

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



Making Dispute Resolution More Effective – MAP Peer Review Report, Greece (Stage 2)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

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Foreword

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

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

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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

Implementation is now the focus of this work. The BEPS package is designed to be implemented via changes in domestic law and practices, and in tax treaties. With the negotiation of a multilateral instrument (MLI) having been finalised in 2016 to facilitate the implementation of the treaty related BEPS measures, over 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 11 January 2021 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

APA	Advance Pricing Arrangement
BEPS	Base Erosion and Profit Shifting
IAPR	Independent Authority for Public Revenue
MAP	Mutual Agreement Procedure
OECD	Organisation for Economic Co-operation and Development

Executive summary

Greece has a relatively large tax treaty network with over 55 tax treaties and has signed and ratified the EU Arbitration Convention. Greece has a MAP programme and modest experience with handling and resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and 33 cases pending on 31 December 2018. Of these cases, 36% concern attribution/allocation cases. Overall Greece meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Greece worked to address most of them, which has been monitored in stage 2 of the process. In this respect, Greece solved some of the identified deficiencies.

All but one of Greece's tax treaties contain a provision relating to MAP. Those treaties generally 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:

- Approximately 28% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.
- Approximately 18% of its tax treaties do not contain the equivalent to Article 25(3), second sentence of the OECD Model Tax Convention stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.
- Approximately 16% of its tax treaties do not contain the equivalent of Article 25(1) to the OECD Model Tax Convention, whereby the majority of these treaties do not contain the equivalent of Article 25(1), first sentence, as it read prior to the adoption of the Action 14 final report.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Greece needs to amend and update a certain number of its tax treaties. In this respect, Greece signed the Multilateral Instrument, through which a number of its tax treaties will potentially be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force of this Multilateral Instrument for the treaties concerned, Greece reported that it intends to update all of its tax treaties to be compliant with the requirements under the Action 14 Minimum Standard via bilateral negotiations. In this respect, Greece reported that for some of these treaties it already undertook some actions. For the remaining treaty, Greece reported having put a plan in place to initiate communications with the treaty partner. Furthermore, Greece opted for part VI of the Multilateral Instrument concerning the introduction of a mandatory and binding arbitration provision in tax treaties.

Greece meets the Action 14 Minimum Standard concerning the prevention of disputes. It has in place a bilateral APA programme. This APA programme also enables taxpayers to request rollbacks of bilateral APAs. However, no such cases have occurred during the period of review.

Greece meets most of the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. Greece's policy is to provide access to MAP in all eligible cases. It has not in place a documented bilateral consultation or notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Greece has published clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice, both under tax treaties and the EU Arbitration Convention. This guidance, however, does not specify the relationship between MAP and audit settlements that can cover fiscal years up to 2013.

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

2016-18	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2018	Average time to close cases (in months)*
Attribution/allocation cases	10	7	5	12	52.62
Other cases	16	25	20	21	31.30
Total	26	32	25	33	35.57

*The average time taken for resolving MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. For computing the average time taken for resolving pre-2016 MAP cases, Greece used as a start date, (i) if the date of receipt of the MAP request is known, the date as determined following the rules provided by the MAP Statistics Reporting Framework for post-2015 cases and (ii) if the date of receipt of the MAP request is not known, one week from the date of notification by the competent authority that received the MAP request or, if the other competent authority did not notify Greece's competent authority, from the date of the position paper; and as the end date, the date as determined by the rules provided by the MAP Statistics Reporting Framework.

The number of cases Greece closed in 2016-18 is 78% of the number of all cases started in those years. During these years, Greece's competent authority did not close MAP cases on average within a timeframe of 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the average time necessary was 35.57 months. This mainly concerns the resolution of attribution/allocation cases, as the average time to close these cases is thereby considerably longer (52.62 months) than the average time to close other cases (31.30 months). One peer also reported having experienced difficulties in resolving both type of MAP cases with Greece. Furthermore, Greece's MAP inventory as on 31 December 2018 increased with 27% as compared to its inventory as on 1 January 2016, which both regards attribution/allocation cases (20%) as well as other cases (31%). In that regard, while Greece has taken some action to resolve cases in a timely manner, it should devote additional resources to its competent authority to handle these cases and also to be able to cope with the increase in the number of MAP cases (both for attribution/allocation and other cases), such to be able to resolve MAP cases in a timely, efficient and effective manner.

Greece meets all the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Greece'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.

Lastly, Greece also meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. In addition, Greece monitors the implementation of MAP agreements.

Introduction

Available mechanisms in Greece to resolve tax treaty-related disputes

Greece has entered into 57 tax treaties on income (and/or capital), 56 of which are in force.¹ These 57 treaties apply to 58 jurisdictions.² All but one 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 addition, four of the 57 treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.³

Furthermore, Greece is a signatory to the EU Arbitration Convention, which provides for a mutual agreement procedure supplemented with an arbitration procedure for settling transfer pricing disputes and disputes on the attribution of profits to permanent establishments between EU Member States.⁴ In addition, Greece also adopted the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union, which has been implemented in its domestic legislation as per 31 July 2020.⁵

Under the tax treaties Greece entered into, the competent authority function to conduct the mutual agreement procedure (“MAP”) is delegated to the Independent Authority for Public Revenue (“IAPR”), which is the tax authority in Greece. The competent authority of Greece currently employs seven employees who also handle other tasks such as the interpretation of tax treaties.

Greece issued guidance on the governance and administration of MAP in a handbook on MAP, which is available at (in English):

<https://www.aade.gr/sites/default/files/2018-01/MAP%20HANDBOOK%20-%20ENGLISH%20VERSION.pdf>

Developments in Greece since 1 May 2018

Developments in relation to the tax treaty network

In the stage 1 peer review report of Greece, it is reflected that all of Greece’s tax treaties entered into force. Since 1 May 2018, Greece signed a new treaty with Singapore (2019), which is pending ratification. The treaty with Singapore contains Article 9(2) and Article 25(1-3) of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b).

Furthermore, on 7 June 2017 Greece signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. With the signing of the Multilateral Instrument, Greece also

submitted its list of notifications and reservations to that instrument.⁶ In relation to the Action 14 Minimum Standard, Greece has not made any reservation to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure). Greece reported that it expects the ratification of the Multilateral Instrument within the second half of 2020.

For those treaties that will not be modified by the Multilateral Instrument, Greece reported that it strives updating them through future bilateral negotiations. In this respect, Greece reported that it is in the process of revising its list of notifications and reservations to the Multilateral Instrument to ensure that the treaties with India and Sweden may be modified upon the deposit of its instrument of ratification to make them in line with some elements of the Action 14 Minimum Standard. In total, six of Greece's tax treaties need a bilateral modification in order to be in line with the requirements under the Action 14 Minimum Standard. In this respect, Greece reported that:

- Mexico has informed Greece that it will withdraw its reservation under the Multilateral Instrument, following which the treaty will be in line with the requirements under the Action 14 Minimum Standard.
- Negotiations with Germany and Switzerland are envisaged on the amendment of the treaty after completing its internal procedures to start renegotiations.
- Communications with Italy have been initiated on the amendment of the treaty and negotiations are envisaged.
- Greece has contacted India, but there is no specific timeline yet to bring the treaty in line with the Action 14 Minimum Standard.
- Greece intends to initiate its internal procedures to start renegotiations with the United States and contact the United States soon after the completion.

Other developments

Greece reported that it has introduced the possibility of a roll-back of bilateral or multilateral APAs, according to the newly enacted Law 4714/2020. This new law was published in the Government Gazette Volume A' 148 and took effect on 31 July 2020.

Basis for the peer review process

Outline of the peer review process

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

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, Greece's implementation of the Action 14 Minimum Standard as outlined above is evaluated, which has been reflected in a peer review report that has been adopted by the BEPS Inclusive Framework on 19 October 2018. This report identifies the strengths and shortcomings of Greece in relation to the implementation of this standard and provides for recommendations on how these shortcomings should be addressed. The stage 1 report is published on the website of the OECD.⁷ Stage 2 is launched within one

year upon the adoption of the peer review report by the BEPS Inclusive Framework through an update report by Greece. In this update report, Greece reflected (i) what steps it has already taken, or are to be taken, to address any of the shortcomings identified in the peer review report and (ii) any plans or changes to its legislative and/or administrative framework concerning the implementation of the Action 14 Minimum Standard. The update report forms the basis for the completion of the peer review process, which is reflected in this update to the stage 1 peer review report.

Outline of the treaty analysis

For the purpose of this report and the statistics below, in assessing whether Greece is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty. Furthermore, the treaty analysis also takes into account the treaties with the former Czechoslovakia and the former Serbia and Montenegro for those jurisdictions to which these treaties are still being or to be applied by Greece. Reference is made to Annex A for the overview of Greece's tax treaties regarding the mutual agreement procedure.

Timing of the process and input received by peers and taxpayers

Stage 1 of the peer review process was for Greece launched on 10 April 2018, with the sending of questionnaires to Greece and its peers. The FTA MAP Forum has approved the stage 1 peer review report of Greece in September 2018, with the subsequent approval by the BEPS Inclusive Framework on 19 October 2018. On 22 November 2019, Greece submitted its update report, which initiated stage 2 of the process.

The period for evaluating Greece's implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 30 April 2018 and formed the basis for the stage 1 peer review report. The period of review for stage 2 started on 1 May 2018 and depicts all developments as from that date until 31 October 2019.

In total 11 peers provided input during stage 1: Austria, Belgium, Canada, Denmark, Germany, Italy, Netherlands, Sweden, Switzerland, Turkey and the United States. Out of these 11 peers, eight had MAP cases with Greece that started on or after 1 January 2016. These eight peers represent 75% of post-2015 MAP cases in Greece's inventory that started in 2016 or 2017. Input was also received from taxpayers.⁸ Generally, most peers indicated having limited experience with Greece's competent authority, some of them reported having a good working relationship whereas others emphasised the challenges they have encountered in resolving MAP cases in the past. Some peers have also mentioned expecting improvements from the recent reorganisation of the MAP function in Greece. During stage 2, the same peers provided input, apart from Germany and the United States. For this stage, these peers represent approximately 28% of post-2015 MAP cases in Greece's inventory that started in 2016, 2017 or 2018. Generally, all peers indicated having good relationships with Greece, some of them emphasising the difficulties they encountered to resolve MAP cases in a timely manner with Greece's competent authority. Specifically with respect to stage 2, most of the peers that provided input reported that the update report of Greece fully reflects the experiences these peers have had with Greece since 1 January 2018 and/or that there was no addition to previous input given. Some peers, however, reflected additional input or new experiences, which are reflected throughout this document under the elements where they have relevance. This input particularly relates to

the resolution of MAP cases, for which one peer mentioned it faces difficulties in resolving MAP cases in terms of timely receiving position papers.

Input by Greece and co-operation throughout the process

During stage 1, Greece provided extensive answers in its questionnaire, which was submitted on time. Greece was very 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, Greece provided the following information:

- MAP profile⁹
- MAP statistics¹⁰ according to the MAP Statistics Reporting Framework (see below).

Concerning stage 2 of the process, Greece submitted its update report with significant delay and the information included therein was extensive. Greece was co-operative during stage 2 and the finalisation of the peer review process.

Finally, Greece is a member of the FTA MAP Forum and has shown good co-operation during the peer review process. Greece provided peer input and made constructive suggestions on how to improve the process with one assessed jurisdiction.

Overview of MAP caseload in Greece

The analysis of Greece’s MAP caseload for stage 1 relates to the period starting on 1 January 2016 and ending on 31 December 2017. For stage 2 the period ranges from 1 January 2018 to 31 December 2018. Both periods are taken into account in this report for analysing the MAP statistics of Greece. The analysis of Greece’s MAP caseload therefore relates to the period starting on 1 January 2016 and ending 31 December 2018 (“**Statistics Reporting Period**”). According to the statistics provided by Greece, its MAP caseload during this period was as follows:

2016-18	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2018
Attribution/allocation cases	10	7	5	12
Other cases	16	25	20	21
Total	26	32	25	33

General outline of the peer review report

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

- Preventing disputes
- Availability and access to MAP
- Resolution of MAP cases
- 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**”).¹¹ Apart from analysing Greece’s legal framework and its administrative practice, the report also incorporates input from peers and responses to such input by Greece. Furthermore, the report depicts the changes adopted and plans shared by Greece 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 basis of this report is the outcome of the stage 1 peer review process, which has identified in each element areas for improvement (if any) and provides for recommendations how the specific area for improvement should be addressed. Following the outcome of the peer monitoring process of stage 2, each of the elements have been updated with a recent development section to reflect any actions taken or changes made on how recommendations have been addressed, or to reflect other changes in the legal and administrative framework of Greece relating to the implementation of the Action 14 Minimum Standard. Where it concerns changes to MAP guidance or statistics, these changes are reflected in the analysis sections of the elements, with a general description of the changes in the recent development sections.

The objective of the Action 14 Minimum Standard is to make dispute resolution mechanisms more effective and concerns a continuous effort. Where recommendations have been fully implemented, this has been reflected and the conclusion section of the relevant element has been modified accordingly, but Greece should continue to act in accordance with a given element of the Action 14 Minimum Standard, even if there is no area for improvement and recommendation for this specific element.

Notes

1. The tax treaties Greece has entered into are available at: <https://www.aade.gr/keimena-symbaseon-symfonion-apofygis-diplis-forologias-tis-elladas-me-0>. The treaty that is signed but has not yet entered into force is with Singapore. Reference is made to Annex A for the overview of Greece’s tax treaties.
2. Greece continues to apply the 1986 treaty with former Czechoslovakia to both the Czech Republic and the Slovak Republic as well as the 1997 treaty with former Serbia and Montenegro to Serbia.
3. This concerns the treaties with Canada, Mexico Singapore and Switzerland. Reference is made to Annex A for the overview of Greece’s tax treaties.
4. Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (90/436/EEC) of July 23, 1990.
5. Available at: <https://eur-lex.europa.eu/eli/dir/2017/1852/oj>.
6. Available at: www.oecd.org/tax/treaties/beps-mli-position-greece.pdf.
7. www.oecd.org/tax/beps/making-dispute-resolution-more-effective-map-peer-review-report-greece-stage-1-9789264310001-en.htm.
8. However, the taxpayer who submitted input only had experience with Greece dating prior to 1 January 2016 and for that reason such input is not further reflected in this report.
9. Available at www.oecd.org/tax/dispute/country-map-profiles.htm.

10. The MAP statistics of Greece are included in Annex B and C of this report.
11. 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](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).

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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, 2017a) 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 Greece's tax treaties

2. Out of Greece's 57 tax treaties, 55 contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty.¹ Of the remaining two treaties, one does not contain any MAP provision and one does not contain any provision based on article 25(3), first sentence of the OECD Model Tax Convention (OECD, 2017a). For this reason, these two treaties do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

3. Greece 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, 2017a), it would be able to enter into MAP agreements of a general nature.

4. All peers that provided input reported that their treaty with Greece meets the requirements under element A.1 or will be modified by the Multilateral Instrument, which conforms with the below analysis. For the treaties identified below that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), the relevant treaty partners did not provide peer input.

Recent developments

Bilateral modifications

5. Greece signed a new treaty with one treaty partner, which concerns a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This newly signed treaty contains a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). This treaty is pending ratification. The effects of the newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

6. Greece signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected within the second half of 2020.

7. Article 16(4)(c)(i) of that instrument stipulates that Article 16(3), first sentence – containing the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). In other words, in the absence of this equivalent, Article 16(4)(c)(i) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(i), the depositary that this treaty does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

8. In regard of the two tax treaties identified above that are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), Greece listed both of them as a covered tax agreement under the Multilateral Instrument and for both of them it made, pursuant to Article 16(6)(d)(i), a notification that they do not contain a provision described in Article 16(4)(c)(i). Both treaty partners also listed their treaty with Greece as a covered tax agreement and made such a notification. Therefore, at this stage, these two tax treaties will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

Peer input

9. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Greece. None of these peers concern a treaty partner to one of the treaties identified above that does not contain Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017a) and which will not be modified by the Multilateral Instrument. One of these peers mentioned that its treaty with Greece already is in line with the requirements under the Action 14 minimum standard, which conforms with the above analysis.

Anticipated modifications

10. Greece reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[A.1]	Two out of 57 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). These two treaties are expected to be modified by the Multilateral Instrument to include the required provision.	Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) in those two treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.

[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.

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

Greece’s APA programme

12. Greece is authorised to enter into bilateral APAs and/or has implemented an APA programme. The basis of the bilateral APA programme is to be found in Decision of the Governor of the IAPR No. POL 1284/2013 (“Greece’s APA guidance”), in particular in paragraph 4 of Article 8 of this document.

13. As provided in paragraph 6 of Article 12 of Greece’s APA guidance, the APA request should be submitted at the latest before the end of the tax year in order for that year to be in the scope of the APA. In addition, paragraph 5 of the same article provides that APAs cannot run for a longer period than four years.

Roll-back of bilateral APAs

14. Greece reported that it is possible to obtain a roll-back of bilateral or multilateral APAs in appropriate cases on and after 31 July 2020. Article 17 of the L. 4714/2020 establishes the possibility of roll-back implementation of APAs. Greece clarified that taxpayers can request a roll-back of APAs since 31 July 2020 for new requests as well as for those pending on that date.

Recent developments

15. Greece reported that it has introduced the possibility of a roll-back of bilateral or multilateral APAs, according to the newly enacted Law 4714/2020. This new law was published in the Government Gazette Volume A’ 148 and took effect on 31 July 2020.

Greece clarified that taxpayers could start to request for a roll-back of APAs from the publication of the new Law and thereafter, even for bilateral or multilateral APAs that are pending at the time of entry into force of the Law. This development has been reflected above.

Practical application of roll-back of bilateral APAs

16. Greece publishes statistics on APAs on the website of the EU JTPF.³

Period 1 January 2016-30 April 2018 (stage 1)

17. Greece reported having received four requests for bilateral APAs during the Review Period. Concerning roll-backs of bilateral APAs, Greece reported that in the period 1 January 2016-30 April 2018 it has not received any such requests.

18. All peers that provided input reported not having received any requests from a taxpayer asking for a roll-back of a bilateral APA with Greece. Some peers also mentioned not having received any bilateral APA requests concerning Greece in the period 1 January 2016-30 April 2018.

Period 1 May 2018-31 October 2019 (stage 2)

19. Greece reported that since 1 May 2018 it has received three requests for bilateral APAs, none of which included a request for roll-back. It also reported that these three cases are in progress.

20. All peers that provided input in stage 2 stated that the update report provided by Greece fully reflects their experience with Greece since 1 January 2018 and/or there are no additions to the previous input given. Two of these peers also mentioned that they have no experiences with Greece with respect to roll-backs of bilateral APAs.

Anticipated modifications

21. Greece did not indicate that it anticipates any modifications in relation to element A.2.

Conclusion

	Areas for improvement	Recommendations
[A.2]	-	-

Notes

1. These 55 treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic as well as the treaty with Serbia and Montenegro that Greece continues to apply to Serbia.
2. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD, 2017b).
3. Available at: https://ec.europa.eu/taxation_customs/sites/taxation/files/apa-and-map-2019-3.pdf. The most recent statistics published are up to 2018.

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.

22. 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 Greece's tax treaties

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

23. Out of Greece's 57 tax treaties, 46 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.¹ In addition, none of Greece's tax treaties contain 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.

24. The remaining 11 treaties can be categorised as follows:

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report(OECD, 2015b), whereby taxpayers can only submit a MAP request to the competent authorities of the contracting state of which they are resident	5
A variation to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) where the part of the sentence “irrespective of domestic remedies” is missing and whereby access to MAP is more limited than in the OECD Model Tax Convention.	4
A variation to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of that report, whereby taxpayers can submit a MAP request irrespective of domestic available remedies, but whereby pursuant to a protocol provision the taxpayers are also required to initiate these remedies when submitting a MAP request	1
No MAP provision	1

25. The five treaties mentioned in the first row of the table above are considered not to have the full equivalent of 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), since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, for the following reasons four of those five treaties are considered to be in line with this part of element B.1:

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

26. For the remaining treaty, the non-discrimination provision applies both to nationals that are and are not resident of one of the contracting states. The omission of the full text of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) is therefore not clarified by the absence of or a limited scope of the non-discrimination provision, following which this treaty is not in line with this part of element B.1.

27. The four treaties mentioned in the second row of the table above miss the part of the sentence “irrespective of domestic remedies” and provide that the taxpayer can only present a MAP request:

- in cases where there is a double taxation (one treaty)
- when the taxpayer shows proof that there is or will be taxation not in accordance with the provisions of the tax treaty (one treaty)
- when the taxpayer shows proof that there is or will be double taxation (two treaties).

28. These four treaties therefore provide for more conditions to allow taxpayers to submit MAP requests than in the OECD Model Tax Convention (OECD, 2017) and allow treaty partners to limit access to MAP. Therefore, the relevant treaties do not contain the equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2017).

29. The treaty mentioned in the third row of the table above allows taxpayers to submit a MAP request irrespective of domestic available remedies. However, the protocol to this treaty limits such submission, as it requires that a domestic remedy should first be initiated before a case can be dealt with in MAP. The provision incorporated in the protocol to this treaty reads:

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

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

31. Finally, the one treaty mentioned in the last row of the table does not contain a provision based on Article 25 of the OECD Model Tax Convention (OECD, 2017) that allows taxpayers to file a MAP request and therefore, this treaty is considered not to be in line with this part of element B.1.

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

32. Out of Greece’s 57 tax treaties, 47 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.²

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

Provision	Number of tax treaties
No MAP provision	1
No filing period for a MAP request	6
Filing period less than three years for a MAP request (2-years)	3

Peer input

34. Of the peers that provided input during stage 1, most peers that provided input reported that their treaty with Greece meets the requirements under element B.1 or will be modified by the Multilateral Instrument, which conforms with the below analysis. For the four treaties identified below that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument, one peer reported being in bilateral discussions with Greece. Among the remaining three peers, one peer did not provide peer input, one mentioned that signing the Multilateral Instrument confirms its intention to modify its treaty with Greece and the last one reported that its current model tax treaty does not contain the deviating provisions.

Practical application

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

35. As noted in paragraphs 24-31 above, in all but six of Greece’s tax treaties taxpayers can file a MAP request irrespective of domestic remedies. However, Greece reported that it does not grant access to MAP in cases where the issue under dispute has already been decided via the judicial remedies provided by Greece’s domestic law, unless the applicant produces a certificate issued by the Registry of the Court, before which the legal remedy is pending, that the relevant case has not been heard. This is also specified in Greece’s MAP guidance, which provides that access to MAP may be denied if the case has been decided via the judicial remedies. Greece, however, further reported that it has never denied access to MAP when a taxpayer uses the remedies.

36. Of the peers that have provided input in stage 1, one peer reported that a case presented in 2015 was denied access by Greece in 2016 and that Greece referred to a pending court proceeding in Greece and to the absence of risk of double taxation, the latter being based on a wrong assumption made by Greece’s competent authority. This peer mentioned that a second request was presented in 2017 for additional tax years by the same taxpayer, and that this request is currently under review by Greece. Greece responded that since the Governor’s decision allows the examination of MAP requests where court proceedings are pending, its competent authority is currently reviewing the two cases at stake, and that the cases are not denied access.

37. Another peer that provided input reported being aware of a MAP case submitted in its own jurisdiction where Greece’s competent authority did not want to discuss the case because a court decision has been rendered. Greece clarified that in the case at stake the decision was rendered by the Greek administrative court of first instance, confirmed by the Greek court of appeal and upheld by the Greek Supreme court in administrative matters (the Council of State). The relevant peer reported that in its view the court cases did not address the substantive treaty issue at stake. In response, Greece reported that this case was submitted before 1 January 2016 and that it notified its treaty partner before 1 January 2016 of the fact that it was not able to discuss the case. Greece explained that position papers kept on being exchanged between the competent authorities after that date, repeating nevertheless its inability to discuss the case and the relevant argumentation. The relevant peer reported that the case was initiated by its competent authority in 2011 and that it sent Greece’s competent authority another letter to follow up on May 2, 2014, to which Greece’s competent authority responded in June 2014 that the “issues did not fall within the scope of the double taxation convention”. However, the peer reported that it disagreed with Greece’s position and continued to engage to try to have the case accepted, sending a letter dated November 21, 2016, to which Greece’s competent authority responded on July 27, 2017, saying that they are “unable to consider [the] case as [they] are bound by the Court decisions”. The peer reported that it has not closed the case even though Greece’s competent authority has never accepted the case and that it continues its attempts to get the case accepted into MAP. Greece responded that this case will be examined in light of the expected amendment on domestic legislation (Governor’s Decision 1226/2020), which permits the examination of MAP request in cases where the issue under dispute has already been decided via judicial remedies. Greece reported that since 1 May 2018 it has not received MAP requests where taxpayers also initiated domestic remedies or where such remedies were already completed. It further reported that the MAP case for which the peer provided input in stage 1, which is reflected in the previous paragraph, has already been closed and reported as being resolved. The relevant peer confirmed that access to MAP for

that case has been granted by Greece at a later stage (after May 2018) and an agreement was reached between the competent authorities with the outcome of fully eliminating double taxation.

38. Greece’s practice not to enter into discussion when a court decision is rendered bears the risk that taxpayers do not have access to MAP in all appropriate cases, which is not in line with the Action 14 Minimum Standard, which prescribes that taxpayers that meet the requirements of Article 25(1) of the OECD Model Tax Convention (OECD, 2017) can access the MAP.

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

39. In case a tax treaty does not contain any filing period to submit a MAP request, as described in paragraph 33 above, Greece reported that a three-year time limit shall apply starting as from the notification of the action resulting in taxation not in accordance with the provisions of the relevant tax treaty. This is also provided in Greece’s MAP guidance. In this respect, Greece further reported that this domestic time limit is subject to reciprocity, which it clarified meaning that the other Contracting State also accepts discussing the case when it was filed with Greece’s competent authority within three years as from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty.

40. Greece further reported that, in any case, a domestic timeline also applies in addition to the timeline provided in the relevant tax treaty. Greece’s MAP Guidance provides that access to MAP can be denied for the years that are barred under Greece’s domestic statute of limitation. Greece further reported that its domestic statute of limitation expires five years from the end of the year within which the time limit for filing the tax return expires, with a possibility of a one-year extension in particular cases. Greece’s approach leads to the situation that even if a tax treaty contains the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017) and a MAP request has been filed within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the treaty, but after the expiration of Greece’s domestic time limit, Greece would deny access to MAP for such a MAP case without any investigation on the merits of the case. This approach is not in line with the Action 14 Minimum Standard, which prescribes that taxpayers that meet the requirements of Article 25(1) can access the MAP, while one of these requirements is that taxpayers submit a MAP request within a period of three years from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty.

41. Greece reported that since 1 May 2018 it has not received a MAP request under a treaty that currently does not contain a filing period for such request or the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Recent developments

Bilateral modifications

42. Greece signed a new treaty with one treaty partner, which concerns a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This newly signed treaty contains a provision that is equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). This treaty is pending ratification.

The effects of the newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

43. Greece signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected within the second half of 2020.

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

44. Article 16(4)(a)(i) of that instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) and allowing the submission of MAP requests to the competent authority of either contracting state – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). However, this shall only apply if both contracting parties to the applicable tax treaty have listed this tax treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified the depositary, pursuant to Article 16(6)(a), that this treaty contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). Article 16(4)(a)(i) will for a tax treaty not take effect if one of the treaty partners has, pursuant to Article 16(5)(a), reserved the right not to apply the first sentence of Article 16(1) of that instrument to all of its covered tax agreements.

45. With the signing of the Multilateral Instrument, Greece opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (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 contracting state. In other words, where under Greece's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which it is a resident, Greece opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Greece listed 56 of its 57 treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for 54 of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report (OECD, 2015b).³

46. In total, four of the 54 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas two have not listed their treaty with Greece as a covered tax agreement under that instrument and 20 reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.⁴ the remaining 28 treaty partners listed their treaty with Greece as having a provision that is equivalent of 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).⁵ Therefore, at this stage, 28 treaties will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b).

47. For the remaining two of the 56 treaties for which Greece did not make a notification on the basis of Article 16(6)(a) that these treaties 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), the Multilateral Instrument will only supersede these treaties to the extent that the provision contained therein is incompatible with the first sentence of Article 16(1). Since the treaties do not contain either a MAP provision or contain a provision that is limited as compared to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), both are considered incompatible with the first sentence of Article 16(1) and will therefore be superseded upon entry into force of the Multilateral Instrument for these treaties.

48. In view of the above and in relation to the seven treaties identified in paragraphs 24-31 that are considered not to contain the equivalent of 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), one is part of the 28 treaties that will be modified via the Multilateral Instrument and two others will be superseded by that instrument.

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

49. With respect to the period of filing of a MAP request, Article 16(4)(a)(ii) of the Multilateral Instrument stipulates that Article 16(1), second sentence – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply where such period is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(b)(i), the depositary that this treaty does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

50. In regard of the three tax treaties identified in paragraph 33 above that contain a filing period for MAP requests of less than three years, Greece listed all of them as a covered tax agreement under the Multilateral Instrument and for all of them did it make, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). Of the three relevant treaty partners, all are signatory to the Multilateral Instrument and listed their treaty with Greece as a covered tax agreement under that instrument. All three treaty partners also made such a notification. Therefore, at this stage, all of these three treaties will be modified by the Multilateral Instrument, upon its entry into force for these treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

51. For the four tax treaties that do not contain the equivalent, first sentence, of Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the Action 14 final report (OECD, 2015b) and that will not be modified by the Multilateral Instrument, Greece reported that it intends to update them via bilateral negotiations with a view to be compliant with element B.1 prioritising the MAP partners with the most significant number of MAP cases in inventory. In this respect, Greece reported that it has initiated its internal procedures to start renegotiations with one treaty partner. Greece further reported that it has already contacted two other treaty partners, and for one of them negotiations are envisaged.

Peer input

52. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Greece. None of these peers concern a treaty partner to one of the treaties identified above that does not contain Article 25(1), first and/or second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument.

Anticipated modifications

53. For the remaining two tax treaties that do not contain the equivalent, first sentence, of Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the Action 14 final report (OECD, 2015b) and that will not be modified by the Multilateral Instrument, Greece reported that it has already contacted one treaty partner as mentioned above, but has no specific timeline in place yet to bring the treaty to be in line with the Action 14 Minimum Standard. Greece further reported that for another treaty partner it intends to initiate its internal procedures to start renegotiations with that treaty partner.

54. With respect to the first sentence of Article 25(1), Greece reported that it will in those bilateral negotiations propose to include the equivalent as it reads after the adoption of the Action 14 final report (OECD, 2015b). In addition, Greece reported it will seek to include Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), as it reads after the adoption of the Action 14 final report (OECD, 2015b), in all of its future tax treaties.

55. Greece reported that it has amended its domestic legislation in order to ensure that eligible taxpayers can access the MAP (i) when a court decision has been rendered as well as (ii) when the MAP request is filed within a period of three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.

56. Regarding (i) access to MAP in relation to judicial remedies, Greece reported that it has introduced the newly enacted Decision of the Governor of the IAPR no. 1226, which has been published in the Government Gazette Volume B' 4504 and took effect on 13 October 2020. Article 6, paragraph 2 of the Decision stipulates that any legal remedies before the competent Administrative Courts do not prevent the taxpayer from access to MAP. Greece, however, noted that if the case has already been discussed before the court at the time of a MAP request or if it is discussed after the start of the MAP, the competent authority does not proceed to the substantive examination of the case.

57. Regarding (ii) domestic time limits, Article 31 of Law 4646/2019 which took effect on 12 December 2019 with title “Tax reform with a development dimension” provides for an amendment of Article 36 TPC regarding the statute of limitation, in case of MAP. The provision stipulates that for a MAP request, the domestic time limits is five years from the end of the year in which the deadline for the submission of the tax return expires is extended. On that basis, Greece indicated that it does not deny access to MAP on the basis of expiration of domestic time limits.

58. Furthermore, with respect to domestic time limits in case a tax treaty does not contain any filing period to submit a MAP request, Greece clarified that Article 3, paragraph 3 of the Governor’s Decision 1226/2020 stipulates that the MAP request is not subject to a deadline for submission to the competent authority and can be submitted at any time, but it is advisable, in any case to submit the request as soon as possible and not after five years

from the first notification of the action resulting in taxation not in accordance with the provisions of the relevant tax treaty, in order to avoid difficulties regarding MAP.

Conclusion

	Areas for improvement	Recommendations
[B.1]	<p>Six out of 57 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) either as it read prior to the adoption of the Action 14 final report (OECD, 2015b) or as amended by that report. Of these six treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017). • Two are expected to be superseded by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017). • Three will not be modified or superseded by the Multilateral Instrument to include the Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these three treaties: <ul style="list-style-type: none"> - For one actions have been taken to initiate negotiations on their amendment. - For one Greece has contacted the treaty partner to initiate discussions on the amendment of the treaty with a view to include the required provision. - For one no actions have been taken, but are included in the plan for renegotiations. 	<p>Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) in three of the six treaties that currently do not contain such equivalent.</p> <p>For the three treaties that will not be modified or superseded by the Multilateral Instrument following its entry into force to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), Greece should:</p> <ul style="list-style-type: none"> • for one treaty partner continue with the process to request the inclusion of the required provision via bilateral negotiations. • for one continue the discussions with a view to include the required provision via bilateral negotiations. • for one request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations.
	<p>Two out of 57 tax treaties do not contain a provision that is equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is in these treaties shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. These two treaties are expected to be modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).</p>	<p>Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in these two treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p>
	<p>One out of 57 tax treaties does not contain a provision that is 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), or as amended by that final report, and also the timeline to submit a MAP request is 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. This treaty is expected to be modified by the Multilateral Instrument to include the equivalent of Article 25(1), second sentence, but not as regards the first sentence of that article. For this treaty negotiations are envisaged.</p>	<p>With respect to the first sentence for the treaty concerned, Greece should continue the process to initiate negotiations with the treaty partner to include a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) either:</p> <ol style="list-style-type: none"> a. as amended by the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.

[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).

59. 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

60. As discussed under element B.1, out of Greece's 57 treaties, none currently contain 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. However, as was also discussed under element B.1, 28 of these 57 treaties will be modified by the Multilateral Instrument upon its entry into force for these treaties to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.⁶ In addition, the relevant treaty provisions of two other treaties will be superseded by the Multilateral Instrument upon its entry into force for these treaties, and to the extent that the relevant provisions are incompatible with the first sentence of Article 16(1).

61. Greece reported that it has a notification process in place that allows the other competent authority concerned to provide its views on the case when Greece's competent authority considers the objection raised in the MAP request not to be justified. Greece reported that the notification includes the basic details of the case as well as the reasons why the objection is considered as not justified. This notification process, however, is not documented.

Recent developments

62. There are no recent developments with respect to element B.2.

Practical application

Period 1 January 2016-30 April 2018 (stage 1)

63. Greece reported that its competent authority has not received any MAP requests where it considered that the objection raised by taxpayers in their request was not justified

in the period 1 January 2016-30 April 2018. The 2016 and 2017 MAP statistics submitted by Greece also show that none of its MAP cases were closed with the outcome “objection not justified”.

64. All but two peers that provided input indicated not being aware of any cases for which Greece’s competent authority denied access to MAP. Apart from the two peers, they also reported not having been consulted/notified of a case where Greece’s competent authority considered the objection raised in a MAP request as not justified. The other peers reported that they were notified of cases that were denied access to MAP.

Period 1 May 2018-31 October 2019 (stage 2)

65. Greece reported that since 1 May 2018 its competent authority has not considered any objection raised in a MAP request as not being justified. The 2018 MAP statistics submitted by Greece confirm that none of its MAP cases were closed with the outcome “objection not justified”.

66. All peers that provided input in stage 2 stated that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

67. Greece reported that Article 5, paragraph 2 of the newly enacted Governor’s Decision no. 1226/2020, which took effect on 13 October 2020, stipulates that in case the competent authority that receives the request, considers it as not justified, it must contact the foreign competent authority, stating its reasons and requesting its views. In this respect, Greece indicated that it intends to use the “template for notification or consultation in cases where the objection is considered not justified” shared among the FTA MAP Forum, and also that it intends to include this template in the updated MAP guidance.

68. In addition, as previously discussed under element B.1, Greece has signed the Multilateral Instrument, *inter alia* with the intention to modify covered tax agreements to allow taxpayers to submit a MAP request to the competent authority of either contracting state. Where tax treaties will not be amended via the Multilateral Instrument, Greece declared 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]	All of the 57 treaties do not contain a provision equivalent to Article 25(1) 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 partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer’s objection raised in the MAP request is considered not to be justified.	Greece should without further delay follow its stated intention to document its notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Greece should apply such process for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b).

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

Jurisdictions should provide access to MAP in transfer pricing cases.

69. 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

70. Out of Greece's 57 tax treaties, 37 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.⁷ Furthermore, 18 do not contain Article 9(2) of the OECD Model Tax Convention (OECD, 2017).⁸ The remaining two treaties do contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but deviate from this provision as the granting of corresponding adjustments is only a possibility ("may" instead of "shall" in the relevant provision).

71. Greece is a signatory to the EU Arbitration Convention, which provides for a mutual agreement procedure supplemented with an arbitration procedure for settling transfer pricing disputes and disputes on the attribution of profits to permanent establishments between EU Member States.

72. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Greece's tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, Greece indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments.

73. As discussed under element B.8, the guidance explaining the relationship between access to MAP and transfer pricing can be found in Greece's MAP guidance where transfer pricing cases are referred to.

Recent developments***Bilateral modifications***

74. Greece signed a new treaty with one treaty partner, which concerns a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This newly signed treaty contains a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). This treaty is pending ratification. The effects of the newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

75. Greece 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 this provision in all of its future tax treaties. In that regard, Greece signed the Multilateral

Instrument and is currently in the process of ratifying this instrument, which is expected within the second half of 2020.

76. Article 17(2) of that instrument stipulates that Article 17(1) – containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument. Article 17(2) of the Multilateral Instrument does for a tax treaty not take effect if one or both of the treaty partners to the tax treaty have, pursuant to Article 17(3), reserved the right not to apply Article 17(2) for those tax treaties that already contain the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), or not to apply Article 17(2) in the absence of such equivalent under the condition that: (i) it shall make appropriate corresponding adjustments or (ii) its competent authority shall endeavour to resolve the case under mutual agreement procedure of the applicable tax treaty. Where neither treaty partner has made such a reservation, Article 17(4) of the Multilateral Instrument stipulates that both have to make a notification whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). Where such a notification is made by both of them, the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017)).

77. Greece has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument for those tax treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). In regard of the 20 treaties identified in paragraph 71 above that are considered not to contain a provision such equivalent, Greece listed all as a covered tax agreement under the Multilateral Instrument and included two of them in the list of treaties for which Greece has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument.⁹ For the remaining treaties, Greece did not make, pursuant to Article 17(4), a notification that these treaties do contain such equivalent. Of the relevant 18 treaty partners, one is not a signatory to the Multilateral Instrument and two have not listed its treaty with Greece under that instrument.¹⁰ Of the remaining 15 treaty partners, one made a reservation on the basis of Article 17(3) the right not to apply Article 17(2) in its entirety.¹¹ Therefore, at this stage, the remaining 14 treaties will be superseded by the Multilateral Instrument upon its entry into force for these treaties, but only to the extent that the provisions contained in those treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).¹²

Application of legal and administrative framework in practice

Period 1 January 2016-30 April 2018 (stage 1)

78. Greece reported that in the period 1 January 2016-30 April 2018, it has received MAP requests for transfer pricing cases and has not denied access to MAP to these cases on the basis that the case concerned a transfer pricing case.

79. All peers that provided input indicated not being aware of a denial of access to MAP by Greece on the basis that the case concerned was a transfer pricing case.

Period 1 May 2018-31 October 2019 (stage 2)

80. Greece reported that also since 1 May 2018 it received MAP requests for transfer pricing cases and has not denied access to MAP to these cases on the basis that the case concerned a transfer pricing case.

81. All peers that provided input during stage 1, stated in stage 2 that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

82. Greece 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]	-	-

[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.

83. 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

84. None of Greece's 57 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 Greece 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.

85. The domestic law and/or administrative processes of Greece do not include a provision allowing their competent authority to limit access to MAP for cases when a domestic anti-abuse rule applies. While this is addressed in Greece's MAP profile, no further information is published on that matter in Greece's MAP guidance, as discussed under element B.8.

Recent developments

86. There are no recent developments with respect to element B.4.

Practical application*Period 1 January 2016-30 April 2018 (stage 1)*

87. Greece reported that in the period 1 January 2016-30 April 2018 it has not received any MAP requests for 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.

88. All peers that provided input indicated not being aware of cases that have been denied access to MAP in Greece in the period 1 January 2016-30 April 2018 in relation to the application of treaty and/or domestic anti-abuse provisions.

Period 1 May 2018-31 October 2019 (stage 2)

89. Greece reported that also since 1 May 2018 it has also not denied access to MAP in cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. However, no such cases in relation hereto were received since that date.

90. All peers that provided input in stage 2 stated that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

91. Greece indicated that it intends to update its MAP guidance to include information on access to MAP in relation to the application of anti-abuse provisions.

Conclusion

	Areas for improvement	Recommendations
[B.4]	-	-

[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.

92. 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

93. Under Greece’s domestic law it was possible that taxpayers and the tax administration enter into an audit settlement until 31 December 2013. Since 1 January 2014, there has been no audit settlement process available in Greece. In this respect, Greece clarified that access to MAP will be given for a MAP request that covers previous fiscal years for which an audit settlement was reached.

Administrative or statutory dispute settlement/resolution process

94. Greece reported it has 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. In this respect, Greece reported that according to Article 63 of Greece’s tax procedure code, the taxpayers may submit their case for an administrative review by the IAPR’s dispute resolution unit. However, Greece reported that this administrative dispute settlement mechanism is independent from the MAP process as (i) access to MAP is not denied to cases that were dealt with through this mechanism and (ii) Greece’s competent authority is not bound by what has been decided through this mechanism during the MAP process.

Recent developments

95. With respect to audit settlement, it was in Greece’s stage 1 peer review report identified that access to MAP can be denied if a MAP request covers fiscal years for which an audit settlement was reached, which could have occurred for fiscal years up to 2013. In that regard Greece was recommended to follow its stated intention to amend its policy and grant access to MAP in eligible cases, even if there is an audit settlement between the tax authority and a taxpayer. In this respect, Greece reported that it has amended its policy and does not deny access to MAP for cases where an audit settlement was already entered into. Greece noted that it will include the relevant clarification in the to-be-published updated MAP guidance. Given these and since Greece nor peers reported any impediments as regards access to MAP in relation to cases in which there was an audit settlement between the taxpayer and the tax administration, the recommendation made in stage 1 has been addressed. This development has been reflected above.

Practical application

Period 1 January 2016-30 April 2018 (stage 1)

96. Greece reported that in the period 1 January 2016-30 April 2018 it has not received any MAP requests where the issue presented by the taxpayer in a MAP request would have already been resolved through an audit settlement between the taxpayer and the tax administration before 31 December 2013. Greece further reported that in the period 1 January 2016-30 April 2018 it has received three MAP requests for which the taxpayer had resorted to the IAPR’s dispute resolution unit and that it has granted access to MAP to these cases.

97. All peers that provided input indicated not being aware of a denial of access to MAP in the assessed jurisdiction in the period 1 January 2016-30 April 2018 in cases where there would have been a prior audit settlement between the taxpayer and the tax administration. However, one of these peers reported being aware of a provision in Greece’s domestic law that states the tax assessments become final after reaching an administrative settlement, which precludes any re-negotiation, via MAP for example. Greece responded that the provisions that the peer referred to are applicable up to fiscal year 2013 and were abolished starting from fiscal year 2014. Therefore, Greece reported that a MAP request can no longer be denied on the ground that there has been an audit settlement because audit settlements are no longer available. However, Greece also clarified that access to MAP can be denied if a MAP request covers fiscal years for which an audit settlement was reached, which can be the case for years up to 2013.

Period 1 May 2018-31 October 2019 (stage 2)

98. Greece reported that since 1 May 2018 it has also not denied access to MAP for cases where the issue presented by the taxpayer has already been dealt with in an audit settlement between the taxpayer and tax administration. However, no such cases in relation hereto were received since that date. Greece further reported that since 1 May 2018 it has not received a MAP request for cases that were already resolved via its administrative dispute settlement process.

99. All peers that provided input in stage 2 stated that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

100. Greece indicated that it intends to include the clarification in the to-be-published updated MAP guidance that access to MAP will be given for cases where audit settlement was already entered into.

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.

101. 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 publically available.

Legal framework on access to MAP and information to be submitted

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

103. As provided in Greece’s MAP guidance, in case a taxpayer does not include all relevant information in its MAP request, Greece’s competent authority asks the taxpayer to provide for additional information or documentation within two months. Greece further reported that this timeframe can be extended upon the taxpayer’s request. Greece also specified that if the taxpayer does not provide the required information within the relevant period, its competent authority will close the MAP case.

Recent developments

104. There are no recent developments with respect to element B.6.

Practical application***Period 1 January 2016-30 April 2018 (stage 1)***

105. Greece 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 MAP guidance. It further reported that in the period 1 January 2016-30 April 2018 its competent authority has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

106. All peers that provided input indicated not being aware of a limitation of access to MAP by Greece in the period 1 January 2016-30 April 2018 in situations where taxpayers complied with information and documentation requirements.

Period 1 May 2018-31 October 2019 (stage 2)

107. Greece reported that since 1 May 2018 it has also not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

108. All peers that provided input in stage 2 stated that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

109. Greece indicated that it does not anticipate any modifications in relation to element B.6.

Conclusion

	Areas for improvement	Recommendations
[B.6]	-	-

[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.

110. 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 Greece's tax treaties

111. Out of Greece's 57 tax treaties, 47 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.¹³

112. The remaining ten treaties do not contain any provision that is based on Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) (one of them does not contain any MAP provision).

113. Most peers that provided input reported that their treaty with Greece meets the requirements under element B.7 or will be modified by the Multilateral Instrument, which conforms with the below analysis. For the three treaties identified below that do not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument, one did not provide peer input, one reported being in bilateral discussions with Greece and the last one reported that its current model tax treaty does contain the relevant provision.

Recent developments

Bilateral modifications

114. Greece signed a new treaty with one treaty partner, which concerns a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This newly signed treaty contains a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty is pending ratification. The effects of the newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

115. Greece signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected within the second half of 2020.

116. Article 16(4)(c)(ii) of that instrument stipulates that Article 16(3), second sentence – containing the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention

(OECD, 2017). In other words, in the absence of this equivalent, Article 16(4)(c)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(ii), the depositary that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

117. In regard of the ten tax treaties identified above that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Greece listed all of them as a covered tax agreement under the Multilateral Instrument and for all of them did it make, pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). Of the relevant ten treaty partners, one is not a signatory to the Multilateral Instrument and one did not list its treaty with Greece as a covered tax agreement. All remaining eight treaty partners made such a notification. Therefore, at this stage, eight of the ten tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

118. For one of the two remaining tax treaties that do not contain the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument, Greece reported that it has initiated its internal procedures to start renegotiations with the relevant treaty partner.

Peer input

119. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Greece. None of these peers concern a treaty partner to one of the treaties identified above that does not contain Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument.

Anticipated modifications

120. For the remaining tax treaty that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) will not be modified by the Multilateral Instrument, Greece reported that it intends to initiate its internal procedures to start renegotiations with the relevant treaty partner.

121. In addition, Greece 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.

Conclusion

	Areas for improvement	Recommendations
[B.7]	<p>Ten out of 57 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these ten treaties:</p> <ul style="list-style-type: none"> • Eight are expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). • Two will not be modified by the Multilateral Instrument to include the required provision. With respect to these two treaties: <ul style="list-style-type: none"> - For one actions have been taken to initiate negotiations on their amendment. - For one no actions have been taken, but are included in the plan for renegotiations. 	<p>Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those eight treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Greece should:</p> <ul style="list-style-type: none"> • for one treaty partner continue with the process to request the inclusion of the required provision via bilateral negotiations. • for one request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations.

[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.

122. 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.

Greece's MAP guidance

123. Greece's rules, guidelines and procedures are included in Greece's MAP handbook which was published in January 2018 and is available at:

<https://www.aade.gr/sites/default/files/2018-01/MAP%20HANDBOOK%20-%20ENGLISH%20VERSION.pdf>

124. The MAP guidance sets out in detail how taxpayers can access the mutual agreement procedure and what rules apply during that procedure under tax treaties Greece entered into. More specific, it contains information on:

- | |
|---|
| • Mutual Agreement Procedure – What is it? |
| • Which cases are covered within the scope of MAP? |
| • Who can make a MAP request? |
| • relationship between MAP and domestic remedies |
| • manner and form in which MAP requests should be filed |
| • time limits for making a MAP request |

• information to be included in the MAP request
• fees for a MAP request
• limitations in access to MAP
• MAP process
• MAP outcome/conclusion
• implementation of MAP agreements
• role and responsibilities of the taxpayer
• confidentiality during the MAP process
• publication of the Mutual Agreement Decisions
• interest and penalties in relation to the MAP process
• suspension of tax collection for the period a MAP case is pending.

125. In addition to Greece’s MAP guidance, the Decisions of the Governor of the IAPR No. 1226/2020 and POL 1129/2017 provide the legal framework for conducting MAP in Greece under the tax treaties and under the EU Arbitration Convention respectively.¹⁴

126. The above-described MAP guidance of Greece includes detailed information on the availability and the use of MAP and how its competent authority conducts the procedure in practice. This guidance includes the information that the FTA MAP Forum agreed should be included in a jurisdiction’s MAP guidance, which concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request.¹⁵ As discussed under element B.6, Greece’s MAP guidance also provide details regarding what timeframe taxpayers are expected to comply with requests for additional information and documentation for a consideration of their MAP request.

127. Although the information included in Greece’s MAP guidance is detailed and comprehensive, various subjects are not specifically discussed in Greece’s MAP guidance. This concerns information on:

- whether MAP is available in cases of: (i) the application of anti-abuse provisions, (ii) multilateral disputes and (iii) bona fide foreign-initiated self-adjustments
- whether taxpayers can request for the multi-year resolution of recurring issues through MAP.

Information and documentation to be included in a MAP request

128. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in request for MAP assistance.¹⁶ This agreed guidance is shown below. Greece’s MAP guidance enumerating which items must be included in a request for MAP assistance (if available) are checked in the following list:

- identity of the taxpayer(s) covered in the MAP request
- the basis for the request
- facts of the case
- analysis of the issue(s) requested to be resolved via MAP

- whether the MAP request was also submitted to the competent authority of the other treaty partner
- whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes
- whether the issue(s) involved were dealt with previously
- a statement confirming that all information and documentation provided in the MAP request is accurate.

129. In addition to the items described above, a MAP request should also contain details concerning any procedures of administrative appeal, closure, administrative dispute resolution, administrative settlement, judicial compliant and in general litigation procedures with respect to the case of the MAP request as well as any court decisions relating to the case.

130. As provided in Greece’s MAP guidance, these items should be provided in writing in Greek language as well as in an electronic version.

Recent developments

131. There are no recent developments with respect to element B.8.

Anticipated modifications

132. Greece reported that legal framework (Governor’s Decision no. 1229/2020) for conducting MAP has been amended to include the items identified above, such that (i) the Greece’s competent authority may sign a MoU with foreign competent authorities when the issue in dispute relates to multilateral disputes, and (ii) the request shall be submitted in English or Greek language. Greece further reported that the information that taxpayers need to include in a request for MAP assistance also includes whether the MAP request was also submitted to another authority under the EU Directive 2017/1852.

133. Greece indicated that it is in the process of updating its MAP guidance to include information on whether MAP is available in cases of: (i) the application of anti-abuse provisions, (ii) multilateral disputes and (iii) bona fide foreign-initiated self-adjustments and whether taxpayers can request for the multi-year resolution of recurring issues through MAP. Greece also indicated that it intends to include the clarification that access to MAP will be given for cases where audit settlement was already entered into. Greece further indicated that, following the abovementioned legislative amendments that were completed on 13 October 2020, the update of the MAP guidance will follow shortly, in order to satisfy uniformity between the legislative changes and the MAP guidance.

Conclusion

	Areas for improvement	Recommendations
[B.8]	-	-

[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.

134. 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.¹⁷

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

135. The MAP guidance of Greece is published and can be found at:

<https://www.aade.gr/sites/default/files/2018-01/MAP%20HANDBOOK%20-%20ENGLISH%20VERSION.pdf>

136. This guidance was published in January 2018. As regards its accessibility, Greece's MAP guidance can easily be found on the website of the tax administration website by searching for mutual agreement procedure.

MAP profile

137. The MAP profile of Greece is published on the website of the OECD. This MAP profile is complete and often with detailed information. This profile includes external links that provide extra information and guidance where appropriate.

Recent developments

138. There are no recent developments with respect to element B.9.

Anticipated modifications

139. Greece indicated that it intends to update its MAP profile once it has updated its MAP guidance.

Conclusion

	Areas for improvement	Recommendations
[B.9]	-	-

[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.

140. 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

141. As previously discussed under B.5, it is under Greece's domestic law no longer possible that taxpayers and the tax administration enter into audit settlements. However, for fiscal years up to 2013, this was possible and access to MAP would be given in cases that cover such fiscal years. This is not addressed in Greece's MAP guidance.

142. Peers raised no issues in this respect.

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

143. As previously mentioned under element B.5, Greece 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 and that limits access to MAP. In that regard, there is no need to address in Greece's MAP guidance the effects of such process with respect to MAP.

144. All peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in Greece.

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

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

Recent developments

146. As discussed under element B.5, Greece has amended its policy and access to MAP will be given for cases where audit settlement was already entered into. This development has been reflected above.

Anticipated modifications

147. Greece indicated that it intends to include the clarification in the to-be-published updated MAP guidance that access to MAP will be given for cases where audit settlement was already entered into.

Conclusion

	Areas for improvement	Recommendations
[B.10]	The MAP guidance does not include information on the relationship between MAP and audit settlements for fiscal years up to 2013.	Greece's MAP guidance should follow its stated intention to clarify that the relationship between MAP and audit settlements for fiscal years up to 2013.

Notes

1. These 46 treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic as well as the treaty with Serbia and Montenegro that Greece continues to apply to Serbia.
2. These 47 treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic as well as the treaty with Serbia and Montenegro that Greece continues to apply to Serbia.
3. These 54 treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic and the treaty with former Serbia and Montenegro that Greece continues to apply to Serbia.
4. With respect to the treaty with former Czechoslovakia, which Greece continues to apply to the Czech Republic and the Slovak Republic, the Slovak Republic is one of the treaty partners that made a reservation on the basis of Article 16(5)(a) of the Multilateral Instrument. The treaty is therefore included in the list of 20 treaties. The treaty with former Czechoslovakia will therefore not be modified concerning the Slovak Republic.
5. With respect to the treaty with former Czechoslovakia, which Greece continues to apply to the Czech Republic and the Slovak Republic, the Slovak Republic is one of the treaty partners that made a reservation on the basis of Article 16(5)(a) of the Multilateral Instrument. The treaty with former Czechoslovakia will be modified as regards the Czech Republic only but is not included in the list of 28 treaties.
6. With respect to the treaty with former Czechoslovakia, which Greece continues to apply to the Czech Republic and the Slovak Republic, the Slovak Republic is one of the treaty partners that made a reservation on the basis of Article 16(5)(a) of the Multilateral Instrument. The treaty with former Czechoslovakia will therefore not be modified concerning the Slovak Republic, but only as regards the Czech Republic and is therefore not included in these 28 treaties.

7. These 37 treaties include the treaty with former Serbia and Montenegro that Greece continues to apply to Serbia.
8. These 18 treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic.
9. These 20 treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic.
10. These 18 treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic.
11. With respect to the treaty with former Czechoslovakia, which Greece continues to apply to the Czech Republic and the Slovak Republic, the Czech Republic is the treaty partner that made a reservation on the basis of Article 17(3) of the Multilateral Instrument. The treaty with former Czechoslovakia will therefore not be modified concerning the Czech Republic.
12. With respect to the treaty with former Czechoslovakia, which Greece continues to apply to the Czech Republic and the Slovak Republic, the Czech Republic is the treaty partner that made a reservation on the basis of Article 17(3) of the Multilateral Instrument. The treaty with former Czechoslovakia will therefore not be modified concerning the Czech Republic, but only as regards the Slovak Republic and only to the extent that the provision included in this treaty is incompatible with Article 17(1). The treaty with the Slovak Republic is not included in the list of 14 treaties.
13. These 47 treaties include the treaty with former Serbia and Montenegro that Greece continues to apply to Serbia and the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic.
14. These documents are available at: https://www.aade.gr/sites/default/files/2020-10/a1226_2020_0.pdf and https://www.aade.gr/sites/default/files/2018-05/POL%201129-2017%20eng_0.pdf.
15. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
16. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
17. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.

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- 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>.
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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.

148. 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 Greece's tax treaties

149. Out of Greece's 57 tax treaties, 52 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.¹ Of the remaining five tax treaties, one does not contain any MAP provision and the remaining four treaties contain deviating provisions which among other deviations provide that the mutual agreement aims at eliminating double taxation (instead of taxation that is not in accordance with the tax treaty). These are therefore considered not being the equivalent of Article 25(2), first sentence.

150. Most peers that provided input reported that their treaty with Greece meets the requirements under element C.1 or will be modified by the Multilateral Instrument, which partly conforms with the below analysis. For the two treaties identified below that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument, one reported being in bilateral discussions with Greece and one reported that its current model tax treaty does contain the relevant provision.

Recent developments

Bilateral modifications

151. Greece signed a new treaty with one treaty partner, which concerns a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This newly signed treaty contains a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty is pending ratification. The effects of the newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

152. Greece signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected within the second half of 2020.

153. Article 16(4)(b)(i) of that instrument stipulates that Article 16(2), first sentence – containing the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). In other words, in the absence of this equivalent, Article 16(4)(b)(i) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(c)(i), the depositary that this treaty does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

154. In regard of the five tax treaties identified above that are considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Greece listed all of them as a covered tax agreement under the Multilateral Instrument but only for one treaty did it make, pursuant to Article 16(6)(c)(i), a notification that they do not contain a provision described in Article 16(4)(b)(i). This treaty partner also listed its treaty with Greece as a covered tax agreement under that instrument and made a notification on the basis of Article 16(6)(c)(i). Therefore, at this stage, one of the five tax treaties identified above will be modified by the Multilateral Instrument, upon its entry into force for these treaties to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

155. Greece reported that for two of the four tax treaties that do not contain the equivalent of Article 25(2), first sentence of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument, it is in the process of revising its list of notifications and reservations to the Multilateral Instrument upon deposit of its instrument of ratification to bring these treaties in line with element C.1.

156. For one of the two remaining tax treaties that do not contain the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument, Greece reported that it has initiated its internal procedures to start renegotiations with the relevant treaty partner.

Peer input

157. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Greece. None of these peers concern a treaty partner to one of the treaties identified above that does not contain Article 25(2), first sentence, of the OECD

Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument.

Anticipated modifications

158. For the remaining tax treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument, Greece reported that it intends to initiate its internal procedures to start renegotiations with the relevant treaty partner. In addition, Greece 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.

Conclusion

	Areas for improvement	Recommendations
[C.1]	<p>Five out of 57 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). Of these five treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). • Four will not be modified by the Multilateral Instrument to include the required provision. With respect to these four treaties: <ul style="list-style-type: none"> - For two Greece will revise its list of notifications and reservations to the Multilateral Instrument with a view to have it modified by the Multilateral Instrument. - For one actions have been taken to initiate negotiations on their amendment. - For one no actions have been taken, but are included in the plan for renegotiations. 	<p>Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining four treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Greece should:</p> <ul style="list-style-type: none"> • for two continue to work in accordance with its plan to include the required provision via the Multilateral Instrument. • for one treaty partner continue with the process to request the inclusion of the required provision via bilateral negotiations. • for one request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations.

[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).

159. 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

160. Statistics regarding all tax treaty related disputes concerning Greece are published on the website of the OECD as of 2006.² Greece publishes MAP statistics regarding transfer pricing disputes with EU Member States also on the website of the EU Joint Transfer Pricing Forum.³

161. 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. Greece provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Greece and of which its competent authority was aware. The statistics discussed below include both pre-2016 and post-2015 cases and the full statistics are attached to this report as Annex B and C respectively⁴ and should be considered jointly for an understanding of the MAP caseload of Greece. With respect to post-2015 cases, Greece reported that for the years 2016-18 it has reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, Greece reported that it could match its statistics with all of them.

162. Three peers provided input on the matching of MAP statistics with Greece. One peer noted that it was not approached by Greece to match its MAP statistics for the year 2018, which can be clarified by the fact that there were no post-2015 cases in the inventory between Greece and the peer. The other two peers confirmed that they were able to match the statistics with Greece for the years 2016-18.

Monitoring of MAP statistics

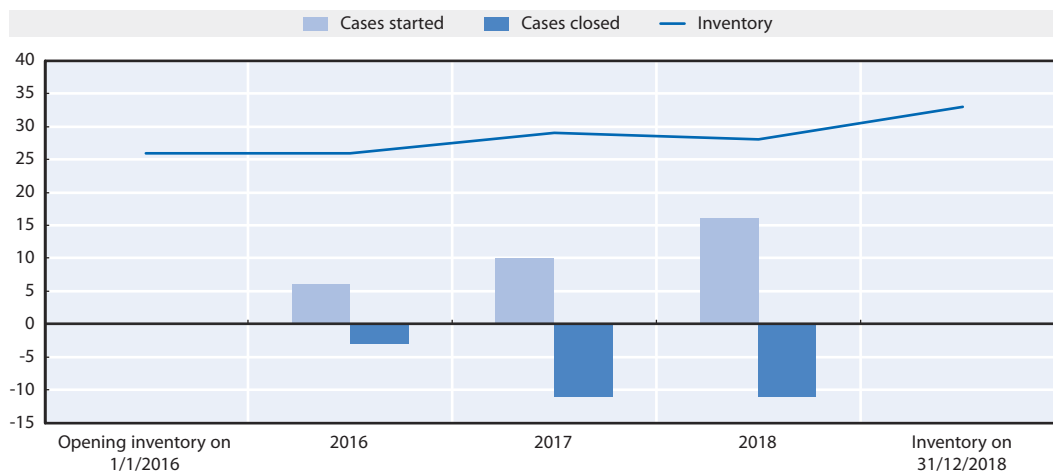
163. Greece reported that it has a database in place that monitors and manages the MAP caseload. Greece specified that it updates regularly its database with new MAP requests and outcomes of MAP cases as well as the relevant dates. Greece further mentioned that the database enables its competent authority to monitor MAP cases at several stages, including the acknowledgement of receipt of MAP requests and notification of MAP requests to the other competent authority as well as the request for additional information or documentation from the taxpayer or the tax authorities and the notification of its position papers.

Analysis of Greece’s MAP caseload

164. The analysis of Greece’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2018.⁵

165. Figure C.1 shows the evolution of Greece’s MAP caseload over the Statistics Reporting Period.

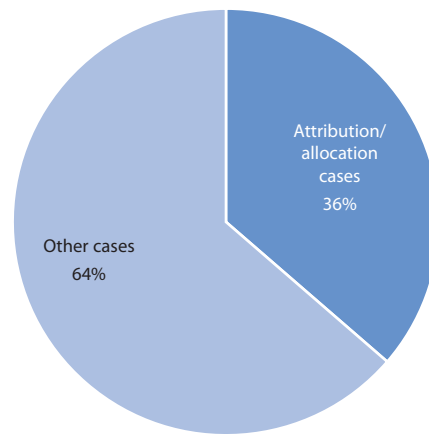
Figure C.1. **Evolution of Greece’s MAP caseload**



166. At the beginning of the Statistics Reporting Period Greece had 26 pending MAP cases, of which ten were attribution/allocation cases and 17 other MAP cases.⁶ At the end of the Statistics Reporting Period, Greece had 33 MAP cases in its inventory, of which 12 are attribution/allocation cases and 21 are other MAP cases. Greece’s MAP caseload has increased by 27% during the Statistics Reporting Period, which concerns a decrease of 20% for attribution/allocation cases and an increase of 31% for other cases.

167. The breakdown of the end inventory can be shown as in Figure C.2.

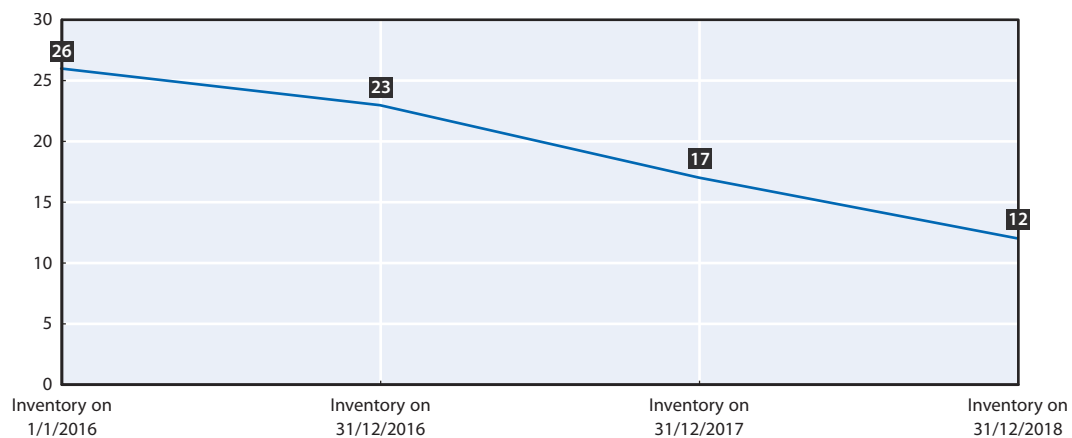
Figure C.2. End inventory on 31 December 2018 (33 cases)



Pre-2016 cases

168. Figure C.3 shows the evolution of Greece’s pre-2016 MAP cases over the Statistics Reporting Period.

Figure C.3. Evolution of Greece’s MAP inventory
Pre-2016 cases



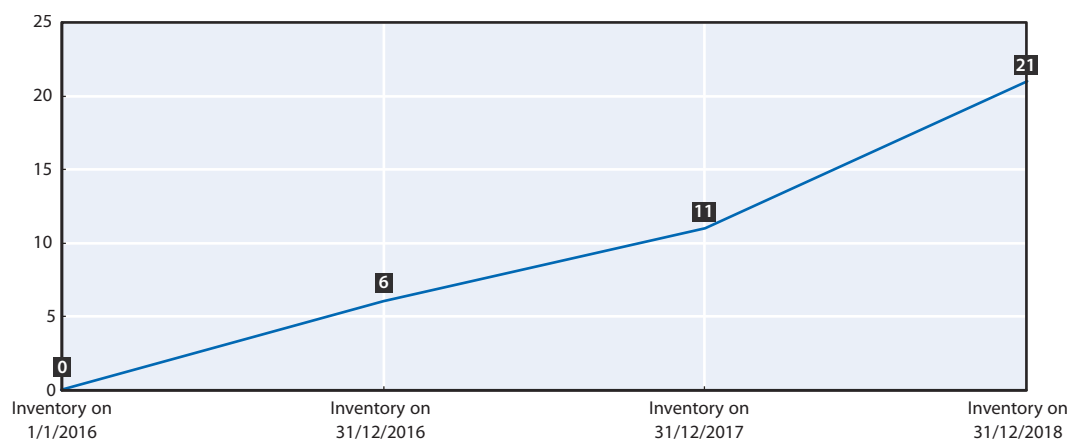
169. At the beginning of the Statistics Reporting Period, Greece's MAP inventory of pre-2016 MAP cases consisted of 26 cases, of which ten were attribution/allocation cases and 16 other cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases had decreased to 12 cases, consisting of seven attribution/allocation cases and five other cases. The decrease in the number of pre-2016 MAP cases is shown in the table below.

	Evolution of total MAP caseload in 2016	Evolution of total MAP caseload in 2017	Evolution of total MAP caseload in 2018	Cumulative evolution of total MAP caseload over the three years (2016-18)
Attribution/allocation cases	-10%	-22%	(no case closed)	-30%
Other cases	-13%	-29%	-50%	-69%

Post-2015 cases

170. Figure C.4 shows the evolution of Greece's post-2015 MAP cases over the Statistics Reporting Period.

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



171. In total, 32 MAP cases started during the Statistics Reporting Period, seven of which concerned attribution/allocation cases and 25 other cases. At the end of this period the total number of post-2015 cases in the inventory was 21 cases, consisting of five attribution/allocation cases and 16 other cases. Conclusively, Greece closed 11 post-2015 cases during the Statistics Reporting Period, two of them being attribution/allocation cases and nine of them being other cases. The total number of closed cases represents 34% of the total number of post-2015 cases that started during the Statistics Reporting Period.

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

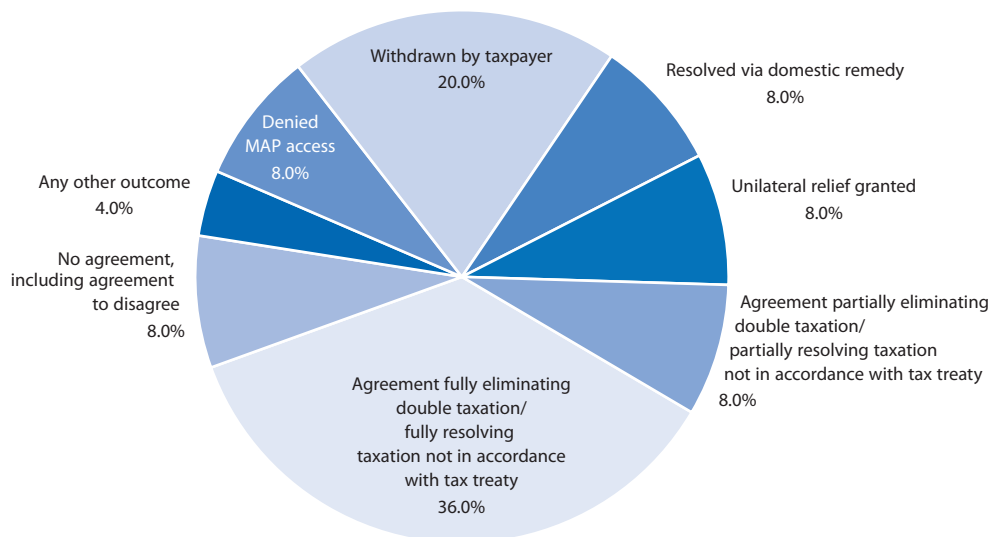
	% of cases closed compared to cases started in 2016	% of cases closed compared to cases started in 2017	% of cases closed compared to cases started in 2018	Cumulative percentage of cases closed compared to cases started over the three years (2016-18)
Attribution/allocation cases	0%	(no case started)	0%	29%
Other cases	0%	30%	55%	36%

Overview of cases closed during the Statistics Reporting Period

Reported outcomes

173. During the Statistics Reporting Period Greece in total closed 25 MAP cases for which the outcomes shown in Figure C.5 were reported.

Figure C.5. Cases closed in 2016, 2017 or 2018 (25 cases)



174. Figure C.5 shows that during the Statistics Reporting Period, nine out of 25 cases were closed through an agreement that fully eliminated double taxation or fully resolved taxation not in accordance with the tax treaty.

Reported outcomes for attribution/allocation cases

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

- unilateral relief granted (40%)
- no agreement including agreement to disagree (40%)
- denied MAP access (20%).

Reported outcomes for other cases

176. In total, 20 other cases were closed during the Statistics Reporting Period. The main reported outcomes for these cases are:

- agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty (45%)
- withdrawn by taxpayer (25%).

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

177. The average time needed to close MAP cases during the Statistics Reporting Period was 35.57 months. This average can be broken down as follows:

	Number of cases	Start date to end date (in months)
Attribution/Allocation cases	5	52.62
Other cases	20	31.30
All cases	25	35.57

Pre-2016 cases

178. For pre-2016 cases Greece reported that on average it needed 81.76 months to close attribution/allocation cases and 47.26 months to close other cases. This resulted in an average time needed of 54.66 months to close 14 pre-2016 cases. For the purpose of computing the average time needed to resolve pre-2016 cases, Greece reported that it followed as much as possible the reporting rules as contained in the MAP Statistics Reporting Framework, with some exceptions:

- *Start date*: if the date of receipt of the MAP request is known, the start date is determined following the rules provided by the MAP Statistics Reporting Framework for post-2015 cases. If the date of receipt of the MAP request is not known, the start date is set one week from the date of notification by the competent authority that received the MAP request or, if the other competent authority did not notify Greece's competent authority, from the date of the position paper.
- *End date*: the end date is determined following the rules provided by the MAP Statistics Reporting Framework.

Post-2015 cases

179. For post-2015 cases Greece reported that on average it needed 8.91 months to close attribution/allocation cases and 11.79 months to close other cases. This resulted in an average time needed of 11.27 months to close 11 post-2015 cases.

Peer input

180. Peer input relating to the resolution of MAP cases is discussed under element C.3.

Recent developments

181. Greece was in the stage 1 peer review report under element C.2 recommended to seek to resolve the remaining 69% of its post-2015 MAP cases that were pending on 31 December 2017 within a timeframe that results in an average timeframe of 24 months for all post-2015 cases. With respect to this recommendation, Greece reported that its competent authority contacted the other competent authorities to check the status of the cases, albeit that the average time to resolve post-2015 MAP cases was below 24 months. In addition, Greece clarified the reason why no attribution/allocation MAP cases were closed in 2018. With respect to post-2015 cases, Greece noted that there were no pending cases on 1 January 2018 and all five cases started in 2018. For pre-2016 cases, Greece mentioned that for five of the seven cases that were pending on 31 December 2017, it was awaiting position papers from the other competent authority, for one the examination was in progress and for one the case has already been heard by the administrative court in Greece following the taxpayer’s judicial appeal and its competent authority was awaiting the judicial decision.

182. From the statistics discussed above, it follows that Greece has in the period 2016-18 not closed its MAP cases within the pursued average of 24 months. For these years, the number of post-2015 cases closed as compared to the cases that started in these years was 34%. Furthermore, its MAP inventory has increased by 26% since 1 January 2016. Element C.3 will further consider these numbers in light of the adequacy of resources.

183. Of the peers that provided input during stage 2, one provided input in relation to their experience with Greece as to handling and resolving MAP cases. Their input is further discussed under element C.3.

Anticipated modifications

184. As will be further discussed under element C.6, Greece’s tax treaty policy is to include a mandatory and binding arbitration provision in its bilateral tax treaties, to provide that treaty-related disputes will be resolved within a specified timeframe, which should globally improve the time needed to settle MAP cases.

Conclusion

	Areas for improvement	Recommendations
[C.2]	-	-

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

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

185. 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 Greece’s competent authority

186. Greece’s competent authority is allocated to two separate departments of the Independent Authority for Public Revenue (“IAPR”, which is Greece’s tax administration). Overall, it consists of seven people, who deal partly with MAP cases:

- Two employees are part of the 14 employees of the Directorate of Audits (Special Tax Audits Section) and handle attribution/allocation MAP cases along with other tasks related to transfer pricing issues such as APA applications and country-by-country reporting issues.
- Five employees are part of nine employees of the International Economic Relations Directorate (Tax Affairs Section) and handle other MAP cases along with other tasks such as interpretation and negotiation of tax treaties.

187. Greece specified that the staff in charge of MAP cases used to consist of four people and that the Directorate of Audits has been the competent authority dedicated for attribution/allocation cases since November 2016, further to a reorganisation of IAPR directorates. While the two employees in the Directorate of Audits do not have significant experience in MAP cases but have significant experience in transfer pricing cases, Greece specified that the five employees of the International Economic Relations Directorate either have significant level of work experience in international taxation or of MAP experience. Furthermore, Greece reported that the decisions issued by the governor in 2017 regulating issues relating to MAP in accordance with tax treaties and the EU Arbitration Convention as well as the MAP guidance introduce a clear framework on MAP for the first time at a national level, which also led to the improvement of all aspects of dispute resolution.

188. Greece reported that staff in charge of MAP has been given training on MAP and that a further improvement of this training could be expected as IAPR is currently investing on in-house quality training of its employees.

189. With respect to the budget available to conduct face-to-face meetings, Greece reported that no funds are specifically devoted to that purpose but the funding of the competent authority function is part of the general budget of the IAPR.

Monitoring mechanism

190. Greece reported that the framework for the assessment of whether such resources are adequate consists of monitoring the MAP caseload. Greece further specified that while the current level of resources seems adequate, it could increase the number of people dealing with MAP cases in the relevant sections in case of an increase of MAP cases. In this respect, Greece reported that two persons were hired to be part of the staff in charge of MAP in the period 1 January 2016-30 April 2018 (bringing the number of people in the MAP office from five to seven people).

Recent developments

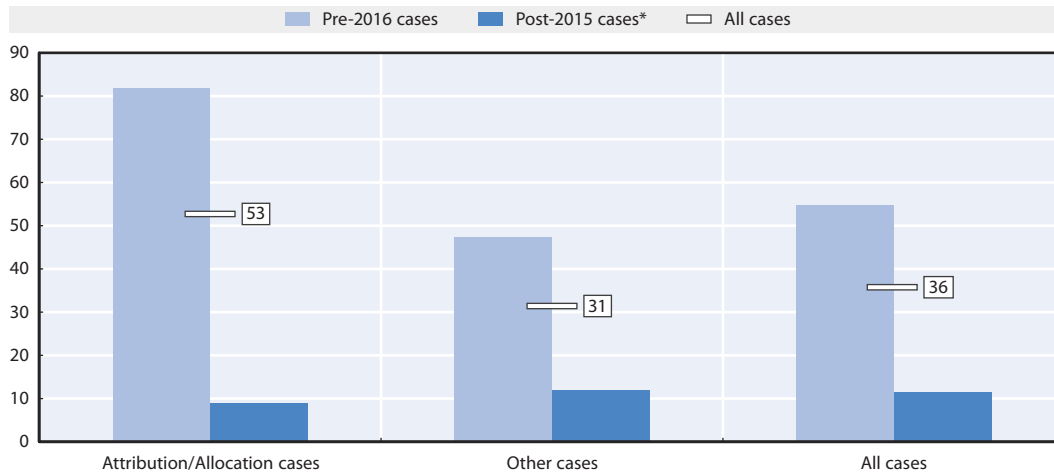
191. Greece reported that since 1 May 2018 it has taken part in MAP training programmes where several personnel in charge of MAP have acquired the necessary knowledge on MAP.

Practical application

MAP statistics

192. As discussed under element C.2, Greece did not close its MAP cases during the Statistics Reporting Period within the pursued 24-month average. In addition, the average time taken to close attribution/allocation cases is higher than the average time needed for other cases. This can be illustrated by Figure C.6.

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



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

193. Based on these figures, it follows that on average it took Greece 35.57 months to close MAP cases, which is significant longer than 24 months. It took Greece 52.62 months to resolve attribution/allocation cases, and 31.30 months for other cases.

194. The stage 1 peer review report of Greece analysed the 2016 and 2017 statistics and showed an average of 37.88 months, albeit that attribution/allocation cases took far longer to be resolved. In that regard, it was concluded that Greece's competent authority is not adequately resourced, although Greece provided an explanation for the overstep of this 24 month in some of these cases and provided the median time taken to close cases, which was approximately 22 months. Furthermore, some peers provided input as to their expressed experience with Greece in handling and resolving MAP cases. While some peers voiced positive input and noted that due to the recent reorganisation improvements have been realised, a significant number mentioned having difficult experiences with Greece in handling and resolving MAP cases. Their input mainly concerns (i) a lack of responses to communications on the initiation of MAP cases or the status of a case and (ii) delays in providing position papers or responding to position papers issued by the peers. On that basis Greece was recommended to closely monitor whether the steps recently taken with respect to the organisation of the competent authority and the addition of staff will ensure that MAP cases are resolved in a timely, efficient and effective manner.

195. For stage 2, the 2018 MAP statistics are also taken into account. The average time to close MAP cases for this year are:

	2018
Attribution/Allocation cases	n.a.
Other cases	32.62
All cases	32.62

196. The 2018 statistics of Greece show that the average completion time of MAP cases decreased from 37.88 months to 32.62 months, whereby no attribution/allocation cases were closed in 2018. For other cases, this concerns an increase from 31.30 months to 32.62 months.

197. Furthermore – as analysed in element C.2 – the MAP inventory of Greece increased since 1 January 2016. This can be shown as follows:

	Opening inventory on 1/1/2016	Cases started	Cases closed	End inventory on 31/12/2018	Increase in %
Attribution/allocation cases	10	7	5	12	20%
Other cases	17	25	20	22	29%
Total	27	32	25	34	26%

Clarifications by Greece

198. During stage 1 Greece provided the following clarifications. for why MAP cases were not closed within the 24-month average time period during the Statistics Reporting Period:

- In one (attribution/allocation) case, the other competent authority notified Greece's competent authority on 11 March 2016 of a MAP request filed on 25 April 2012, i.e. almost four years later.
- One (attribution/allocation) case was initiated in November 2005 and closed in 2016, while position papers were already exchanged twice until 2009. Greece reported that in this case the exchange of opinions and positions between the competent authorities was continued until 2016 with a view of reaching a mutual agreement.
- In two cases (other cases), the time required for the implementation (11 months) was included in the calculation. If the excess of 11 months is deducted, the time taken to resolve one case would be shorter than 24 months.

199. For stage 2, Greece noted that the total average time to close post-2015 MAP cases in 2018 was below 24 months and expressed its commitment to resolve MAP cases within the timeframe of 24 months. It also noted that no changes have been made with respect to the recommendation made in the stage 1 peer review report.

200. Further to the above, Greece provided the following clarification why MAP cases were not closed within the 24-month average time period. However, this only concerns seven attribution/allocation cases that were pending on 31 December 2017:

- In four Greece was waiting for the position papers from the other competent authority even it has sent them a reminder.
- In one Greece was waiting for the response of the other competent authority.
- In two no actions were taken since the cases were either in a judicial proceeding or under examination.

Peer input: Period 1 January 2016-30 April 2018 (stage 1)

201. Several peers provided input to share their competent authorities' experience in resolving MAP cases with Greece. Most of them specified, however, that they only have a small number of MAP cases with Greece.

Contacts and correspondence with Greece's competent authority

202. Some peers reported that they could contact easily Greece's competent authorities, while others mentioned having experienced difficulties in doing so, which mostly resulted

in significant delays. The relevant peers suggested that Greece uses modern means of communication or emails more frequently.

Timeliness of resolving MAP cases

203. On balance, the timeliness of the resolution of cases seems to be a challenge for most peers having experience with Greece's competent authority. According to the peers, delays were noted both for the presentation of a position paper and for a response to such position papers.

204. One peer reported that Greece's competent authority replied in a timely manner. Some peers reported having no cases or only recent cases with Greece and for that reason not being in a position to comment on their current relationship with Greece's competent authority. Several peers, however, emphasised the challenges they encountered with Greece's competent authority in terms of timeliness. One peer reported that, while a recent attribution/allocation case has been resolved quickly and completely with Greece, it also experienced both a lack of response or late responses from Greece's competent authority. This peer further reported having experienced a case initiated in 2011 where after several exchanges, it was still not clear whether the case was closed or whether it had been resolved in Greece as the position of Greece's competent authority on the interpretation of the tax treaty was not clarified in the last communication this peer received. This peer reported having asked for clarifications from Greece's competent authority in October 2016 and that it is still waiting for an answer in April 2018. This peer emphasised that the relevant case has been pending for five years and a half. Greece responded that the peer is mainly commenting on issues that occurred before the beginning of the Review Period. Greece further clarified that even though the relevant case was formally initiated in 2012, the peer extended the request to further years in 2015, which was confirmed by the relevant peer. In addition, Greece specified that while the taxation at stake in the first request was not refunded, the relevant case was eventually closed in August 2017 and that the double taxation in question has been partially relieved. The relevant peer reported that it was not informed of the refund provided and is therefore not aware of the extent of the remaining double taxation in the case at hand as well as the reason why the refund may have been partially denied.

205. Another peer mentioned as a general comment that timeliness can be improved by Greece's competent authority. This peer reported having experienced a case initiated in 2005 and closed in 2017 where there have been several exchanges of positions, and it encountered significant delays before it received responses to its own position papers, while this peer's competent authority was also asking for more information in such position papers. This peer reported having experienced another case initiated in 2012 further to an adjustment made by Greece's tax administration. This peer reported that the MAP request had been submitted both in its jurisdiction (in April 2012) and in Greece (in October 2013). According to this peer, Greece acknowledged receipt of the MAP request it received from the taxpayer in October 2013. This peer also reported having notified Greece of the filed MAP request in April 2015 for the first time and then several times until March 2016, asking for a position paper from Greece's competent authority regarding the adjustment at issue. This peer reported that Greece's competent authority responded several times that it needed to be formally notified of the case to open it and eventually responded in 2017 that it considered the MAP request submitted in this peer's jurisdiction was not admissible.

206. With respect to the timeliness of communication, Greece responded that the peer is mainly commenting on issues that occurred before the beginning of the Review Period as the MAP request discussed was initiated in April 2012. Greece further clarified that it

was first notified of the latter case by this peer's competent authority in 2015, and formally notified in compliance with the requirements of the EU Arbitration Convention in March 2016. Greece further specified that these delays in notifying its competent authority have impacted the whole process.

Handling and resolving MAP cases

207. Several peers also reported having experienced difficulties in resolving MAP cases. One peer mentioned that there is little progress in the resolution of MAP cases involving Greece and that it is waiting for several position papers from Greece's competent authority. Greece responded that in two of the three pending pre-2016 cases with the relevant peer, court proceedings were pending and a hearing has taken place before the Supreme Court in Administrative Matters (Council of State), whereby Greece does not discuss the case at stake as a matter of policy. Another peer mentioned that it takes a lot of time before it receives any response from Greece's competent authority to this peer's position papers. One peer mentioned that one case which has been introduced before 2016 has still not been resolved as it has not yet received any position paper from Greece's competent authority at the end of the Review Period. Another peer reported that the approach taken by Greece's competent authority does not aim at a quick and principled resolution of MAP cases. Greece responded that the peers are mainly commenting on issues that occurred before the beginning of the Review Period.

208. Two peers noted that there has been a reorganisation of the MAP function in Greece in 2016 and have experienced improvements with respect to the resolution of cases or are expecting the resolution of MAP cases to be more efficient in the future. Greece also emphasised that the reorganisation has considerably contributed to the improvement of the time taken to resolve MAP cases, since a separate MAP office is now mandated to examine attribution/allocation cases.

Organisation of face-to-face meetings

209. Three peers expressly reported not having organised any face-to-face meetings with Greece since 1 January 2016, for one of them because there was no need for such meetings, while the others mentioned that organising more face-to-face meetings could improve the timeliness of the resolution of cases with Greece. One peer also suggested considering alternative venues for meetings, for instance in Paris subsequently to OECD meetings.

Peer input: Period 1 May 2018 – 31 October 2019 (stage 2)

210. All but one peers that provided input during stage 1 stated in stage 2 that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given. One peer, who currently has two pending cases with Greece, that provided input in relation to its experience with Greece as to handling and resolving MAP cases in stage 1, which is reflected above, provided additional input during stage2 that it still experienced difficulties in resolving MAP cases. This peer specified that for one case it has been waiting a response to the position paper, which the peer sent twice, in July 2018 and September 2019. For another case that started in 2015, this peer stated that it has been informed by Greece that there are national proceedings in parallel to the MAP request and that the Greece's Supreme Court has recently ruled, for which the impact on the MAP process is yet unclear. This peer further noted that some cases were closed with Greece for the last years, some of which were withdrawn by taxpayer.

Anticipated modifications

211. Greece did not indicate that it anticipates any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	<p>MAP cases were resolved in 35.57 months on average, which is above the 24-month average (which is the pursued average for resolving MAP cases received on or after 1 January 2016). This regards especially attribution/allocation cases, as the average time needed to close these cases was 52.62 months, whereas for other cases the average time was 31.30 months. While the average completion time has decreased in 2018 as compared to the period 2016-17, it is still above the 24-month average. There is therefore a risk that post-2015 are not resolved within the average of 24 months, which may indicate that the competent authority is not adequately resourced. In this respect, one peer has experienced difficulties in resolving both type of MAP cases in a timely efficient and effective manner, which in particular concerns:</p> <ul style="list-style-type: none"> • timely submission of position papers • timely response to position papers issued by the peer. <p>Furthermore, the MAP caseload has increased with 27% since 1 January 2016, which regards both attribution/allocation and other MAP cases. This may also indicate that the competent authority is not adequately resourced to cope with this increase.</p>	<p>While Greece has taken some action to resolve cases in a timely manner, further actions should be taken to ensure a timely resolution of MAP cases, which regards both attribution/allocation and other cases.</p> <p>In that regard, Greece should devote additional resources to its competent authority to handle these cases and also to be able to cope with the increase in the number of MAP cases (both for attribution/allocation and other cases), such to be able to resolve MAP cases in a timely, efficient and effective manner. The addition of resources should also enable Greece to timely submit position papers and to response to position papers.</p>

[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.

212. 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

213. Greece reported that the positions adopted by the competent authority are based on the principle of legality and therefore the competent authority can only adopt a position that is based on the law.

214. As provided in Article 9 of Decisions of the Governor of the IAPR No POL 1049/2017 and 1129/2017, the Governor of the IAPR approves the position papers of Greece's competent authority after being approved by the Director of the competent authority and before they are presented to the other competent authority. Greece specified that staff in charge of MAP processes ask the competent local tax offices or audit centres for the taxpayer's details which

are kept in these offices. Greece further reported that its competent authority may request from the audit department any clarifications required regarding the adjustment at issue. While the Governor of the IAPR is also the head of the audit department, Greece reported that he does not sign off the outcomes of audits performed by Greece's tax authority. Greece further emphasised its competent authority is separated from the audit function and has independent authority to resolve MAP cases and does not depend on the approval or the direction of the tax administration personnel who made the adjustments at issue. In this respect, Greece clarified that its competent authority is authorised to revoke an adjustment made by a Greek tax office if it considers such an adjustment as not justified. Finally, Greece reported that while nothing in its law precludes nor provide the participation of auditors at competent authority meetings, the latter have never participated to such meetings in practice.

215. In addition, as provided in Article 9 of Decisions of the Governor of the IAPR No POL 1049/2017 and 1129/2017, Greece's competent authority may also consult other departments within IAPR or a representative of a legal council of state in order to address specific issues that may arise. Still, as mentioned previously, Greece reported that only considerations that are based on the letter or on the object and purpose of the relevant provisions are taken into account in order to adopt a position that is based on the principle of legality. Therefore, even when the people handling MAP cases are involved in treaty negotiations, they commit not to be influenced by policy considerations that Greece would like to see reflected in future amendments to the relevant tax treaty.

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

Recent developments

217. There are no recent developments with respect to element C.4.

Practical application

Period 1 January 2016-30 April 2018 (stage 1)

218. All peers provided input generally reported no impediments in Greece to perform its MAP function in the absence of approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy. One of these peers specifically mentioned that it is not aware that staff in charge of the MAP in Greece is dependent on the approval of MAP agreements by the personnel within the tax administration that made the adjustment under review.

Period 1 May 2018-31 October 2019 (stage 2)

219. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

220. Greece did not indicate that it anticipates any modifications in relation to element C.4.

Conclusion

	Areas for improvement	Recommendations
[C.4]	-	-

[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.

221. 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 the assessed jurisdiction

222. Greece reported that it has a system in place to evaluate the performance of staff in charge of MAP processes, which on a general basis assess the professional qualifications, the team management, negotiation skills, decision-making ability and ability to solve problems. It further reported that it uses performance indicators based on the number of MAP cases resolved as well as the time taken to resolve MAP cases. In addition, Greece reported that it also has set targets for staff in charge of MAP process to evaluate their work performance, and that those include deadlines (i) for the notification of the request to the other competent authority, (ii) for the confirmation of receipt of a MAP request, (iii) for the requirement of additional information/documentation (if necessary), (iv) for the sending of a position paper and (v) for the resolution of a MAP case.

223. The Action 14 final report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These indicators are shown below and presented in the form of a checklist:

- 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).

224. Greece specified that while consistency is not part of the performance review for staff in charge of MAP cases, Greece's competent authority seeks to ensure that the positions taken are consistent.

225. Further to the above, Greece also 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.

Recent developments

226. There are no recent developments with respect to element C.5.

Practical application***Period 1 January 2016-30 April 2018 (stage 1)***

227. All peers that provided input generally provided no specific input relating to this element of the Action 14 Minimum Standard. One of these peers particularly noted that they are not aware of the use of performance indicators by Greece that are based on the amount of sustained audit adjustments or maintaining a certain amount of tax revenue.

Period 1 May 2018-31 October 2019 (stage 2)

228. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

229. Greece did not indicate that it anticipates any modifications in relation to element C.5.

Conclusion

	Areas for improvement	Recommendations
[C.5]	-	-

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

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

230. 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

231. Greece reported that it has no domestic law limitations for including MAP arbitration in its tax treaties. Greece's tax treaty policy is to include a mandatory and binding arbitration provision in its bilateral tax treaties, but to exclude cases involving the application of domestic anti-abuse rules, cases concerning items of income or capital that are not taxed by a Contracting Jurisdiction because they are not included in the taxable base in that Contracting Jurisdiction or because they are subject to an exemption or zero tax rate provided under the domestic tax law of that Contracting Jurisdiction, cases involving conduct for which the taxpayer or a person acting on behalf of the taxpayer has been found guilty by a court for tax fraud or other criminal offense and cases in respect to which application has been filed under the EU Arbitration Convention or any subsequent regulation.

232. In addition, Greece is a signatory to the EU Arbitration Convention. In this respect, the Decision of the Governor of the IAPR No POL 1129/2017 provides specific guidance on the MAP under the EU Arbitration Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises and has adopted Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union. This directive has been implemented in Greece’s domestic legislation as per 31 July 2020.

233. Greece reported that with the signing of that instrument, it opted for part VI of the Multilateral Instrument, which includes a mandatory and binding arbitration provision.⁷ Pursuant to Article 26(4) Greece reserved the right not to apply part VI to the three treaties mentioned below that already provide for a mandatory and binding arbitration procedure. Information on arbitration is available in Greece’s MAP profile as well as in Greece’s MAP handbook.

Recent developments

234. There are no recent developments with respect to element C.6.

Practical application

235. Greece has incorporated an arbitration clause in four of 57 treaties as a final stage to the MAP.⁸ Two of these four treaties contain an arbitration clause that is equivalent to Article 25(5) of the OECD Model Tax Convention (OECD, 2017), albeit that in one of these treaties the period for the MAP process is three years instead of two years. The other two treaties contain a voluntary and binding arbitration.

236. In addition, with respect to the effect of part VI of the Multilateral Instrument on Greece’s tax treaties, there are next to Greece in total 29 signatories to this instrument that also opted for part VI. Concerning these 29 signatories, Greece listed 18 as a covered tax agreement under the Multilateral Instrument and 16 of these 18 treaty partners also listed their treaty with Greece under that instrument.

237. With respect to these 16 treaties, Greece has already included an arbitration provision in one of them. Greece listed this treaty under Article 26(1) with a view to replace the arbitration provision contained in that treaty by part VI. With respect to this treaty, the relevant treaty partner also made a notification under Article 26(1). For all these 16 treaties, Greece reported it expects that part VI will introduce a mandatory and binding arbitration procedure in those treaties.

Anticipated modifications

238. Greece indicated that it intends to revise its position and notify all the three treaties that already provide for a mandatory and binding arbitration procedure under Article 26(1) of the Multilateral Instrument.

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

Notes

1. These 52 treaties include the treaty with former Serbia and Montenegro that Greece continues to apply to Serbia and the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic.
2. Available at: www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm. These statistics include fiscal years 2006, 2007, 2011, 2012, 2014 and 2015.
3. Available at: https://ec.europa.eu/taxation_customs/sites/taxation/files/apa-and-map-2019-1.pdf. These statistics are up to and include fiscal year 2018.
4. For post-2015 cases, if the number of MAP cases in Greece’s inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five, Greece reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
5. Greece’s 2016-18 MAP statistics were corrected in the course of its peer review and deviate from the published MAP statistics for the years 2016-18. See further explanations in Annex B and C.
6. For pre-2016 and post-2015 Greece follows the MAP Statistics Reporting Framework for determining whether a case is considered an attribution/allocation MAP case. Annex D of MAP Statistics Reporting Framework provides that “an attribution/allocation MAP case is a MAP case where the taxpayer’s MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the OECD Model Tax Convention); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention), which is also known as a transfer pricing MAP case”.
7. An overview of Greece’s position on the Multilateral Instrument is available at: www.oecd.org/tax/treaties/beps-mli-position-greece.pdf.
8. This concerns the treaties with Canada, Mexico, Singapore and Switzerland. Reference is made to Annex A for the overview of Greece’s tax treaties.

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 (2015), “Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report”, in *OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241633-en>.

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.

239. 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

240. Greece reported that its domestic statute of limitation does not limit the implementation of MAP agreements (i) when the relevant treaty does not contain any provision relating to the implementation of MAP agreements or (ii) contains the equivalent of Article 25(2), second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017). In this respect, Greece specified that if the implementation of a MAP agreement results in an amendment for a tax year, which is statute barred, the relevant MAP agreement is implemented on the earliest tax year which is not yet barred. Greece reported that the implementation of MAP agreements is only limited when the relevant treaty provides that the MAP agreement shall be implemented within such time limits. This is also specified in Greece's MAP guidance. As discussed under element D.3, such a provision is contained in two of Greece's 57 tax treaties.¹ In such situations, Greece reported that its domestic statute of limitation expires five years after the end of the year within which the time limit for filing the tax return expires (or the last tax return in case several tax returns are due). Greece further specified that this statute of limitation shall be extended (i) if the taxpayer files an initial or amending tax return within the fifth year of the period of limitation, for a period of one year after the end of the five-year period, (ii) if information is requested from another country, for the period required for the transmission of such information increased by one year from its receipt by the tax administration, (iii) if an administrative appeal or legal remedy or appeal is lodged, for a period of one year after a decision on the administrative appeal or an irrevocable court decision is issued, and only regarding the issue concerned and (iv) exceptionally, in case of tax evasion, until 20 years after the end of the year within which the time limit for filing the tax return expires.

241. Greece reported that when a MAP agreement is reached, the taxpayer is notified in writing of the outcome of the MAP within one month. Greece further reported that the taxpayer is requested to indicate whether it accepts the implementation of such a MAP agreement within 60 days after being notified hereof. In order to do so, Greece specified that the taxpayer or his legal representative is invited to attend a meeting with Greece's competent authority to consent to the relevant MAP agreement. The acceptance

of the MAP agreement is formalised through the signing of a statement of acceptance by the taxpayer and Greece's competent authority. Greece further specified that, in case of acceptance of the MAP agreement, the taxpayer also commits to withdraw from any pending court procedure, and submits a declaration that he will produce a certified copy of the written declaration of waiver from the pending case and from the right to file a complaint regarding the issues resolved with the MAP agreement. The process described here is also detailed in Greece's MAP guidance.

242. As further provided in Greece's MAP guidance, once the taxpayer has accepted the MAP Agreement, Greece's competent authority notifies the competent authority of its treaty partner and issues a decision on the MAP agreement within 30 days from signing of the statement of acceptance and presenting the declaration of waiver. Greece's MAP guidance provides that the decision is notified to all parties involved and to the tax authority that is competent for its implementation and states the content of such a decision. Greece reported that such a decision is immediately applicable as provided in Article 45 of the Greek tax procedure code. Greece also specified that the timing for such implementation is provided in Articles 41 and 42 of the Greek tax procedure code: (i) in case additional taxes are due, they shall be paid in two instalments, the first one before the end of the month following the notification to the taxpayer and the second one before the end of the following month and (ii) in case the taxpayer is entitled to a tax refund, the amount to be refunded shall be paid to the taxpayer within 90 days from the filing of a written request by the taxpayer. This request consists either of the filing of a written claim for a tax refund or the filing of an amended tax return depending on the scope of the issue at stake.

243. Greece further reported that the local tax offices are responsible for the implementation of MAP agreements and that its competent authority ensures that they are effectively implemented by (i) giving clear instructions to the local offices and (ii) often contacting the local tax offices to ask for confirmation of the relevant implementation.

Recent developments

244. There are no recent developments with respect to element D.1

Practical application

Period 1 January 2016-30 April 2018 (stage 1)

245. Greece reported that in the period 1 January 2016-30 April 2018 it has reached seven MAP agreements (four in 2016, one in 2017 and two in 2018). All these seven MAP agreements required an implementation by Greece, most of them leading to a refund of tax to the taxpayer concerned. In this respect, Greece reported that the four MAP agreements reached in 2016 were implemented and that the time taken for implementing the MAP agreements ranged from three to 11 months, depending on the procedure that the taxpayer had to follow.

246. All peers that provided input reported that they were not aware of any MAP agreement reached on or after 1 January 2016 that was not implemented by Greece. Furthermore, one of these peers noted that it has positive experience with Greece's implementation of MAP agreements as well as the communication of such implementation.

Period 1 May 2018-31 October 2019 (stage 2)

247. Greece reported that for the three MAP agreements that were pending implementation on 30 April 2018, two have been implemented. With respect to the remaining case, Greece clarified that some procedural aspects are still pending.

248. In addition, Greece reported that since 1 May 2018, six MAP agreements have been reached by its competent authority, five of which required implementation in Greece. Greece clarified that one of these five agreements has been implemented and that the remaining four MAP agreements are pending implementation, as for two the implementation is on the last step of the relevant administrative procedure, for other two Greece's competent authority is waiting for the taxpayer's acceptance of the MAP outcome or the taxpayer's confirmation that they will not appeal before court for the issues resolved by the MAP.

249. All but one peer that provided input during stage 1, stated in stage 2 that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given. The remaining peer commented on a requirement for the taxpayer by Greece's competent authority when a MAP agreement has been reached. It clarified that its resident taxpayer or his legal representative was requested to attend a meeting with Greece's competent authority in Greece in order to sign the official document to consent the MAP agreement reached. In the peer's view, such a requirement is too burdensome and it would not be an option for some taxpayers. This peer further noted that the acceptance of the outcome of the MAP agreement reached is primarily a question for the competent authority of the residence State, and no additional step should be required to the non-resident taxpayer. Therefore, it suggested to at least provide the option for the non-resident taxpayer to simply sign the document and send it to Greece's competent authority. It also suggested to give the taxpayer an option to sign an official English version of the document, which is currently only in Greek.

250. Greece responded to this input and mentioned that the provisions of Article 10 of the IAPR Governor's Decision 1049/2017 describe the internal procedure that should be followed by the Greece's tax administration and as such the relevant requirement shall be applicable only in case the MAP request is submitted to Greece's competent authority. In case a MAP request is submitted to the foreign competent authority, it is the foreign competent authority that notifies Greece's competent authority of the acceptance of the result by the taxpayer and no further actions are required by the taxpayer. Greece also mentioned that however according to the same Article, in case of acceptance of the mutual agreement, if legal remedies have been filed before a Greek court, the taxpayer should provide a written declaration of waiver from the writ and the right to file a complaint pertaining to the issues resolved by mutual agreement. This applies also to cases in which the request has been submitted to a foreign competent authority. In this respect, Greece clarified that in cases where remedies have been filed before a Greek court, the taxpayer (or the representative), who is a resident in another jurisdiction, should provide a written declaration of waiver, as provided for in the domestic law, but that does not mean in any case that he will be required to attend a meeting with the competent authority in order to do so. Greece noted that for the case mentioned by the peer, legal remedies had been also filed before a Greek court, and there already was a legal representative of the taxpayer in Greece.

251. Notwithstanding the clarification given, the peer reiterated that Greece should provide an official English translation of the Statement of acceptance and the possibility for the taxpayer to send that document per post directly from its State of residence.

Anticipated modifications

252. Regarding the statute of limitation, Greece reported that Article 36 of Law 4174/2013, as amended by Law 4646/2019 which took effect on 12 December 2019, stipulates that the tax administration may issue an administrative, estimated or corrective tax assessment act within five years from the end of the year in which the deadline for the submission of the tax return expires, and that in case a MAP agreement is reached, this period shall be extended for one year after the agreement. Greece noted that this provision was amended to ensure the implementation of a MAP agreement.

253. Greece also reported that Governor’s Decision 1049/2017 has been replaced by the Decision 1226/2020 which took effect on 13 October 2020. Greece noted that according to Article 8 of the Decision 1226/2020, the taxpayer or his legal representative is asked from Greece’s competent authority to consent to the relevant MAP agreement, but that does not mean in any case, that the taxpayer will be required to attend a meeting with the competent authority in order to do so. In this respect, Greece confirmed that a taxpayer who is a resident in the other jurisdiction is not required to attend a meeting with Greece’s competent authority to accept the MAP outcome.

254. Greece further reported that it has amended its policy regarding the relationship between the implementation of MAP agreements and domestic remedies and, especially, as far as withdrawal from any pending court procedure is concerned. According to Article 8 of the Governor’s Decision 1226/2020, the implementation of MAP agreements reached is possible, even in case that other issues unresolved by the MAP agreement, which are not within the scope of the MAP, are pending before a competent court on the basis of a domestic remedy. Therefore, the taxpayer does not need to withdraw from any pending court procedure in case of acceptance of the MAP agreement.

255. In addition, Greece indicated that after the domestic legislative amendment, it intends to issue a decision regarding the monitoring of the implementation of the MAP agreement, in which the local tax authority will be asked to inform the competent authority about the specific actions taken regarding the implementation of MAP agreements.

Conclusion

	Areas for improvement	Recommendations
[D.1]	-	-

[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.

256. 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

257. As discussed under element D.1, there is a timeframe in place for implementing MAP agreements. As provided in Greece’s MAP guidance, specific periods of time apply along the process of implementation. These timeframes are described under element D.1 and can be summarised as follows:

1. When a MAP agreement is reached, the taxpayer is notified in writing of the outcome of the MAP within one month.
2. The taxpayer is requested to indicate whether it accepts the implementation of such a MAP agreement within 60 days after being notified hereof.
3. Once the taxpayer has accepted the MAP Agreement, Greece’s competent authority issues a decision on the MAP agreement within 30 days.
4. As reported by Greece, such a decision is immediately applicable and the timing for its implementation depends on whether it concerns additional taxes or taxes to be refunded: (i) additional taxes shall be paid in two payments, the last of which shall occur within two months after the end of the month following the notification to the taxpayer and (ii) any refund shall be paid to the taxpayer within 90 days from the filing of a written request by the taxpayer.

Recent developments

258. There are no recent developments with respect to element D.2.

Practical application

Period 1 January 2016-30 April 2018 (stage 1)

259. As discussed under element D.1, in the period 1 January 2016-30 April 2018, Greece reported that it entered into seven MAP agreements that all required implementation by Greece. In this respect, Greece reported having implemented the four MAP agreements reached in 2016 within a timeframe ranging from three to 11 months.

260. All peers that provided input have not indicated experiencing any problems with Greece regarding the implementation of MAP agreements reached on a timely basis.

Period 1 May 2018-31 October 2019 (stage 2)

261. As discussed under element D.1, since 1 May 2018, six MAP agreements have been reached by its competent authority, five of which required implementation in Greece. Greece clarified that one of these five agreements has been implemented and that the remaining four MAP agreements are pending implementation, as for two the implementation is on the last step of the relevant administrative procedure, for other two Greece’s competent authority is waiting for the taxpayer’s acceptance of MAP outcome or the taxpayer’s confirmation that they will not appeal before court for the issues resolved by the MAP.

262. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Greece fully reflects their experience with Greece since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

263. Greece did not indicate that it anticipates any modifications in relation to element D.2.

Conclusion

	Areas for improvement	Recommendations
[D.2]	-	-

[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.

264. 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 the assessed jurisdiction's tax treaties

265. As discussed under element D.1, Greece's domestic legislation includes a statute of limitations of five years for implementing MAP agreements, which applies only in situations where the relevant tax treaty provides that any MAP agreement shall be implemented within the statute of limitation of the contracting states. Out of Greece's 57 tax treaties, 39 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law.² Furthermore, two tax treaties contain such equivalent and also the alternative provision in Article 9(1), setting a time limit for making adjustments. Additionally, 14 do not contain such equivalent or the alternative provisions.

266. The remaining two treaties contain a provision based on Article 25(2), second sentence but that deviates from Article 25(2), second sentence as such provision states that mutual agreements shall be implemented within the relevant time limits.³

267. Most peers that provided input reported that their treaty with Greece meets the requirements under element D.3 or will be modified by the Multilateral Instrument, which conforms with the below analysis. For the four treaties identified below that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument, one peer did not provide input, two reported being in bilateral discussions with Greece and the last one reported that its current model tax treaty does contain the relevant provision.

Recent developments

Bilateral modifications

268. Greece signed a new treaty with one treaty partner, which concerns a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This newly signed treaty contains a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty is pending ratification. The effects of the newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

269. Greece signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected within the second half of 2020.

270. Article 16(4)(b)(ii) of that instrument stipulates that Article 16(2), second sentence – containing the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). In other words, in the absence of this equivalent, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both, pursuant to Article 16(6)(c)(ii), notified the depositary that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Article 16(4)(b)(ii) of the Multilateral Instrument will for a tax treaty not take effect if one or both of the treaty partners has, pursuant to Article 16(5)(c), reserved the right not to apply the second sentence of Article 16(2) of that instrument for all of its covered tax agreements under the condition that: (i) any MAP agreement shall be implemented notwithstanding any time limits in the domestic laws of the contracting states, or (ii) the jurisdiction intends to meet the Action 14 Minimum Standard by accepting in its tax treaties the alternative provisions to Article 9(1) and 7(2) concerning the introduction of a time limit for making transfer pricing profit adjustments.

271. In regard of the 16 tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), or both alternative provisions for Articles 9(1) and 7(2), Greece listed all of them as covered tax agreements under the Multilateral Instrument, but only for 14 treaties did it make, pursuant to Article 16(6)(c)(ii), a notification that they do not contain a provision described in Article 16(4)(b)(ii). Of the relevant 14 treaty partners, one is not a signatory to the Multilateral Instrument and two did not list their treaty with Greece as a covered tax agreement, while one has, pursuant to Article 16(5)(c), reserved the right not to apply Article 16(2), second sentence, of the Multilateral Instrument. All remaining ten treaty partners made such notification. Therefore, at this stage, ten of the 16 tax treaties identified above will be modified by the Multilateral Instrument, upon its entry into force, for these treaties to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).⁴

Other developments

272. Greece reported that for two of the six tax treaties that do not contain the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument, it is in the process of revising its list of notifications and reservations to the Multilateral Instrument upon deposit of its instrument of ratification to bring these treaties in line with element D.3.

273. Greece also reported that for the remaining four tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument, it has been informed by one relevant treaty partner that it will withdraw its reservation under the Multilateral Instrument, following which it is expected that the treaty with that treaty partner will be modified by the instrument to include the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017).

274. Furthermore, Greece also reported that for two of the remaining three tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument, it has initiated its internal procedures to start renegotiations with the relevant treaty partners.

Peer input

275. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Greece. One of these peers concerns a treaty partner to one of the treaties identified above that does not contain Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument. This peer mentioned that since 1 May 2018 there has been no contact with Greece regarding a draft amending protocol proposed by the peer in 2017 to adapt the treaty to the Action 14 Minimum Standard, noting that it expects to receive information from Greece on the next step according to Greece's statement in the update report.

Anticipated modifications

276. For the remaining treaty that does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternatives provided for in Articles 9(1) and 7(2) and that will not be modified by the Multilateral Instrument, it intends to initiate its internal procedures to start renegotiations with the relevant treaty partner.

277. In addition, Greece 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.

Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>16 out of 57 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor any of the alternative provisions provided for in Article 9(1) and Article 7(2). Of these 16 treaties:</p> <ul style="list-style-type: none"> • Ten are expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One is expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) once the treaty partner has amended its notifications. • Five will not be modified by the Multilateral Instrument to include the required provision. With respect to these three treaties: <ul style="list-style-type: none"> - For two Greece will revise its list of notifications and reservations to the Multilateral Instrument with a view to have it modified by the Multilateral Instrument. - For two actions have been taken to initiate negotiations on their amendment. - For one no actions have been taken, but are included in the plan for renegotiations. 	<p>Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those 13 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for 12 of the 13 treaties concerned and once one treaty partner amended its notifications under that instrument.</p> <p>For the remaining five treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) following its entry into force, Greece should:</p> <ul style="list-style-type: none"> • for two treaty partners continue to work in accordance with its plan to include the required provision via the Multilateral Instrument • for two treaty partners continue with the process to request the inclusion of the required provision via bilateral negotiations • for one treaty partner request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations.

Notes

1. These two treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic.
2. These 39 treaties include the treaty with former Serbia and Montenegro that Greece continues to apply to Serbia.
3. These two treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic.
4. These ten treaties include the treaty with former Czechoslovakia that Greece continues to apply to the Czech Republic and the Slovak Republic.

Reference

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

Summary

	Areas for improvement	Recommendations
Part A: Preventing disputes		
[A.1]	Two out of 57 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017). These two treaties are expected to be modified by the Multilateral Instrument to include the required provision.	Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) in those two treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	<p>Six out of 57 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) either as it read prior to the adoption of the Action 14 final report (OECD, 2015b) or as amended by that report. Of these six treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017). • Two are expected to be superseded by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017). • Three will not be modified or superseded by the Multilateral instrument to include the Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these three treaties: <ul style="list-style-type: none"> - For one actions have been taken to initiate negotiations on their amendment. - For one Greece has contacted the treaty partner to initiate discussions on the amendment of the treaty with a view to include the required provision. - For one no actions have been taken, but are included in the plan for renegotiations. 	<p>Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) in three of the six treaties that currently do not contain such equivalent.</p> <p>For the three treaties that will not be modified or superseded by the Multilateral Instrument following its entry into force to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), Greece should:</p> <ul style="list-style-type: none"> • for one treaty partner continue with the process to request the inclusion of the required provision via bilateral negotiations • for one continue the discussions with a view to include the required provision via bilateral negotiations. • for one request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations.
	Two out of 57 tax treaties do not contain a provision that is equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is in these treaties shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. These two treaties are expected to be modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).	Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in these two treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.

	Areas for improvement	Recommendations
[B.1]	One out of 57 tax treaties does not contain a provision that is 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), or as amended by that final report, and also the timeline to submit a MAP request is 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. This treaty is expected to be modified by the Multilateral Instrument to include the equivalent of Article 25(1), second sentence, but not as regards the first sentence of that article. For this treaty negotiations are envisaged.	With respect to the first sentence for the treaty concerned, Greece should continue the process to initiate negotiations with the treaty partner to include a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) either: <ul style="list-style-type: none"> a. as amended by the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
[B.2]	All of the 57 treaties do not contain a provision equivalent to Article 25(1) 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 partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Greece should without further delay follow its stated intention to document its notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Greece should apply such process for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b).
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-
[B.7]	Ten out of 57 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these ten treaties: <ul style="list-style-type: none"> • Eight are expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). • Two will not be modified by the Multilateral Instrument to include the required provision. With respect to these two treaties: <ul style="list-style-type: none"> - For one actions have been taken to initiate negotiations on their amendment. - For one no actions have been taken, but are included in the plan for renegotiations. 	Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those eight treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Greece should:</p> <ul style="list-style-type: none"> • for one treaty partner continue with the process to request the inclusion of the required provision via bilateral negotiations • for one request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations.
[B.8]	-	-
[B.9]	-	-
[B.10]	The MAP guidance does not include information on the relationship between MAP and audit settlements for fiscal years up to 2013.	Greece's MAP guidance should follow its stated intention to clarify that the relationship between MAP and audit settlements for fiscal years up to 2013.

	Areas for improvement	Recommendations
Part C: Resolution of MAP cases		
[C.1]	<p>Five out of 57 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). Of these five treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). • Four will not be modified by the Multilateral Instrument to include the required provision. With respect to these four treaties: <ul style="list-style-type: none"> - For two Greece will revise its list of notifications and reservations to the Multilateral Instrument with a view to have it modified by the Multilateral Instrument. - For one actions have been taken to initiate negotiations on their amendment. - For one no actions have been taken, but are included in the plan for renegotiations. 	<p>Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining four treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Greece should:</p> <ul style="list-style-type: none"> • for two continue to work in accordance with its plan to include the required provision via the Multilateral Instrument • for one treaty partner continue with the process to request the inclusion of the required provision via bilateral negotiations • for one request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations.
[C.2]	-	-
[C.3]	<p>MAP cases were resolved in 35.57 months on average, which is above the 24-month average (which is the pursued average for resolving MAP cases received on or after 1 January 2016). This regards especially attribution/allocation cases, as the average time needed to close these cases was 52.62 months, whereas for other cases the average time was 31.30 months. While the average completion time has decreased in 2018 as compared to the period 2016-17, it is still above the 24-month average. There is therefore a risk that post-2015 are not resolved within the average of 24 months, which may indicate that the competent authority is not adequately resourced. In this respect, one peer has experienced difficulties in resolving both type of MAP cases in a timely efficient and effective manner, which in particular concerns:</p> <ul style="list-style-type: none"> • timely submission of position papers • timely response to position papers issued by the peer. <p>Furthermore, the MAP caseload has increased with 27% since 1 January 2016, which regards both attribution/ allocation and other MAP cases. This may also indicate that the competent authority is not adequately resourced to cope with this increase.</p>	<p>While Greece has taken some action to resolve cases in a timely manner, further actions should be taken to ensure a timely resolution of MAP cases, which regards both attribution/allocation and other cases.</p> <p>In that regard, Greece should devote additional resources to its competent authority to handle these cases and also to be able to cope with the increase in the number of MAP cases (both for attribution/allocation and other cases), such to be able to resolve MAP cases in a timely, efficient and effective manner. The addition of resources should also enable Greece to timely submit position papers and to response to position papers.</p>
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	-	-
[D.2]	-	-

	Areas for improvement	Recommendations
[D.3]	<p>16 out of 57 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor any of the alternative provisions provided for in Article 9(1) and Article 7(2). Of these 16 treaties:</p> <ul style="list-style-type: none"> • Ten are expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One is expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) once the treaty partner has amended its notifications. • Five will not be modified by the Multilateral Instrument to include the required provision. With respect to these three treaties: <ul style="list-style-type: none"> - For two Greece will revise its list of notifications and reservations to the Multilateral Instrument with a view to have it modified by the Multilateral Instrument. - For two actions have been taken to initiate negotiations on their amendment. - For one no actions have been taken, but are included in the plan for renegotiations. 	<p>Greece should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those 13 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for 12 of the 13 treaties concerned and once one treaty partner amended its notifications under that instrument.</p> <p>For the remaining five treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) following its entry into force, Greece should:</p> <ul style="list-style-type: none"> • for two continue to work in accordance with its plan to include the required provision via the Multilateral Instrument • for two treaty partners continue with the process to request the inclusion of the required provision via bilateral negotiations • for one request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations.

Annex A

Tax treaty network of Greece

		Action 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	
		B.1	B.1		B.3	B.4	C.1	D.3	A.1	B.7	C.6	
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)? If yes, submission to either competent authority	Inclusion Art. 25(1) second sentence? If no, please state reasons		Inclusion Art. 9(2)? If no, will your CA provide access to MAP in TP cases?	Existence of a provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(2) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?	
	Y = yes N = signed pending ratification	If N, date of signing	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, but access will be given to TP cases ii = no and access will not be given to TP cases	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes N = no	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y = yes N = no
Albania	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Armenia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Austria	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Azerbaijan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Belgium	Y	N/A	O*	ii*	2 years	i**	i	Y	N*	Y	N*	N
Bosnia and Herzegovina	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N

		Action 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
		B.1	B.1			B.3	B.4	C.1	D.3	A.1	B.7	C.6
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)?	Inclusion Art. 25(1) second sentence?		Inclusion Art. 9(2)? If no, will your CA provide access to MAP in TP cases?	Existence of a 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) second sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?	
		If yes, submission to either competent authority	If no, please state reasons			If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?						
Bulgaria	Y	N/A	O*	Y	N/A	i**	i	Y	Y	Y	Y	N
Canada	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y
China (People’s Republic of)	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Croatia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Cyprus ^a	Y	N/A	O*	i	N/A	i**	i	Y	N*	Y	Y	N
Czech Republic	Y	N/A	O*	Y	N/A	i	i	Y	N*	Y	Y	N
Denmark	Y	N/A	O*	Y	N/A	Y	i	Y	N*	Y	Y	N
Egypt	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Estonia	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Finland	Y	N/A	O*	Y	N/A	i**	i	Y	Y	Y	Y	N
France	Y	N/A	O*	i	N/A	i**	i	Y	N*	N	Y	N
Georgia	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Germany	Y	N/A	N	i	N/A	i	i	N	N	Y	N	N
Hungary	Y	N/A	O	Y	N/A	i**	i	Y	Y	Y	Y	N
Iceland	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
India	Y	N/A	N	i	N/A	i**	i	N	N	N*	N*	N
Ireland	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	N*	N
Israel	Y	N/A	O	Y	N/A	i**	i	Y	Y	Y	Y	N
Italy	Y	N/A	N	ii*	2 years	i**	i	Y	N*	Y	N*	N
Korea	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Kuwait	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N

		Action 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
		B.1	B.1			B.3	B.4	C.1	D.3	A.1	B.7	C.6
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)?	Inclusion Art. 25(1) second sentence?		Inclusion Art. 9(2)? If no, will your CA provide access to MAP in TP cases?	Existence of a 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) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?	
		If yes, submission to either competent authority	If no, please state reasons			If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?		If no, alternative provision in Art. 7 & 9 OECD MTC?				
Latvia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Lithuania	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Luxembourg	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Malta	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Mexico	Y	N/A	O*	Y	N/A	Y	i	Y	N	Y	N*	Y
Moldova	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Morocco	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Netherlands	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Norway	Y	N/A	O*	Y	N/A	i**	i	Y	Y	Y	Y	N
Poland	Y	N/A	O	Y	N/A	i**	i	Y	Y	Y	Y	N
Portugal	Y	N/A	O	ii*	2 years	Y	i	Y	N*	Y	Y	N
Qatar	Y	N/A	O*	Y	N/A	i	i	Y	Y	Y	Y	N
Romania	Y	N/A	O	Y	N/A	i**	i	Y	N*	Y	Y	N
Russia	Y	N/A	O*	Y	N/A	i	i	Y	Y	Y	Y	N
San Marino	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Saudi Arabia	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Serbia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Singapore	N	30-May-19	O	Y	N/A	Y	i	Y	Y	Y	Y	Y
Slovak Republic	Y	N/A	O	Y	N/A	i**	i	Y	N*	Y	Y	N
Slovenia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
South Africa	Y	N/A	O	Y	N/A	i	i	Y	Y	Y	Y	N

		Action 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
		B.1	B.1			B.3	B.4	C.1	D.3	A.1	B.7	C.6
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)?	Inclusion Art. 25(1) second sentence?		Inclusion Art. 9(2)? If no, will your CA provide access to MAP in TP cases?	Existence of a provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?	
		If yes, submission to either competent authority	If no, please state reasons					If no, alternative provision in Art. 7 & 9 OECD MTC?				
Spain	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Sweden	Y	N/A	N**	i	N/A	i**	i	N	N	Y	N*	N
Switzerland	Y	N/A	O	Y	N/A	i	i	Y	N	Y	Y	Y
Tunisia	Y	N/A	N*	Y	N/A	Y	i	Y	Y	Y	Y	N
Turkey	Y	N/A	O*	Y	N/A	Y	i	Y	N*	Y	Y	N
Ukraine	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	N*	N
United Arab Emirates	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
United Kingdom	Y	N/A	N**	iv	No MAP provision	i**	i	N*	N*	N*	N*	N
United States	Y	N/A	N	i	N/A	i	i	N	N	Y	N	N
Uzbekistan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N

Notes: a. 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.
- O**/E*** 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 or has been superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.
- 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**/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 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***/ii*** 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 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 2016, 2017 and 2018 Reporting Periods (1 January 2016 to 31 December 2018) for pre-2016 Case

2016 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2016	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/ Allocation	10	0	0	0	0	0	0	0	0	1	0	9	45.00
Others	16	0	0	1	0	1	0	0	0	0	0	14	48.50
Total	26	0	0	1	0	1	0	0	0	1	0	23	47.33

Notes: There is a discrepancy between the number of pre-2016 MAP cases in Greece's inventory on 31 December 2016 and 1 January 2017.

- The reported number of MAP cases pending on 31 December 2016 was 22, which consists of seven attribution/allocation cases and 15 other cases.
- The reported number of MAP cases pending on 1 January 2017 was 23, which consists of eight attribution/allocation cases and 15 other cases.

In order to have matching numbers for 31 December 2016 and 1 January 2017, the number of pre-2016 cases pending on 1 January 2016 was corrected.

2017 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2017	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/ Allocation	9	1	0	0	0	0	0	0	0	1	0	7	100.14
Others	14	0	0	0	0	0	3	1	0	0	0	10	38.10
Total	23	1	0	0	0	0	3	1	0	1	0	17	58.78

Notes: There is a discrepancy between the number of pre-2016 MAP cases in Greece’s inventory on 31 December 2017 and 1 January 2018.

- The reported number of MAP cases pending on 31 December 2017 was 17, which consists of six attribution/allocation cases and 11 other cases.
 - The reported number of MAP cases pending on 1 January 2018 was 18, which consists of seven attribution/allocation cases and 11 other cases.
- In order to have matching numbers for 31 December 2017 and 1 January 2018, the number of pre-2016 cases pending on 1 January 2017 was corrected.

2018 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2018	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/ Allocation	7	0	0	0	0	0	0	0	0	0	0	7	n.a.
Others	10	0	0	1	0	1	2	1	0	0	0	5	54.10
Total	17	0	0	1	0	1	2	1	0	0	0	12	54.10

Annex C

MAP statistics reporting for the 2016, 2017 and 2018 Reporting Periods (1 January 2016 to 31 December 2018) for post-2015 cases

2016 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing post-2015 cases during the reporting period
			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	2	0	0	0	0	0	0	0	0	0	0	2	n.a.
Others	0	4	0	0	0	0	0	0	0	0	0	0	4	n.a.
Total	0	6	0	0	0	0	0	0	0	0	0	0	6	n.a.

Notes: There is a discrepancy between the number of post-2015 MAP cases in Greece's inventory on 31 December 2016 and 1 January 2017.

- The reported number of MAP cases pending on 31 December 2016 was five, which consists of one attribution/allocation case and four other cases.
- The reported number of MAP cases pending on 1 January 2017 was six, which consists of two attribution/allocation cases and four other cases.

In order to have matching numbers for 31 December 2016 and 1 January 2017, the number of post-2015 cases started in 2016 was corrected.

2017 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										No. of post-2015 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2015 cases during the reporting period
			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	2	0	0	0	0	2	0	0	0	0	0	0	0	8.91
Others	4	10	0	0	2	0	0	1	0	0	0	0	11	5.93
Total	6	10	0	0	2	2	0	1	0	0	0	0	11	7.12

2018 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2018	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										No. of post-2015 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2015 cases during the reporting period
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/ Allocation	0	5	0	0	0	0	0	0	0	0	0	0	5	16.63
Others	11	11	1	0	1	0	0	3	0	0	0	1	16	14.73
Total	11	16	1	0	1	0	0	3	0	0	0	1	21	14.73

Glossary

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

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



Making Dispute Resolution More Effective – MAP Peer Review Report, Greece (Stage 2)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14