof without delay.</p>
[D.2]	<p>As there was no MAP agreement reached during the Review Period that needed to be implemented in Russia, it was not yet possible to assess whether Russia has implemented all MAP agreements on a timely basis thus far.</p>	

	Areas for improvement	Recommendations
[D.3]	<p>21 out of 89 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2).</p> <p>With respect to these treaties:</p> <ul style="list-style-type: none"> • Seven are expected to be modified by the Multilateral Instrument to include Article 25(2), second sentence, of the OECD Model Tax Convention, upon entry into force for the treaties concerned. • Two will also be modified by that instrument, once the treaty partners have changed its notifications under the Multilateral Instrument. • Three are currently being renegotiated, which will also include Article 25(2), second sentence, of the OECD Model Tax Convention or the alternative provisions. • Three are expected to be renegotiated to include the required provision. 	<p>Russia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention in those seven treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>Furthermore, for six of the remaining 14 treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Russia should initiate or continue negotiations with the relevant treaty partners to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, or be willing to accept the inclusion of both alternative provisions,</p> <p>For the six of the remaining eight treaties, Russia should follow its stated intention to request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions</p> <p>To this end, Russia should put a plan in place on how it envisages updating these six treaties to include the required provision or its alternative.</p> <p>In addition, Russia should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.</p>

Annex A

Tax treaty network of Russian Federation

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	Y = yes N = signed pending ratification	If N, date of signing	Inclusion Art. 25(1) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Article 9(2) of the OECD MTC B.3	Anti-abuse B.4	Article 25(2) of the OECD MTC C.1	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Article 25(3) of the OECD MTC A.1	Article 25(3) of the OECD MTC B.7	Arbitration C.6									
Albania	Y	N/A	E = yes, either CAs O = yes, only one CA N = No	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different	Y = yes i = no, but access will be given to TP cases ii = no and access will not be given to TP cases	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes N = no	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y	Y	Y	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	
Algeria	Y	N/A	O	Y	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Argentina	Y	N/A	O*	Y	Y	i	Y	iii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Armenia	Y	N/A	O	Y	i**	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N*	N	N
Australia	Y	N/A	O*	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Arbitration
	Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)	If no, please state reasons	Inclusion Art. 9(2) of the OECD MTC (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?	If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) of the OECD MTC (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion Art. 25(3) of the OECD MTC (Note 6)					
Austria	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Azerbaijan	Y	N/A	O		Y	N/A	i	i	Y	Y	Y	Y	Y	N	Y	Y	Y	N	
Belarus	Y	N/A	O		Y	N/A	N/A	i	Y	Y	Y	Y	Y	N	Y	Y	Y	N	
Belgium	N	19/5/2015	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	N*	N	
Botswana	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Brazil	Y	N/A	O		i	N/A	i	i	Y	Y	Y	Y	N	Y	Y	Y	N	N	
Bulgaria	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	N*	Y	Y	Y	Y	N	
Canada	Y	N/A	O		ii*	2 years	Y	i	Y	Y	Y	Y	ii	Y	Y	Y	Y	N	
Chile	Y	N/A	O		i	N/A	Y	i	Y	Y	Y	Y	N*	Y	Y	Y	N*	N	
China (People's Republic of)	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Croatia	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Cuba	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Cyprus*	Y	N/A	E		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	N*	N	
Czech Republic	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Denmark	Y	N/A	N*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Ecuador	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Egypt	Y	N/A	O*		Y	N/A	i	i	Y	Y	Y	Y	ii*	Y	Y	Y	Y	N	
Estonia	N	5/11/2002	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Arbitration
	Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)	If no, please state reasons	Inclusion Art. 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(2) of the OECD MTC	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?	
		B.1	B.1	B.1	B.1	B.3	B.4	C.1	C.1	D.3	A.1	A.1	B.7	C.6					
Ethiopia	N	26/11/1999	N		ii	2 years	Y	i	Y	Y	Y	Y	Y	Y	Y	N	N	N	
Finland	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
France	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Germany	Y	N/A	O		Y	N/A	i**	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Greece	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Hong Kong (China)	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Hungary	Y	N/A	O		Y	N/A	i**	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Iceland	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
India	Y	N/A	O		Y	N/A	i**	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Indonesia	Y	N/A	O		ii	2 years	i	i	Y	N	Y	Y	Y	Y	Y	Y	Y	N	
Iran	Y	N/A	O		ii	2 years	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Ireland	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	N*	N	
Israel	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Italy	Y	N/A	N		ii*	2 years	i	i	Y	N*	Y	Y	Y	Y	Y	Y	N*	N	
Japan	Y	N/A	E		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Kazakhstan	Y	N/A	O		Y	N/A	i	i	Y	Y	Y	Y	Y	Y	N*	N*	N*	N	
Korea	Y	N/A	O*		Y	N/A	i**	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Arbitration	
	DTC in force?		Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	C.1	D.3	A.1	B.7	C.6								
Treaty partner			Inclusion Art. 25(1) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	C.1	D.3	A.1	B.7	C.6								
Korea (Democratic People's Republic of)	Y	N/A	O	Y	Y	i	Y	Y	Y	Y	N	Y	N	N	N	N	N	N	N	
Kuwait	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Kyrgyzstan	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	N
Laos	N	14/5/1999	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Latvia	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Lebanon	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Lithuania	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Luxembourg	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Malaysia	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	N/A	Y	Y	N*	Y	Y	Y	Y	Y	N
Mali	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	i	Y	Y	N	Y	Y	Y	Y	Y	N
Malta	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	N
Mauritius	N	24/8/1995	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mexico	Y	N/A	N*	i	N/A	i	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Moldova	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Mongolia	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Montenegro	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Arbitration	
		DTC in force?	Inclusion Art. 25(1) first sentence?	If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)	If no, please state reasons	Inclusion Art. 9(2) of the OECD MTC (Note 2) if no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?	If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) first sentence? (Note 4)	Inclusion Art. 25(2) first sentence? (Note 5)	Inclusion Art. 25(3) first sentence? (Note 6)	Inclusion Art. 25(3) second sentence? (Note 6)	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Arbitration		
	B.1	B.1	B.1	B.1	B.1	B.3	B.4	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.6	
Treaty partner																				
Morocco	Y	N/A	O		Y	N/A	i	i	Y	N	Y	Y	Y	N	Y	Y	Y	N	N	N
Namibia	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Netherlands	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
New Zealand	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N*	N	N
North Macedonia	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Norway	Y	N/A	O*		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Oman	N	26/11/2001	O		ii	2 years	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Philippines	Y	N/A	O		ii	2 years	Y	i	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Poland	Y	N/A	O		Y	N/A	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Portugal	Y	N/A	O		ii*	2 years	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N*	N	N
Qatar	Y	N/A	O*		Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N*	N	N
Romania	Y	N/A	O		Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Saudi Arabia	Y	N/A	O*		ii*	2 years	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Serbia	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Singapore	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Slovak Republic	Y	N/A	O		ii*	2 years	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Slovenia	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
South Africa	Y	N/A	O		Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Arbitration
	DTC in force?	Inclusion Art. 25(1) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	A.1	A.2	B.7	C.6					
Treaty partner																			
Spain	Y	N/A	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sri Lanka	Y	N/A	ii	2 years	Y	Y	Y	Y	i	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Sweden	Y	N/A	Y	N/A	i	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Switzerland	Y	N/A	Y	N/A	i	Y	Y	Y	ii	Y	Y	Y	ii	Y	Y	Y	Y	Y	N
Syria Arab Republic	Y	N/A	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Tajikistan	Y	N/A	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Thailand	Y	N/A	Y	N/A	i	Y	Y	Y	i	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Turkey	Y	N/A	iv**	N/A	Y	Y	Y	Y	i	Y	Y	Y	N*	Y	Y	Y	Y	Y	N
Turkmenistan	Y	N/A	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ukraine	Y	N/A	Y	N/A	i	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	N*	N*	N
United Arab Emirates	Y	N/A	Y	N/A	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	N*	N*	N
United Kingdom	Y	N/A	i	N/A	Y	Y	Y	Y	i	Y	Y	Y	N*	Y	Y	Y	N*	N*	N
United States	Y	N/A	i	N/A	i	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Uzbekistan	Y	N/A	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Venezuela	Y	N/A	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Viet Nam	Y	N/A	Y	N/A	i	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

* Footnote by Turkey: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of United Nations, Turkey shall preserve its position concerning the “Cyprus” issue.

Footnote by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Legend:

- E* The provision contained in this treaty was already in line with the requirements under this element of the Action 14 Minimum Standard, but has been modified by the Multilateral Instrument to allow the filing of a MAP request in either contracting state.
- E** The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this standard.
- O* The provision contained in this treaty is already in line with the requirements under this element of the Action 14 Minimum Standard, but will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then allow the filing of a MAP request in either contracting state.
- Y* The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this element of the Action 14 Minimum Standard.
- Y** The provision contained in this treaty already included an arbitration provision, which has been replaced by part VI of the Multilateral Instrument containing a mandatory and binding arbitration procedure.
- Y*** The provision contained in this treaty did not include an arbitration provision, but part VI of the Multilateral Instrument applies, following which a mandatory and binding arbitration procedure is included in this treaty
- i*/ii*/iv*/N* The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then be in line with this element of the Action 14 Minimum Standard.
- i**/iv**/N** The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be superseded by the Multilateral Instrument upon entry into force for this specific treaty only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.
- i*** The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.

Annex B

MAP Statistics Reporting for pre-2016 cases

2016 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2016	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in MAP inventory on 31 December 2016	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	3	0	0	0	0	0	0	0	0	0	0	3	N/A
Others	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	3	0	0	0	0	0	0	0	0	0	0	3	N/A

Notes: The numbers of cases in the inventory are different from those in Russia's published MAP statistics. This results from the fact that Russia was notified of cases later from other treaty partners.

2017 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2017	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in MAP inventory on 31 December 2017	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	3	0	0	0	0	1	0	0	0	0	0	2	37.50
Others	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	3	0	0	0	0	1	0	0	0	0	0	2	37.50

Notes: The numbers of cases in the inventory are different from those in Russia's published MAP statistics. This results from the fact that Russia was notified of cases later from other treaty partners.

2018 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2018	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in MAP inventory on 31 December 2018	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
Column 1	Column 2	Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 14
Attribution/Allocation	2	0	0	0	0	1	0	0	0	0	0	1	2.60
Others	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	2	0	0	0	0	1	0	0	0	0	0	1	2.60

Annex C

MAP Statistics Reporting for post-2015 cases

2016 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/Allocation	0	4	0	0	0	0	0	0	0	0	0	0	4	N/A
Others	0	1	0	0	0	0	0	0	0	0	0	0	1	N/A
Total	0	5	0	0	0	0	0	0	0	0	0	0	5	N/A

Notes: The numbers of cases in the inventory are different from those in Russia's published MAP statistics. This results from the fact that Russia was notified of cases later from other treaty partners.

2017 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/Allocation	4	3	0	0	0	1	0	0	0	0	0	0	6	2.60
Others	1	7	0	1	0	0	0	0	0	0	0	0	7	7.00
Total	5	10	0	1	0	1	0	0	0	0	0	0	13	4.80

Notes: The numbers of cases in the inventory are different from those in Russia's published MAP statistics. This results from the fact that Russia was notified of cases later from other treaty partners.

2018 MAP Statistics															
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2018	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome								No. of post-2015 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty			No agreement, including agreement to disagree	Any other outcome	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	6	3	0	0	0	0	0	0	0	0	0	0	0	9	N/A
Others	7	7	0	0	0	0	0	1	0	0	0	0	0	13	9.20
Total	13	10	0	0	0	0	0	1	0	0	0	0	0	22	9.20

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
MAP Guidance	Guidance on Mutual Agreement Procedure pursuant to the provision of the Double Taxation Agreements
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
Multilateral Instrument	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
OECD Transfer Pricing Guidelines	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
Pre-2016 cases	MAP cases in a competent authority's inventory that are pending resolution on 31 December 2015
Post-2015 cases	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2016
Review Period	Period for the peer review process that started on 1 January 2016 and ended on 31 December 2018
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2016 and ended on 31 December 2018
Terms of Reference	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective

OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective – MAP Peer Review Report, Russian Federation (Stage 1)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

Under Action 14, countries have committed to implement a minimum standard to strengthen the effectiveness and efficiency of the mutual agreement procedure (MAP). The MAP is included in Article 25 of the OECD Model Tax Convention and commits countries to endeavour to resolve disputes related to the interpretation and application of tax treaties. The Action 14 Minimum Standard has been translated into specific terms of reference and a methodology for the peer review and monitoring process. The minimum standard is complemented by a set of best practices.

The peer review process is conducted in two stages. Stage 1 assesses countries against the terms of reference of the minimum standard according to an agreed schedule of review. Stage 2 focuses on monitoring the follow-up of any recommendations resulting from jurisdictions' stage 1 peer review report. This report reflects the outcome of the stage 1 peer review of the implementation of the Action 14 Minimum Standard by the Russian Federation.

Consult this publication on line at <https://doi.org/10.1787/4599c8b2-en>.

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