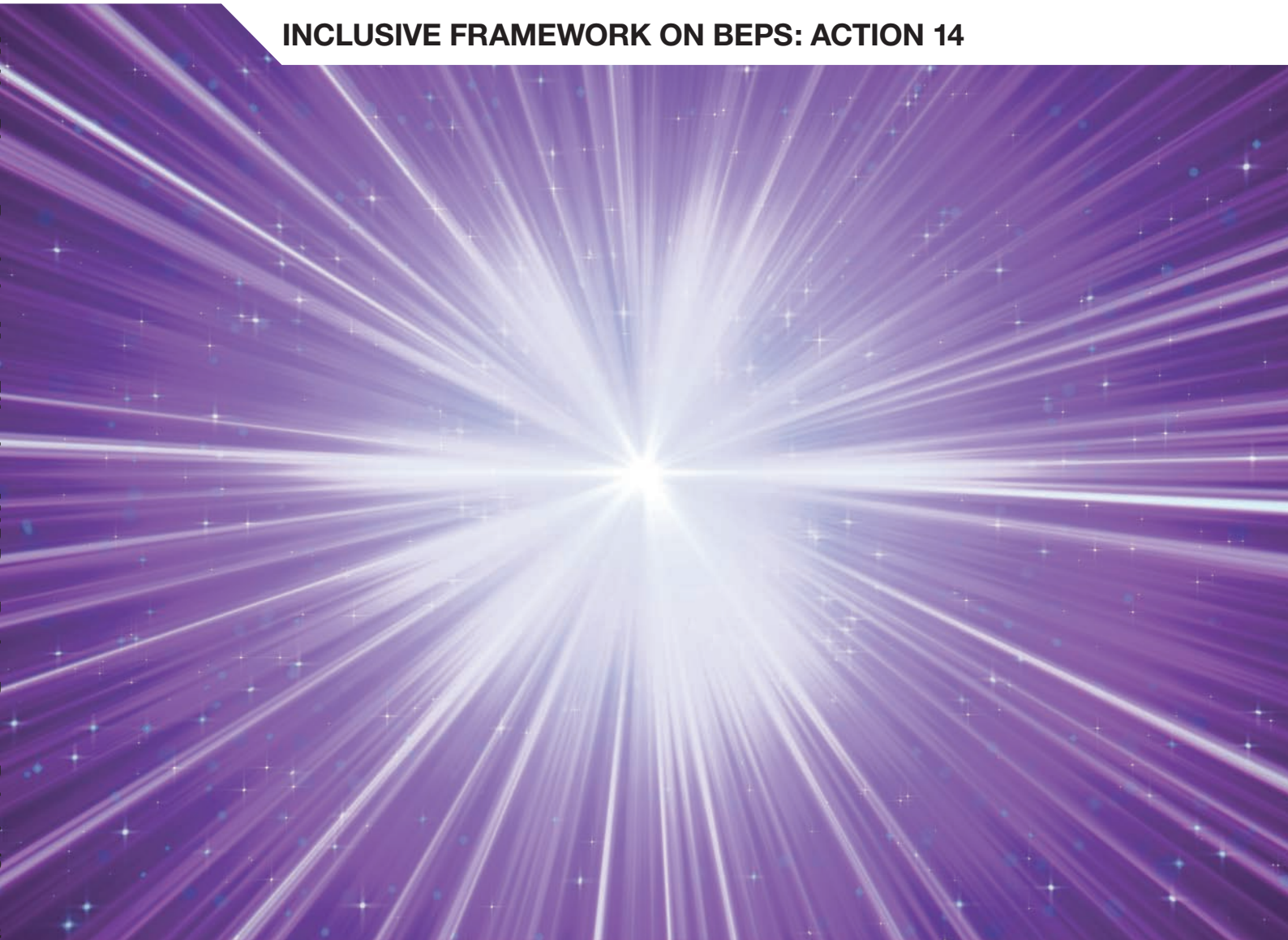


**OECD/G20 Base Erosion and Profit Shifting
Project**



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

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14



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Please cite this publication as:

OECD (2021), *Making Dispute Resolution More Effective – MAP Peer Review Report, Bahrain (Stage 1): Inclusive Framework on BEPS: Action 14*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris,
<https://doi.org/10.1787/b178f2ef-en>.

ISBN 978-92-64-83698-3 (print)

ISBN 978-92-64-97998-7 (pdf)

OECD/G20 Base Erosion and Profit Shifting Project

ISSN 2313-2604 (print)

ISSN 2313-2612 (online)

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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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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 90 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 28 October 2020 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

Bahrain has a modest tax treaty network with 45 tax treaties. Bahrain has a newly established MAP programme and has no experience with resolving MAP cases as it has not yet been involved in any cases. Overall Bahrain meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Bahrain is working to address them.

All of Bahrain's tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 through 3 of Article 25 of the OECD Model Tax Convention. Its treaty network is largely consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that:

- Almost 18% 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.
- Almost 18% of its tax treaties do not 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.
- Almost 16% of its tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as there is no timeline to file a MAP request or it 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 Bahrain needs to amend and update a certain number of its tax treaties.

As Bahrain has no bilateral APA programme in place, there were no further elements to assess regarding the prevention of disputes.

Bahrain 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 2018 not received any MAP requests from a taxpayer. Furthermore, Bahrain has in place a documented bilateral notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Bahrain has no guidance on the availability of MAP and how it applies this procedure in practice under tax treaties, although it indicated that it is planning to publish rules, guidelines and procedures on access to and the use of MAP in Bahrain, including the specific information and documentation that should be submitted in a MAP request.

Bahrain has not been involved in any MAP cases during the period 2018-19 but it meets in principle all the requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Bahrain's competent authority operates fully independently from the audit function of the tax authorities. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function.

As there was no MAP agreement reached that required implementation in 2018 or 2019, it was not yet possible to assess whether Bahrain meets the Action 14 Minimum Standard as regards the implementation of MAP agreements.

Introduction

Available mechanisms in Bahrain to resolve tax treaty-related disputes

Bahrain has entered into 45 tax treaties on income (and/or capital), 44 of which are in force.¹ These 45 treaties are being applied to 45 jurisdictions. 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 Bahrain, the competent authority function to conduct MAP is delegated to the Minister of Finance and National Economy, which is assigned to his authorised representative, the National Bureau for Revenue. The competent authority of Bahrain currently employs six full time employees, including the Director of Foreign Tax Relations. All of these employees will deal with both types of MAP cases, either attribution/allocation and other cases, in addition to other tasks relating to international taxation and co-operation.

Bahrain issued guidance on the governance and administration of the mutual agreement procedure (“MAP”) in April 2020, which is outside the Review Period. The MAP guidance is available in English at:

<https://s3-eu-west-1.amazonaws.com/nbrproduserdata/media/dUiurcECgKX2rlozyVSa4H4Op9MifEZYtTgrpAOc.pdf>

Recent developments in the assessed jurisdiction

Bahrain reported it is currently conducting tax treaty negotiations with a few jurisdictions.

For those treaties that do not contain all provisions in line with the requirements of the Action 14 Minimum Standard, Bahrain reported it will strive to update them via bilateral negotiations. Bahrain further reported that it is currently working on a plan on how to amend the relevant treaties. In addition, Bahrain intends to sign the Multilateral Instrument in 2020.

Basis for the peer review process

The peer review process entails an evaluation of Bahrain’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 draft MAP guidance and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by Bahrain, its peers and taxpayers. The questionnaires for the peer review process were sent to Bahrain and the peers on 17 December 2019.

The period for evaluating Bahrain’s implementation of the Action 14 Minimum Standard ranges from 1 January 2018 to 31 December 2019 (“**Review Period**”). In general, developments following the Review Period, including the subsequent introduction of MAP Guidance, have not been taken into account for the analysis in this report. However, the report, this report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Bahrain’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 Bahrain 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. Reference is made to Annex A for the overview of Bahrain’s tax treaties regarding the mutual agreement procedure.

No peers have provided input on Bahrain’s implementation of the Action 14 Minimum Standard. This can be explained by the fact that Bahrain’s competent authority has never been involved in a MAP case as it has never received a MAP request from a taxpayer or from another competent authority.

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

- MAP profile²
- MAP statistics³ according to the MAP Statistics Reporting Framework (see below).

Finally, Bahrain is a member of the FTA MAP Forum and has shown good co-operation during the peer review process.

Overview of MAP caseload in Bahrain

As mentioned above, Bahrain has not been involved in any MAP cases during the Review Period.

General outline of the peer review report

This report includes an evaluation of Bahrain’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**”).⁴ Apart from analysing Bahrain’s legal framework and its administrative practice, the report depicts the changes adopted and plans shared by Bahrain 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 Bahrain 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 Bahrain has entered into are available at: <https://www.mofne.gov.bh/RulesandPolicies.aspx>. Reference is made to Annex A for the overview of Bahrain’s tax treaties.
2. Available at <https://www.oecd.org/ctp/dispute/Bahrain-Dispute-Resolution-Profile.pdf>.
3. The MAP statistics of Bahrain are included in Annex B and C of this report.
4. 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 (OECD, 2017) 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 Bahrain’s tax treaties

2. 37 out of Bahrain’s 45 tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) 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. The other eight treaties contain such a provision, but with deviating wording. In one treaty, the expression “any difficulties or doubts”, is replaced by “issues and disputes”. In five treaties, the same expression is replaced by “disputes”. In one treaty, the expression contains only the first part “difficulties”. In one treaty, the expression is replaced by “difficulties and uncertainty”. Therefore, these treaties are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017).

3. Bahrain reported that irrespective of whether the applicable treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017), its competent authority would be allowed to enter into MAP agreements with respect to the interpretation of the tax treaty.

Anticipated modifications

Bilateral modifications

4. Bahrain further reported that it intends to update the tax treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017), via bilateral negotiations with a view to be compliant with element A.1. At this stage,

Bahrain does not have in place a specific plan for such negotiations. In addition, Bahrain reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

Peer input

5. No peer input was provided.

Conclusion

	Areas for Improvement	Recommendations
[A.1]	Eight out of 45 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017).	Where treaties do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should request the inclusion of the required provision via bilateral negotiations. To this end, Bahrain should put a plan in place on how it envisages updating these eight treaties to include the required provision.
	-	In addition, Bahrain should maintain its stated intention to include the required provision in all future tax treaties.

[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.

6. 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.¹ 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.

Bahrain’s APA programme

7. Bahrain does not have an APA programme, by which there is no possibility for providing roll-back of bilateral APAs to previous years.

Practical application of roll-back of bilateral APAs

8. No peer input was provided.

Anticipated modifications

9. Bahrain indicated that it does not anticipate any modifications in relation to element A.2.

Conclusion

	Areas for Improvement	Recommendations
[A.2]	-	-

Note

1. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines 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.

10. 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 Bahrain's tax treaties

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

11. Out of Bahrain's 45 tax treaties, 44 contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), 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. The remaining tax treaty contains a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to submit a MAP request to the competent authority of either state.

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

12. Out of Bahrain’s 45 tax treaties, 37 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) 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.

13. The remaining eight 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	2
Filing period less than 3 years for a MAP request (2 years)	5
Filing period more than 3 years for a MAP request (4 years)	1

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

14. As indicated in paragraph 11 above, all of Bahrain’s tax treaties allow taxpayers to file a MAP request irrespective of domestic remedies. Bahrain reported that pursuing remedies available under their domestic tax law does not prevent a taxpayer to present a MAP case. Bahrain noted that it would provide access to MAP irrespective of the remedies provided by Bahrain’s domestic law. In this respect, Bahrain also reported that its competent authority cannot deviate from court decisions rendered in Bahrain.

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

15. Bahrain has reported that for treaties that do not include a filing period for a MAP request, Bahrain would follow the time-period prescribed under Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017), as expressed in the draft MAP guidance, granting three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.

Anticipated modifications*Bilateral modifications*

16. Bahrain reported that when the tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) and for which the filing period for MAP requests is less than three years, it will strive to update them via bilateral negotiations. In addition, Bahrain reported it will seek to include Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b), in all of its future tax treaties.

Peer input

17. No peer input was provided.

Conclusion

	Areas for Improvement	Recommendations
[B.1]	Five out of 45 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), 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.	Where treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should follow up on its requests for the inclusion of the required provision via bilateral negotiations. This concerns a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. To this end, Bahrain should put a plan in place on how it envisages updating these five treaties to include the required provision.
		In addition, Bahrain should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) in all future tax treaties.

[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).

18. 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

19. As discussed under element B.1, out of Bahrain's 45 treaties, one currently contains a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner.

20. Bahrain reported that it has introduced a bilateral notification process that allows the other competent authority concerned to provide its views on the case when Bahrain's

competent authority considers the objection raised in the MAP request not to be justified. Bahrain reported that it has not yet used this process, but will apply the procedure and notify the other competent authority as quickly as possible if necessary.

Practical application

21. Bahrain reported that since 1 January 2018 its competent authority has not received any MAP requests. Therefore, there were no cases where it was decided that the objection raised by taxpayers in such request was not justified.
22. No peer input was provided.

Anticipated modifications

23. Bahrain reported that it will apply its notification process when its competent authority considers the objection raised in a MAP request not to be justified.

Conclusion

	Areas for Improvement	Recommendations
[B.2]	There is a documented process in place to notify the other competent authority in cases where the objection raised in the MAP request was considered as being not justified. However, it was not possible to assess whether the notification process is applied in practice because during the Review Period no such cases have occurred.	

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

Jurisdictions should provide access to MAP in transfer pricing cases.

24. 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

25. Out of Bahrain's 45 tax treaties, 36 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner. Furthermore, nine do not contain such equivalent.
26. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Bahrain's tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B3, as translated from the Action 14 Minimum Standard, Bahrain 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 (OECD, 2017) is contained in its tax treaties.

Application of legal and administrative framework in practice

27. Bahrain reported that since 1 January 2018, it has not denied access to MAP on the basis that the case concerned a transfer pricing case.

28. No peer input was provided.

Anticipated modifications

29. Bahrain reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention (OECD, 2017) in its tax treaties where possible and that it will seek to include Article 9(2) of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

Conclusion

	Areas for Improvement	Recommendations
[B.3]	Bahrain reported it will give access to MAP in transfer pricing cases. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Bahrain is therefore recommended to follow its policy and grant access to MAP when such cases surface.	

[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.

30. 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

31. None of Bahrain's 45 tax treaties allow 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 Bahrain 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.

Practical application

32. Bahrain reported that since 1 January 2018 it has not denied access to MAP in no 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, its competent authority has not received any MAP request from a taxpayer since that date.

33. No peer input was provided.

Anticipated modifications

34. Bahrain indicated that it does not anticipate any modifications in relation to element B.4.

Conclusion

	Areas for Improvement	Recommendations
[B.4]	Bahrain 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. Bahrain 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.

35. 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***

36. Bahrain does not have in place in its domestic law audit settlements between taxpayers and the tax administration.

Administrative or statutory dispute settlement/resolution process

37. Bahrain 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 which can only be accessed through a request by the taxpayer.

Practical application

38. No peer input was provided.

Anticipated modifications

39. Bahrain indicated that it does not anticipate 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.

40. 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

41. The information and documentation Bahrain requires taxpayers to include in a request for MAP assistance are discussed under element B.8.

42. Bahrain reported that its draft MAP guidance lists all the information and documentation that the taxpayer is required to provide. Bahrain further stated that, after an initial analysis of the MAP request, and within 30 days of the date of its receipt, its competent authority will notify the taxpayer whether additional information or documentation needs to be submitted, allowing a deadline of one month for submission. In the absence of a response from the taxpayer, the tax authority sends him a reminder letter inviting him to provide the missing documents.

Practical application

43. Bahrain reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements as set out in its draft MAP guidance. It further reported that since 1 January 2018 it has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

44. No peer input was provided.

Anticipated modifications

45. Bahrain indicated that it does not anticipate any modifications in relation to element B.6.

Conclusion

	Areas for Improvement	Recommendations
[B.6]	Bahrain reported it will give access to MAP in cases where taxpayers have complied with Bahrain's information and documentation requirements for MAP requests. Its competent authority, however, did not receive any MAP requests from taxpayers during the Review Period. Bahrain is therefore recommended to follow its policy and grant access to MAP when it receives a request that includes the required information and documentation.	

[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.

46. 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 (OECD, 2017), enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

Current situation of Bahrain's tax treaties

47. Out of Bahrain's 45 tax treaties, 41 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The other four treaties do not contain such provision at all.

Anticipated modifications

Bilateral modifications

48. For those treaties, which do not contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain reported it will strive to update them via bilateral negotiations to be compliant with element B.7. Bahrain further reported it is currently working on a plan on how to amend the relevant treaties. In addition, Bahrain reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

Peer input

49. No peer input was provided.

Conclusion

	Areas for Improvement	Recommendations
[B.7]	Four out of 45 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).	Where treaties do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should request the inclusion of the required provision via bilateral negotiations. To this end, Bahrain should put a plan in place on how it envisages updating these four treaties to include the required provision.
		In addition, Bahrain should maintain its stated intention to include the required provision in all future tax treaties.

[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.

50. 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.

Bahrain's MAP guidance

51. As Bahrain has not yet published MAP guidance, the information that the FTA MAP Forum agreed should be included in a jurisdiction's guidance is not publicly available. This information includes: (i) the 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 a MAP request.¹

Information and documentation to be included in a MAP request

52. 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 a request for MAP assistance.² The agreed guidance is shown below. Although not publicly available, during the review period, the elements that should be included in a MAP request to Bahrain are checked:

- identity of the taxpayer(s) covered in the MAP request
- the basis for the request
- facts of the case
- analysis of the issue(s) 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.
53. Bahrain also requests additional information on:
- in the case of withholding tax, additional information on the person who withheld the tax
 - the relationship, situation, or structure of the transactions, issues, or related parties involved
 - any copies of correspondence from the other tax administration, copies of briefs, objections, etc., submitted in response to the action or proposed action of the other tax administration, if any.

Anticipated modifications

54. Bahrain reported that its MAP guidance published in April 2020 contains the following information:
- a. contact information of the competent authority or the office in charge of MAP cases
 - b. the manner and form in which the taxpayer should submit its MAP request
 - c. the specific information and documentation that should be included in a MAP request (see also below)
 - d. how the MAP functions in terms of timing and the role of the competent authorities
 - e. information on availability of arbitration
 - f. relationship with domestic available remedies
 - g. access to MAP in transfer pricing cases, audit settlements, anti-abuse provisions, multilateral disputes and for multi-year resolution of cases
 - h. implementation of MAP agreements
 - i. rights and role of taxpayers in the process
 - j. refunds and penalties.

Conclusion

	Areas for Improvement	Recommendations
[B.8]	The MAP guidance has not been published.	Bahrain should follow up on its stated intention and publish guidance on access to and use of the MAP as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation/information that it should include in such a request.
	-	Recommendations for guidance on the relationship between access to the MAP and audit settlements in the MAP guidance are discussed under element B.10.

[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.

55. 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.³

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

56. As stated under element B.8, Bahrain has not yet published its MAP guidance.

MAP profile

57. The MAP profile of Bahrain is published on the website of the OECD and last updated in September 2018. This MAP profile is complete and often with detailed information. This profile includes external links that provide extra information and guidance where appropriate.

58. No peer input was provided.

Anticipated modifications

59. Bahrain reported that its MAP guidance was published in April 2020.

Conclusion

	Areas for Improvement	Recommendations
[B.9]	Bahrain's MAP guidance is not publically available.	Bahrain should make its MAP guidance available and easily accessible. Furthermore, Bahrain's MAP profile should be updated once its MAP guidance has been introduced.

[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.

60. 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

61. As previously discussed under B.5, audit settlements are not in place in Bahrain.
62. No peer input was provided.

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

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

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

65. As Bahrain does not have an internal administrative or statutory dispute settlement/resolution process in place, there is no need for notifying treaty partners of such process.

Anticipated modifications

66. Bahrain indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for Improvement	Recommendations
[B.10]	-	-

Notes

1. See: <https://www.oecd.org/fr/fiscalite/beps/beps-action-14-accroitre-l-efficacite-des-mecanismes-de-reglement-des-differends-documents-pour-l-examen-par-les-pairs.pdf>.
2. See: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
3. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.

References

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

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.

67. 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, 2017), 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 Bahrain’s tax treaties

68. All but one of Bahrain’s 45 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) 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. The remaining treaty contains a provision based on Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) but also additional language that sets a condition for the provision to apply. This condition consists of a notification from the competent authority that received the MAP request within a time limit of four and a half years from the due date or the date of filing the return, whichever is later. Such an obligation may prevent that cases are effectively dealt with in MAP. This treaty is therefore considered as not having the full equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

Anticipated modifications

Bilateral modifications

69. For the treaty, which does not contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain reported it will strive to update it via bilateral negotiations to be compliant with element C.1. Bahrain further reported it is currently working on a plan on how to amend the relevant treaty. In addition, Bahrain reported it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

Peer input

70. No peer input was provided.

Conclusion

	Areas for Improvement	Recommendations
[C.1]	One out of 45 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).	Where treaties do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should request the inclusion of the required provision via bilateral negotiations. To this end, Bahrain should put a plan in place on how it envisages updating this treaty to include the required provision.
		In addition, Bahrain 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).

71. 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

72. 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.

73. Bahrain joined in the Inclusive Framework in 2018. For this reason the statistics referred to are pre-2018 cases for cases that were pending on 31 December 2017, and post-2017 cases for cases that started on or after 1 January 2017. Bahrain provided its MAP

statistics for 2018 pursuant to the MAP Statistics Reporting Framework within the given deadline. The statistics discussed below include both pre-2018 and post-2017 cases and they are attached to this report as Annex B and Annex C respectively, showing that Bahrain has not been involved in any MAP cases since 1 January 2018.

Monitoring of MAP statistics

74. As Bahrain has never been involved in a MAP case, it has no system in place that communicates, monitors and manages with its treaty partners the MAP caseload.

Analysis of Bahrain’s MAP caseload

75. Bahrain has not been involved in any MAP cases during the Review Period.

Overview of cases closed during the Statistics Reporting Period

76. Bahrain has not been involved in any MAP cases during the Review Period.

Average timeframe needed to resolve MAP cases

77. Bahrain has not been involved in any MAP cases during the Review Period.

Peer input

78. No peer input was provided.

Anticipated modifications

79. Despite not having received any MAP requests, Bahrain reported that any future MAP statistics will be compiled by Bahrain’s competent authority. Bahrain indicated that they will be responsible for monitoring MAP cases inventory, new MAP requests, the outcomes as well as the times needed to resolve MAP cases.

Conclusion

	Areas for Improvement	Recommendations
[C.2]	As there were no post-2017 MAP cases to resolve it was therefore at this stage not possible to evaluate whether Bahrain’s competent authority seeks to resolve MAP cases within an average time frame of 24 months.	

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

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

80. 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 Bahrain’s competent authority

81. Under Bahrain’s tax treaties, the competent authority function is assigned to the Minister of Finance and National Economy, which is assigned to the Minister’s authorised representative. Bahrain’s competent authority consists of six people, who will deal partly with MAP cases along with other tasks such as exchange of information, tax treaty negotiations, among others international tax matters.

82. Bahrain reported that any necessary adjustments to the level of resources available in its competent authority will be discussed when necessary. Bahrain further noted that it intends to expose relevant staff to MAP training. Given that Bahrain has not yet been involved in any MAP cases, there has been no need for a monitoring mechanism to request more staff to handle MAP inventory.

Monitoring mechanism

83. As discussed under element C.2, Bahrain has not been involved in any MAP cases during the Review Period, so it does not have a monitoring mechanism of available resources at this point.

Practical application***MAP statistics***

84. As discussed under element C.2, Bahrain’s competent authority has not yet been involved in any MAP cases, by which there were no MAP statistics available to analyse the pursued 24-month average.

Peer input

85. No peer input was provided.

Anticipated modifications

86. Bahrain indicated that four staff are registered for MAP training in May 2020.

Conclusion

	Areas for Improvement	Recommendations
[C.3]	-	Bahrain should monitor whether the resources available for the competent authority function remain adequate in order to resolve future MAP cases in a timely, efficient and effective manner.

[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.

87. 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

88. As mentioned under element C.3, Bahrain’s competent authority would be exercised by the Minister of Finance and National Economy’s authorised representative. Bahrain clarified that its competent authority is also responsible for treaty negotiations, general interpretation of tax treaties and policy work.

89. In regard of the above, Bahrain reported that staff in charge of MAP in practices 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 and the process for negotiating MAP agreements is not influenced by policy considerations that Bahrain would like to see reflected in future amendments to the treaty.

Practical application

90. No peer input was provided.

Anticipated modifications

91. Bahrain indicated that it does not anticipate any modifications in relation to element C.4.

Conclusion

	Areas for Improvement	Recommendations
[C.4]	-	Bahrain 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 Bahrain 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.

92. 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 Bahrain

93. As Bahrain has not yet received a MAP request, it reported that at the time of review performance indicators have not yet been set for the MAP office.

94. The Action 14 final report (OECD, 2015b) includes examples of performance indicators that are considered appropriate. These indicators are shown below in bullet form:

- 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).

95. Although Bahrain does not use any of these performance indicators, it reported that it does not use any 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

96. No peer input was provided.

Anticipated modifications

97. Bahrain indicated that once it receives a quantifiable number of MAP requests it will consider to introduce performance indicators using the examples mentioned in the Action 14 final report (OECD, 2015b).

Conclusion

	Areas for Improvement	Recommendations
[C.5]	-	Bahrain could consider using the examples of performance indicators mentioned in the Action 14 final report (OECD, 2015b) 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.

98. 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

99. As clarified in Bahrain’s MAP profile, Bahrain reported that it has no domestic law limitations for including MAP arbitration in its tax treaties and some of its treaties currently in force include an arbitration provision. As mentioned in B.8, Bahrain’s MAP guidance mentions its position on MAP arbitration.

Practical application

100. Up to date, Bahrain has incorporated an arbitration clause in six of its 45 treaties as a final stage to the MAP.

101. No peer input was provided.

Anticipated modifications

102. Bahrain indicated that it does not anticipate any modifications in relation to element C.6.

Conclusion

	Areas for Improvement	Recommendations
[C.6]	-	-

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>.

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.

103. 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

104. Bahrain has no general personal or corporate income taxes and does not have a domestic statute of limitation for amending tax assessments. Any limitations in Bahrain's tax treaties would override any domestic law limitations. In addition, Bahrain indicated that all MAP agreements will be implemented notwithstanding time limits in its domestic laws, and that this would apply even in the absence of the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017).

105. Bahrain included information on the process of implementing MAP agreements in its draft MAP guidance. Bahrain noted that when an outcome is reached between the competent authorities, the taxpayer will be informed in writing immediately after conclusion of mutual agreement and the taxpayer would have 30 days to accept the agreed outcome. Bahrain further confirmed that as soon as possible after acceptance of the mutual agreement by the taxpayer there would be an exchange of closing letters. Bahrain noted that implementation would take place no later than 90 days after the exchange of closing letters.

Practical application

106. As Bahrain has not been involved in any MAP case during the Review Period, it also did not reach any mutual agreements during that period.

107. No peer input was provided.

Anticipated modifications

108. Bahrain indicated that it does not anticipate any modifications in relation to element D.1.

Conclusion

	Areas for Improvement	Recommendations
[D.1]	As there was no MAP agreement reached during the Review Period, it was not yet possible to assess whether Bahrain would have implemented all MAP agreements thus far.	

[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.

109. Delay of implementation of 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

110. As discussed under element D.1., the timeframes that would be applicable for the implementation of mutual agreements reached are clearly stated in Bahrain's draft MAP guidance, as well as the steps of the process. Bahrain noted that its competent authority would also be responsible for the monitoring and the implementation of MAP agreements.

111. Information on the implementation is available on Bahrain's MAP profile and its draft MAP guidance. Reference is also made to element B.8.

Practical application

112. As discussed under element D.1, Bahrain has not been involved in any MAP case during the Review Period, it also did not reach any mutual agreements during that period.

113. No peer input was provided.

Anticipated modifications

114. Bahrain indicated that it does not anticipate 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 Bahrain, it was not yet possible to assess whether Bahrain would have 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.

115. 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 (OECD, 2017) 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 Bahrain’s tax treaties

116. As discussed under element D.1, Bahrain’s domestic legislation would be overridden by its tax treaties and implementation of MAP agreements would take place notwithstanding any domestic time limits.

117. Out of Bahrain’s 45 tax treaties, 37 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) requiring that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. Additionally, eight do not contain such equivalent or the alternative provisions.

Anticipated modifications

Bilateral modifications

118. For those treaties, which do not contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), or both alternative provisions in Articles 9(1) and 7(2), Bahrain reported it will strive to update them via bilateral negotiations to be compliant with element D.3. Bahrain further reported it is currently working on a plan on how to amend the relevant treaties. In addition, Bahrain reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternatives in all of its future tax treaties.

Peer input

119. No peer input was provided.

Conclusion

	Areas for Improvement	Recommendations
[D.3]	Eight out of 45 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2).	<p>Where treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternative provisions, Bahrain should 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, Bahrain should put a plan in place on how it envisages updating these eight treaties to include the required provision or its alternative.</p>
		In addition, Bahrain 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.

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]	Eight out of 45 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017).	Where treaties do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should request the inclusion of the required provision via bilateral negotiations. To this end, Bahrain should put a plan in place on how it envisages updating these eight treaties to include the required provision.
	-	In addition, Bahrain should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	Five out of 45 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), 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.	Where treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should follow up on its requests for the inclusion of the required provision via bilateral negotiations. This concerns a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. To this end, Bahrain should put a plan in place on how it envisages updating these five treaties to include the required provision.
	-	In addition, Bahrain should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) in all future tax treaties.
[B.2]	There is a documented process in place to notify the other competent authority in cases where the objection raised in the MAP request was considered as being not justified. However, it was not possible to assess whether the notification process is applied in practice because during the Review Period no such cases have occurred.	
[B.3]	Bahrain reported it will give access to MAP in transfer pricing cases. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Bahrain is therefore recommended to follow its policy and grant access to MAP when such cases surface.	
[B.4]	Bahrain 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. Bahrain is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	-	-
[B.6]	Bahrain reported it will give access to MAP in cases where taxpayers have complied with Bahrain's information and documentation requirements for MAP requests. Its competent authority, however, did not receive any MAP requests from taxpayers during the Review Period. Bahrain is therefore recommended to follow its policy and grant access to MAP when it receives a request that includes the required information and documentation.	

	Areas for Improvement	Recommendations
[B.7]	Four out of 45 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).	Where treaties do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should request the inclusion of the required provision via bilateral negotiations. To this end, Bahrain should put a plan in place on how it envisages updating these four treaties to include the required provision.
	-	In addition, Bahrain should maintain its stated intention to include the required provision in all future tax treaties.
[B.8]	The MAP guidance has not been published.	Bahrain should follow up on its stated intention and publish guidance on access to and use of the MAP as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation/information that it should include in such a request.
	-	Recommendations for guidance on the relationship between access to the MAP and audit settlements in the MAP guidance are discussed under element B.10.
[B.9]	Bahrain's MAP guidance is not publically available.	Bahrain should make its MAP guidance available and easily accessible. Furthermore, Bahrain's MAP profile should be updated once its MAP guidance has been introduced.
[B.10]	-	-
Part C: Resolution of MAP cases		
[C.1]	One out of 45 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).	Where treaties do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should request the inclusion of the required provision via bilateral negotiations. To this end, Bahrain should put a plan in place on how it envisages updating this treaty to include the required provision.
	-	In addition, Bahrain should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	As there were no post-2017 MAP cases to resolve it was therefore at this stage not possible to evaluate whether Bahrain's competent authority seeks to resolve MAP cases within an average time frame of 24 months.	
[C.3]	-	Bahrain should monitor whether the resources available for the competent authority function remain adequate in order to resolve future MAP cases in a timely, efficient and effective manner.
[C.4]	-	Bahrain 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 Bahrain would like to see reflected in future amendments to the treaty.
[C.5]	-	Bahrain could consider using the examples of performance indicators mentioned in the Action 14 final report (OECD, 2015b) to evaluate staff in charge of the MAP processes.
[C.6]	-	-

	Areas for Improvement	Recommendations
Part D: Implementation of MAP agreements		
[D.1]	As there was no MAP agreement reached during the Review Period, it was not yet possible to assess whether Bahrain would have implemented all MAP agreements thus far.	
[D.2]	As there was no MAP agreement reached during the Review Period that needed to be implemented in Bahrain, it was not yet possible to assess whether Bahrain would have implemented all MAP agreements on a timely basis thus far.	
[D.3]	Eight out of 45 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2).	Where treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternative provisions, Bahrain should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions. To this end, Bahrain should put a plan in place on how it envisages updating these eight treaties to include the required provision or its alternative.
	-	In addition, Bahrain 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.

Annex A
Tax treaty network of Bahrain

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11			
	Article 25(1) of the OECD Model Tax Convention ("MTC")	B.1	B.1	Article 9(2) of the OECD MTC	B.3	B.4	Article 25(2) of the OECD MTC	C.1	D.3	Article 25(3) of the OECD MTC	A.1	B.7	Arbitration									
		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?	Inclusion Art. 9(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) second sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) second sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) first sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) second sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) first sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) second sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) first sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) second sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) first sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) second sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) first sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) second sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) first sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(3) second sentence? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?		
	DTC in force?	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 iv = no, other reasons	if ii, specify period	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 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, 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 = 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 = 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 = 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 = 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 = 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 = 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 = 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 = 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 = 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 = 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 = 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 = 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 = 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		
Algeria	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Austria	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Bangladesh	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Barbados	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Belarus	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Belgium	Y	N/A	O	Y	N/A	Y	Y	Y	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		Column 11	
	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?	If no, please state reasons	Inclusion Art. 9(2) of the OECD MTC 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) second sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Article 25(3) of the OECD MTC A.1	Article 25(3) of the OECD MTC B.7	Arbitration C.6						
Bermuda	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Brunei Darussalam	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Bulgaria	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
China (Peoples Republic of)	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Cyprus	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Czech Republic	Y	N/A	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Egypt	Y	N/A	O	Y	N/A	Y	i	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N
Estonia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
France	Y	N/A	O	ii	2-years	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Georgia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Hungary	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Iran	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	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	Y	Y	Y	Y	N
Isle of Man	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Jordan	Y	N/A	O	ii	2-years	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Korea	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Lebanon	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Luxembourg	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Malaysia	Y	N/A	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Malta	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mexico	Y	N/A	O	ii	4-years	Y	i	N	Y	Y	Y	Y	Y	N	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		Column 11	
	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration		Article 25(3) of the OECD MTC		Arbitration					
	B.1	B.1	B.3	B.4	C.1	C.1	D.3	A.1	A.1	B.7	C.6									
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence?	Inclusion Art. 9(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?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?									
Morocco	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	N	Y	N	Y	Y	Y	Y	Y	Y	N
Netherlands	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Pakistan	Y	O	ii	ii	2 years	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Philippines	Y	O	ii	ii	2 years	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Portugal	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Seychelles	Y	O	ii	ii	2 years	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Singapore	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sri Lanka	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Switzerland	N	E	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sudan	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Syria	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Tajikistan	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Thailand	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Turkey	Y	O	i	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Turkmenistan	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
United Kingdom	Y	O	i	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Uzbekistan	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Yemen	Y	O	Y	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

Notes: 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 the 2018 and 2019 Reporting Periods (1 January 2018 to 31 December 2019) for pre-2018 cases

2018 MAP Statistics														
Category of cases	No. of pre-2018 cases in MAP inventory on 1 January 2018	Number of pre-2018 cases closed during the reporting period by outcome										No. of pre-2018 cases remaining in MAP inventory on 31 December 2018	Average time taken (in months) for closing pre-2018 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 tax that there is no agreement to disagree	Any other outcome	Column 10			Column 11
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	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2019 MAP Statistics														
Category of cases	No. of pre-2018 cases in MAP inventory on 1 January 2019	Number of pre-2018 cases closed during the reporting period by outcome										No. of pre-2018 cases remaining in MAP inventory on 31 December 2019	Average time taken (in months) for closing pre-2018 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 tax that there is no agreement to disagree	Any other outcome	Column 10			Column 11
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	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

Annex C

MAP Statistics Reporting for the 2018 and 2019 Reporting Periods (1 January 2018 to 31 December 2019) for post-2017 cases

2018 MAP Statistics															
Category of cases	No. of post-2017 cases in MAP inventory on 1 January 2018	No. of post-2017 cases started during the reporting period	Number of post-2017 cases closed during the reporting period by outcome								No. of post-2017 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2017 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	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2019 MAP Statistics															
Category of cases	No. of post-2017 cases in MAP inventory on 1 January 2019	No. of post-2017 cases started during the reporting period	Number of post-2017 cases closed during the reporting period by outcome								No. of post-2017 cases remaining in on MAP inventory on 31 December 2019	Average time taken (in months) for closing post-2017 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	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

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 (MAP)
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-2018 cases	MAP cases in a competent authority’s inventory that are pending resolution on 31 December 2017
Post-2017 cases	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2018
Review Period	Period for the peer review process that started on 1 January 2018 and ended on 31 December 2019
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2018 and that ended on 31 December 2019
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, Bahrain (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 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 monitoring of the implementation of the Action 14 Minimum Standard by Bahrain.



PRINT ISBN 978-92-64-83698-3

PDF ISBN 978-92-64-97998-7



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