

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



Making Dispute Resolution More Effective – MAP Peer Review Report, The Slovak Republic (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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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
FTA	Forum on Tax Administration
MAP	Mutual Agreement Procedure
OECD	Organisation for Economic Co-operation and Development

Executive summary

The Slovak Republic has a relatively large tax treaty network with 70 tax treaties and has signed and ratified the EU Arbitration Convention. The Slovak Republic also has a MAP programme with modest experience in resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and 38 cases pending on 31 December 2018. Of these cases, 45% concern allocation/attribution cases. The outcome of the stage 1 peer review process was that overall the Slovak Republic met almost all the elements of the Action 14 Minimum Standard. Where it has deficiencies, the Slovak Republic worked to address them, which has been monitored in stage 2 of the process. In this respect, the Slovak Republic solved almost all of the identified deficiencies.

All but one of the Slovak Republic's tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 through 3 of Article 25 of the OECD Model Tax Convention (OECD, 2017). Its treaty network is mostly consistent with the requirements of the Action 14 Minimum Standard, except for the fact that:

- Approximately half 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 15% of its tax treaties do not contain the equivalent to Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2017) stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.
- Approximately 10% of its tax treaties do not contain the equivalent of Article 25(1) to the OECD Model Tax Convention (OECD, 2015a), whereby half of these treaties do not 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 final report on Action 14 (OECD, 2015b).

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, the Slovak Republic signed and ratified the Multilateral Instrument. Through this instrument, a number of its tax treaties have been or will be modified to fulfil the requirements under the Action 14 Minimum Standard. The Slovak Republic is in contact with a few treaty partners to strive to include the required provisions via the Multilateral Instrument. Where treaties will not be modified, upon entry into force and entry into effect of the Multilateral Instrument in spite of this, the Slovak Republic 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. Such bilateral negotiations have already been initiated, or are envisaged to be initiated for all of those treaties.

The Slovak Republic 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 roll-back of bilateral APAs and such roll-backs are granted in practice.

The Slovak Republic also meets the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 May 2018 not received any MAP request concerning the application of anti-abuse provisions. It further has in place a documented bilateral consultation process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified, although no such cases have surfaced since 1 May 2018. The Slovak Republic also has clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice, under tax treaties, the EU Arbitration Convention and the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union.

Concerning the average time needed to close MAP cases, the MAP statistics for the Slovak Republic 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	11	4	17	9.23
Other cases	15	9	3	21	76.30
Total	25	20	7	38	37.97

* 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, the Slovak Republic used as the start date the receipt of the Map case and as the end date the date of the closing letter.

The number of cases the Slovak Republic closed in 2016-18 is less than half of the number of all cases started in those years. During these years, MAP cases were on average not closed within a timeframe of 24 months (which is the pursued average for resolving MAP cases received on or after 1 January 2016), as the average time necessary was 37.97 months. This particularly concerns the resolution of other MAP cases, as the average time to close these cases is much longer (76.30 months) than the average time to close attribution/allocation cases (9.23 months). Further, the Slovak Republic's MAP inventory as on 31 December 2018 increased by 52% as compared to 1 January 2016, which concerns both attribution/allocation cases (70%) and other MAP cases (40%). While the Slovak Republic has taken some organisational measures by increasing the number of staff members in its competent authority function, further actions should be taken to ensure a timely resolution of MAP cases, which primarily concerns other MAP cases. In that regard, the Slovak Republic 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 MAP cases), so as to resolve MAP cases in a timely, efficient and effective manner.

Furthermore, the Slovak Republic meets all the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. The Slovak Republic's competent authority operates fully independently from the audit function of the tax authorities and adopts a pragmatic approach to resolve MAP cases in an effective and efficient manner. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function.

Lastly, the Slovak Republic also meets all the Action 14 Minimum Standard as regards the implementation of MAP agreements and its competent authority monitors such implementation.

References

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

Available mechanisms in the Slovak Republic to resolve tax treaty-related disputes

The Slovak Republic has entered into 70 tax treaties on income (and/or capital), 69 of which are in force.¹ These 70 treaties apply to 71 jurisdictions.² All of these treaties, except for one, provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. In addition, one of the 70 treaties provides for an arbitration procedure as a final stage to the mutual agreement procedure.³

Furthermore, the Slovak Republic 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, the Slovak Republic also adopted the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union.⁵ This directive has been implemented in the Slovak Republic's domestic legislation through Act No. 11/2019 Coll. of 5 December 2018, with effect from 1 July 2019.⁶

Under the Slovak Republic's tax treaties, the competent authority function to conduct MAP is assigned to the Ministry of Finance, which undertakes the responsibility for both attribution/allocation cases and other MAP cases, as well as requests for APAs. The competent authority of the Slovak Republic currently employs nine employees that deal with both MAP and other international tax matters.

The Slovak Republic issued detailed procedural rules on the conduct of mutual agreement procedure (“MAP”) arising from tax treaties, the EU Arbitration Convention as well as the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union in Act No. 11/2019 Coll. of 5 December 2018, with effect from 1 July 2019, available (in English) at:

www.mfsr.sk/files/archiv/59/Actonthetaxdisputeresolutionrules_190701.pdf

Further, guidance on the governance and administration of MAP was issued in February 2018, which is available (in Slovak language) at:

www.mfsr.sk/files/archiv/financny-spravodajca/4577/42/Metodicke-usmernenie-Ministerstva-financii-Slovenskej-republiky.pdf

Developments in the Slovak Republic since 1 May 2018

Developments in relation to the tax treaty network

The stage 1 peer review report of the Slovak Republic noted that it was conducting tax treaty negotiations with several jurisdictions, concerning both newly negotiated treaties as replacements of or amendments to existing treaties. The stage 1 report of the Slovak Republic further noted that it had recently signed a new tax treaty with Barbados (2015) that had not entered into force. This situation remains the same.

In addition, the Slovak Republic reported that since 1 May 2018 it has signed a new tax treaty with Oman (2018) which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty contains Article 9(2) and equivalents of the first sentence of Articles 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). The treaty does not contain the equivalents of the second sentence of Articles 25(1-3) of the OECD Model Tax Convention (OECD, 2017). This treaty has not entered into force as yet.

Furthermore, on 7 June 2017 the Slovak Republic 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. On 20 September 2018, the Slovak Republic deposited its instrument of ratification, following which the Multilateral Instrument entered into force for the Slovak Republic on 1 January 2019. With the deposit of the instrument of ratification of the Multilateral Instrument, the Slovak Republic also submitted its list of notifications and reservations to that instrument.⁷ In relation to the Action 14 Minimum Standard, the Slovak Republic reserved, pursuant to Article 16(5)(a), the right not to apply Article 16(1) of the Multilateral Instrument (concerning the mutual agreement procedure) that modifies existing treaties to allow the submission of a MAP request to the competent authorities of either contracting state.⁸ This reservation is in line with the requirements of the Action 14 Minimum Standard.

For the 20 treaties that are considered not to be in line with one or more elements of the Action 14 Minimum Standard and that have not been or will not be modified by the Multilateral Instrument, the Slovak Republic reported that it intends to update them via bilateral negotiations. The Slovak Republic clarified that its plan for making its treaty network in line with the Action 14 minimum standard consists of two steps:

- First, it would update its list of notifications and reservations to the Multilateral Instrument in order to ensure that all possible treaties may be modified by the Multilateral Instrument to make them in line with the Action 14 minimum standard. This step would also include encouraging a few treaty partners to sign the Multilateral Instrument in order to modify their respective treaties with the Slovak Republic. The Slovak Republic reported that this would be its preferred solution.
- Second, if a solution is not possible through the Multilateral Instrument, it would reach out to the treaty partners concerned to initiate negotiations on an amending protocol to the treaty.

In this regard, the Slovak Republic shared the following overview regarding the actions taken by it in respect of the 20 treaties mentioned above:

- *Seven treaty partners (Brazil, Italy, Japan, Netherlands, Norway, Sri Lanka, Tunisia):* These treaty partners concern the treaty of former Czechoslovakia that the Slovak Republic continues to apply to them and thus, bilateral renegotiations are not necessary. Irrespective, the Slovak Republic reported that negotiations are ongoing for an amending protocol with one treaty partner.
- *Two treaty partners (Bosnia and Herzegovina, Montenegro):* These treaty partners concern the treaty with the former Federal Republic of Yugoslavia that the Slovak Republic continues to apply to Montenegro and the treaty with former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina and thus, bilateral renegotiations are not necessary.

- *Six treaty partners:* The Slovak Republic intends to update its list of notifications and reservations to the Multilateral Instrument to include these treaties and expects the treaty partner to sign the Instrument to have the respective treaties modified by it. If this is seen to not be possible, the Slovak Republic would initiate bilateral negotiations.
- *Two treaty partners:* The Slovak Republic intends to update its list of notifications and reservations to the Multilateral Instrument and expects the treaty partners to revise their list of notifications and reservations to the Instrument to have the respective treaties modified by it. If this is seen to not be possible, the Slovak Republic would initiate bilateral negotiations.
- *Two treaty partners:* The Slovak Republic intends to update its list of notifications and reservations to the Multilateral Instrument to have the treaty modified by it.
- *One treaty partner:* Negotiations are ongoing for an amending protocol to make this treaty in line with the Action 14 minimum standard.

Other developments

Further to the above, the Slovak Republic reported that it has made several changes to the operation of its MAP process, owing to the adoption of Act No. 11/2019 Coll. of 5 December 2018, which provides detailed procedural rules on the conduct of the MAP arising from tax treaties, the EU Arbitration Convention as well as the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union in Act No. 11/2019 Coll. of 5 December 2018, with effect from 1 July 2019. These changes include:

- the provision of legal basis to allow the Slovak Republic's competent authority to enter into a MAP agreement of a general nature when the tax treaty concerned does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention
- the introduction of a bilateral notification process where the Slovak Republic's competent authority has to inform the other competent authority about its decision to accept or reject a MAP request along with underlying reasons
- the introduction of new information and documentation requirements for the submission of a MAP request along with the procedure to be followed when the required information is not provided by the taxpayer
- the introduction of new procedures that are applicable in relation to the implementation of MAP agreements.

Further, the Slovak Republic reported that four additional team members have been added to its competent authority dealing with both attribution/allocation cases and other MAP cases since 1 May 2018 and that it has organised internal training sessions for its team members.

Basis for the peer review process

The peer review process entails an evaluation of the Slovak Republic'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 and the

practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by the assessed jurisdiction, its peers and taxpayers. The questionnaires for the peer review process were sent to the Slovak Republic and the peers on 10 April 2018.

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, the Slovak Republic'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 the Slovak Republic 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.⁹ 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 the Slovak Republic. In this update report, the Slovak Republic 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 the Slovak Republic 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 were taken into account, even if it concerns a modification or a replacement of an existing treaty. Furthermore, the treaty analysis also takes into account the treaties with former Yugoslavia and the former Republic of Yugoslavia concerning Serbia and Montenegro for those jurisdictions to which these treaties are still being or to be applied by the Slovak Republic. As it concerns the same tax treaties that are applicable to multiple jurisdictions, each treaty is only counted as one treaty for this purpose. The treaty analysis also takes into account the tax treaties of former Czechoslovakia that the Slovak Republic continues to apply to Austria, Brazil, China (People's Republic of), Cyprus, Denmark, France, Germany, Greece, India, Italy, Japan, Luxembourg, the Netherlands, Nigeria, Norway, Spain, Sri Lanka, Sweden, Tunisia and the United Kingdom. Reference is made to Annex A for the overview of the Slovak Republic's tax treaties regarding the mutual agreement procedure.

Timing of the process and input received from peers and taxpayers

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

The period for evaluating the Slovak Republic's implementation of the Action 14 Minimum Standard for stage 1 ranged 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 ten peers provided input during stage 1: Austria, Belgium, Canada, Denmark, Germany, Italy, Spain, Switzerland, Turkey and the United Kingdom. Out of these ten peers, five had MAP cases with the Slovak Republic that started in 2016 or 2017. These five peers represented only a low percentage (approximately a third) of post-2015 MAP cases in the Slovak Republic’s inventory that started in 2016 or 2017. During stage 2, the same peers, except for the United Kingdom provided input. For this stage, these peers represent approximately 45% of post-2015 MAP cases in the Slovak Republic’s MAP inventory that started in 2016, 2017 or 2018.¹⁰ Generally, most peers indicated having a good relationship with the Slovak Republic’s competent authority with regard to MAP and almost all of them emphasised the ease of communication in resolving disputes, although the Slovak Republic is for almost all of these peers not a significant treaty partner. Specifically with respect to stage 2, all peers that provided input reported that the update report of the Slovak Republic fully reflects the experiences these peers have had with the Slovak Republic since 1 May 2018 and/or that there was no addition to previous input given.

Input by the Slovak Republic and co-operation throughout the process

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

- MAP profile¹¹
- MAP statistics¹² according to the MAP Statistics Reporting Framework (see below).

Concerning stage 2 of the process, the Slovak Republic submitted its update report on time and the information included therein was extensive. The Slovak Republic was very co-operative during stage 2 and the finalisation of the peer review process.

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

Overview of MAP caseload in the Slovak Republic

The analysis of the Slovak Republic’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2018 (“**Statistics Reporting Period**”). According to the statistics provided by the Slovak Republic, 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	11	4	17
Other cases	15	9	3	21
Total	25	20	7	38

General outline of the peer review report

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

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

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementation of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).¹³ Apart from analysing the Slovak Republic’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by the Slovak Republic during stage 1 and stage 2. Furthermore, the report depicts the changes adopted and plans shared by the Slovak Republic 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 the Slovak Republic 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 included 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 the Slovak Republic 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 the Slovak Republic has entered into are available at: www.finance.gov.sk/en/Default.aspx?CatID=285. The Slovak Republic continues to apply the tax treaties of former Czechoslovakia to Austria, Brazil, China (People’s Republic of), Cyprus,* Denmark, France, Germany, Greece, India, Italy, Japan, Luxembourg, the Netherlands, Nigeria, Norway, Spain, Sri Lanka, Sweden, Tunisia and the United Kingdom. The tax treaties that are signed but have not yet entered into force are with Barbados (2015) and Oman (2018). A treaty with Mongolia (1978) that was included in the analysis in the stage 1 report has been excluded since the Slovak

Republic was informed by the treaty partner that it does not consider the treaty to be signed and in effect. Reference is made to Annex A for the overview of the Slovak Republic’s tax treaties.

* 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.

2. The Slovak Republic continues to apply the 2001 tax treaty with the former Federal Republic of Yugoslavia concerning Serbia and Montenegro to both (i) Serbia and (ii) Montenegro. Furthermore, the Slovak Republic also continues to apply the 1981 tax treaty between Czechoslovakia and former Yugoslavia to Bosnia and Herzegovina.
3. This concerns the tax treaty with Switzerland.
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: <http://eur-lex.europa.eu/eli/dir/2017/1852/oj>.
6. Available at: www.mfsr.sk/files/archiv/59/Actonthetaxdisputeresolutionrules_190701.pdf.
7. www.oecd.org/tax/treaties/beps-mli-position-slovak-republic-instrument-deposit.pdf.
8. Ibid. This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, the Slovak Republic reserves the right for the first sentence of Article 16(1) not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under each of its Covered Tax Agreements (other than a Covered Tax Agreement that permits a person to present a case to the competent authority of either Contracting Jurisdiction), where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of the Contracting Jurisdiction of which the person is a resident or, if the case presented by that person comes under a provision of a Covered Tax Agreement relating to non-discrimination based on nationality, to that of the Contracting Jurisdiction of which that person is a national; and the competent authority of that Contracting Jurisdiction will implement a bilateral notification or consultation process with the competent authority of the other Contracting Jurisdiction for cases in which the competent authority to which the mutual agreement procedure case was presented does not consider the taxpayer’s objection to be justified”.
9. Available at: www.oecd.org/tax/beps/making-dispute-resolution-more-effective-map-peer-review-report-slovak-republic-stage-1-9789264309890-en.htm.
10. The breakdown of treaty partners on a jurisdiction-by-jurisdiction basis is only available for post-2015 cases under the MAP Statistics Reporting Framework. All cases falling within the *de minimis* rule do not fall in this percentage.
11. Available at: www.oecd.org/tax/dispute/country-map-profiles.htm.
12. The MAP statistics of the Slovak Republic are included in Annexes B and C of this report.
13. 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.

References

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

Part A

Preventing disputes

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

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

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

Current situation of the Slovak Republic’s tax treaties

2. Out of the Slovak Republic’s 70 tax treaties, 67 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 The remaining three treaties are considered not to have the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) since two tax treaties do not include the term “interpretation” and the other tax treaty does not contain both the terms “doubts” as well as “interpretation”.

3. The Slovak Republic reported that irrespective of whether the applicable tax treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), there are under its domestic legislation and/or administrative practices no obstructions to resolve any difficulties or doubts regarding the interpretation or application of its tax treaties. The Slovak Republic reported in this regard that Article 21 of Act No. 11/2019 Coll. of 5 December 2018, having effect from 1 July 2019, gives its competent authority the legal basis to enter into a general MAP even when this is not provided in a tax treaty.

4. Of the peers that provided input in relation to their tax treaty with the Slovak Republic, six peers indicated in a general manner that their tax treaty with the Slovak Republic will be modified either via the Multilateral Instrument and/or via bilateral negotiations if it is not in line with the Action 14 Minimum Standard. With regard to element A.1, the relevant tax treaties are already in line with the Minimum Standard. An additional peer indicated that its tax treaty with the Slovak Republic is already in line with the Action 14 Minimum Standard, which has been confirmed by the above analysis.

5. For the three treaties identified that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention, one relevant peer provided input and acknowledged that its tax treaty with the Slovak Republic is not in line with element A.1 and will not be modified by the Multilateral Instrument. However, since the Slovak Republic revised its list of notifications and reservations to the Multilateral Instrument upon deposit of its instrument of ratification, this treaty will now be modified by the Multilateral Instrument upon entry into force.

Recent developments

Bilateral modifications

6. The Slovak Republic signed a new treaty since 1 May 2018, which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty contains a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). This treaty has not entered into force as yet. The effects of this newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

7. The Slovak Republic signed the Multilateral Instrument and has deposited its instrument of ratification on 20 September 2018. The Multilateral Instrument has entered into force for the Slovak Republic on 1 January 2019.

8. 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).

9. With regard to the three 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), the Slovak Republic listed all of them as a covered tax agreement under the Multilateral Instrument and made for all, pursuant to Article 16(6)(d)(i), a notification that they do not contain a provision described in Article 16(4)(c)(i). All of these treaty partners are signatories to the Multilateral Instrument, listed their treaty with the Slovak Republic as a covered tax agreement and also made a notification on the basis of Article 16(6)(d)(i).

10. Of these three treaty partners, two already deposited their instrument of ratification, following which the Multilateral Instrument has entered into force for the treaty between the Slovak Republic and these treaty partners. Therefore, at this stage, the Multilateral Instrument has modified two treaties to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). For the remaining treaty, the instrument will, upon entry into force for this treaty, modify it to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

Peer input

11. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Slovak Republic. One of these peers concerns a treaty partner to one of the treaties identified above that does not contain Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), but this peer did not provide input in relation to element A.1.

Anticipated modifications

12. The Slovak Republic reported that 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]	-	-

[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.

13. 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.

The Slovak Republic’s APA programme

14. The Slovak Republic reported it has implemented an APA programme, which is outlined in the Internal Regulatory Guideline No. 35/2016 and pursuant to which, it is authorised to enter into unilateral, bilateral and multilateral APAs. The legal basis of the bilateral APA programme is to be found in the MAP article of the underlying tax treaty as well as Section 17(7) and Section 18(4) and (5) of Act. No. 595/2003 Coll. on income taxes.

15. The Slovak Republic has published guidance on APAs in the Internal Regulatory Guideline 35/2016 of 23 June 2016 (“**APA Guidance**”) (in Slovak language), which can be found at:

www.financnasprava.sk/img/pfsedit/Dokumenty_PFS/Profesionalna_zona/Dane/Metodicke_pokyny/Medzinarodne_zdanovanie/2014.09.22_MP_k_APA.pdf

16. The Slovak Republic further reported that an APA request has to be filed at least 60 days prior to the fiscal year for which the APA should take effect according to Section 18(4) of the Income Tax Act. Paragraph 9 of the APA Guidance stipulates that as per Section 18(4),

an APA cannot cover more than five fiscal years, but that typically, bilateral APAs run for a period of three to five years with an option of renewal for a subsequent period. In addition, the Slovak Republic charges fees for bilateral and multilateral APAs as per Section 18(4) of Act. No. 595/2003 Coll. on income taxes. These fees are EUR 10 000 in case of a unilateral APA and EUR 30 000 in case of a bilateral APA.

Roll-back of bilateral APAs

17. The Slovak Republic reported that it is, pursuant to Section 18(4) and (5) of Act. No. 595/2003 Coll. on income taxes, possible to obtain a roll-back of bilateral APAs in appropriate cases. The Slovak Republic clarified that any fiscal year prior to the fiscal year that is specified in the initial request for an APA is considered as a roll-back year. Granting of a roll-back is subject to domestic time limits and requires that facts and circumstances of the case in the years for which a roll-back is requested are identical to the years covered by the initial APA.

Recent developments

18. There are no recent developments with respect to element A.2.

Practical application of roll-back of bilateral APAs

19. The Slovak Republic publishes statistics on APAs on the website of the EU JTPF.³

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

20. The Slovak Republic reported having received five requests for bilateral APAs in the period 1 January 2016-30 April 2018, which are all still being processed. None of these requests included a request for a roll-back.

21. All peers that provided input indicated that they have not received a request for a roll-back of bilateral APAs concerning the Slovak Republic in the period 1 January 2016-30 April 2018, two of them thereby noting not having received any request for a bilateral APA either since that date.

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

22. The Slovak Republic reported having received two requests for a bilateral APA since 1 May 2018, which did not include a request for roll-back. These requests are presently under consideration.

23. All but one peer that provided input during stage 1 stated in stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

24. The Slovak Republic indicated that it does not anticipate any modifications in relation to element A.2.

Conclusion

	Areas for improvement	Recommendations
[A.2]	-	-

Notes

1. These 67 tax treaties include the treaty with the former Federal Republic of Yugoslavia concerning Serbia and Montenegro that the Slovak Republic continues to apply to both (i) Serbia and (ii) Montenegro as well as the tax treaty with former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina.
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: http://ec.europa.eu/taxation_customs/sites/taxation/files/2016_jptf_apr_statistics_en.pdf. The most recent statistics published are up to 2017.

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.

25. 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 the Slovak Republic's tax treaties

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

26. None of the Slovak Republic's 70 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 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. Furthermore, 53 tax 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), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident.

27. The remaining 17 tax treaties can be categorised as follows:

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (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 authority of the contracting state of which they are resident	15
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report (OECD, 2015b), whereby taxpayers can only submit a MAP request to the competent authority of the contracting state of which they are a resident and only where there is double taxation contrary to the principles of the agreement and the taxpayer cannot submit such request irrespective of domestic available remedies	1
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 the taxpayer can submit a MAP request irrespective of domestic available remedies, but whereby pursuant to a protocol provision the taxpayer is also required to initiate these remedies when submitting a MAP request.	1

28. The 15 tax treaties mentioned in the first row of the table above 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), 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 13 of those 15 tax 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 (one tax treaty)
- the non-discrimination provision of the relevant tax treaty only covers nationals that are resident of one of the contracting states. Therefore, it is logical to only allow for the submission of MAP requests to the state of which the taxpayer is a resident (12 tax treaties¹).

29. The non-discrimination provisions in the remaining two tax treaties are almost identical to Article 24(1) of the OECD Model Tax Convention (OECD, 2017) and apply to both nationals that are and are not resident of one of the contracting states. The omission of the last part of Article 25(1), first sentence is then, not clarified by a limited scope of application of the non-discrimination article. These treaties, therefore, are considered not to be in line with this part of element B.1.

30. The tax treaty mentioned in the second row of the table above does not allow a submission of a MAP request in the state of which the taxpayer is a national, where the case comes under the non-discrimination article and does not provide that the taxpayer can submit a MAP request irrespective of the remedies provided by the domestic laws of the contracting states and the provision requires double taxation instead of taxation not in accordance with the treaty. Therefore, this tax treaty is considered not to be in line with this part of element B.1.

31. With respect to the tax treaty mentioned in the last row of the table, the provision incorporated in the protocol to this tax treaty reads:

... with respect to paragraph 1 of Article 25, the term “irrespective of the remedies provided by the domestic law” shall be construed as meaning that the commencement of a mutual agreement procedure shall not replace the litigation procedure under domestic law, which domestic procedure must, in any case, first have been instituted,

where the dispute concerns an application of taxes not in accordance with the Convention.

32. 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, even though the provision contained in the MAP article 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). Therefore, this tax 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

33. Out of the Slovak Republic's 70 tax treaties, 50 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 three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.²

34. The remaining 20 tax treaties that do not contain such provision can be categorised as follows:

Provision	Number of tax treaties
No filing period for a MAP request	13*
Filing period more than 3 years for a MAP request (4 years)	1
Filing period less than 3 years for a MAP request (2 years)	5
Reference is made to domestic law for the period of filing a MAP request	1

* These 14 tax treaties include the treaty with former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina.

35. The tax treaty mentioned in the last row of the table above does not specify the starting point for the filing period of MAP requests, as it omits the language “from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention”. In addition, for the period of filing a MAP request, reference is made to the “domestic laws of the Contracting States”. As this time period could potentially be shorter than three years the tax treaty is considered not having the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Peer input

36. Of the peers that provided input in relation to their tax treaty with the Slovak Republic, six peers indicated in a general manner that their tax treaty with the Slovak Republic will be modified either via the Multilateral Instrument and/or via bilateral negotiations if it is not in line with the Action 14 Minimum Standard. With regard to element B.1, three of the five relevant tax treaties are already in line with the Minimum Standard. Regarding the remaining two tax treaties, the peer input is discussed below. An additional peer indicated that its tax treaty with the Slovak Republic is already in line with the Action 14 Minimum Standard, which has been confirmed by the above analysis.

37. For the eight tax treaties identified that do not contain the equivalent 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), three relevant peers provided input. These peers indicated in a general manner that their tax treaty with the Slovak Republic will be modified via the Multilateral Instrument, which is for one of these peers, only the case regarding Art. 25(1), second sentence, of the OECD Model Tax convention (OECD, 2017).

Practical application

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

38. As noted in paragraphs 26-32 above, in all but two of the Slovak Republic's tax treaties taxpayers can file a MAP request irrespective of domestic remedies. The Slovak Republic reported that access to MAP is available regardless of whether for the relevant case under review domestic available remedies are still pending or have already been concluded. This position is confirmed in Article 18(1) of Act No. 11/2019 Coll. of 5 December 2018.

39. However, the Slovak Republic further clarified that its competent authority cannot derogate from a final court decision in MAP and therefore it will only seek to resolve the MAP case by having the treaty partner providing for correlative relief in line with the final court decision.

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

40. The Slovak Republic reported that even in the absence of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), it applies a three year time limit from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty. This position is confirmed in Article 18(1) of Act No. 11/2019 Coll. of 5 December 2018 and paragraph 3.1.3 of the Slovak Republic's MAP Guidance.

Recent developments

Bilateral modifications

41. The Slovak Republic signed a new treaty since 1 May 2018, which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty contains 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). However, this treaty does not contain a provision that is equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty has not entered into force as yet. The effects of this newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

42. The Slovak Republic signed the Multilateral Instrument and has deposited its instrument of ratification on 20 September 2018. The Multilateral Instrument has entered into force for the Slovak Republic on 1 January 2019.

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

43. 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.

44. The Slovak Republic reserved, pursuant to Article 16(5)(a) of the Multilateral Instrument, the right not to apply the first sentence of Article 16(1) of that instrument to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.³ In this reservation, the Slovak Republic declared to ensure that all of its tax treaties, which are considered covered tax agreements for purposes of the Multilateral Instrument, 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). It subsequently declared to implement a bilateral notification or consultation process for those cases in which its competent authority considers the objection raised by a taxpayer in its MAP request as not being justified. The introduction and application of such process will be further discussed under element B.2.

45. In view of the above, following the reservation made by the Slovak Republic, those four treaties identified in paragraphs 26-32 above 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), will not be modified via the Multilateral Instrument with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.

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

46. 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).

47. With regard to the five tax treaties identified in paragraph 34 above that contain a filing period for MAP requests of less than three years, the Slovak Republic listed only three of them as a covered tax agreement under the Multilateral Instrument and made for all, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). All three treaty partners are signatories to the Multilateral Instrument, listed their treaty with the Slovak Republic as a covered tax agreement and also made a notification on the basis of Article 16(6)(b)(i).

48. Of these three treaty partners, two already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between the Slovak Republic and these treaty partners, and therefore has modified these treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the remaining treaty, the instrument will, upon entry into force for this treaty, modify it to include this equivalent.

49. With regard to the tax treaty identified in paragraph 34 above that includes a provision that is considered not the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as it refers to domestic laws of the contracting state for the filing period of for MAP requests, the Slovak Republic listed this treaty as a covered tax agreement under the Multilateral Instrument, but did not make, pursuant to Article 16(6)(b)(i), a notification that it does not contain a provision described in Article 16(4)(a)(ii). The Slovak Republic also did not make, pursuant to Article 16(6)(b)(ii), a notification that this treaty contains such a provision. The relevant treaty partner also listed its treaty with the Slovak Republic under the Multilateral Instrument and did not make a notification on the basis of either Article 16(6)(b)(i) or Article 16(6)(b)(ii). In this situation, Article 16(6)(b)(i) of the Multilateral Instrument stipulates that the second sentence of Article 16(1) – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention – will supersede the provision of the covered tax agreement to the extent it is incompatible with that second sentence. Since the provision in this treaty may lead to a filing period shorter than three years, the provision of the covered tax agreement is considered to be incompatible with the second sentence of Article 16(1). Therefore, at this stage, the Multilateral Instrument will, upon entry into force, supersede the treaty to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

50. As the four tax treaties that do not 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) and which will not be modified by the Multilateral Instrument concern treaty partners to treaties of the former Czechoslovakia that the Slovak Republic continues to apply to these treaty partners, renegotiations are not necessary.

51. The Slovak Republic reported that for the two tax treaties that do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument, the following actions are being taken or planned:

- For one treaty, it intends to update its list of notifications and reservations to the Multilateral Instrument to have the treaty modified by it.
- For one treaty, it intends to update its list of notifications and reservations to the Multilateral Instrument to include this treaty and expects the treaty partner to sign the Instrument to have the treaty modified by it. If this is seen to not be possible, the Slovak Republic would initiate bilateral negotiations.

Peer input

52. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Slovak Republic. One of these peers concerns a treaty partner to one of the treaties identified above that does not contain 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). This peer stated that it has proposed to the Slovak Republic to enter into a memorandum of understanding to address the issue that taxpayers have to initiate domestic remedies when submitting a MAP request.

Anticipated modifications

53. The Slovak Republic reported that it will seek to include Article 25(1) of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the Action 14 final report (OECD, 2015b) in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
	<p>Three out of 70 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 or as amended by that report (OECD, 2015b).</p> <p>These treaties will not be modified by the Multilateral Instrument to include the required provision. For these treaties, no actions have been taken nor are any actions required to be taken.</p>	<p>As the three treaties that do not contain the equivalent of 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 or as amended by that report (OECD, 2015b) are treaties of former Czechoslovakia that the Slovak Republic continues to apply to Japan, the Netherlands and Sri Lanka, the Slovak Republic should ensure that, once it enters into negotiations with these treaty partners, it includes the required provision</p> <p>This concerns a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention either:</p> <ol style="list-style-type: none"> as amended by the Action 14 final report (OECD, 2015b); or as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
[B.1]	<p>Five out of 70 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. Of these five treaties:</p> <ul style="list-style-type: none"> Two have been modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). One is expected to be superseded by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). Two will not be modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these treaties, the relevant treaty partners have been or will be engaged by the Slovak Republic with a view to have the treaty modified by the Multilateral Instrument. Where this is not possible, it would initiate bilateral negotiations. 	<p>For the two treaties that have not been or will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), the Slovak Republic should continue to work in accordance with its plan to strive to include the required provision via the Multilateral Instrument and where this is not possible, request via bilateral negotiations the inclusion of the required provision.</p>

	Areas for improvement	Recommendations
[B.1]	<p>One out of 70 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.</p> <p>This treaty is expected to be modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) but not as regards the first sentence. For this treaty, no actions have been taken nor are any actions required to be taken.</p>	<p>As the treaty that does not contain the equivalent of Article 25(1), of the OECD Model Tax Convention (OECD, 2015a) either as it read prior to the adoption of the Action 14 final report or as amended by that report (OECD, 2015b) and that will be modified by the Multilateral Instrument to only include the second sentence of Article 25(1) of the OECD Model Tax Convention (2017), is a treaty of former Czechoslovakia that the Slovak Republic continues to apply to Italy, the Slovak Republic should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p> <p>This concerns a provision that is equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2015a) either:</p> <ol style="list-style-type: none"> as amended by the Action 14 final report (OECD, 2015b); or as it read prior to the adoption of the 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).

54. 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:

- of either treaty partner; or, in the absence of such provision
- 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

55. As discussed under element B.1, out of the Slovak Republic's 70 tax 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, none of these tax treaties will,

following the Slovak Republic’s reservation according to Article 16(5)(a) of the Multilateral Instrument, be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

56. The Slovak Republic reported that it has recently introduced a documented bilateral notification process based on which the Slovak Republic’s competent authority has to inform the other competent authority about its decision to accept or reject a MAP request along with underlying reasons. This is provided in Article 3(5) (applicable owing to Article 19 to disputes involving tax treaties), Article 18(2) of Act No. 11/2019 Coll. of 5 December 2018, which has been in effect from 1 July 2019. The Slovak Republic further reported that its competent authority staff have been briefed about these domestic law changes and will apply the documented bilateral notification process for MAP cases going forward.

Recent developments

57. In the stage 1 report, it was noted that the Slovak Republic had not yet introduced a bilateral consultation or notification process which allowed the other competent authority concerned to provide its views on the case when the Slovak Republic’s competent authority considered the objection raised in the MAP request not to be justified.

58. As detailed above, the Slovak Republic has, with effect from July 2019, introduced a bilateral notification process that is applicable in situations where its competent authority considers the objection raised in the MAP request not to be justified. Therefore, the recommendation made in stage 1 has been addressed.

Practical application

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

59. The Slovak Republic reported that in the period 1 January 2016-30 April 2018 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2016 and 2017 MAP statistics submitted by the Slovak Republic also show that none of its MAP cases was closed with the outcome “objection not justified”.

60. All peers that provided input indicated not being aware of any cases for which the Slovak Republic’s competent authority denied access to MAP in the period January 2016-30 April 2018. They also reported not having been consulted/notified during the Review Period of a case where the Slovak Republic’s competent authority considered the objection raised in a MAP request as not justified, which can be clarified by the fact that no such instances have occurred in the Slovak Republic during this period.

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

61. The Slovak Republic reported that since 1 May 2018 its competent authority also has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was being not justified. The 2018 MAP statistics submitted by the Slovak Republic also show that none of its MAP cases was closed with the outcome “objection not justified”.

62. All but one peer that provided input during stage 1 also indicated in stage 2 that since 1 May 2018 they are not being aware of any cases for which the Slovak Republic’s competent authority denied access to MAP. They also reported not having been consulted/

notified in such cases, which can be clarified by the fact that no such instances have occurred in the Slovak Republic since that date.

Anticipated modifications

63. The Slovak Republic did not indicate that it anticipates any modifications in relation to element B.2.

Conclusion

	Areas for improvement	Recommendations
[B.2]	-	-

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

Jurisdictions should provide access to MAP in transfer pricing cases.

64. 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

65. Out of the Slovak Republic's 70 tax treaties, 45 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) requiring their competent authorities to make a corresponding adjustment in case a transfer pricing adjustment is made by the treaty partner. Furthermore, 19 tax treaties do not contain such a provision that is based on or is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017).⁴ The remaining six treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but deviate from this provision for the following reasons:

- In one treaty, a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) is contained. However, this tax treaty also contains a protocol provision which stipulates that a contracting state is not obliged to make a corresponding adjustment until consultations have taken place with the contracting state making the adjustment and insofar the first state agrees with such a corresponding adjustment.
- In five treaties, the term "may" is used instead of "shall" when it concerns the granting of a corresponding adjustment.

66. The Slovak Republic 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.

67. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in the Slovak Republic's tax treaties and irrespective

of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B3, as translated from the Action 14 Minimum Standard, the Slovak Republic indicated that it will always provide access to MAP for transfer pricing cases and that it will unilaterally provide for corresponding adjustments even when the underlying tax treaty does not include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017). Section 17(6) of the Income Tax Act in the Slovak Republic sets forth that a corresponding adjustment can be made if there is a tax treaty in place and insofar the tax administration of the treaty partner has made a transfer pricing adjustment that is in line with the arm's length principle as set forth in Section 18(1) of the Income Tax Act.

68. The Slovak Republic's MAP Guidance, in paragraph 2.1.3, explains the steps in a MAP process, thereby noting that the rules of the MAP provision also apply to double taxation cases arising in the transfer pricing area.

Recent developments

Bilateral modifications

69. The Slovak Republic signed a new treaty since 1 May 2018, which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty contains a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). This treaty has not entered into force as yet. The effects of this newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

70. The Slovak Republic signed the Multilateral Instrument and has deposited its instrument of ratification on 20 September 2018. The Multilateral Instrument has entered into force for the Slovak Republic on 1 January 2019.

71. 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 to not 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]).

72. The Slovak Republic 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). With regard to the 25 treaties identified in paragraph 65 above that are considered not to contain a provision such equivalent, the Slovak Republic listed all of them as a covered tax agreement under the Multilateral Instrument and included seven of them in the list of treaties for which the Slovak Republic has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument. Furthermore, the Slovak Republic did not make a notification on the basis of Article 17(4) for the remaining 18 treaties. For these 18 treaties, three treaty partners are not a signatory to the Multilateral Instrument and one has not listed its treaty with the Slovak Republic under that instrument.⁵ Of the remaining 14 treaty partners, one has, on the basis of Article 17(3), reserved the right not to apply Article 17(2).

73. Nine of the remaining 13 treaty partners have already deposited their instruments of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between the Slovak Republic and these treaty partners, and therefore has superseded the relevant treaty provision to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but only to the extent that the provision contained in these treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1). The provision in the remaining four treaties will, upon the entry into force of the Multilateral Instrument for these treaties, be superseded by the Multilateral Instrument to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but only to the extent that the provision contained in these treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).

Application of legal and administrative framework in practice

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

74. The Slovak Republic reported that in the period 1 January 2016-30 April 2018, it has not denied access to MAP on the basis that the case concerned a transfer pricing case.

75. All peers that provided input indicated not being aware of a denial of access to MAP by the Slovak Republic in the period 1 January 2016-30 April 2018 on the basis that the case concerned was a transfer pricing case.

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

76. The Slovak Republic reported that since 1 May 2018 for none of the MAP requests it received it has denied access to MAP on the basis that the case concerned was a transfer pricing case.

77. All but one peer that provided input during stage 1 stated in stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

78. The Slovak Republic 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. Other than this, the Slovak Republic did not indicate that it anticipates any modifications in relation to element B.3.

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.

79. 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

80. None of the Slovak Republic's 70 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 the Slovak Republic 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 are in conflict with the provisions of a tax treaty.

81. The Slovak Republic reported that it will grant access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or when 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 this respect, its MAP Guidance clarifies in paragraph 2.3.5 that the application of domestic anti-abuse provisions is not an obstacle to initiate a MAP.

Recent developments

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

Practical application

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

83. The Slovak Republic reported that in the period 1 January 2016-30 April 2018 it did not deny access to MAP 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.

84. All peers that provided input indicated not being aware of cases that have been denied access to MAP in the Slovak Republic 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)

85. The Slovak Republic reported that 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.

86. All but one peer that provided input during stage 1 stated in stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

87. The Slovak Republic indicated that it does not anticipate any modifications in relation to element B.4.

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.

88. 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

89. The Slovak Republic reported that according to its domestic law it is not possible that taxpayers and the tax administration enter into a settlement agreement during the course of or after ending of an audit.

Administrative or statutory dispute settlement/resolution process

90. The Slovak Republic also reported that it has no 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.

Recent developments

91. There are no recent developments with respect to element B.5.

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

92. The Slovak Republic reported that it has in the period 1 January 2016-30 April 2018 not denied access to MAP for cases where the taxpayer and the tax administration have entered into an audit settlement, which is explained by the fact that such settlements are not possible in the Slovak Republic.

93. All peers that provided input indicated not being aware of a denial of access to MAP in the Slovak Republic in the period 1 January 2016-30 April 2018 in cases where there was an audit settlement between the taxpayer and the tax administration.

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

94. The Slovak Republic 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 the tax administration since such settlements are still not possible in the Slovak Republic.

95. All but one peer that provided input during stage 1 stated in stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

96. The Slovak Republic indicated that it does not anticipate any modifications in relation to element B.5.

Conclusion

	Areas for improvement	Recommendations
[B.5]	-	-

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

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

97. 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

98. The information and documentation the Slovak Republic requires taxpayers to include in a request for MAP assistance are discussed under element B.8.

99. The Slovak Republic reported that its domestic law was revised with effect from 1 July 2019 to make new rules applicable for when a MAP request is incomplete. The Slovak Republic noted that the information provided has to be complete for its competent authority to accept a MAP request. This is clarified in Article 3(2) of Act No. 11/2019 Coll. of 5 December 2018 (applicable owing to Article 19 to disputes involving tax treaties).

100. Further, Article 3(3) of Act No. 11/2019 Coll. of 5 December 2018 clarifies that the Slovak Republic's competent authority may request for additional information within three months from the filing of the MAP request. The taxpayer is then required to provide such information within three months from such information request. Article 3(8) clarifies that if the required information is not provided within this time, then the competent authority shall reject the MAP request. Similar provisions are included in Article 13 of the Tax Procedure Code as well.⁶

Recent developments

101. The Slovak Republic's stage 1 report discussed the procedure that was previously applicable when a MAP request was incomplete. As detailed above, the Slovak Republic's domestic law was revised with effect from July 2019 to establish the rules currently applicable when a MAP request is incomplete.

Practical application

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

102. The Slovak Republic 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.

103. All peers that provided input indicated not being aware of a limitation of access to MAP by the Slovak Republic 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)

104. The Slovak Republic reported that since 1 May 2018 its competent authority has also not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

105. All but one peer that provided input during stage 1 stated during stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

106. The Slovak Republic 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.

107. 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 the Slovak Republic's tax treaties

108. Out of the Slovak Republic's 70 tax treaties, 59 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.⁷ The remaining 11 tax treaties do not contain a provision that is based on or equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

109. One of the peers that provided input indicated that its tax treaty with the Slovak Republic is already in line with the Action 14 Minimum Standard, which has been confirmed by the performed analysis. Five other peers indicated in a general manner that their tax treaty with the Slovak Republic will be modified either via the Multilateral Instrument and/or via bilateral negotiations if it is not in line with the Action 14 Minimum Standard. With regard to element B.7 the relevant tax treaties, however, are already in line with this standard with only one exception, which is discussed below.

110. Of the peers that provided input in relation to their tax treaty with the Slovak Republic, six indicated in a general manner that their tax treaty with the Slovak Republic will be modified either via the Multilateral Instrument and/or via bilateral negotiations if it is not in line with the Action 14 Minimum Standard. With regard to element B.7, the relevant tax treaties are already in line with this standard. An additional peer indicated that its tax treaty with the Slovak Republic is already in line with the Action 14 Minimum Standard, which has been confirmed by the above analysis.

111. For the 11 tax treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), two relevant peers provided input. These peers indicated in a general manner that their tax treaties with the Slovak Republic will be modified via the Multilateral Instrument, which is actually the case with regard to element B.7.

Recent developments

Bilateral modifications

112. The Slovak Republic signed a new treaty since 1 May 2018, which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. However, this treaty does not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty has not entered into force as yet. The effects of this newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

113. The Slovak Republic signed the Multilateral Instrument and has deposited its instrument of ratification on 20 September 2018. The Multilateral Instrument has entered into force for the Slovak Republic on 1 January 2019.

114. 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).

115. With regard to the 11 tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), the Slovak Republic listed ten treaties as a covered tax agreement under the Multilateral Instrument and for made for all, 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 10 treaty partners, three are not a signatory to the Multilateral Instrument and one did not list its treaty with the Slovak Republic as a covered tax agreement. All remaining six treaty partners also listed their treaty with the Slovak Republic as a covered tax agreement and made such notification.

116. Of the six treaty partners mentioned above, five have already deposited their instrument of ratification, following which the Multilateral Instrument has entered into force for the treaty between the Slovak Republic and these treaty partners. Therefore, at this stage, the Multilateral Instrument has modified five treaties to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the remaining treaty, the instrument will, upon entry into force for this treaty, modify it to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

117. As two of the five tax treaties that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument concern treaty partners to treaties of the former Czechoslovakia that the Slovak Republic continues to apply to these treaty partners, renegotiations are not necessary. However, negotiations on an amending protocol are pending with one treaty partner.

118. The Slovak Republic reported that for the remaining three tax treaties that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument, the following actions are being taken or planned:

- For one treaty, it intends to update its list of notifications and reservations to the Multilateral Instrument to have the treaty modified by it.
- For two treaties, it intends to update its list of notifications and reservations to the Multilateral Instrument to include these treaties and expects the treaty partners to sign the Instrument to have the respective treaties modified by it. If this is seen to not be possible, the Slovak Republic would initiate bilateral negotiations.

Peer input

119. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with the Slovak Republic. One of these peers concerns 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), but this peer did not provide input in relation to element B.7.

Anticipated modifications

120. The Slovak Republic reported that 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>11 out of 70 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these 11 treaties:</p> <ul style="list-style-type: none"> • Five have been modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One is expected to be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). • Five will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties: <ul style="list-style-type: none"> - For three, the relevant treaty partners have been or will be engaged by the Slovak Republic with a view to have the treaty modified by the Multilateral Instrument. Where this is not possible, it would initiate bilateral negotiations. - For one, negotiations on an amending protocol are pending. - For one, no actions have been taken nor are any actions planned to be taken. 	<p>Two of the five treaties 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 is a treaty of former Czechoslovakia that the Slovak Republic continues to apply to Brazil and Tunisia. For one treaty, negotiations on an amending protocol are ongoing. In that regard, the Slovak Republic should complete negotiations for and sign the amending protocol as soon as possible to ensure the inclusion of the required provision. For the other treaty partner, the Slovak Republic should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p> <p>For the remaining three treaties that have not been or 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), the Slovak Republic should continue to work in accordance with its plan to strive to include the required provision via the Multilateral Instrument and where this is not possible, request via bilateral negotiations the inclusion of the required provision.</p>

[B.8] Publish clear and comprehensive MAP guidance

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

121. 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.

The Slovak Republic's MAP guidance

122. The Slovak Republic issued detailed procedural rules on the conduct of the MAP arising from tax treaties, the EU Arbitration Convention as well as the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union in Act No. 11/2019 Coll. of 5 December 2018, with effect from 1 July 2019, available (in English) at:

www.mfsr.sk/files/archiv/59/Actonthetaxdisputeresolutionrules_190701.pdf

123. Further, in February 2018 the Slovak Republic has issued guidelines for the mutual agreement procedure ("**MAP Guidance**") in accordance with Article 160(2) of the Tax Procedure Code, which is legally binding for the Slovak Republic's competent authority. This guidance is (in Slovak language) available at:

www.mfsr.sk/files/archiv/financny-spravodajca/4577/42/Metodicke-usmernenie-Ministerstva-financii-Slovenskej-republiky.pdf

124. This guidance applies to tax treaties it entered into as well as the EU Arbitration Convention and contains a general outline of the legal basis of MAP under both instruments, their scope of application as well as an outline of the MAP process.

125. Act No. 11/2019 Coll. of 5 December 2018 contains detailed information on:

- a. the manner and form in which the taxpayer should submit its MAP request and the timelines for such submission
- b. the specific information and documentation that should be included in a MAP request (see also below)
- c. how the MAP is operated by the Slovak Republic's competent authority and how the process functions in terms of timing and the role of the competent authorities
- d. the process for implementation of MAP agreements
- e. rights and role of taxpayers in the process
- f. costs connected with the MAP process
- g. relationship with domestic available remedies
- h. the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers.

126. In addition to these rules contained in its domestic law, the Slovak Republic's MAP guidance contains information on:

- a. contact information of the competent authority or the office in charge of MAP cases
- b. access to MAP in transfer pricing cases and instances of application of anti-abuse provisions
- c. exchange of information in the MAP process and confidentiality of information.

127. The Slovak Republic reported in this regard that although the rules contained in its MAP guidance on the manner and form in which the taxpayer should submit its MAP request, the information and documentation required in a MAP request, the conduct of the MAP process and the procedure in relation to implementation of MAP agreements have been superseded by Act No. 11/2019 Coll. of 5 December 2018 for cases relating to 1 July 2019 and onwards, the rules in its MAP guidance would be followed for cases relating to fiscal years prior to this date.

128. The above-described domestic law and MAP guidance of the Slovak Republic include information on the availability and the use of MAP and how its competent authority conducts the procedure in practice. This 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.⁸

129. Although the information included in the Slovak Republic's domestic law and MAP guidance is detailed and comprehensive, a few subjects are not specifically discussed. This concerns information on:

- whether MAP is available in cases of: (i) multilateral disputes and (ii) bona fide foreign-initiated self-adjustments
- whether taxpayers can request for the multi-year resolution of recurring issues through MAP
- the possibility of suspension of tax collection during the course of a MAP
- the consideration of interest and penalties in the MAP.

Information and documentation to be included in a MAP request

130. 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.⁹ This agreed guidance is shown below. The Slovak Republic's domestic law i.e. Article 3(3) of Act No. 11/2019 Coll. of 5 December 2018 (applicable owing to Article 19 to disputes involving tax treaties) provides 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, and
 - a statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the competent authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the competent authority in a timely manner.
131. Further to the above, Article 3(3) requires the following additional information:
- relationship, situation, structure of transactions of the involved parties
 - the details of legal remedies initiated by the affected taxable entity, or information about ongoing litigation and of court decisions concerning the question in dispute.
 - a copy of a valid decision issued in a tax assessment proceedings, a copy of the tax audit report, and a copy of any other documents issued with regard to the question in dispute
 - in transfer pricing cases, transfer pricing documentation to the extent as set forth in the national laws of the Slovak Republic which may be supplemented with other information recommended by the OECD or the EU Joint Transfer Pricing Forum and the decision approving the application of the pricing method.

Recent developments

132. As detailed above, the Slovak Republic has amended its domestic law in relation to the procedure and information and documentation requirements that is applicable to MAP cases arising from tax treaties, the EU Arbitration Convention as well as the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union in Act No. 11/2019 Coll. of 5 December 2018, with effect from 1 July 2019

Anticipated modifications

133. The Slovak Republic indicated that it does not anticipate any modifications in relation to element B.8.

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.¹⁰

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

135. The Slovak Republic issued detailed procedural rules on the conduct of the MAP arising from tax treaties, the EU Arbitration Convention as well as the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union in Act No. 11/2019 Coll. of 5 December 2018, with effect from 1 July 2019, available (in English) at:

www.mfsr.sk/files/archiv/59/Actonthetaxdisputeresolutionrules_190701.pdf

136. Further, the MAP Guidance of the Slovak Republic is published and can be found (in Slovak language) at:

www.mfsr.sk/files/archiv/financny-spravodajca/4577/42/Metodicke-usmernenie-Ministerstva-financii-Slovenskej-republiky.pdf

137. This guidance was issued in February 2018. As regards its accessibility, the Slovak Republic's MAP Guidance can easily be found on the website in Slovak language of the Slovak Ministry of Finance under the section financial regulations (*financny spravodajca*).¹¹ In addition, the Slovak Republic MAP Guidance is one of the first results of an internet search for mutual agreement procedure in Slovak language (*procedúry vzájomnej dohody*).

MAP profile

138. The MAP profile of the Slovak Republic is published on the website of the OECD and was last updated in August 2020, which is complete and contains detailed information. This profile also includes external links which provide extra information and guidance where appropriate.

Recent developments

139. In the stage 1 report, it was noted that although the Slovak Republic reported it will give access to MAP in cases concerning the application of anti-abuse provisions, the response to the relevant question in the MAP profile stated that for cases concerning the application of treaty anti-abuse provisions generally are not excluded from MAP. As this may act confusing, it was noted that the MAP profile is on this point not fully clear.

140. The Slovak Republic has now updated its MAP profile to remove this sentence and stating that it would give access to MAP for cases concerning the application of treaty anti-abuse provisions. Therefore, the recommendation made in stage 1 has been addressed.

Anticipated modifications

141. The Slovak Republic indicated that it does not anticipate any modifications in relation to element B.9.

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.

142. 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

143. As previously mentioned in B.5, the Slovak Republic reported that audit settlements are not available as it is under its domestic law not possible that taxpayers and the tax administration enter into audit settlements. In that regard, there is no need to address in the Slovak Republic's MAP guidance that audit settlements do not preclude access to MAP. Peers indicated no issues regarding element B.10 in relation to audit settlements.

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

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

145. All peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in the Slovak Republic, which can be clarified by the fact that such process is not in place in the Slovak Republic.

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

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

Anticipated modifications

147. The Slovak Republic indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

Notes

1. These 12 tax treaties include the treaty with the former Federal Republic of Yugoslavia concerning Serbia and Montenegro that the Slovak Republic continues to apply to both (i) Serbia and (ii) Montenegro as well as the tax treaty with former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina.
2. These 50 tax treaties include the treaty with the former Federal Republic of Yugoslavia concerning Serbia and Montenegro that the Slovak Republic continues to apply to both (i) Serbia and (ii) Montenegro.
3. This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, the Slovak Republic reserves the right for the first sentence of Article 16(1) not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under each of its Covered Tax Agreements (other than a Covered Tax Agreement that permits a person to present a case to the competent authority of either Contracting Jurisdiction), where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of the Contracting Jurisdiction of which the person is a resident or, if the case presented by that person comes under a provision of a Covered Tax Agreement relating to non-discrimination based on nationality, to that of the Contracting Jurisdiction of which that person is a national; and the competent authority of that Contracting Jurisdiction will implement a bilateral notification or consultation process with the competent authority of the other Contracting Jurisdiction for cases in which the competent authority to which the mutual agreement procedure case was presented does not consider the taxpayer’s objection to be justified”.

An overview of the Slovak Republic’s positions on the Multilateral Instrument is available at: www.oecd.org/tax/treaties/beps-mli-position-slovak-republic-instrument-deposit.pdf.

4. These 19 tax treaties include the treaty with the former Federal Republic of Yugoslavia concerning Serbia and Montenegro that the Slovak Republic continues to apply to both (i) Serbia and (ii) Montenegro as well as the tax treaty with former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina.
5. These 18 treaties include the tax treaty with the former Republic of Yugoslavia concerning Serbia and Montenegro that the Slovak Republic continues to apply to both (i) Serbia and (ii) Montenegro. Of both treaty partners, only Serbia is a signatory to the Multilateral Instrument. Therefore, the tax treaty will not only be modified with respect to Montenegro. However, as regards Serbia, since it has already deposited its instrument of ratification of the

Multilateral Instrument, Article 17(1) of the Multilateral Instrument has superseded the relevant treaty provision to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but only to the extent that the provision contained in these treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).

6. Available at: www.mfsr.sk/en/taxes-customs-accounting/tax-administration-price-legislation/tax-legislation/.
7. These 59 tax treaties include the treaty with the former Federal Republic of Yugoslavia concerning Serbia and Montenegro that the Slovak Republic continues to apply to both (i) Serbia and (ii) Montenegro as well as the tax treaty with former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina.
8. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
9. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
10. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.
11. Available at: www.finance.gov.sk/Default.aspx.

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

Part C

Resolution of MAP cases

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

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

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 the Slovak Republic’s tax treaties

149. Out of the Slovak Republic’s 70 tax treaties, 69 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 The remaining tax treaty does not contain the phrase “the competent authorities shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution” and is therefore, considered not being equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

150. Of the peers that provided input in relation to their tax treaty with the Slovak Republic, six peers indicated in a general manner that their tax treaty with the Slovak Republic will be modified either via the Multilateral Instrument and/or via bilateral negotiations if it is not in line with the Action 14 Minimum Standard. With regard to element C.1, the relevant tax treaties are already in line with the Minimum Standard. A further peer indicated that its tax treaty with the Slovak Republic is already in line with the Action 14 Minimum Standard, which has been confirmed by the performed analysis.

151. For the treaty identified above that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), the relevant peer did not provide input.

Recent developments

Bilateral modifications

152. The Slovak Republic signed a new treaty since 1 May 2018, which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty contains a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty has not entered into force as yet. The effects of this newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

153. The Slovak Republic signed the Multilateral Instrument and has deposited its instrument of ratification on 20 September 2018. The Multilateral Instrument has entered into force for the Slovak Republic on 1 January 2019.

154. 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).

155. With regard to the one tax treaty identified above that is considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), the Slovak Republic listed it as a covered tax agreement under the Multilateral Instrument but did not make, pursuant to Article 16(6)(c)(i), a notification that it does not contain a provision described in Article 16(4)(b)(i). Therefore, at this stage, this treaty 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).

Other developments

156. As the tax treaty that does 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 concerns a treaty partner to the a treaty of the former Czechoslovakia that the Slovak Republic continues to apply to this treaty partner, renegotiations are not necessary.

Peer input

157. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with the Slovak Republic. None of these peers concern the treaty partner to treaty identified above that does not contain Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Anticipated modifications

158. The Slovak Republic reported that 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]	One out of 70 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, no actions have been taken nor are any actions required to be taken.	As the only treaty that does 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 is a treaty of former Czechoslovakia that the Slovak Republic continues to apply to Sri Lanka, the Slovak Republic should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.

[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 the Slovak Republic are published on the website of the OECD as from 2006.² The Slovak Republic 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. The Slovak Republic provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving the Slovak Republic 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 Annexes B and C respectively⁴ and should be considered jointly for an understanding of the MAP caseload of the Slovak Republic.

162. With respect to post-2015 cases, the Slovak Republic 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, the Slovak Republic indicated that it could match its statistics with all of them.

163. One peer provided input on the matching of MAP statistics with the Slovak Republic and stated that it was able to successfully match statistics with the Slovak Republic.

164. Based on the information provided by the Slovak Republic's MAP partners, its post-2015 MAP statistics for the years 2016-18 actually match those of its treaty partners as reported by the latter.

Monitoring of MAP statistics

165. The Slovak Republic reported it monitors on a continuous basis: (i) the number of cases in its MAP inventory, (ii) the number of new MAP requests and (iii) the time taken to resolve MAP cases. This monitoring is performed via summary tables that contain details of the pending cases, the summaries of which are also the basis for any statistical reporting. The Slovak Republic further reported it also applies the OECD tool for monitoring MAP cases.

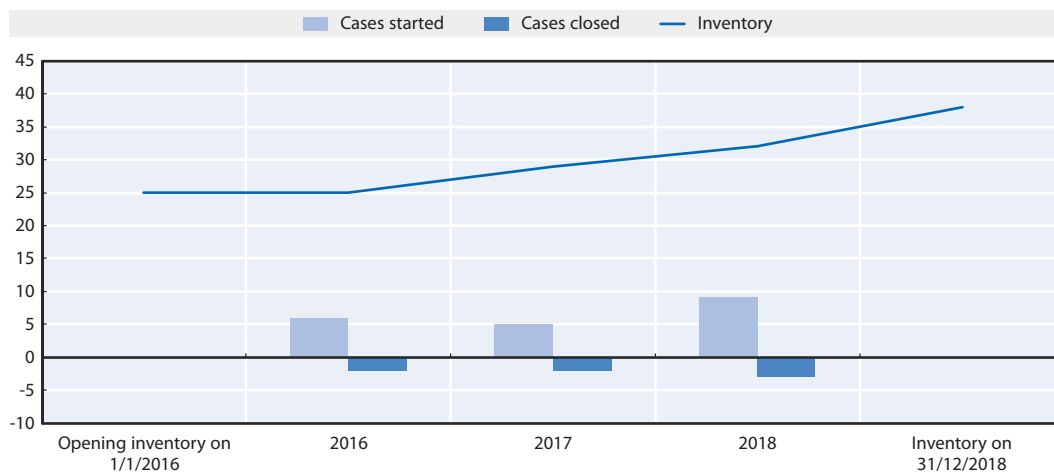
Analysis of the Slovak Republic's MAP caseload

Global overview

166. The analysis of the Slovak Republic's MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2018.

167. Figure C.1 shows the evolution of the Slovak Republic's MAP caseload over the Statistics Reporting Period⁵.

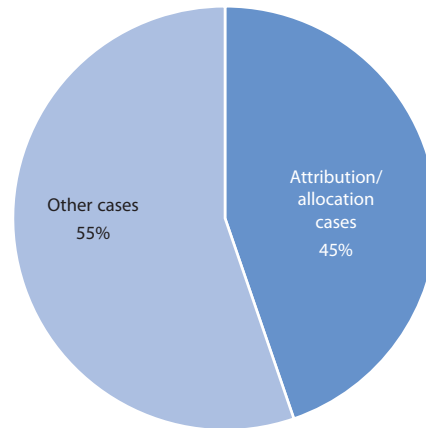
Figure C.1. Evolution of the Slovak Republic's MAP caseload



168. At the beginning of the Statistics Reporting Period the Slovak Republic had 25 pending MAP cases, of which ten were attribution/allocation cases and 15 other MAP cases.⁶ At the end of the Statistics Reporting Period, the Slovak Republic had 38 MAP cases in its inventory, of which 17 are attribution/allocation cases and 21 are other MAP cases. The Slovak Republic's MAP caseload has increased by 52% during the Statistics Reporting Period. This increase can be broken down into a significant increase of 70% for attribution/allocation cases and a significant increase of 40% for other cases.

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

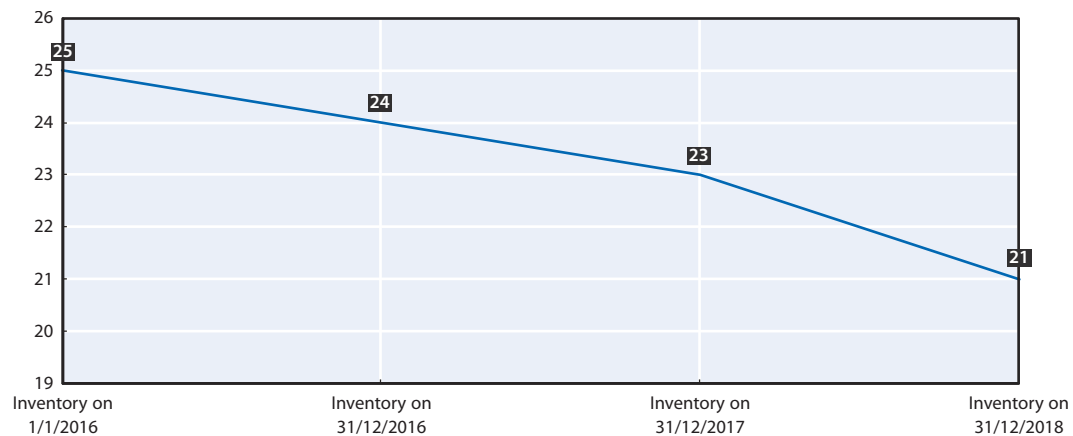
Figure C.2. End inventory on 31 December 2018 (38 cases)



Pre-2016 cases

170. Figure C.3 shows the evolution of the Slovak Republic's pre-2016 MAP cases over the Statistics Reporting Period.

Figure C.3. Evolution of the Slovak Republic's MAP inventory
Pre-2016 cases



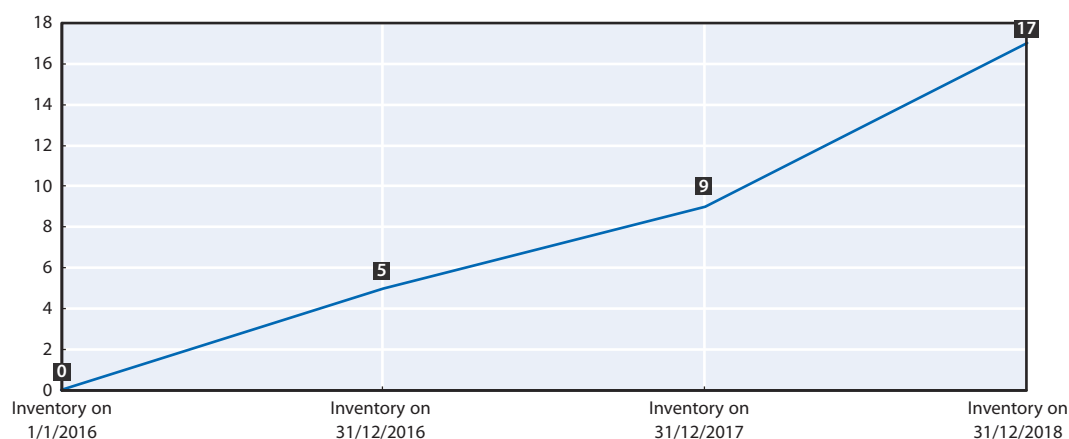
171. At the beginning of the Statistics Reporting Period, the Slovak Republic's MAP inventory of pre-2016 MAP cases consisted of 25 cases, of which ten were attribution/allocation cases and 15 other cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases had decreased to 21 cases, consisting of nine attribution/allocation cases and 12 other cases. The decrease in the number of pre-2016 MAP cases is shown in the table below.

Pre-2016 cases	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	(no cases closed)	-10%	(no cases closed)	-10%
Other cases	-7%	(no cases closed)	-14%	-20%

Post-2015 cases

172. Figure C.4 shows the evolution of the Slovak Republic's post-2015 MAP cases over the Statistics Reporting Period:

Figure C.4. Evolution of the Slovak Republic's MAP inventory
Post-2015 cases



173. In total, 20 MAP cases started during the Statistics Reporting Period, 11 of which concerned attribution/allocation cases and nine other cases. At the end of this period the total number of post-2015 cases in the inventory was 17 cases, consisting of eight attribution/allocation cases and nine other cases. Accordingly, the Slovak Republic closed three post-2015 cases during the Statistics Reporting Period, all of them being attribution/allocation cases. The total number of closed cases represent 15% of the total number of post-2015 cases that started during the Statistics Reporting Period.

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

Post-2015 cases	% of cases closed in 2016 compared to cases started in 2016	% of cases closed in 2017 compared to cases started in 2017	% of cases closed in 2018 compared to cases started in 2018	Cumulative evolution of total MAP caseload over the three years (2016-18)
Attribution/allocation cases	25%	33%	25%	27%
Other cases	0%	0%	0%	0%

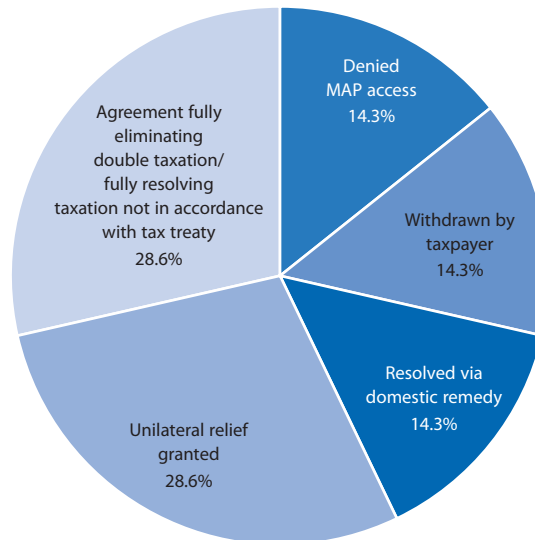
175. It further follows from the statistics that the Slovak Republic did not close any post-2015 other MAP cases during the Review Period.

Overview of cases closed during the Statistics Reporting Period

Reported outcomes

176. During the Statistics Reporting Period the Slovak Republic in total closed seven MAP cases for which the outcomes shown in Figure C.5 were reported.

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



177. Figure C.5 shows that during the Statistics Reporting Period, approximately a quarter of the cases closed were reported with the outcome “agreement fully eliminating double taxation/fully resolving taxation not in accordance with the tax treaty”.

Reported outcomes for attribution/allocation cases

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

- agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty (25%)
- unilateral relief granted (25%)
- resolved via domestic remedy (25%)
- denied MAP access (25%).

Reported outcomes for other cases

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

- agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty (33%)
- unilateral relief granted (33%)
- withdrawn by taxpayer (33%).

Average timeframe needed to resolve MAP cases

All cases closed during the Statistics Reporting Period

180. The average time needed to close MAP cases during the Statistics Reporting Period was 37.97 months. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	4	9.23
Other cases	3	76.30
All cases	7	37.97

Pre-2016 cases

181. For pre-2016 cases, the Slovak Republic reported that it needed 32.47 months to close one attribution/allocation case and 76.30 months to close three other MAP cases. This resulted in an average time needed of 65.35 months to close four pre-2016 cases. For the purpose of computing the average time needed to resolve pre-2016 cases, the Slovak Republic reported that it uses the following dates:

- start date: receipt of the MAP case
- end date: date of the closing letter.

Post-2015 cases

182. For post-2015 cases the Slovak Republic reported that the average time needed was 1.48 months to close three post-2015 cases, which are all attribution/allocation cases.

Peer input

183. Of the peers that provided input, all peers that had experience in dealing with the Slovak Republic's competent authority reported that communications with this competent authority are easy, smooth, professional and efficient. One peer indicated specifically that it did not observe any impediments that led to a delay in finding a MAP resolution. Another peer emphasised the positive working experience regarding recent efforts between the two competent authorities to resolve old cases, which have been in their inventory for a long time.

Recent developments

184. The Slovak Republic was in the stage 1 peer review report under element C.2 recommended to seek to resolve the remaining 82% of its post-2015 MAP cases that were pending on 31 December 2017 (nine cases), within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.

185. With respect to this recommendation, the Slovak Republic reported that since 1 May 2018 it has added more staff members to resolve pending cases, which will be discussed under element C.3. However, the Slovak Republic noted that the time needed for resolving MAP cases also depends on several variables including, the co-operation of the taxpayer and the response of the treaty partner's competent authority.

186. However, in view of statistics discussed above, it follows that the Slovak Republic saw a significant increase of 52% in its MAP inventory in the Statistics Reporting Period,

including an increase of 19% in 2018. For these years, the number of post-2015 cases closed as compared to the cases that started in these years was 15%. The statistics also show that the Slovak Republic has in the period 2016-18 not closed its MAP cases within the pursued average of 24 months. Element C.3 will further consider these numbers in light of the adequacy of resources.

187. All but one peer that provided input during stage 1 confirmed that this input holds equally relevance for the period starting on 1 May 2018.

Anticipated modifications

188. The Slovak Republic indicated that it does not anticipate any modifications in relation to element C.2.

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.

189. 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 the Slovak Republic's competent authority

190. Under the Slovak Republic's tax treaties the competent authority is defined as the Minister of Finance or the Ministry of Finance of the Slovak Republic. Within the Ministry of Finance the competent authority is delegated to the Department of Direct Taxes within the Tax and Customs Sections, which handles both attribution/allocation as well as other MAP cases under the tax treaty and the EU Arbitration Convention. In this respect, the Slovak Republic reported that the Department of Direct Taxes consists of nine people, who deal less than 50% of their time with handling MAP cases besides tasks relating to other international tax matters. Four of these nine employees are thereby dedicated to handling attribution/allocation cases and five employees deal with other MAP cases. Two more employees were hired by the Department of Legislation of Financial Administration and Tax Administration within the same section to cover legislative and procedural implementation of the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union and provide support to the case handlers in MAP. The Slovak Republic further specified that due to the relatively modest size of its inventory, it is of the view that there is no need for a specialisation of employees to only handle MAP cases.

191. The Slovak Republic further reported that staff in charge of MAP in general has several years of experience in the area of international taxation and that the case handlers for attribution/allocation cases are transfer pricing experts. Several members of the MAP team regularly participate in meetings of international fora like OECD's working parties 1 and 6 or the EU Joint Transfer Pricing Forum. In addition, the Slovak Republic reported that the members of the MAP team receive regularly specialised training on tax treaty application and transfer pricing and that sufficient funds are available for traveling, in particular for competent authority meetings.

Monitoring mechanism

192. The Slovak Republic reported that it does not have a dedicated monitoring process to measure whether the available resources for the MAP function are sufficient to resolve MAP cases, as employees are not exclusively dedicated to MAP. It is generally monitored whether the resources of the Ministry of Finance are sufficient to fulfil all tasks in the international tax area, including resolving MAP cases. In that regard it noted that it considers that the current available resources, given the current level of pending MAP cases, are sufficient for the MAP function, but also that the level of resources may be changed on the basis of an (expected) increase in the number of MAP cases.

Recent developments

193. In the stage 1 report, the Slovak Republic was recommended to continue to closely monitor whether it has adequate resources in place to ensure that future MAP cases are resolved in a timely, efficient and effective manner.

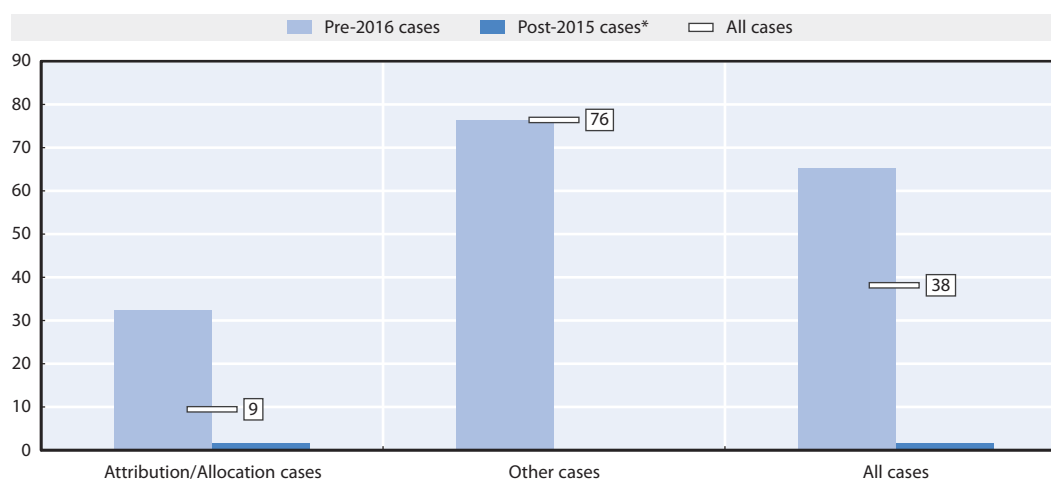
194. For this purpose, the Slovak Republic reported that two additional team members have been added to its competent authority dealing with both attribution/allocation cases and other MAP cases since 1 May 2018. As noted above, two newly hired employees in another department now provide support for MAP cases as well. The Slovak Republic further reported that it has organised internal training sessions for its team members.

Practical application

MAP statistics

195. As discussed under element C.2 the Slovak Republic has not closed its MAP cases during the Statistics Reporting Period within the pursued 24-month average, as it needed 37.97 months to close MAP cases. This primarily concerns other MAP cases where the average time needed was 76.30 months, as the average time to close attribution/allocation MAP cases was 9.23 months. The average time to resolve MAP cases in 2016, 2017 and 2018 can be illustrated by Figure C.6.

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



* Note that these post-2015 cases only concern cases started and closed during 2016, 2017 or 2018.

196. The stage 1 peer review report of the Slovak Republic analysed the 2016-17 MAP statistics and showed an average of 16.96 months, which concerns an average of 11.69 months for attribution/allocation cases and 32.75 months for other cases. It was on that basis concluded that as the overall average was below the pursued average of 24 months, the Slovak Republic was considered to be adequately resourced.

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

	2018
Attribution/Allocation cases	1.84
Other cases	98.08
All cases	66.00

198. The 2018 statistics of the Slovak Republic show that the average completion time of MAP cases increased from 16.96 (2016-17) months to 66.00 (2018) months, which is now much higher than the pursued 24-month average, owing to the time taken to resolve pending pre-2016 other MAP cases in 2018.

199. Further – as analysed in element C.2 – the MAP inventory of the Slovak Republic has significantly increased since 1 January 2016, owing to an increase in both attribution/allocation and other MAP cases. This can be shown as follows:

	Opening inventory on 1/1/2016	Cases started	Cases closed	End inventory on 01/01/2018	Increase in %
Attribution/allocation cases	10	11	4	17	70%
Other cases	5	9	3	21	40%
Total	15	20	7	38	52%

200. The figures in the above table show that the number of closed cases is less than half as compared to the number of all cases started in the period 2016-18.

201. In addition, the Slovak Republic has only managed to close three post-2015 MAP cases, with one case being closed in each of 2017, 2018 and 2019.

202. The Slovak Republic clarified in this regard that the time needed for resolving MAP cases also depends on several variables including, the co-operation of the taxpayer and the response of the treaty partner's competent authority and owing to this, some cases have required more time than others.

Peer input

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

203. In total six of the nine peers that provided input, reported having pending MAP cases with the Slovak Republic or had recent experience in resolving MAP cases with its competent authority since 1 January 2016. The number of pending cases for each of these peers was relatively low, which is only one or two pending cases per peer. Only two of these six peers reported having several MAP cases with the Slovak Republic since 1 January 2016. Of the three remaining peers, two stated that they did not have any case with the Slovak Republic's competent authority. The third peer reported that they currently have one MAP

case pending, for which a request was only recently received. This peer therefore considered its experience to be too recent to be relevant.

204. All of the seven peers that provided input on their relationship with the Slovak Republic's competent authority reported having good contacts and working experiences. Two peers reported that contacts are generally easy and fluent via letters and e-mails. A further peer, who resolved an attribution/allocation case in 2017 with the Slovak Republic, reported that the case was resolved via telephone and e-mail correspondence. A third peer noted that during the Review Period the relationship with the Slovak Republic's competent authority has been professional and efficient, causing that cases progressed and also that responses to letters were quickly. One of the peers also pointed out that it had face-to-face meetings in both 2016 and 2017 with the Slovak Republic's competent authority. An additional peer, who has several MAP cases with the Slovak Republic, stressed that it did not encounter any impediments to contact the Slovak Republic's competent authority. This peer also reported having had a fruitful face-to-face meeting in August 2017 at which the pending cases could be progressed. A last peer pointed out having a cordial relationship with the Slovak Republic's competent authority and that its experience is that MAP cases are resolved quickly.

205. Generally, peers reported no impediments in resolving MAP cases with the Slovak Republic's competent authority and also not made any suggestions for improvement in this regard.

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

206. All but one peer that provided input during stage 1 stated in stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

207. The Slovak Republic indicated that it does not anticipate any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	<p>MAP cases were resolved in 37.97 months on average, which concerns especially other MAP cases, as the average time needed to close these cases was 76.30 months, whereas for attribution/allocation cases the average time was below 24 months (9.23 months). There is therefore a risk that post-2015 cases are not resolved within the average of 24 months, especially concerning other MAP cases.</p> <p>Further, there was a significant increase in MAP inventory during the Statistics Reporting Period with less than half of these cases resolved during this time. This may indicate that the competent authority is not adequately resourced to cope with this increase.</p>	<p>While the Slovak Republic has taken some organisational measures by increasing the number of staff members in its competent authority function, further actions should be taken to ensure a timely resolution of MAP cases, which primarily concerns other MAP cases. In that regard, the Slovak Republic 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 MAP cases), so as to resolve MAP cases in a timely, efficient and effective manner.</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.

208. 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

209. The Slovak Republic reported that when a MAP request is received by its competent authority, the managing officer designates a responsible case handler. The case handler analyses the MAP request, particularly whether: (i) an eligible taxpayer has filed the MAP request, (ii) the application was filed in a timely manner and (iii) the required minimum information, as defined in Article 3(2) of Act No. 11/2019 Coll. of 5 December 2018 has been submitted. If the MAP case concerns a tax adjustment made by the Slovak Republic, the case handler will liaise with the Financial Directorate (which in turn liaises with the local tax office) to receive the full background on the reasoning for the adjustment and all relevant underlying documents. The Slovak Republic clarified that the Financial Directorate acts independently from the Ministry of Finance and which supervises the local tax offices and is the appeal body for domestic litigation purposes. It acts as a service provider to the competent authority in verifying or clarifying specific facts for the case under review, and is an intermediary between the competent authority and the local tax offices. This process and the role of the competent authority and the Financial Directorate are further described in paragraphs 3.1.8-3.1.10 of the Slovak Republic's MAP Guidance.

210. Concerning the resolution of MAP cases, the Slovak Republic further reported that all the position papers are prepared by the responsible case handler within its competent authority, which subsequently will be approved by supervisors and ultimately by the Director General of the Taxes and Customs section within the Ministry of Finance. The same applies when it concerns the decision to enter into a MAP agreement. In relation hereto, the Slovak Republic noted that members of the Financial Directorate might be invited to attend competent authority meetings to provide factual clarifications for the case under review, but only if the treaty partner agrees to this.⁷ The Slovak Republic highlighted that during such meetings, the discussions on the case are solely conducted by the staff in charge of MAP and that the Financial Directorate's presence is only for providing clarity on the facts of the case under review. It further clarified that the Financial Directorate is not directly involved in the tax audit process in the Slovak Republic as tax audits are performed and approved by the local tax offices. In other words, the member(s) of the Financial Directorate, who potentially attend a competent authority meeting, are not tax administration personnel proposing the tax adjustment under review.

211. Based on the above, the Slovak Republic 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 is committed not to be influenced by considerations of the policy that the jurisdictions would like to see reflected in future amendments to the treaty while handling MAP cases.

Recent developments

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

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

213. Peers generally reported no impediments in the Slovak Republic to perform its MAP function in the absence of approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy in the period 1 January 2016-30 April 2018. One peer specifically mentioned that audit personnel participated in competent authority meetings. This peer, however, had no concerns with this practice and reported not being aware that staff in charge of MAP in the Slovak Republic 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)

214. All but one peer that provided input during stage 1 stated in stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

215. The Slovak Republic indicated that it does not anticipate 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.

216. 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 Slovak Republic

217. The Slovak Republic reported that all staff in charge of MAP are subject to an annual assessment of their performance, which will *inter alia* take into account their work on MAP cases. Given the fact that the employees within the Slovak Republic's competent authority only partly work on MAP cases, there are no specific MAP related

targets set for them, although performance indicators are used (see below). The annual performance review will consider the consistency, the number of MAP cases handled by them and the time taken to resolve these cases. Furthermore, as noted in section 1.2 of its MAP Guidance, staff in charge of MAP in the Slovak Republic has to apply the tax treaty in good faith and also has to adhere to the equality and transparency principles when resolving a MAP case.

218. The Action 14 final report (OECD, 2015b) includes examples of performance indicators that are considered appropriate. These indicators are shown below and presented for the Slovak Republic 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).

219. Further to the above, the Slovak Republic 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

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

Practical application

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

221. All peers that provided input indicated not being aware that the Slovak Republic used performance indicators based on the amount of sustained audit adjustments or maintaining tax revenue in the period 1 January 2016-30 April 2018. One peer particularly noted that it is not aware of the use of performance indicators by the Slovak Republic 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)

222. All but one peer that provided input during stage 1 stated in stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

223. The Slovak Republic indicated that it does not anticipate 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.

224. 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

225. The Slovak Republic reported that it has no domestic law limitations for including MAP arbitration in its tax treaties. The Slovak Republic reported that its tax treaty policy is generally not to include a mandatory and binding arbitration provision in its bilateral tax treaties. This is confirmed in its published MAP profile.

226. However, the Slovak Republic is a signatory to the EU Arbitration Convention and has adopted the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union, both of which includes an arbitration procedure as a final stage to the MAP.

Recent developments

227. The Slovak Republic has introduced domestic law by way of Act No. 11/2019 Coll. of 5 December 2018, providing for procedural rules governing the arbitration procedure arising from the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union and the EU Arbitration Convention.

Practical application

228. To date, the Slovak Republic has incorporated an arbitration clause in one of its 70 tax treaties as a final stage to the MAP. This clause is equivalent to Article 25(5) of the OECD Model Tax Convention (OECD, 2017), save for the fact that instead of a two-year period for MAP a three-year period applies and that competent authorities have the opportunity to take a deviating decision after the arbitration panel has rendered its decision.

229. Further, as discussed above, Act No. 11/2019 Coll. of 5 December 2018 contains detailed provisions on the arbitration procedure based on the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union and the EU Arbitration Convention. Further, the Slovak Republic's MAP Guidance makes reference to arbitration as final stage of MAP according to the EU Arbitration Convention or tax treaties containing an arbitration clause in paragraphs 2.3.2 and 3.1.15.

Anticipated modifications

230. The Slovak Republic indicated that it does not anticipate any modifications in relation to element C.6.

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

Notes

1. These 69 tax treaties include the treaty with the former Federal Republic of Yugoslavia concerning Serbia and Montenegro that the Slovak Republic continues to apply to both (i) Serbia and (ii) Montenegro as well as the tax treaty with former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina.
2. Available at: www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm. These statistics are up to and include fiscal year 2019.
3. Available at: https://ec.europa.eu/taxation_customs/news/statistics-apas-and-maps-eu_en. These statistics are up to and include fiscal year 2019.
4. For post-2015 cases, if the number of MAP cases in the Slovak Republic’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, the Slovak Republic 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. The Slovak Republic’s 2016 and 2017 MAP statistics were corrected in the course of its peer review and deviate from the published MAP statistics for 2016 and 2017. See further explanations in Annex B and Annex C.
6. For pre-2016 and post-2015 the Slovak Republic 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. The possibility of attendance of the Financial Directorate during competent authority meetings is also described in paragraph 3.1.12 of the Slovak Republic’s MAP Guidance.

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

Part 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.

231. 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

232. The Slovak Republic reported that where the underlying tax treaty contains the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), it will implement all MAP agreements notwithstanding its domestic time limits. Where such equivalent, however, is not contained, the Slovak Republic reported that the implementation of MAP agreements resulting in an upward adjustment to be made in the Slovak Republic is limited by its domestic statute of limitation. In this respect, according to Article 69(5) of the Slovak Republic's Tax Procedure Code, the domestic statute of limitation is ten years as of the end of the year in which the tax return is due, which is the year following the fiscal year concerned.

233. For MAP agreements resulting in a downward adjustment, the Slovak Republic reported that this domestic statute of limitation is waived as the Slovak Republic applies Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) for downward adjustments even when such equivalent is not contained in the underlying tax treaty.

234. For MAP agreements resulting from the EU Arbitration Convention and the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union, Act No. 11/2019 Coll. of 5 December 2018, with effect from 1 July 2019, provides that such agreements shall be implemented in all cases irrespective of domestic time-limits.

235. Concerning the process of implementing MAP agreements, the Slovak Republic reported that when competent authorities reach a MAP agreement, the taxpayer as well as the Financial Directorate will be notified thereof without any undue delay. This is clarified in Article 20(3) of Act No. 11/2019 Coll. of 5 December 2018 as well. The taxpayer will not be asked for its consent to implement the MAP agreement, as it – like the competent authority and the Financial Directorate – is bound by the agreement. The Slovak Republic further reported that it operates a self-assessment system. However, in cases arising from the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute

resolution mechanisms in the European Union, Act No. 11/2019 Coll. of 5 December 2018 states that the taxpayer needs to provide consent to the agreement within the time provided by the competent authorities and also provide a declaration waiving rights to other legal remedies in either State.

236. Where a MAP agreement leads to an upward adjustment, the Slovak Republic reported that the taxpayer is obliged to file an amended tax return. The due date is, according to the Slovak Republic's Tax Procedure Code, the end of the month following the notification of the MAP agreement. If such a return is not filed, the Slovak Republic clarified that the tax administration would follow-up with requests to the taxpayer to file such an amended return in accordance with the general rules for such filing. For MAP agreements leading to downward adjustments, the Slovak Republic reported that the taxpayer has the right to file an amended tax return. In this situation, the Slovak Republic noted that there is no timeline for such an amended tax return. However, in the absence of an amended tax return, the Slovak Republic reported that a MAP agreement will not be implemented.

237. The Slovak Republic further reported that once the amended tax returns have been filed, its Financial Directorate will take measures to implement the MAP agreement without any undue delay.

238. The Slovak Republic's MAP Guidance describes in paragraph 3.1.14 the process for implementing MAP agreements and the relationship between its domestic statute of limitation and MAP agreements resulting in downward adjustments. However, this MAP Guidance does not further address the implementation process of MAP agreements resulting in upward adjustments.

239. The Slovak Republic clarified that it has not put in place a mechanism to monitor the implementation of MAP agreements.

Recent developments

240. As mentioned above, the Slovak Republic has, with effect from July 2019, revised its domestic law to include more details on the implementation of MAP agreements, especially those arising from the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union. Apart from this, there are no recent developments with respect to element D.1.

Practical application

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

241. The Slovak Republic reported that in the period 1 January 2016-30 April 2018 it has reached one MAP agreement. The Slovak Republic clarified that this agreement, did not require an implementation by the Slovak Republic.

242. All peers that provided input reported that they were not aware of any MAP agreement reached in the period 1 January 2016-30 April 2018 that was not implemented by the Slovak Republic.

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

243. The Slovak Republic reported that all MAP agreements that were reached on or after 1 May 2018 have also been implemented.

244. All but one peer that provided input during stage 1 stated in stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

245. The Slovak Republic indicated that it does not anticipate any modifications in relation to element D.1.

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.

246. 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

247. As discussed under element D.1., the Slovak Republic's competent authority will notify the taxpayer as well as the Financial Directorate without any undue delay when competent authorities reach a MAP agreement. As the Slovak Republic operates a self-assessment system, there are no specific timelines given for the implementation of MAP agreements via an amended tax return by taxpayers. In that regard, the Slovak Republic's MAP Guidance does not specifically address the timing of the steps for the implementation of MAP agreements, including the requirement for taxpayers to file an amended tax return for MAP's resulting in an upward adjustment by the end of the following month after the MAP agreement has been reached. However, detailed provisions regarding the timing of the implementation of MAP agreements arising from the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union have been included in Act No. 11/2019 Coll. of 5 December 2018.

Recent developments

248. As mentioned above, the Slovak Republic has, with effect from July 2019, revised its domestic law to include more details on the timing of implementation of MAP agreements arising from the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union. Apart from this, there are no recent developments with respect to element D.2.

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

249. The Slovak Republic reported that there were no MAP agreements reached with another competent authority in the period 1 January 2016-30 April 2018 that required implementation in the Slovak Republic.

250. All peers that provided input reported not being aware of any impediments to the implementation of MAP agreements in the Slovak Republic on a timely basis in the period 1 January 2016-30 April 2018

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

251. The Slovak Republic reported that all MAP agreements that were reached on or after 1 May 2018 have been implemented on a timely basis.

252. All but one peer that provided input during stage 1 stated in stage 2 that the update report provided by the Slovak Republic fully reflects their experience with the Slovak Republic since 1 May 2018 and/or there are no additions to the previous input given.

Anticipated modifications

253. The Slovak Republic indicated that it does not anticipate 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.

254. 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 Slovak Republic's tax treaties

255. As discussed under element D.1, the Slovak Republic's domestic legislation includes a statute of limitations of ten years for implementing MAP agreements resulting in upward adjustments, unless overridden by tax treaties or if applicable, a MAP agreement is reached

under the EU Arbitration Convention or based on the implementation of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union.

256. Out of the Slovak Republic's 70 tax treaties, 34 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) that any agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. Further, one tax treaty does not contain Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), but contains a provision in the MAP article setting a time limit for making primary adjustments, which is considered to be equivalent to having both alternative provisions in Article 9(1) and Article 7(2).

257. For the remaining 35 tax treaties the following analysis can be made:

- 23 tax treaties do not contain such equivalent or the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making primary adjustments.¹
- One tax treaty does not contain Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), and only contains the alternative provision in Article 9(1) setting a time limit for making primary adjustments, but not the alternative provision in Article 7(2).
- One tax treaty contains a provision that is based on Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), but it also includes wording that a MAP agreement must be implemented within ten years from the due date or the date of filing of the return in that other state. As this bears the risk that MAP agreements cannot be implemented due to time constraints, this treaty provision therefore, is considered not being equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).
- In ten tax treaties a provision based on Article 25(2), second sentence, of the OECD Model Tax Convention is contained, but the implementation of MAP agreements is made subject to time limits as included in the domestic laws of the contracting states. As these treaty provisions apply a time limit on the implementation of MAP agreements, these treaties are considered not having the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

258. One of the nine peers that provided input indicated that its tax treaty with the Slovak Republic is already in line with the Action 14 Minimum Standard, which has been confirmed by the above analysis. For the 35 tax treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), or both alternatives in Articles 9(1) and 7(2), the peer input of all remaining eight peers relates to one of the identified 35 treaties. Of these eight peers, six indicated in a general manner that their tax treaty with the Slovak Republic will be modified either via the Multilateral Instrument and/or via bilateral negotiations if it is not in line with the Action 14 Minimum Standard. This is accurate only for five of these six tax treaties. The remaining tax treaty (with regard to the six treaties) contains both alternatives in Articles 9(1) and 7(2) and will not be modified via the Multilateral Instrument. The two remaining peers specifically provided input as regards element D.3. One of them stated that its tax treaty is not in line with element D.3 and that its treaty will be modified via the Multilateral Instrument, which is actually the case. The second peer also noted that its tax treaty with the Slovak Republic is not in line element D.3, but that it is working with the Slovak Republic on a draft amending protocol to bring the tax treaty in line with element D.3.

Recent developments

Bilateral modifications

259. The Slovak Republic signed a new treaty since 1 May 2018, which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. However, this treaty does not contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty has not entered into force as yet. The effects of this newly signed treaty have been reflected in the analysis above where they have relevance.

Multilateral Instrument

260. The Slovak Republic signed the Multilateral Instrument and has deposited its instrument of ratification on 20 September 2018. The Multilateral Instrument has entered into force for the Slovak Republic on 1 January 2019.

261. 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.

262. With regard to the 35 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), the Slovak Republic listed 32 treaties as covered tax agreements under the Multilateral Instrument, but only for 28 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). For these 28 treaties, four treaty partners are not a signatory to the Multilateral Instrument, whereas two did not list their treaty with the Slovak Republic as a covered tax agreement.² All of the remaining 22 treaty partners listed their treaty with the Slovak Republic as a covered tax agreement, but only 21 treaty partners made a notification on the basis of Article 16(6)(c)(ii).

263. Of the remaining 21 treaty partners, 14 have already deposited their instrument of ratification, following which the Multilateral Instrument has entered into force for the treaty between the Slovak Republic and these treaty partners. Therefore, at this stage, the Multilateral Instrument has modified these 14 treaties to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the remaining seven treaties, the instrument will, upon entry into force for the treaties

concerned, modify them to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

264. As three 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 concern treaty partners to treaties of the former Czechoslovakia that the Slovak Republic continues to apply to these treaty partners, renegotiations are not necessary. However, negotiations are pending for an amending protocol with one treaty partner.

265. As two treaty partners to 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 concern the treaty with the former Federal Republic of Yugoslavia that the Slovak Republic continues to apply to one treaty partner and the treaty with former Yugoslavia that the Slovak Republic continues to apply to the other treaty partner, renegotiations are not necessary.

266. The Slovak Republic reported that for the remaining nine 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, the following actions are being taken or planned:

- For one treaty, negotiations are pending for an amending protocol.
- For two treaties, it intends to update its list of notifications and reservations to the Multilateral Instrument to have the treaty modified by it.
- For two treaties, it intends to update its list of notifications and reservations to the Multilateral Instrument and expects the treaty partners to revise their list of notifications and reservations to the Instrument to have the respective treaties modified by it. If this is seen to not be possible, the Slovak Republic would initiate bilateral negotiations.
- For four treaties, it intends to update its list of notifications and reservations to the Multilateral Instrument to include these treaties and expects the treaty partners to sign the Instrument to have the respective treaties modified by it. If this is seen to not be possible, the Slovak Republic would initiate bilateral negotiations.

Peer input

267. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Slovak Republic. One of these peers concerns 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). This peer reported that following discussions in August 2018, a draft of an amending protocol is presently under discussion that includes the alternative provisions regarding time limits, and that will therefore adapt its treaty with the Slovak Republic to the Action 14 minimum standard.

Anticipated modifications

268. The Slovak Republic reported that 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
[D.3]	<p>35 out of 70 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). Of these 35 treaties:</p> <ul style="list-style-type: none"> • 14 have been modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). • Seven are expected to be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). • 14 will not be modified by the Multilateral Instrument to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these 14 treaties: <ul style="list-style-type: none"> - For eight, the relevant treaty partners have been or will be engaged by the Slovak Republic with a view to have the treaty modified by the Multilateral Instrument. Where this is not possible, it would initiate bilateral negotiations. - For two, negotiations on an amending protocol are pending. - For three, no actions have been taken nor are any actions required to be taken. 	<p>Three of the 14 treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument is a treaty of former Czechoslovakia that the Slovak Republic continues to apply to Brazil, Norway and Sri Lanka. For one treaty, negotiations on an amending protocol are ongoing. In that regard, the Slovak Republic should complete negotiations for and sign the amending protocol as soon as possible to ensure the inclusion of the required provision. For the remaining two treaty partners, the Slovak Republic should ensure that, once it enters into negotiations with these treaty partners, it includes the required provision.</p> <p>One of the remaining 11 treaties that does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument is a treaty with the former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina, the Slovak Republic should ensure that, once it enters into negotiations with Bosnia and Herzegovina, it includes the required provision.</p> <p>One of the remaining ten treaties that does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument is the treaty with former Federal Republic of Yugoslavia that the Slovak Republic continues to apply to Serbia and Montenegro, and which only has been modified by the Multilateral Instrument with respect to Serbia, the Slovak Republic should ensure that, once it enters into negotiations with Montenegro, it includes the required provision.</p> <p>For the remaining nine treaties that have not been or 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), the Slovak Republic should:</p> <ul style="list-style-type: none"> • for eight treaties, continue to work in accordance with its plan to strive to include the required provision via the Multilateral Instrument and where this is not possible, request via bilateral negotiations the inclusion of the required provision • for the remaining treaty, continue negotiations with the treaty partner with a view to including the required provision.

Notes

1. These 23 tax treaties include the treaty with the former Federal Republic of Yugoslavia concerning Serbia and Montenegro that the Slovak Republic continues to apply to (i) Serbia and (ii) Montenegro as well as the tax treaty with former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina.
2. These 28 treaties include the tax treaty with the former Federal Republic of Yugoslavia concerning Serbia and Montenegro that the Slovak Republic continues to apply to both (i) Serbia and (ii) Montenegro. Of both treaty partners, only Serbia is a signatory to the Multilateral Instrument. The treaty will therefore not be modified concerning Montenegro, but only as regards Serbia. Since Serbia has already deposited its instrument of ratification of the Multilateral Instrument, the Multilateral Instrument has entered into force between the Slovak Republic and Serbia, and therefore has modified this treaty to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) as regards Serbia.

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]	-	-
[A.2]	-	-
Part B: Availability and access to MAP		
	<p>Three out of 70 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 or as amended by that report (OECD, 2015b).</p> <p>These treaties will not be modified by the Multilateral Instrument to include the required provision. For these treaties, no actions have been taken nor are any actions required to be taken.</p>	<p>As the three treaties that do not contain the equivalent of 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 or as amended by that report (OECD, 2015b) are treaties of former Czechoslovakia that the Slovak Republic continues to apply to Japan, the Netherlands and Sri Lanka, the Slovak Republic should ensure that, once it enters into negotiations with these treaty partners, it includes the required provision</p> <p>This concerns a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention either:</p> <ol style="list-style-type: none"> a. as amended by the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
[B.1]	<p>Five out of 70 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. Of these five treaties:</p> <ul style="list-style-type: none"> • Two have been modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One is expected to be superseded by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). • Two will not be modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these treaties, the relevant treaty partners have been or will be engaged by the Slovak Republic with a view to have the treaty modified by the Multilateral Instrument. Where this is not possible, it would initiate bilateral negotiations. 	<p>For the two treaties that have not been or will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), the Slovak Republic should continue to work in accordance with its plan to strive to include the required provision via the Multilateral Instrument and where this is not possible, request via bilateral negotiations the inclusion of the required provision.</p>

	Areas for improvement	Recommendations
[B.1]	<p>One out of 70 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.</p> <p>This treaty is expected to be modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) but not as regards the first sentence. For this treaty, no actions have been taken nor are any actions required to be taken.</p>	<p>As the treaty that does not contain the equivalent of Article 25(1), of the OECD Model Tax Convention (OECD, 2015a) either as it read prior to the adoption of the Action 14 final report or as amended by that report (OECD, 2015b) and that will be modified by the Multilateral Instrument to only include the second sentence of Article 25(1) of the OECD Model Tax Convention (2017), is a treaty of former Czechoslovakia that the Slovak Republic continues to apply to Italy, the Slovak Republic should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p> <p>This concerns a provision that is equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2015a) either:</p> <ol style="list-style-type: none"> as amended by the Action 14 final report (OECD, 2015b); or as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
[B.2]	-	-
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-
[B.7]	<p>11 out of 70 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these 11 treaties:</p> <ul style="list-style-type: none"> Five have been modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). One is expected to be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Five will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties: <ul style="list-style-type: none"> For three, the relevant treaty partners have been or will be engaged by the Slovak Republic with a view to have the treaty modified by the Multilateral Instrument. Where this is not possible, it would initiate bilateral negotiations. For one, negotiations on an amending protocol are pending. For one, no actions have been taken nor are any actions planned to be taken. 	<p>Two of the five treaties 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 is a treaty of former Czechoslovakia that the Slovak Republic continues to apply to Brazil and Tunisia. For one treaty, negotiations on an amending protocol are ongoing. In that regard, the Slovak Republic should complete negotiations for and sign the amending protocol as soon as possible to ensure the inclusion of the required provision. For the other treaty partner, the Slovak Republic should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p> <p>For the remaining three treaties that have not been or 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), the Slovak Republic should continue to work in accordance with its plan to strive to include the required provision via the Multilateral Instrument and where this is not possible, request via bilateral negotiations the inclusion of the required provision.</p>
[B.8]	-	-
[B.9]	-	-
[B.10]	-	-

	Areas for improvement	Recommendations
Part C: Resolution of MAP cases		
[C.1]	<p>One out of 70 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).</p> <p>This treaty will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, no actions have been taken nor are any actions required to be taken.</p>	<p>As the only treaty that does 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 is a treaty of former Czechoslovakia that the Slovak Republic continues to apply to Sri Lanka, the Slovak Republic should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p>
[C.2]	-	-
[C.3]	<p>MAP cases were resolved in 37.97 months on average, which concerns especially other MAP cases, as the average time needed to close these cases was 76.30 months, whereas for attribution/allocation cases the average time was below 24 months (9.23 months). There is therefore a risk that post-2015 cases are not resolved within the average of 24 months, especially concerning other MAP cases.</p> <p>Further, there was a significant increase in MAP inventory during the Statistics Reporting Period with less than half of these cases resolved during this time. This may indicate that the competent authority is not adequately resourced to cope with this increase.</p>	<p>While the Slovak Republic has taken some organisational measures by increasing the number of staff members in its competent authority function, further actions should be taken to ensure a timely resolution of MAP cases, which primarily concerns other MAP cases. In that regard, the Slovak Republic 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 MAP cases), so as to be able to resolve MAP cases in a timely, efficient and effective manner.</p>
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	-	-
[D.2]	-	-

	Areas for improvement	Recommendations
[D.3]	<p>35 out of 70 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). Of these 35 treaties:</p> <ul style="list-style-type: none"> • 14 have been modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). • Seven are expected to be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). • 14 will not be modified by the Multilateral Instrument to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these 14 treaties: <ul style="list-style-type: none"> - For eight, the relevant treaty partners have been or will be engaged by the Slovak Republic with a view to have the treaty modified by the Multilateral Instrument. Where this is not possible, it would initiate bilateral negotiations. - For two, negotiations on an amending protocol are pending. - For three, no actions have been taken nor are any actions required to be taken. 	<p>Three of the 14 treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument is a treaty of former Czechoslovakia that the Slovak Republic continues to apply to Brazil, Norway and Sri Lanka. For one treaty, negotiations on an amending protocol are ongoing. In that regard, the Slovak Republic should complete negotiations for and sign the amending protocol as soon as possible to ensure the inclusion of the required provision. For the remaining two treaty partners, the Slovak Republic should ensure that, once it enters into negotiations with these treaty partners, it includes the required provision.</p> <p>One of the remaining 11 treaties that does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument is a treaty with the former Yugoslavia that the Slovak Republic continues to apply to Bosnia and Herzegovina, the Slovak Republic should ensure that, once it enters into negotiations with Bosnia and Herzegovina, it includes the required provision.</p> <p>One of the remaining ten treaties that does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument is the treaty with former Federal Republic of Yugoslavia that the Slovak Republic continues to apply to Serbia and Montenegro, and which only has been modified by the Multilateral Instrument with respect to Serbia, the Slovak Republic should ensure that, once it enters into negotiations with Montenegro, it includes the required provision.</p> <p>For the remaining nine treaties that have not been or 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), the Slovak Republic should:</p> <ul style="list-style-type: none"> • for eight treaties, continue to work in accordance with its plan to strive to include the required provision via the Multilateral Instrument and where this is not possible, request via bilateral negotiations the inclusion of the required provision • for the remaining treaty, continue negotiations with the treaty partner with a view to including the required provision.

Annex A

Tax treaty network of the Slovak Republic

		Article 25(1) of the OECD Model Tax Convention (“MTC”)		Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration		
		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) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4) If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	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	
Armenia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Australia	Y	N/A	O	ii	4 years	Y	i	Y	Y	Y*	Y*	N
Austria	Y	N/A	O	Y	N/A	i***	i	Y	Y	Y	Y	N
Barbados	N	28-Oct-15	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Belarus	Y	N/A	O	Y	N/A	Y	i	Y	N	Y	Y	N

		Article 25(1) of the OECD Model Tax Convention (“MTC”)				Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration
		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) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?		
Belgium	Y	N/A	O	Y	N/A	i***	i	Y	Y*	Y	Y*	N
Bosnia and Herzegovina	Y	N/A	O	i	N/A	l**	i	Y	N	Y	Y	N
Brazil	Y	N/A	O	i	N/A	l	i	Y	N	Y	N	N
Bulgaria	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Canada	Y	N/A	O	Y*	N/A	Y	i	Y	lii	Y	Y	N
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	Y*	Y	Y	N
Czech Republic	Y	N/A	O	Y	N/A	Y	i	Y	Y*	Y	Y	N
Denmark	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
Ethiopia	Y	N/A	O	li	2 years	Y	i	Y	N	Y	Y	N
Finland	Y	N/A	O	Y	N/A	Y	i	Y	Y*	Y	Y	N
Former Yugoslav Republic of Macedonia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
France	Y	N/A	O	l	N/A	i***	i	Y	Y*	Y*	Y	N
Georgia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Germany	Y	N/A	O	l	N/A	Y	i	Y	N*	Y	Y	N
Greece	Y	N/A	O	Y	N/A	i**	i	Y	N*	Y	Y	N

		Article 25(1) of the OECD Model Tax Convention (“MTC”)				Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration
		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) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons		Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4) If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?	
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	N	Y	Y	N
India	Y	N/A	O	Y	N/A	i***	i	Y	Y	Y	Y	N
Indonesia	Y	N/A	O	Y	N/A	Y	i	Y	N	Y	Y	N
Iran	Y	N/A	O	Y	N/A	Y	i	Y	N	Y	Y	N
Ireland	Y	N/A	O	Y	N/A	Y	i	Y	Y*	Y	Y*	N
Israel	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Italy	Y	N/A	N	ii*	2 years	i**	i	Y	N*	N*	N*	N
Japan	Y	N/A	N	l	N/A	i***	i	Y	Y*	Y	Y	N
Kazakhstan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Korea	Y	N/A	O	Y	N/A	i***	i	Y	Y*	Y	Y	N
Kuwait	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Latvia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Libya	Y	N/A	O	Y	N/A	Y	i	Y	N	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
Malaysia	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	Y	N
Moldova	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	N	N
Montenegro	Y	N/A	O	Y	N/A	l	i	Y	N	Y	Y	N

		Article 25(1) of the OECD Model Tax Convention (“MTC”)				Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration
		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) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?		
Netherlands	Y	N/A	N	i	N/A	i***	i	Y	Y*	Y	Y	N
Nigeria	Y	N/A	O	i	N/A	Y	i	Y	N*	Y	Y	N
Norway	Y	N/A	O	i	N/A	I	i	Y	N	Y	Y	N
Oman	N	25-Mar-18	O	li	2-years	Y	i	Y	N	Y	N	N
Poland	Y	N/A	O	Y	N/A	Y	i	Y	Y*	Y	Y	N
Portugal	Y	N/A	O	Y	N/A	Y	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
Serbia	Y	N/A	O	Y	N/A	i***	i	Y	Y*	Y	Y	N
Singapore	Y	N/A	O	Y	N/A	I	i	Y	Y	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
Spain	Y	N/A	O	i	N/A	Y	i	Y	N*	Y	Y	N
Sri Lanka	Y	N/A	N	i	N/A	I	i	N	N	Y	Y	N
Sweden	Y	N/A	O	i	N/A	i***	i	Y	Y*	Y	Y	N
Switzerland	Y	N/A	O	Y	N/A	I	i	Y	li	Y	Y	Y
Syrian Arab Republic	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Chinese Taipei	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Tunisia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	N	N
Turkey	Y	N/A	O	lv**	Domestic law	Y	i	Y	N*	Y	Y	N
Turkmenistan	Y	N/A	O	Y	N/A	I	i	Y	Y	Y	Y	N

		Article 25(1) of the OECD Model Tax Convention (“MTC”)		Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration		
		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) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4) If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?		
Ukraine	Y	N/A	O	Y	N/A	I	i	Y	N	Y	Y	N
United Arab Emirates	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
United Kingdom	Y	N/A	O	i	N/A	I	i	Y	Y*	Y	Y*	N
United States	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Uzbekistan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Viet Nam	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	N	N

Note: 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.
- Y* The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this element of the Action 14 Minimum Standard.

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

2016 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2016	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in 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	0	0	10	n.a.
Others	15	0	0	0	1	0	0	0	0	0	0	14	32.75
Total	25	0	0	0	1	0	0	0	0	0	0	24	32.75

Notes: The Slovak Republic's inventory of pre-2016 attribution/allocation cases has been increased by one case as the Slovak Republic was informed in 2018 by its treaty partner that a case recorded as a post-2015 case was received prior to 1 January 2016. The 2017 and 2018 statistics have been modified accordingly as well.

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	10	0	0	0	0	0	1	0	0	0	0	9	32.47
Others	14	0	0	0	0	0	0	0	0	0	0	14	n.a.
Total	24	0	0	0	0	0	1	0	0	0	0	23	32.47

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	9	0	0	0	0	0	0	0	0	0	0	9	n.a.
Others	14	0	0	1	0	0	1	0	0	0	0	12	98.08
Total	23	0	0	1	0	0	1	0	0	0	0	21	98.08

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	4	1	0	0	0	0	0	0	0	0	0	3	0
Others	0	2	0	0	0	0	0	0	0	0	0	0	2	n.a.
Total	0	6	1	0	0	0	0	0	0	0	0	0	5	0

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	3	3	0	0	0	1	0	0	0	0	0	0	5	2.6
Others	2	2	0	0	0	0	0	0	0	0	0	0	4	n.a.
Total	5	5	0	0	0	1	0	0	0	0	0	0	9	2.6

Note: The Slovak Republic's inventory of post-2016 attribution/allocation cases has been decreased by one case as the Slovak Republic was informed in 2018 by its treaty partner that a case recorded as a post-2015 case was received prior to 1 January 2016.

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	5	4	0	0	0	0	1	0	0	0	0	0	8	1.84
Others	4	5	0	0	0	0	0	0	0	0	0	0	9	n.a.
Total	9	9	0	0	0	0	1	0	0	0	0	0	17	1.84

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
APA Guidance	Internal Regulatory Guideline No. 35/2016 – Methodological Instruction on the application of the provisions of Section 17(7) and Section 18(4) and (5) of Act. No. 595/2003 Coll. on income taxes as amended
MAP Guidance	Methodological Instruction No. MF/020525/2017-724 of 23 June 2016 of the Ministry of Finance of the Slovak Republic on the processes within the mutual agreement procedure
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, The Slovak Republic (Stage 2)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

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

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



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