

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



Making Dispute Resolution More Effective – MAP Peer Review Report, Argentina (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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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 7 May 2021 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

APA	Advance Pricing Arrangement
MAP	Mutual Agreement Procedure
ITRD	International Tax Relation Directorate
OECD	Organisation for Economic Co-operation and Development

Executive summary

Argentina has a modest tax treaty network with just over 25 tax treaties. Argentina has an established MAP programme, but has limited experience with resolving MAP cases. Furthermore, it has a small MAP inventory, with a small number of new cases submitted each year and with 16 cases pending on 31 December 2019. Of these 16 cases, seven concern allocation/attribution cases. Overall Argentina meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Argentina worked to address some of them, which has been monitored in stage 2 of the process. In this respect, Argentina solved none of the identified deficiencies.

All but one of Argentina'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 largely consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that:

- Approximately 30% of its tax treaties contain neither 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 27% of its tax treaties do not contain the equivalent of 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.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Argentina needs to amend and update a certain number of its tax treaties. In this respect, Argentina signed the Multilateral Instrument, through which a number of its tax treaties will potentially be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force of this Multilateral Instrument for the treaties concerned, Argentina reported that it intends to update all of its tax treaties via bilateral negotiations to be compliant with the requirements under the Action 14 Minimum Standard. In this respect, Argentina reported that for some of these treaties it already undertook some actions. For the remaining treaties, Argentina reported having put a plan in place to initiate communications with one treaty partner, whereas it has no intention to re-negotiate the treaty with the other treaty partner due to the structure of the treaty.

Currently, Argentina has no bilateral APA programme in place. Therefore, there were no specific elements to assess regarding the prevention of disputes. Argentina, however, reported that it is preparing a regulation allowing them to enter into bilateral APAs and the roll-back of such APAs.

Argentina meets some requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 January 2016 not received any MAP request concerning cases where anti-abuse provisions are applied. Furthermore, Argentina has in place a bilateral notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. This process, however, is not documented regarding the steps to be followed when such a decision is made. Argentina also does not have any guidance on the availability of MAP and how it applies this procedure in practice but it is currently preparing such guidance.

Concerning the average time needed to close MAP cases, the MAP statistics for Argentina for the period 2016-19 are as follows:

2016-19	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2019	Average time to close cases (in months)*
Attribution/allocation cases	2	9	4	7	18.34
Other cases	3	11	5	9	9.53
Total	5	20	9	16	13.44

* 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, Argentina used as a start date the date of presentation of the MAP request by the taxpayer and as the end date the date of the notification of the outcome of the MAP case to the taxpayer.

The number of cases Argentina closed in 2016-19 is lower than the number of all new cases started in those years. During these years, MAP cases were closed on average within a timeframe of 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the average time necessary was 13.44 months. However, its MAP inventory as on 31 December 2019 increased substantially as compared to 1 January 2016. Therefore, additional resources are necessary to cope with the increase in the number of MAP cases, such to be able to resolve them in a timely, efficient and effective manner.

Furthermore, Argentina meets all of the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Argentina'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, Argentina also meets the requirements under the Action 14 Minimum Standard as regards the implementation of MAP agreements. In addition, Argentina monitors the implementation of MAP agreements and no issues have surfaced regarding the implementation throughout the peer review process.

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>.

Introduction

Available mechanisms in Argentina to resolve tax treaty-related disputes

Argentina has entered into 26 tax treaties on income (and/or capital), 20 of which are in force.¹ These 26 treaties apply to 26 jurisdictions. All but one of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. None of these treaties contain an arbitration procedure as a final stage to the MAP process.

Under the tax treaties Argentina entered into, the competent authority function to handle mutual agreement procedure (“**MAP**”) cases is assigned to the Ministry of Economy, which has delegated it to the Secretary of Treasury, which reports directly to the Ministry of Economy. In practice, the competent authority function is performed by the International Tax Relation Directorate (“**ITRD**”), a department within the National Tax Directorate, which in turn is part of the Undersecretary of Public Revenue, which falls directly under the Secretary of Treasury. The competent authority of Argentina currently employs three employees within the ITRD who handle both attribution/allocation and other MAP cases. In addition to handling MAP cases and treaty negotiations and interpretations, these employees are also responsible for other work streams relating to international taxation.

Argentina has not issued any guidance on the governance and administration of the mutual agreement procedure. Its domestic law, however, does contain some rules in relation to the MAP programme.

Developments in Argentina since 1 September 2018

Developments in relation to the tax treaty network

In the stage 1 peer review report of Argentina, it is reflected that two of Argentina’s 21 tax treaties have not entered into force. This concerns the treaty with Qatar (2018) and the United Arab Emirates (2016). Qatar has ratified this treaty, while Argentina has not yet. Since 1 September 2018, the treaty with the United Arab Emirates has entered into force and Argentina signed new treaties with Austria (2019), China (2018), Japan (2019), Luxembourg (2019) and Turkey (2018). All these five treaties are pending ratification. The new treaties with Austria and China contain Article 9(2) and Article 25(1-3) of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), whereas the new treaties with Japan, Luxembourg and Turkey contain Article 9(2) and Article 25(1-3) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b).

Furthermore, on 7 June 2017 Argentina signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), to adopt, where necessary, modifications to the MAP article

under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. With the signing of the Multilateral Instrument, Argentina also submitted its list of notifications and reservations to that instrument.² In relation to the Action 14 Minimum Standard, Argentina has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure). Argentina indicated that it expects the ratification process of the Multilateral Instrument to be finalised during 2021 and that it will deposit the instrument of ratification during the second semester of that year.

For those tax treaties that were in the stage 1 peer review report considered not to be in line with one or more elements of the Action 14 Minimum Standard and that will not be modified by the Multilateral Instrument, Argentina reported that it strives to update them through future bilateral negotiations. In the stage 1 report, however, it was noted that Argentina had no plan for such purpose and was therefore recommended to put a plan in place and to bilaterally work on the renegotiation of these treaties. In total, four of Argentina's tax treaties need a bilateral modification in order to be in line with the requirements under the Action 14 Minimum Standard. In this respect, Argentina reported that:

- Negotiations with Germany were finalised on an amending protocol to the treaty.
- Communications with Italy have been initiated on the amendment of the treaty.

Furthermore, Argentina reported that it intends to contact Chile to propose a renegotiation to be in line with the Action 14 Minimum Standard during the first semester of 2021. With respect to the treaty with Bolivia, Argentina reported that it has no intention to re-negotiate the treaty since it does not follow the OECD or UN Model and a MAP is incompatible with its structure.

Basis for the peer review process

Outline of the peer review process

The peer review process entails an evaluation of Argentina'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, and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by Argentina, its peers and taxpayers.

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, Argentina'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 8 May 2019. This report identifies the strengths and shortcomings of Argentina 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. 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 Argentina. In this update report, Argentina 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 Argentina is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty. Reference is made to Annex A for the overview of Argentina’s tax treaties regarding the mutual agreement procedure.

Timing of the process and input received by peers and taxpayers

Stage 1 of the peer review process was for Argentina launched on 31 August 2018, with the sending of questionnaires to Argentina and its peers. The FTA MAP Forum has approved the stage 1 peer review report of Argentina in March 2019, with the subsequent approval by the BEPS Inclusive Framework on 8 May 2019. On 8 May 2020, Argentina submitted its update report, which initiated stage 2 of the process.

The period for evaluating Argentina’s implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 31 August 2018 and formed the basis for the stage 1 peer review report. The period of review for stage 2 started on 1 September 2018 and depicts all developments as from that date until 30 April 2020. In total six peers provided input: Belgium, Denmark, Germany, Norway, Spain and Switzerland. Out of these six peers, four had MAP cases with Argentina that started on or after 1 January 2016. These four peers represent 80% of post-2015 MAP cases in Argentina’s inventory that started in 2016 or 2017. Generally, some peers indicated that its experience with Argentina’s competent authority was limited or non-existent although one peer noted that Argentina’s competent authority was professional and efficient, while another peer raised concerns regarding the timeliness of Argentina’s responses. During stage 2, the same peers provided input. For this stage, these peers represent 60% of post-2015 MAP cases in Argentina’s inventory that started in 2016, 2017, 2018 or 2019. Generally, all peers indicated having good relationships with Argentina. Specifically with respect to stage 2, all peers that provided input reported that the update report of Argentina fully reflects the experiences these peers have had with Argentina since 1 September 2018 and/or that there was no addition to previous input given. One peer provided additional positive input or new experiences. The input from this peer is reflected throughout this document under the elements where it has relevance.

Input by Argentina and co-operation throughout the process

During stage 1, Argentina provided limited answers in its questionnaire, which was submitted past the deadline. Argentina was somewhat responsive in the course of the drafting of the peer review report by responding to requests for additional information, and provided further clarity where necessary. In addition, Argentina provided the following information:

- MAP profile³
- MAP statistics⁴ according to the MAP Statistics Reporting Framework (see below).

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

Finally, Argentina is a member of the FTA MAP Forum and has shown co-operation during the peer review process. It, however, has not provided peer input throughout the process regarding jurisdictions with which it had MAP experiences.

Overview of MAP caseload in Argentina

The analysis of Argentina’s MAP caseload for stage 1 relates to the period starting on 1 January 2016 and ending on 31 December 2017. For stage 2 the period ranges from 1 January 2018 to 31 December 2019. Both periods are taken into account in this report for analysing the MAP statistics of Argentina. The analysis of Argentina’s MAP caseload therefore relates to the period starting on 1 January 2016 and ending 31 December 2019 (“Statistics Reporting Period”). According to the statistics provided by Argentina its MAP caseload during this period was as follows:

2016-19	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2019
Attribution/allocation cases	2	9	4	7
Other cases	3	11	5	9
Total	5	20	9	16

General outline of the peer review report

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

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

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).⁵ Apart from analysing Argentina’s legal framework and its administrative practice, the report also incorporates peer input. Furthermore, the report depicts the changes adopted and plans shared by Argentina 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 Argentina relating to the implementation of the Action 14 Minimum Standard. Where it concerns changes to MAP guidance or statistics, these changes are reflected in the analysis sections of the elements, with a general description of the changes in the recent development sections.

The objective of the Action 14 Minimum Standard is to make dispute resolution mechanisms more effective and concerns a continuous effort. Where recommendations have been fully implemented, this has been reflected and the conclusion section of the relevant element has been modified accordingly, but Argentina 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 Argentina has entered into are available at: <https://www.argentina.gob.ar/economia/ingresospublicos/conveniossuscriptos>. The treaties that are signed but have not yet entered into force are with Austria, China (People’s Republic of), Japan, Luxembourg, Qatar and Turkey. Reference is made to Annex A for the overview of Argentina’s tax treaties.
2. Available at: www.oecd.org/tax/treaties/beps-mli-position-argentina.pdf.
3. Available at: www.oecd.org/tax/dispute/Argentina-Dispute-Resolution-Profile.pdf.
4. The MAP statistics of Argentina are included in Annex B and C of this report.
5. 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.

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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>.

Part A

Preventing disputes

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

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

1. Cases may arise concerning the interpretation or the application of tax treaties that do not necessarily relate to individual cases, but are more of a general nature. Inclusion of the first sentence of Article 25(3) of the OECD Model Tax Convention (OECD, 2017a) in tax treaties invites and authorises competent authorities to solve these cases, which may avoid submission of MAP requests and/or future disputes from arising, and which may reinforce the consistent bilateral application of tax treaties.

Current situation of Argentina’s tax treaties

2. Out of Argentina’s 26 tax treaties, 23 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. Of the remaining three treaties, one does not contain the word “interpretation” while another treaty is missing both the word “doubts” and the word “interpretation”. The remaining treaty does not contain a MAP provision at all. For these reasons, all three treaties are considered to not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

3. Argentina reported that for those treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), there are under its domestic legislation and/or administrative practice no obstructions to enter in MAP agreements of a general nature.

4. During stage 1, for the three treaties identified that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), the relevant peers did not provide input.

Recent developments

Bilateral modifications

5. Argentina signed new treaties with five treaty partners, all of which concern a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. All of them contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), and are pending ratification. The effects of the newly signed treaties have been reflected in the analysis above where they have relevance.

Multilateral Instrument

6. Argentina signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected in 2021.

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

8. In regard of the 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), Argentina listed two of them as a covered tax agreement under the Multilateral Instrument but only for one treaty did it make, pursuant to Article 16(6)(d)(i), a notification that it does not contain a provision described in Article 16(4)(c)(i). This treaty partner is a signatory to the Multilateral Instrument, listed its treaty with Argentina as a covered tax agreement under that instrument and also made a notification on the basis of Article 16(6)(d)(i). Therefore, at this stage, one of the three tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties, to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

Other developments

9. Argentina reported that for one of the remaining two tax treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) and will not be modified by the Multilateral Instrument, the relevant treaty partner contacted Argentina to discuss to bring the treaty to be in line with the requirements under the Action 14 Minimum Standard.

Peer input

10. Of the peers that provided input during stage 2, one provided input in relation to their tax treaty with Argentina. This peer stated that its treaty is in line with the BEPS Action 14 Minimum Standard.

Anticipated modifications

11. Argentina reported that for the remaining tax treaty that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) and will not be modified by the Multilateral Instrument, it does not intend to update it via bilateral negotiations with a view to be compliant with element A.1. For that reason Argentina has not put in place a specific plan nor has it taken any actions to that effect.

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

Conclusion

	Areas for improvement	Recommendations
[A.1]	<p>Three out of 26 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). Of these three treaties:</p> <ul style="list-style-type: none"> • One treaty is expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaty concerned. • Two will not be modified by the Multilateral Instrument to include the required provision. With respect to these two treaties: <ul style="list-style-type: none"> - For one communications have been initiated. - For one no actions have been taken nor are any actions planned to be taken. 	<p>Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) for the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), Argentina should:</p> <ul style="list-style-type: none"> • initiate negotiations with the treaty partner for which communications have been initiated to include the required provision via bilateral negotiations • without further delay request the inclusion of the required provision via bilateral negotiations.

[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.¹ The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The “roll-back” of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

Argentina’s APA programme

14. Argentina reported it does not currently have in place an APA programme, which would allow its competent authority to enter into bilateral APAs. Argentina further reported that following a recent amendment to its procedural tax law, taxpayers are allowed to request for the conclusion of a “Joint Determination of Pricing of International Operations” at the level of the tax administration. Based on this amendment, Argentina reported that it would

be allowed to enter into (bilateral) APAs. In this respect, Article 217 of Law 11.683 contains rules of procedure that will apply when requesting an APA, one of which is that the request for such joint determination should be made before the commencement of the fiscal year to which the request pertains. Under Article 217, such joint determination may also be agreed on with another competent authority under the applicable tax treaty Argentina has entered into.

15. Furthermore, while under its domestic law Argentina is allowed to enter into bilateral APAs, Article 217 of Law 11.683 stipulates that a regulation from the tax administration is necessary to be able to actually enter into (bilateral) APAs in practice.

Roll-back of bilateral APAs

16. Argentina reported that it is currently not possible for taxpayers to request the roll-back of a bilateral APA, due to the fact that Argentina's APA programme is not yet in effect.

Recent developments

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

Practical application of roll-back of bilateral APAs

Period 1 January 2016-31 August 2018 (stage 1)

18. Argentina reported that in the period 1 January 2016-31 August 2018 it received no requests for bilateral APAs.

19. Peers that provided input mentioned that they did not receive a request for a roll-back of a bilateral APA concerning Argentina. Two peers in particular noted that they have never received any requests for bilateral APAs concerning Argentina.

Period 1 September 2018-30 April 2020 (stage 2)

20. Argentina reported that since 1 September 2018 it has not received any bilateral APA requests.

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

Anticipated modifications

22. Argentina indicated that it is currently preparing a formal administrative regulation that would give effect to the rules of Article 217 of Law 11.683 following which it would be allowed to enter into bilateral APAs. Argentina further reported that this regulation will contain a set of rules governing how taxpayers can access APAs and that it expects to also introduce the allowance of roll-backs.

Conclusion

	Areas for improvement	Recommendations
[A.2]	-	-

Note

1. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD, 2017b).

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.

23. 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 Argentina's tax treaties

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

24. Out of Argentina's 26 tax treaties, four 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 contracting 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, 15 treaties contain a provision equivalent to Article 25(1), first sentence, of the 2015 OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the Action 14 final report (OECD, 2015b).

25. The remaining seven 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.	5
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
No MAP provision	1

26. The five treaties mentioned in the first row above are considered not to contain the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, for the following reasons all five of those treaties are considered to be in line with this part of element B.1:

- The relevant tax treaty does not contain a non-discrimination provision and only applies to residents of one of the states (one treaty).
- The non-discrimination provision of the relevant tax treaty only applies to nationals that are resident of one of the contracting states. Therefore, it is logical that the last part of Article 25(1), first sentence is omitted and consequently that it only allows for the submission of MAP requests to the state of which the taxpayer is a resident (four treaties).

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

The expression “irrespective of the remedies provided by the domestic law” means that recourse to the mutual agreement procedure is not alternative as regards national remedies, prior recourse to which is necessary whenever the dispute refers to the imposition of taxes not in accordance with this Convention.

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

29. Concerning the treaty mentioned in the last row of the table, because this treaty does not contain a MAP provision it is also considered to be not in line with this part of element B.1.

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

30. Out of Argentina’s 26 tax treaties, 21 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing taxpayers to submit a MAP request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.

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

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

Peer input

32. Of the peers that provided input during stage 1, one noted that its treaty with Argentina does not meet the Action 14 Minimum Standard with regard to Article 25, first sentence, of the OECD Model Tax Convention (OECD, 2017), but that the treaty will be modified by the Multilateral Instrument to enable taxpayers to submit a MAP request to either competent authority. Another peer noted that it is currently negotiating with Argentina on a revision of the existing treaty, the outcome of which will be in line with the Action 14 Minimum Standard. Four other peers noted that their tax treaty with Argentina already meets the requirement of the Action 14 Minimum Standard for this element, whereby two indicated that their treaty will be modified by the Multilateral Instrument to allow the submission of MAP requests to either competent authority. This conforms with the above analysis.

33. For the three treaties identified that do not contain the equivalent of Article 25(1), first or second sentence, of the OECD Model Tax Convention (OECD, 2017), the relevant peers did not provide input.

Practical application

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

34. As follows from the above analysis, in all but one of Argentina's tax treaties taxpayers can file a MAP request irrespective of domestic remedies. In this respect, Argentina reported that if a taxpayer submits a MAP request and simultaneously initiates domestic available remedies, access to MAP would be granted. Access would also be granted if these domestic remedies have already been finalised. However, Argentina noted that as its competent authority is not allowed to derogate from decisions of its domestic courts, the case would be accepted, but its competent authority will only seek correlative relief from the other competent authority concerned.

35. Furthermore, Argentina reserved a position in the commentary to the first paragraph of Article 25 of the OECD Model Tax Convention (OECD, 2015a). This position states that Argentina considers that paragraph 1 of the Article does not bind the competent authorities to commence or accept a MAP case where the taxpayer alleges that taxation is not in accordance with the Convention in respect of a hypothetical case, rather than an actual case.

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

36. With respect to those two tax treaties that do not contain a filing period for MAP requests, Argentina reported that, pursuant to Article 207 of Law 11.683, it will apply a period of three years following the day of the first notification of the action that result or

may result in taxation not in accordance with the tax treaty. While this is stated in its law, Argentina reported that for these treaties it will apply the three-year period of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

37. Argentina further reported that for one of the two tax treaties that currently does not contain a filing period for MAP request, negotiations were finalised on an amending protocol to the treaty, which will include the second sentence of Article 25(1). For the remaining treaty, as is mentioned in the Introduction, Argentina signed the Multilateral Instrument without any reservations to Article 16 concerning the mutual agreement procedure. The same applies with respect to the treaty partner to this treaty. While the treaty itself is in line with element B.1, where both treaty partners listed their treaty with each other as a covered tax agreement under the Multilateral Instrument, but did not make, pursuant to Article 16(5)(b) a reservation nor, pursuant to Article 16(6)(b), a notification that their mutual treaty contains a filing period for MAP requests of less than three years or of at least three years, the effect of the instrument is that the treaty provision will be superseded to the extent of incompatibility. In that regard, once negotiations have been finalised for the first treaty, there would not be a treaty left without a filing period.

Recent developments

Bilateral modifications

38. Argentina signed new treaties with five treaty partners, all of which concern a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. Three of these five treaties contain a provision that is equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to file a MAP request to either competent authority. The other two treaties contain a provision that is equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). All the five treaties are pending ratification. The effects of the newly signed treaties have been reflected in the analysis above where they have relevance.

Multilateral Instrument

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

39. Argentina signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected in 2021.

40. 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.

41. With the signing of the Multilateral Instrument, Argentina opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Argentina's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which it is a resident, Argentina opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Argentina listed 17 of its 26 treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for all of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b).

42. All of the 17 relevant treaty partners are a signatory to the Multilateral Instrument, and listed their treaty with Argentina as a covered tax agreement under that instrument. However, four treaty partners reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state. The remaining 13 treaty partners listed their treaty with Argentina as having a provision that is equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). Therefore, at this stage, 13 of the 26 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b).

43. In view of the above and in relation to the two treaties identified in paragraphs 24-29 that are ultimately 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), none are part of the 13 treaties that will be modified via the Multilateral Instrument.

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

44. 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).

45. In regard of the two tax treaties identified in paragraph 30 above that contain a filing period for MAP requests of less than three years, Argentina listed two treaties as a covered tax agreement under the Multilateral Instrument and for all of them did it make,

pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). Both relevant treaty partners are a signatory to the Multilateral Instrument, and both listed their treaty with Argentina as a covered tax agreement under that instrument and also made a notification on the basis of Article 16(6)(b)(i). Therefore, at this stage, both tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

46. Argentina reported that for one of the remaining two tax treaties that do not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) and will not be modified by the Multilateral Instrument, the relevant treaty partner contacted Argentina to discuss to bring the treaty to be in line with the requirements under the Action 14 Minimum Standard.

Peer input

47. Of the peers that provided input during stage 2, one provided input in relation to their tax treaty with Argentina. This peer does not concern a treaty partner to one of the treaties identified above that do not contain Article 25(1), first and/or second sentence, of the OECD Model Tax Convention (OECD, 2017) (OECD, 2015a) and that will not be modified by the Multilateral Instrument.

Anticipated modifications

48. Argentina reported that for the remaining tax treaty that does 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 that will not be modified by the Multilateral Instrument, it does not intend to update it via bilateral negotiations with a view to be compliant with element B.1. For that reason, Argentina has not put a specific plan in place nor has it taken any actions to that effect.

49. Regardless, Argentina reported it will seek to include 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), in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[B.1]	One out of 26 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a). This treaty will not be modified by the Multilateral Instrument to include the required provision. For this treaty, no actions have been taken nor are any actions planned to be taken.	As this treaty will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) in the treaty that currently does not contain such equivalent, Argentina should without further delay request the inclusion of the required provision via bilateral negotiations, either 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.

	Areas for improvement	Recommendations
[B.1]	One out of 26 tax treaties does not contain the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) and the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. This treaty is expected to be modified by the Multilateral Instrument to include a filing period of three years upon entry into force for the treaties concerned, but not as regards Article 25(1), first sentence. For this treaty communications have been initiated.	<p>Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in this treaty.</p> <p>With respect to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), Argentina should initiate negotiations to include the required provision via bilateral negotiations. This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a) either:</p> <p>a. as amended by the Action 14 final report (OECD, 2015b); or</p> <p>b. as it read prior to the adoption of Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.</p>
	One out of 26 tax treaties does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. This treaty is expected to be modified by the Multilateral Instrument to include such equivalent upon entry into force for this treaty.	Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in this treaty.

[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).

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

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

Domestic bilateral consultation or notification process in place

51. As discussed under element B.1, out of Argentina’s 26 treaties, four 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, 13 of these 26 treaties will, upon entry into force, be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

52. Article 211 of Law 11.683 stipulates that upon receipt of a MAP request, Argentina’s competent authority has two months to accept or reject the request or, if necessary, request additional information. When such additional information is requested, the two-month deadline commences as from the date of receipt of the request. A MAP request may be denied access on the grounds stipulated in Article 212 of Law 11.683 (see below). In case of denial, the taxpayer shall be informed accordingly. If such a decision is not taken within two months, the MAP request is deemed to be accepted.

53. Argentina reported that in December 2017 it introduced a bilateral notification process to be applied where its competent authority considers the objection raised by taxpayers in their MAP request to be not justified. This process is set forth in Article 212 of Law 11.683, which, as mentioned above, defines the criteria upon which access to MAP can be denied. One of these criteria concerns cases where the objection is considered to be not justified. For such a decision, Article 212 stipulates that both the taxpayer and the other competent authority shall be notified.

54. While Argentina has a notification process under its domestic law, there are no further rules documented that should be applied when its competent authority considers the objection raised in a MAP request not to be justified. Conclusively, although Argentina has introduced such a notification process, it has not documented this process outside of its domestic legislation and there are no rules of procedure on how to apply that notification process in practice.

Recent developments

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

Practical application

Period 1 January 2016-31 2016-31 August 2018 (stage 1)

56. Argentina reported that in one case its competent authority considered that the objection raised by taxpayers in their MAP request was not justified. This is consistent with the 2016 and 2017 MAP statistics submitted by Argentina. Argentina reported that the other competent authority concerned was not notified or consulted about this case, which can be clarified by the fact that the notification process was only introduced in Argentina’s legislation in December 2017 and the decision was made prior to that date.

57. All peers that provided input indicated not being aware of any cases for which Argentina’s competent authority considered the objection raised in a MAP request to be not justified. They also reported not having been consulted/notified in such cases. The treaty partner that was involved in the one case described above, however, did not provide peer input.

Period 1 September 2018-30 April 2020 (stage 2)

58. Argentina reported that since 1 September 2018 its competent authority has not considered any objection raised in a MAP request as not being justified. The 2018 and 2019 MAP statistics submitted by Argentina confirm that none of its MAP cases were closed with the outcome “objection not justified”.

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

Anticipated modifications

60. Argentina indicated that it is currently preparing a regulatory decree in relation to the mutual agreement procedure. This decree will contain a timeframe requiring Argentina’s competent authority to within ten days electronically notify its treaty partner of the decision and the reasons that led to the decision to consider the objection raised as not justified.

Conclusion

	Areas for improvement	Recommendations
[B.2]	A bilateral notification process is in place to be applied when the taxpayer’s objection raised in the MAP request is considered not to be justified, for the 22 of the 26 treaties that do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. This process, however, is not documented.	Argentina should follow its stated intention and without further delay document its bilateral notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Argentina should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b).

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

Jurisdictions should provide access to MAP in transfer pricing cases.

61. 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

62. Out of Argentina’s 26 tax treaties, 20 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) requiring their state to make a correlative adjustment in situations where a transfer pricing adjustment is imposed by the treaty partner. Furthermore, five treaties do not contain a provision that is based on or equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). The remaining treaty does contain a provision that is based on Article 9(2) of the OECD Model Tax Convention

(OECD, 2017), but deviates from this provision because the requirement to grant a corresponding adjustment is not included and it is missing the last sentence of Article 9(2). This sentence is replaced by wording that stipulates that the competent authorities may consult together with a view to reach an agreement on the adjustment of profits.

63. Further to the above, Argentina previously made a position on Article 9 of the OECD Model Tax Convention (OECD, 2017), which stipulated that it reserved the right to include in its tax treaties a provision setting out that a corresponding adjustment shall only be made within the time limits, or other procedural limitations, as is provided in its domestic law. Furthermore, the reservation also mentioned that the commitment to provide for corresponding adjustments does not apply in case of fraud, wilful default or neglect. Argentina has since withdrawn this position with the 2017 update to the OECD Model Tax Convention (OECD, 2017).

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

Recent developments

Bilateral modifications

65. Argentina signed new treaties with five treaty partners, all of which concern a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. All of them contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017), and are pending ratification. The effects of the newly signed treaties have been reflected in the analysis above where they have relevance.

Multilateral Instrument

66. Argentina reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention (OECD, 2017) in its tax treaties where possible and that it will seek to include this provision in all of its future tax treaties. In that regard, Argentina signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected in 2021.

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

Article 17(4) of the Multilateral Instrument stipulates that both have to make a notification whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). Where such a notification is made by both of them, the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017)).

68. Argentina has not reserved, pursuant to Article 17(3), the right not to apply Article 17(2) of the Multilateral Instrument for those treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). In regard of the six treaties identified in paragraph 46 above that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017), Argentina listed three of them as a covered tax agreement under the Multilateral Instrument, but only for one did it make a notification on the basis of Article 17(4). The relevant treaty partner is a signatory to the Multilateral Instrument and listed its treaty with Argentina as a covered tax agreement under that instrument and also made a notification on the basis of Article 17(4). Therefore, at this stage this treaty will be replaced by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017).

69. With regard to the other two treaties for which Argentina did not make a notification on the basis of Article 17(4), both relevant treaty partners are signatories to the Multilateral Instrument and listed their tax treaty with Argentina as a covered tax agreement under that instrument and did not reserve on the basis of Article 17(3), the right not to apply Article 17(2) as they considered that their treaty with Argentina already contains the equivalent of Article 9(2), nor did they make a notification on the basis of Article 17(4). Therefore, at this stage these two treaties will be superseded by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but only to the extent that the provisions contained in these treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).

Other developments

70. Argentina reported that for one of the three treaties that will not be modified or superseded by the Multilateral Instrument upon its entry into force to include Article 9(2) of the OECD Model Tax Convention (OECD, 2017), negotiations were finalised with the relevant treaty partner to include such equivalent.

Application of legal and administrative framework in practice

Period 1 January 2016-31 August 2018 (stage 1)

71. Argentina reported that in the period 1 January 2016-31 August 2018 it has not denied access to MAP on the basis that the case concerned a transfer pricing case.

72. All peers that provided input indicated not being aware of a denial of access to MAP by Argentina in the period 1 January 2016-31 August 2018 on the basis that the case concerned was a transfer pricing case.

Period 1 September 2018-30 April 2020 (stage 2)

73. Argentina reported that since 1 September 2018 it has received one transfer pricing MAP request and that access to MAP was granted for that case.

74. All peers that provided input during stage 1, stated in stage 2 that the update report provided by Argentina fully reflects their experience with Argentina since 1 September 2018 and/or there are no additions to the previous input given. One of these peers mentioned that for one transfer pricing MAP request the peer accepted from a taxpayer, Argentina included it in its inventory when the peer notified the case.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[B.3]	-	-

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

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

76. 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

77. None of Argentina's 26 tax treaties allows competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, the domestic law and/or administrative processes of Argentina do not include a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

Recent developments

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

Practical application*Period 1 January 2016-31 August 2018 (stage 1)*

79. Argentina reported that in the period 1 January 2016-31 August 2018 it did not deny access to MAP in any 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, since that date no requests in relation hereto were received by its competent authority.

80. All peers that provided input indicated not being aware of cases that have been denied access to MAP in Argentina in the period 1 January 2016-31 August 2018 in relation to the application of treaty and/or domestic anti-abuse provisions.

Period 1 September 2018-30 April 2020 (stage 2)

81. Argentina reported that since 1 September 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.

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

Anticipated modifications

83. Argentina did not indicate that it anticipates 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.

84. 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

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

Administrative or statutory dispute settlement/resolution process

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

Recent developments

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

Practical application

Period 1 January 2016-31 August 2018 (stage 1)

88. Argentina reported that in the period 1 January 2016-31 August 2018 it has not denied access to MAP in any cases where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration, which can be clarified by the fact that no such process is in place.

89. All peers that provided input indicated not being aware of a denial of access to MAP in Argentina in the period 1 January 2016-31 August 2018 in cases where there was an audit settlement between the taxpayer and the tax administration.

Period 1 September 2018-30 April 2020 (stage 2)

90. Argentina reported that since 1 September 2018 it has also not denied access to MAP for cases where the issue presented by the taxpayer has already been dealt with in an audit settlement between the taxpayer and tax administration. However, no such cases in relation hereto were received since that date.

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

Anticipated modifications

92. Argentina did not indicate that it anticipates any modifications in relation to element B.5.

Conclusion

	Areas for improvement	Recommendations
[B.5]	-	-

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

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

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

Legal framework on access to MAP and information to be submitted

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

95. Argentina reported that its competent authority will accept a MAP request if it complies with the requirements established in Article 209 of Law 11.683, which enumerates which information taxpayers need to include in a MAP request.

96. Article 210 of Law 11.683 stipulates that where the MAP request does not contain all required information, Argentina’s competent authority may request the taxpayer to provide the missing information within two months from the receipt of the request. The taxpayer has then one month to provide the requested information. Furthermore, Article 210 states that if the taxpayer does not submit the requested information within the one-month deadline, its competent authority will not accept the case and will close it accordingly. Argentina noted, however, that the taxpayer would be able to present his request again if the three-year time limit to present a MAP has not yet expired.

Recent developments

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

Practical application

Period 1 January 2016-31 August 2018 (stage 1)

98. Argentina reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation required requirements as set out in its MAP guidance. It further reported that in the period 1 January 2016-31 August 2018 its competent authority has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

99. All peers that provided input indicated not being aware of a limitation of access to MAP by Argentina in the period 1 January 2016-31 August 2018 in situations where taxpayers complied with information and documentation requirements.

Period 1 September 2018-30 April 2020 (stage 2)

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

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

Anticipated modifications

102. Argentina reported that it is considering notifying the taxpayer via email or telephone to inform him that the one-month expiration time limit for the submission of additional requested information is approaching.

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.

103. 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 Argentina's tax treaties

104. Out of Argentina's 26 tax treaties, 19 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The remaining seven treaties do not contain any provision based on, or equivalent to, Article 25(3) second sentence.

105. During stage 1, for the seven treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), one of the relevant peers reported that its treaty with Argentina would be modified by the Multilateral Instrument. Two other peers noted that their treaty with Argentina is already in line with this element of the Action 14 Minimum Standard, which conforms with the above analysis.

Recent developments

Bilateral modifications

106. Argentina signed new treaties with five treaty partners, all of which concern a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. All of them contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), and are pending ratification. The effects of the newly signed treaties have been reflected in the analysis above where they have relevance.

Multilateral Instrument

107. Argentina signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected in 2021.

108. 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).

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

Peer input

110. Of the peers that provided input during stage 2, one provided input in relation to their tax treaty with Argentina. This peer does not concern a treaty partner to one of the treaties identified above that does not contain Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument.

Anticipated modifications

111. Argentina reported that for the remaining tax treaty that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument, it does not intend to update it via bilateral negotiations with a view to be compliant with element B.7. For that reason Argentina has not put a specific plan in place nor has it taken any actions to that effect.

112. Regardless, Argentina reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[B.7]	<p>Seven out of 26 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these seven treaties:</p> <ul style="list-style-type: none"> • Six are expected to be modified by the Multilateral Instrument to include the required provision, upon entry into force for the treaties concerned. • One will not be modified by the Multilateral Instrument. For this treaty, no actions have been taken nor are any actions planned to be taken. 	<p>Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those six treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining treaty that 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), Argentina should without further delay request the inclusion of the required provision via a bilateral negotiation.</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.

113. 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.

Argentina's MAP guidance

114. Argentina has not issued guidance on the MAP process and how it applies that process in practice, while chapter I, title IV of Law 11.683 contains information on the MAP process in Argentina.

115. Therefore, the contact details (mailing address or email address) of the competent authority to which a MAP request should be sent are not specified. Furthermore, due to the absence of any MAP guidance, information on various subjects is not specifically addressed. This concerns information on:

- whether MAP is available in cases of: (i) transfer pricing, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments
- whether taxpayers can request for the multi-year resolution of recurring issues through MAP
- the possibility of suspension of tax collection during the course of a MAP

- the consideration of interest and penalties in the MAP
- the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).

Information and documentation to be included in a MAP request

116. Although Argentina does not have MAP guidance, Article 209 of Law 11.683 defines what information taxpayers need to include in their MAP request.

117. To facilitate the review of a MAP request and to have more consistency in the content required to be included in such a request, 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. This agreed upon guidance is outlined below. With respect to Article 209, the information to be included in a MAP request is checked in the following list:

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

118. Further to the above, pursuant to Article 209, a MAP request should also specify whether any administrative or judicial remedy was already initiated for the case under review, including any information on the resolution on the matter.

Recent developments

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

Anticipated modifications

120. Argentina reported that it intends to publish a regulatory decree regarding law 11.683 that will contain information on the MAP process in Argentina. The decree will be published in Argentina's official gazette as well as in any other relevant official Argentine webpage.

Conclusion

	Areas for improvement	Recommendations
[B.8]	There is no published MAP guidance.	Argentina should without further delay introduce and publish guidance on access to and use of the MAP, and in particular include the contact information of its competent authority.
	No MAP guidance is available on what information taxpayers should include in their MAP request, while it is included in the domestic law.	Argentina should include in its to be published MAP guidance information on the manner and form in which taxpayers should submit their MAP request.

[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.

121. 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.¹

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

122. As discussed under element B.8, Argentina has not published MAP guidance.

MAP profile

123. The MAP profile of Argentina has been published on the website of the OECD and was last updated in November 2020. While this MAP profile is complete and includes external links that provide extra information and guidance where appropriate, since Argentina has not published MAP guidance, detailed information on its MAP programme is not included in many of its responses.

Recent developments

124. Argentina updated its MAP profile in November 2020 to reflect the new contact details according to a change in the Administration after elections in Argentina.

Anticipated modifications

125. As discussed under element B.8, Argentina reported that it intends to publish a regulatory decree that will contain information on its MAP programme and which will be published in the official gazette as well as be made publicly available on a relevant official webpage.

Conclusion

	Areas for improvement	Recommendations
[B.9]	MAP guidance is not publicly available.	Argentina should, once it has issued MAP guidance, make this guidance publicly available and easily accessible and its MAP profile published on the shared public platform should be updated if needed.

[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.

126. 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

127. As previously discussed in B.5, under Argentina's domestic law it is not possible for taxpayers and the tax administration to enter into audit settlements. In that regard, there is no need for Argentina to address in its forthcoming MAP guidance whether taxpayers have access to MAP in such situations.

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

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

129. As previously mentioned under element B.5, Argentina 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.

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

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

131. As Argentina does not have an existing administrative or statutory dispute settlement/resolution process, there is no need for it to notify its treaty partners.

Recent developments

132. There are no recent developments with respect to element B.10.

Anticipated modifications

133. Argentina did not indicate that it anticipates any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

Note

- The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.

References

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Part C

Resolution of MAP cases

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

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

134. 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 Argentina’s tax treaties

135. Out of Argentina’s 26 tax treaties, 24 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.

136. Of the remaining two treaties, one does not contain a MAP provision at all. The other treaty contains a provision that is based on Article 25(2), first sentence of the OECD Model Tax Convention (OECD, 2017), but also contains additional language that limits the possibility to discuss cases bilaterally, as it reads: “...provided that the competent authority of the other Contracting State is notified of the case within four years from the due date or the date of filing of the return in that other State, whichever is later.” Because this provision imposes an obligation to notify the other competent authority within a certain time limit from the receipt of a MAP request, such obligation may in practice prevent cases from being dealt with in MAP. This treaty is therefore considered not being equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

137. During stage 1, for the two treaties identified that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), the relevant peers did not provide input.

Recent developments

Bilateral modifications

138. Argentina signed new treaties with five treaty partners, all of which concern a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. All of them contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), and are pending ratification. The effects of the newly signed treaties have been reflected in the analysis above where they have relevance.

Multilateral Instrument

139. Argentina signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected in 2021.

140. 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).

141. In regard of the two tax treaties identified above that are considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Argentina listed one treaty as a covered tax agreement under the Multilateral Instrument for which it made, pursuant to Article 16(6)(c)(i), a notification that it does not contain a provision described in Article 16(4)(b)(i). The relevant treaty partner is a signatory to the Multilateral Instrument and listed its treaty with Argentina as a covered tax agreement under that instrument and also made a notification on the basis of Article 16(6)(c)(i). Therefore, at this stage, one of the two tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

Peer input

142. Of the peers that provided input during stage 2, one provided input in relation to their tax treaty with Argentina. This peer does not concern a treaty partner to one of the treaties identified above that does not contain Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) (OECD, 2017) and that will not be modified by the Multilateral Instrument.

Anticipated modifications

143. Argentina reported that for the remaining tax treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument, it does not intend to update it via bilateral negotiations with a view to be compliant with element C.1. For that reason, Argentina has not put a specific plan in place nor has it taken any actions to that effect.

144. Regardless, Argentina reported it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[C.1]	<p>Two out of 26 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). Of these two treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaty concerned. • One will not be modified by the Multilateral Instrument. For this treaty no actions have been taken nor are any actions planned to be taken. 	<p>Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Argentina should without further delay request the inclusion of the required provision via bilateral negotiations.</p>

[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).

145. 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

146. Statistics regarding all tax treaty related disputes concerning Argentina are published on the website of the OECD as of 2008, 2009, 2010 and 2015.¹

147. 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. Argentina provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Argentina and of which its competent authority was aware. The statistics discussed below include both pre-2016 and post-2015 cases and the full statistics are attached to this report as Annex B and C respectively and should be considered jointly for an understanding of the MAP caseload of Argentina.²

148. With respect to post-2015 cases, Argentina reported for the years 2016-19 it has reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, Argentina reported that it could match its statistics with all its MAP partners.

149. One peer provided input on the matching of MAP statistics with Argentina and confirmed that it was able to match the statistics.

Monitoring of MAP statistics

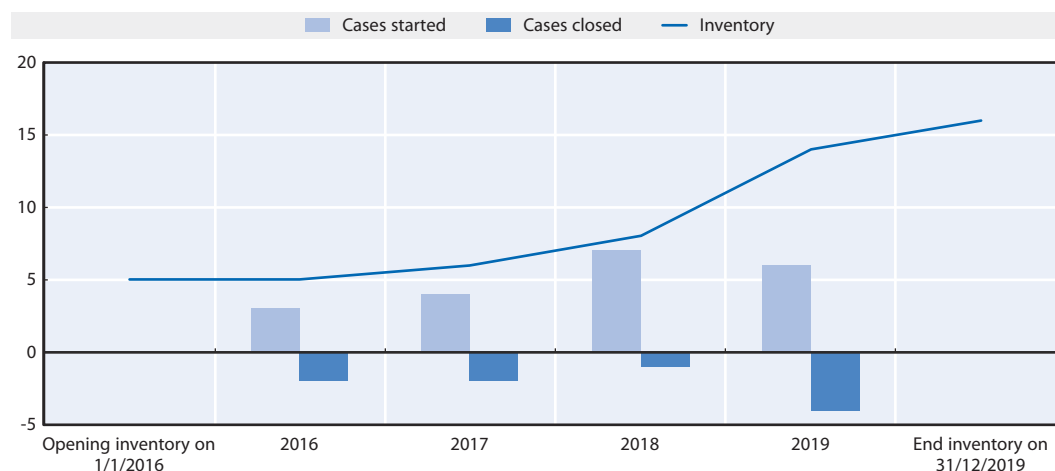
150. Argentina reported it uses an internal system to monitor and manage its MAP caseload. This system keeps track of taxpayer information, the date of MAP requests, the type of cases, a summary of the applicable provisions of the tax treaty, the closing date of the case and the date of implementation of the MAP agreement where necessary.

Analysis of Argentina's MAP caseload

151. The analysis of Argentina's MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2019.³

152. Figure C.1 shows the evolution of Argentina's MAP caseload over the Statistics Reporting Period.

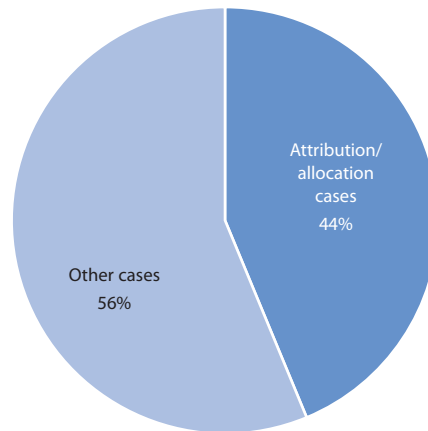
Figure C.1. Evolution of Argentina's MAP caseload



153. At the beginning of the Statistics Reporting Period Argentina had five pending MAP cases, of which two were attribution/allocation cases and three were other MAP cases.⁴ At the end of the Statistics Reporting Period, Argentina had 16 MAP cases in its inventory, of which seven are attribution/allocation cases and nine are other MAP cases. Consequently, Argentina's MAP caseload increased by 220% during the Statistics Reporting Period.

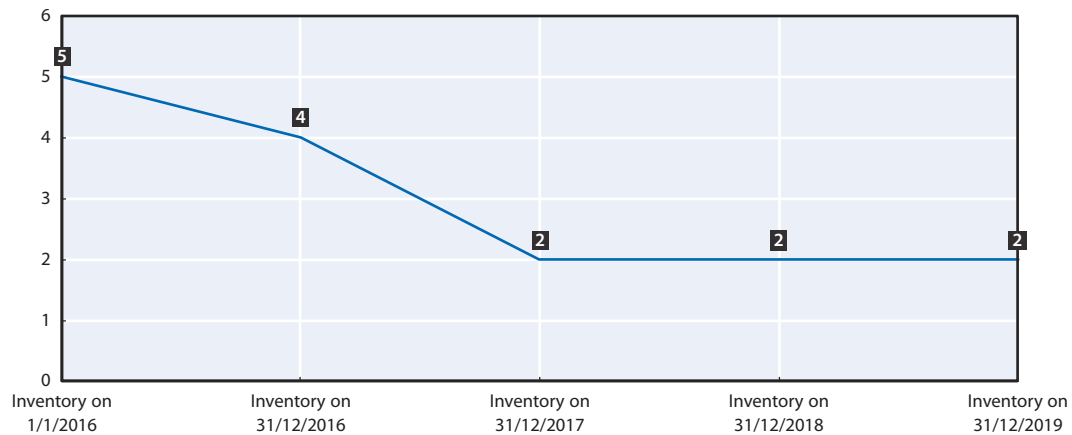
154. The breakdown of the end inventory can be shown as in Figure C.2.

Figure C.2. End inventory on 31 December 2019 (16 cases)

*Pre-2016 cases*

155. Figure C.3 shows the evolution of Argentina's pre-2016 MAP cases over the Statistics Reporting Period.

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



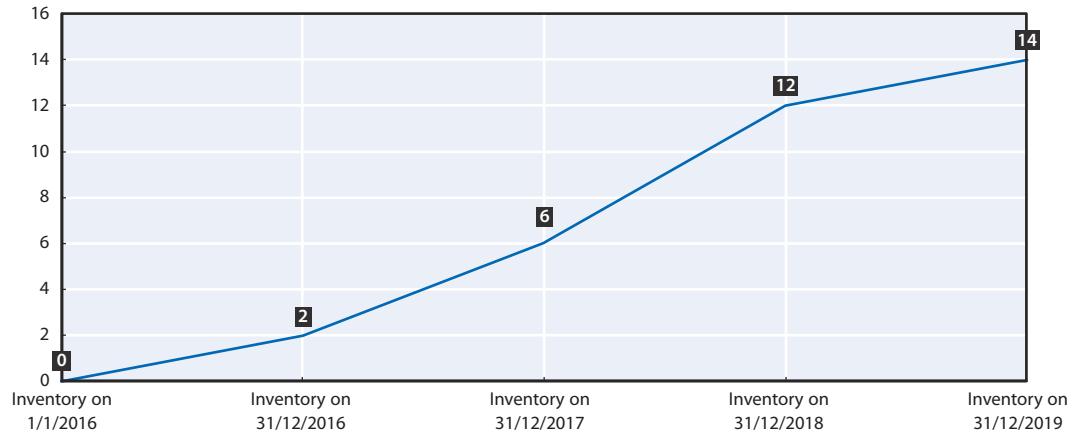
156. At the beginning of the Statistics Reporting Period, Argentina's MAP inventory of pre-2016 MAP cases consisted of five cases, two of which were attribution/allocation cases and three other cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases had decreased to two cases, consisting of one attribution/allocation case and one other case. The decrease in the number of pre-2016 MAP cases is shown in the table below.

	Evolution of total MAP caseload in 2016	Evolution of total MAP caseload in 2017	Evolution of total MAP caseload in 2018	Evolution of total MAP caseload in 2019	Cumulative evolution of total MAP caseload over the four years (2016-19)
Attribution/allocation cases	-50%	(no case closed)	(no case closed)	(no case closed)	-50%
Other cases	(no case closed)	-67%	(no case closed)	(no case closed)	-67%

Post-2015 cases

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

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



158. In total, 20 MAP cases started during the Statistics Reporting Period, nine of which concerned attribution/allocation cases and 11 of which were other cases. At the end of this period the total number of post-2015 cases in the inventory was 14 cases, as Argentina closed three post-2015 attribution/allocation cases and three post-2015 other cases. The total number of closed cases represents 30% of the total number of post-2015 cases that started during the Statistics Reporting Period.

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

	% of cases closed compared to cases started in 2016	% of cases closed compared to cases started in 2017	% of cases closed compared to cases started in 2018	% of cases closed compared to cases started in 2019	Cumulative percentage of cases closed compared to cases started over the four years (2016-19)
Attribution/allocation cases	0%	0%	0%	100%	33%
Other cases	100%	0%	20%	33%	27%

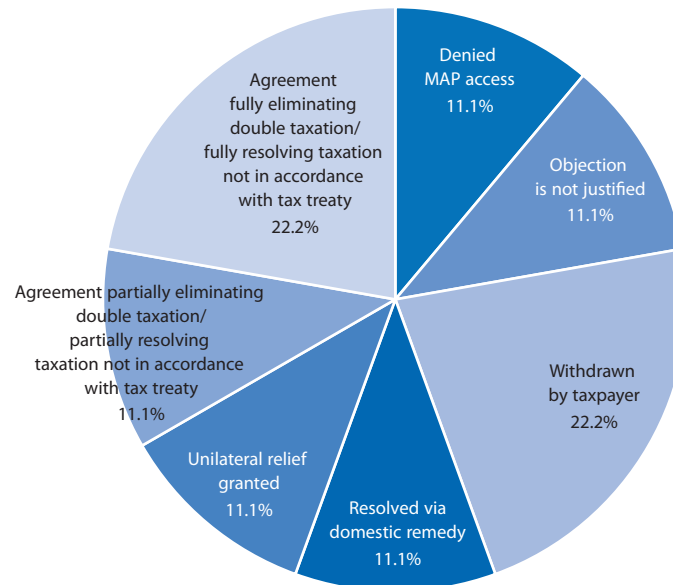
Overview of cases closed during the Statistics Reporting Period

Reported outcomes

160. During the Statistics Reporting Period Argentina in total closed five MAP cases for which the outcomes in Figure C.5 were reported.

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

Figure C.5. Cases closed in 2016, 2017, 2018 or 2019 (nine cases)



Reported outcomes for attribution/allocation cases

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

- objection is not justified (25%)
- unilateral relief granted (25%)
- agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty (25%)
- agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty (25%).

Reported outcomes for other cases

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

- withdrawn by taxpayer (40%)
- denied MAP access (20%)
- resolved via domestic remedy (20%)
- agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty (20%).

Average timeframe needed to resolve MAP cases

All cases closed during the Statistics Reporting Period

164. The average time needed to close MAP cases during the Statistics Reporting Period was 13.44 months. This average can be broken down as shown in the table below.

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	4	18.34
Other cases	5	9.53
All cases	9	13.44

Pre-2016 cases

165. For pre-2016 cases, Argentina reported that on average it needed 14.00 months to close attribution/allocation cases and 20.00 months to close other cases. This resulted in an average time needed of 18.00 months to close three pre-2016 cases. For the purpose of computing the average time needed to resolve pre-2016 cases, Argentina reported that it uses the following dates:

- *Start date*: the date of presentation of the MAP request by the taxpayer
- *End date*: the date of the notification of the outcome of the MAP case to the taxpayer.

Post-2015 cases

166. For post-2015 cases Argentina reported that on average it needed 19.78 months to close three attribution/allocation cases and 2.54 months to close three other cases. This resulted in an average time needed of 11.16 months to close six post-2015 cases.

Peer input

167. The peer input regarding the timely resolution of MAP cases is further discussed under element C.3.

Recent developments

168. Argentina was in the stage 1 peer review report under element C.2 recommended to seek to resolve the remaining 83% of its post-2015 MAP cases that were pending on 31 December 2017 within a timeframe that results in an average timeframe of 24 months for all post-2015 cases. With respect to this recommendation, Argentina reported that no action was taken to resolve those cases within the timeframe.

169. From the statistics discussed above, it follows that in the period 2016-19 Argentina has closed its MAP cases within the pursued average of 24 months. For these years, the number of post-2015 cases closed as compared to the cases that started in these years was 30%. Furthermore, its MAP inventory has increased by 220% since 1 January 2016. Element C.3 will further consider these numbers in light of the adequacy of resources.

170. Of the peers that provided input during stage 2, one peer provided input in relation to their experience with Mexico as to handling and resolving MAP cases. This input will be further discussed under element C.3.

Anticipated modifications

171. Argentina did not indicate that it anticipates 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.

172. 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 Argentina’s competent authority

Organisation of the competent authority function

173. Under Argentina’s tax treaties, the competent authority function is assigned to the Ministry of Economy, which has delegated it to the Secretary of Treasury, which reports directly to the Ministry of Economy. Article 206 of Law 11.683 also defines that the competent authority in Argentina is the Secretary of Treasury within the Ministry of Economy. In practice, the competent authority function is performed by the International Tax Relation Directorate (“ITRD”), a department within the National Tax Directorate, which in turn is part of the Undersecretary of Public Revenue, which falls directly under the Secretary of Treasury. Regarding this delegation of the competent authority function, Argentina reported that there is in fact no formal delegation, but that in practice it is the ITRD that handles MAP cases. The three employees of this directorate report directly to the head of the National Tax Directorate, who falls under the Undersecretary of Public Revenue.

174. Further to the above, Argentina reported that within the ITRD there are three employees who handle both attribution/allocation and other MAP cases. Of these three, two are accountants and another is a lawyer. All three persons, on average, have seven years of experience dealing with treaty negotiations and treaty interpretation. In addition to handling MAP cases and treaty negotiations/interpretation, Argentina noted that the three staff members are also responsible for implementing the BEPS minimum standards and attending meetings of *inter alia* OECD’s Working Parties, as well as the FTA MAP Forum.

Handling and resolving MAP cases

175. Argentina reported that when it receives a MAP request, the case is assigned to an employee of the ITRD. After an initial evaluation of the case, this employee notifies the other relevant competent authority of the receipt of the request. The employee will then undertake a further analysis of the facts of the case and applicable legal framework. Based on this analysis, a report containing a recommendation of further steps to be taken is submitted to the head of the National Tax Directorate, which further discusses the issue with the Secretary of Treasury. The recommendation can be: (i) the MAP request contains a justified objection, (ii) additional information from the taxpayer is required, (iii) the case can unilaterally be resolved, or (iv) discussions with the other competent authority through MAP are necessary.

176. Where the outcome of the analysis is that the case needs to be resolved through MAP, Argentina stated that position papers are prepared by the ITRD and submitted to the other competent authority, after approval by the head of the National Tax Directorate. Concerning the resolution of a MAP cases, Argentina noted that while there is no formal mandate given to enter into discussions with the other competent authority or for entering into MAP agreements, the ITRD is in charge of the negotiations. It nevertheless is in

constant contact with the head of the National Tax Directorate and Secretary of Treasury in case any specific intervention or approval may be needed. Once a MAP agreement is reached, no further approval is needed for implementation. It should be noted, however, that there are no internal documents governing how these MAP processes should function.

177. Lastly, Argentina reported that it did not conduct any face-to-face meetings with other competent authorities since 1 January 2016, but that contacts with these competent authorities was done via email exchanges, telephone calls and video conferences. Argentina further reported that, should it be necessary, funding could be made available in order to conduct face-to-face competent authority meetings.

Monitoring mechanism

178. Argentina reported that there is no monitoring mechanism in place to determine the availability of its resources. Given the small number of pending MAP cases, Argentina mentioned that it does not anticipate increasing the number of staff in charge of MAP.

Recent development

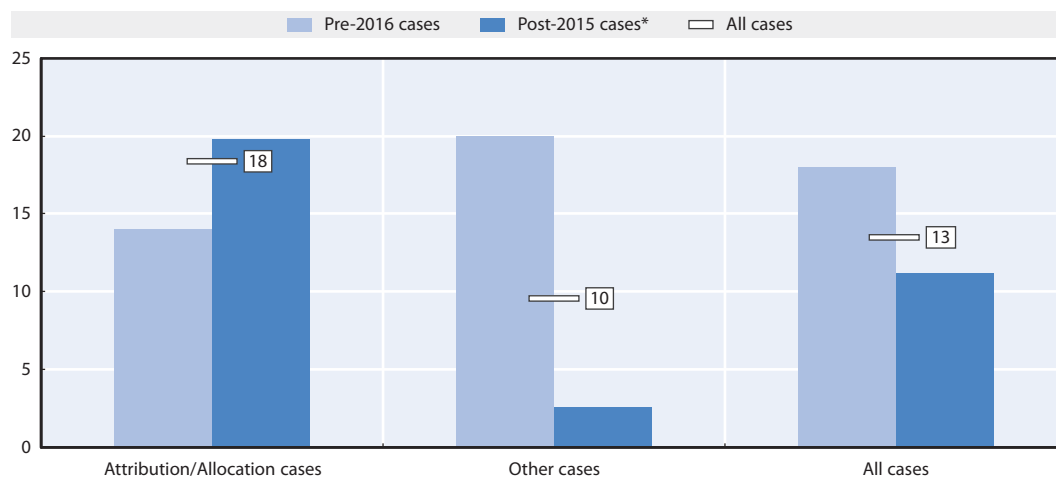
179. Argentina reported that the number of MAP staff has decreased from four to three.

Practical application

MAP statistics

180. As discussed under element C.2 Argentina closed its MAP cases during the Statistics Reporting Period within the pursued 24-month average. This can be illustrated as in Figure C.6.

Figure C.6. Average time (in months) to close cases in 2016-19



*Note that post-2015 cases only concern cases started and closed during 2016-19.

181. Based on these figures, it follows that on average it took Argentina 13.44 months to close MAP cases during the Statistics Reporting Period. This both regards attribution/allocation cases (18.34 months) and other cases (9.53 months).

182. The stage 1 peer review report of Argentina analysed the 2016 and 2017 statistics and showed an average less than 24 months to close MAP cases as the average was 13.50 months, following which it was concluded that Argentina’s competent authority is adequately resourced. Nevertheless, the peer input that is reflected in element C.3 also shows that next to positive input, one peer reported the non-response to a notification letter that was already sent in December 2016. On that basis, Argentina 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. In addition, Argentina was suggested to respond to the notification letter it received from the relevant competent authority.

183. For stage 2, the 2018 and 2019 MAP statistics are also taken into account. The average time to close MAP cases for these years are:

	2018	2019
Attribution/Allocation cases	n.a.	19.78
Other cases	7.20	0.43
All cases	7.20	14.94

184. The 2018 and 2019 statistics of Argentina show that the average completion time of MAP cases slightly decreased from 13.50 months to 13.39 months. The average for attribution/allocation cases increased from 14.00 months to 19.78 months, and for other cases the average decreased to be further below the pursued average of 24-months, namely from 13.33 months to 3.82 months.

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

	Opening inventory on 1/1/2016	Cases started	Cases closed	End inventory on 31/12/2019	Increase in %
Attribution/allocation cases	2	9	4	7	250%
Other cases	3	11	5	9	200%
Total	5	20	9	16	220%

Peer input

Period 1 January 2016-31 August 2018 (stage 1)

186. Of the six peers that provided input, two reported not having experiences with Argentina in resolving MAP cases in the period 1 January 2016-31 August 2018.

187. Regarding the other four peers that have such experience, one mentioned it has one post-2015 other MAP case pending and had closed one such case in the period 1 January 2016-31 August 2018, but did not provide any further input. Another peer mentioned that it has one post-2015 attribution/allocation case pending with Argentina. This peer further mentioned that it had not received a reaction to a detailed notification letter regarding this case that was sent to Argentina’s competent authority in December 2016. The peer

also noted that the non-response might have been caused by a provision in its tax treaty with Argentina that limits the time for making adjustments and which may impact the availability of MAP. Regardless, this peer reported not having any working experiences with Argentina’s competent authority. For the current pending case, this peer suggested that Argentina should respond to the notification letter and get in contact with the peer’s competent authority so that progress can be made. Furthermore, the second peer noted that its one MAP case with Argentina was resolved via domestic remedies and therefore it did not have meaningful contact with Argentina’s competent authority for which it could provide relevant peer input. Lastly, the third peer mentioned that its MAP relationship with Argentina is relatively little as compared to its MAP caseload. This peer further specified that Argentina’s competent authority has been professional and efficient for the period under review. This peer also noted cases with Argentina progress and that Argentina’s competent authority responds to its letters in a timely manner.

Period 1 September 2018-30 April 2020 (stage 2)

188. Almost all peers that provided input in stage 2 stated that the update report provided by Argentina fully reflects their experience with Argentina since 1 September 2018 and/or there are no additions to the previous input given. Of the peers that provided input, one provided input in relation to their experience in resolving MAP cases since 1 September 2018. This peer mentioned that it currently has in total six pending cases with Argentina. It noted that the one attribution/allocation case initiated by the peer is in an early stage, and the relationship with Argentina has been good. For other cases, this peer mentioned that it has five cases with Argentina, and that it has just sent its position paper on one of the cases and the others are planned to be discussed soon via video call.

Anticipated modifications

189. Argentina did not indicate that it anticipates any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	Although MAP cases were closed within 24 months on average (which is the pursued average for resolving MAP cases received on or after 1 January 2016), the MAP caseload has increased substantially since 1 January 2016. This indicates that the competent authority may not be adequately resourced, and because of that there is a risk that pending or future MAP cases cannot be resolved in a timely, effective and efficient manner.	Argentina should devote additional resources to its competent authority to handle MAP cases to be able to cope with the increase in the number of attribution/allocation and other MAP cases, such to be able to resolve all MAP cases in a timely, efficient and effective manner.

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

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

190. 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

191. The process for handling and resolving MAP cases in Argentina was described under element C.3. As discussed there, positions on individual MAP cases are prepared by the ITRD and approved by the head of the National Tax Directorate, and this process also applies for approving tentative MAP agreements. With respect to the latter, Argentina reported that once a MAP agreement is reached by the ITRD, it is sent to the head of the National Tax Directorate. Upon approval, it is subsequently sent to the Secretary of Treasury. Argentina further clarified this process is not bound by any timelines under its current applicable legal framework. In other words, there are no timelines to be applied for approving position papers or concluded MAP agreements.

192. Argentina noted that the whole process for handling and resolving MAP cases, as well as the approval of MAP agreements, takes place within the Ministry of Economy without any involvement from Argentina's tax administration. Argentina further explained that its competent authority sometimes might require information considered necessary to resolve a MAP case from the tax administration and that such information must be provided within one month of the competent authority's request. This level of involvement, however, only relates to the provision of information and there is no further involvement in the process.

193. Considering policy considerations, Argentina reported that staff in charge of MAP only have to take into account the applicable legal framework necessary to resolve the relevant MAP case and that no further policy considerations are taken into account.

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

Recent developments

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

Practical application*Period 1 January 2016-31 August 2018 (stage 1)*

196. All peers that provided input reported no impediments in the Argentina 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. Peers also did not mention being aware that staff in charge of the MAP in Argentina are dependent on the approval of MAP agreements by the personnel within the tax administration that made the adjustment under review.

Period 1 September 2018-30 April 2020 (stage 2)

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

Anticipated modifications

198. Argentina did not indicate that it anticipates any modifications in relation to element C.4.

Conclusion

	Areas for improvement	Recommendations
[C.4]	-	-

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

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

199. 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 Argentina

200. Argentina reported that it does not set any targets for staff in charge of MAP nor are there any specific performance indicators. There is an annual general evaluation for every employee of Argentina's national public administration. Concerning staff in charge of MAP, an evaluation is made by the head of the National Tax Directorate, based on a standard template. Such evaluation takes into account the global results of the tasks performed and not solely the results of handling MAP cases. In this respect, Argentina clarified that not every employee is evaluated, as such evaluations depend on the specific conditions in which the staff was hired.

201. The Action 14 final report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These are:

- 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).

202. In this respect, Argentina reported that it does not use any of these performance indicators to evaluate its staff in charge of MAP processes. It further mentioned that it also 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.

Recent developments

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

Practical application

Period 1 January 2016-31 August 2018 (stage 1)

204. All peers that provided input reported not being aware of the use of performance indicators by Argentina that are based on the amount of sustained audit adjustments or maintaining a certain amount of tax revenue.

Period 1 September 2018-30 April 2020 (stage 2)

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

Anticipated modifications

206. Argentina did not indicate that it anticipates any modifications in relation to element C.5.

Conclusion

	Areas for improvement	Recommendations
[C.5]	-	-

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

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

207. 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

208. Argentina reported that as a general matter of policy it is not prepared to provide an extension of jurisdiction in any type of international agreement that involves its state's affairs. Because of this limitation, Argentina reported that it is not possible for it to accept an arbitration provision in its tax treaties.

Recent developments

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

Practical application

210. Argentina has not incorporated an arbitration clause in any of its tax treaties as a final stage to the MAP. However, three of its treaties contain a most-favoured nation clause stipulating that if Argentina changes its policy with respect to arbitration as a solution for unresolved mutual agreement procedures, then the competent authorities shall consult each other in order to consider the negotiation of an agreement on the modification of the tax treaty in relation hereto.⁵ Argentina reported that none of the conditions included in the most-favoured nation clauses have been fulfilled and for that reason no negotiations on this issue have been initiated.

Anticipated modifications

211. Argentina did not indicate that it anticipates any modifications in relation to element C.6.

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

Notes

1. Available at: www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm. These statistics are up to and include fiscal year 2019.
2. For post-2015 cases, if the number of MAP cases in Argentina’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, Argentina reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
3. Argentina’s 2017 and 2018 MAP statistics were corrected in the course of its peer review and deviate from the published MAP statistics for 2017 and 2018. See further explanations in Annex B and Annex C.
4. For pre-2016 and post-2015 Argentina 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”.
5. This concerns the treaties with Chile, Japan and Switzerland.

References

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

Part D

Implementation of MAP agreements

[D.1] Implement all MAP agreements

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

212. 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

213. Argentina reported that Article 56 of Law 11.683 contains a statute of limitations for amending a taxpayer's position. Pursuant to this statute of limitation, Argentina's tax administration can determine and require the payment of taxes relating to both upwards and downwards adjustments within a period of five years in the case of registered taxpayers and ten years in the case of unregistered taxpayers.¹ The period of five and ten years will start as of 1 January of the subsequent fiscal year. Where it concerns a MAP agreement entailing a downward adjustment to be made in Argentina, Article 56 of Law 11.683 stipulates that taxpayers have a five-year period to claim a refund of taxes, which starts as of 1 January of the fiscal year in which the MAP case was resolved.

214. Concerning the process for implementing MAP agreements, Argentina reported that once a MAP agreement is reached, its competent authority will notify the tax administration to implement it. Argentina further reported that no consent from the taxpayer is required for a MAP agreement to be implemented, although when an agreement leads to a refund of taxes, the taxpayer must ask for a refund within the given timeframe. In this respect, it specified that its competent authority will keep track of whether MAP agreements are in practice implemented by asking the tax administration to inform the competent authority once an agreement has been implemented.

Recent developments

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

Practical application*Period 1 January 2016-31 August 2018 (stage 1)*

216. Argentina reported that in the period 1 January 2016-31 August 2018 its competent authority has entered into one MAP agreement with another competent authority, which however did not require implementation by Argentina.

217. All but one peer that provided input reported that they were not aware of any MAP agreement reached by Argentina in the period 1 January 2016-31 August 2018. The remaining peer mentioned that it has reached a MAP agreement with Argentina since that date, which however only required an implementation by the peer.

Period 1 September 2018-30 April 2020 (stage 2)

218. Argentina reported that since 1 September 2018 its competent authority has implemented one MAP agreement that required implementation by Argentina.

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

Anticipated modifications

220. Argentina did not indicate that it anticipates 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.

221. 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

222. Argentina reported that once a MAP agreement is reached, its competent authority will contact the tax administration with a request to implement the agreement. Although Argentina reported that no timeframe exists for implementing MAP agreements, it holds an inventory of cases and that once the tax administration notifies its competent authority of implementation it is recorded and the inventory is updated.

Recent developments

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

Practical application***Period 1 January 2016-31 August 2018 (stage 1)***

224. Argentina reported that in the period 1 January 2016-31 August 2018 its competent authority has entered into one MAP agreement with another competent authority, which however did not require implementation by Argentina.

225. All but one peer that provided input reported that they were not aware of any MAP agreement reached by Argentina in the period 1 January 2016-31 August 2018. The remaining peer mentioned that it has reached a MAP agreement with Argentina since that date, which however only required an implementation by the peer.

Period 1 September 2018-30 April 2020 (stage 2)

226. Argentina reported that since 1 September 2018 its competent authority has implemented one MAP agreement that required implementation by Argentina.

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

Anticipated modifications

228. Argentina reported that it intends to include a provision in its forthcoming regulatory decree that will establish a timeframe within which the tax administration will be required to implement MAP agreements.

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.

229. 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 Argentina’s tax treaties

230. As discussed under element D.1, Argentina’s domestic legislation contains a statute of limitations of five-years for implementing MAP agreements, unless overridden by tax treaties.

231. Out of Argentina’s 26 tax treaties, 14 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. Furthermore, four tax treaties contain such equivalent and also the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making adjustments. For the remaining eight treaties, the following analysis is made:

- Seven treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor the alternative provisions.
- One treaty contains wording that any mutual agreement shall be implemented within the time limits of the domestic laws of the contracting states, instead of “notwithstanding any time limits” as put forward in the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017). For this reason, this treaty is considered not to contain the equivalent of that sentence.

232. Two peers that provided input during stage 1 noted that their treaty with Argentina contains the alternative language in the MAP article setting time limits for making adjustments, which conforms with the above analysis.

233. For the eight treaties identified above that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternatives, one of the relevant peers noted that its treaty will be modified by the Multilateral Instrument to be in line with this element of the Action 14 Minimum Standard, while another peer noted that it is currently negotiating with Argentina on a revision of the existing treaty, the outcome of which will be in line with this element as well.

Recent developments

Bilateral modifications

234. Argentina signed new treaties with five treaty partners, all of which concern a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. All of them contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), and are pending ratification. The effects of the newly signed treaties have been reflected in the analysis above where they have relevance.

Multilateral Instrument

235. Argentina signed the Multilateral Instrument and is currently in the process of ratifying this instrument, which is expected in 2021.

236. 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.

237. In regard of the eight 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 the alternative provisions for Articles 9(1) and 7(2), Argentina listed six as covered tax agreements under the Multilateral Instrument and for all of them did it make, pursuant to Article 16(6)(c)(ii), a notification that they do not contain a provision described in Article 16(4)(b)(ii). All of the relevant treaty partners are a signatory to the Multilateral Instrument and listed their treaty with Argentina as a covered tax agreement under that instrument. Of these six treaty partners, two have made a reservation on the basis of Article 16(5)(c), whereas the other four treaty partners made a notification on the basis of Article 16(6)(c)(ii). Therefore, at this stage, four of the eight tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

238. Argentina reported for one of the four treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), the relevant treaty partner has informed Argentina that it will withdraw its reservation under the Multilateral Instrument, following which it is expected that this treaty will be modified by the instrument to include the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017).

Peer input

239. Of the peers that provided input during stage 2, one provided input in relation to their tax treaty with Argentina. This peer does not concern a treaty partner to one of the treaties identified above that does not contain Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument.

Anticipated modifications

240. Argentina reported that for one of the remaining three tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternatives provided for in Articles 9(1) and 7(2) and will not be modified by the Multilateral Instrument, negotiations were finalised with the relevant treaty partner on an amending protocol to the treaty, the outcome of which will contain the second sentence of Article 25(2). For the other treaty, Argentina intends to contact the relevant treaty partner to propose a renegotiation to be in line with the Action 14 Minimum Standard during the

first semester of 2021. For the remaining treaty, Argentina does not intend to update them via bilateral negotiations with a view to be compliant with element D.3. For that reason, Argentina has not put a specific plan in place nor has it taken any actions to that effect.

241. Regardless, Argentina reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternatives in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>Eight out of 26 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor any of the alternative provisions provided for in Article 9(1) and Article 7(2). Of these eight treaties:</p> <ul style="list-style-type: none"> • Four are expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaties concerned. • One is expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) once the treaty partner has amended its notifications. • Three will not be modified by the Multilateral Instrument to include the required provision. With respect to these three treaties: <ul style="list-style-type: none"> - For one negotiations were finalised. - For one no actions have been taken, but it is included in the plan for renegotiations. - For one no actions have been taken nor are any actions planned to be taken. 	<p>Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those six treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for four of the five treaties concerned and once one treaty partner has amended its notifications under that instrument.</p> <p>For the three remaining treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), Argentina should:</p> <p>Sign the negotiated treaty as soon as possible with the treaty partner for which negotiations have been finalised to include the required provision via bilateral negotiations</p> <p>Request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations or be willing to accept the inclusion of both alternative provisions</p> <p>Without further delay request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions in the remaining treaty.</p>

Note

1. Argentina clarified that an unregistered taxpayer is a person to whom the tax law applies but who has not complied with the tax administration's registration requirements and is therefore not paying taxes or submitting corresponding tax returns. Argentina further clarified that a registered taxpayer is a person who has complied with the Federal Administration of Treasury's registration requirements for income/capital. Argentina reported that it provides the longer ten year period for unregistered taxpayers because it considers it to be more difficult for its tax administration to detect a taxpayer that is not in its database. Argentina further reported that a taxpayer is not required to register if its capital is below Argentina's capital tax threshold and that in such cases the five-year statute of limitations would apply.

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]	<p>Three out of 26 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017). Of these three treaties:</p> <ul style="list-style-type: none"> • One treaty is expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaty concerned. • Two will not be modified by the Multilateral Instrument to include the required provision. With respect to these two treaties: <ul style="list-style-type: none"> - For one communications have been initiated. - For one no actions have been taken nor are any actions planned to be taken. 	<p>Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) for the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017), Argentina should:</p> <ul style="list-style-type: none"> • initiate negotiations with the treaty partner for which communications have been initiated to include the required provision via bilateral negotiations • without further delay request the inclusion of the required provision via bilateral negotiations.
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	<p>One out of 26 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a). This treaty will not be modified by the Multilateral Instrument to include the required provision. For this treaty, no actions have been taken nor are any actions planned to be taken.</p>	<p>As this treaty will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) in the treaty that currently does not contain such equivalent, Argentina should without further delay request the inclusion of the required provision via bilateral negotiations, 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.

	Areas for improvement	Recommendations
[B.1]	One out of 26 tax treaties does not contain the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) and the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. This treaty is expected to be modified by the Multilateral Instrument to include a filing period of three years upon entry into force for the treaties concerned, but not as regards Article 25(1), first sentence. For this treaty communications have been initiated.	Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in this treaty. With respect to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), Argentina should initiate negotiations to include the required provision via bilateral negotiations. This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a) either: a. as amended by the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
	One out of 26 tax treaties does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. This treaty is expected to be modified by the Multilateral Instrument to include such equivalent upon entry into force for this treaty.	Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in this treaty.
[B.2]	A bilateral notification process is in place to be applied when the taxpayer's objection raised in the MAP request is considered not to be justified, for the 22 of the 26 treaties that do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. This process, however, is not documented.	Argentina should follow its stated intention and without further delay document its bilateral notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Argentina should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b).
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-
[B.7]	Seven out of 26 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these seven treaties: <ul style="list-style-type: none"> Six are expected to be modified by the Multilateral Instrument to include the required provision, upon entry into force for the treaties concerned. One will not be modified by the Multilateral Instrument. For this treaty, no actions have been taken nor are any actions planned to be taken. 	Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those six treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Argentina should without further delay request the inclusion of the required provision via a bilateral negotiation.

	Areas for improvement	Recommendations
[B.8]	There is no published MAP guidance.	Argentina should without further delay introduce and publish guidance on access to and use of the MAP, and in particular include the contact information of its competent authority.
	No MAP guidance is available on what information taxpayers should include in their MAP request, while it is included in the domestic law.	Argentina should include in its to be published MAP guidance information on the manner and form in which taxpayers should submit their MAP request.
[B.9]	MAP guidance is not publicly available.	Argentina should, once it has issued MAP guidance, make this guidance publicly available and easily accessible and its MAP profile published on the shared public platform should be updated if needed.
[B.10]	-	-
Part C: Resolution of MAP cases		
[C.1]	<p>Two out of 26 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). Of these two treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaty concerned. • One will not be modified by the Multilateral Instrument. For this treaty no actions have been taken nor are any actions planned to be taken. 	<p>Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Argentina should without further delay request the inclusion of the required provision via bilateral negotiations.</p>
[C.2]	-	-
[C.3]	Although MAP cases were closed within 24 months on average (which is the pursued average for resolving MAP cases received on or after 1 January 2016), the MAP caseload has increased substantially since 1 January 2016. This indicates that the competent authority may not be adequately resourced, and because of that there is a risk that pending or future MAP cases cannot be resolved in a timely, effective and efficient manner.	Argentina should devote additional resources to its competent authority to handle MAP cases to be able to cope with the increase in the number of attribution/ allocation and other MAP cases, such to be able to resolve all MAP cases in a timely, efficient and effective manner.
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	-	-
[D.2]	-	-

	Areas for improvement	Recommendations
[D.3]	<p>Eight out of 26 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor any of the alternative provisions provided for in Article 9(1) and Article 7(2). Of these eight treaties:</p> <ul style="list-style-type: none"> • Four are expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaties concerned. • One is expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) once the treaty partner has amended its notifications. • Three will not be modified by the Multilateral Instrument to include the required provision. With respect to these three treaties: <ul style="list-style-type: none"> - For one negotiations were finalised. - For one no actions have been taken, but it is included in the plan for renegotiations. - For one no actions have been taken nor are any actions planned to be taken. 	<p>Argentina should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those six treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for four of the five treaties concerned and once one treaty partner has amended its notifications under that instrument.</p> <p>For the three remaining treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), Argentina should:</p> <ul style="list-style-type: none"> • sign the negotiated treaty as soon as possible with the treaty partner for which negotiations have been finalised to include the required provision via bilateral negotiations • request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations or be willing to accept the inclusion of both alternative provisions • without further delay request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions in the remaining treaty.

Annex A

Tax treaty network of Argentina

Treaty partner	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	
	Column 3	Column 4		Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	
		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	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
Australia	Y	O*	Y	Y	i	Y	Y	Y	Y	N
Austria	N	O	Y	Y	i	Y	Y	Y	Y	N
Belgium	Y	O*	Y	Y	i	Y	N*	Y	N*	N
Bolivia	Y	N	iv	i	i	N	N	N	N	N
Brazil	Y	E	Y	i	i	Y	Y	Y	Y	N

Treaty partner	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			C.1	D.3			A.1	B.7
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11
	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) 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)			
Canada	Y	O	ii*	2-years	Y	Y	iii	Y	Y	N
Chile	Y	O	Y	N/A	Y	Y	N	Y	N*	N
China	N	O	Y	N/A	Y	Y	Y	Y	Y	N
Denmark	Y	O*	Y	N/A	Y	Y	iii*	Y	Y	N
Finland	Y	O*	N	N/A	Y	Y	Y	Y	Y	N
France	Y	O*	Y	N/A	i**	Y	Y	N*	Y	N
Germany	Y	O	i	N/A	i	Y	N	Y	Y	N
Italy	Y	N	ii*	2-years	i**	Y	N*	N	N*	N
Japan	N	E	Y	N/A	Y	Y	Y	Y	Y	N
Luxembourg	N	E	Y	N/A	Y	Y	Y	Y	Y	N
Mexico	Y	O*	Y	N/A	Y	N*	N*	Y	N*	N
Netherlands	Y	O*	Y	N/A	Y	Y	Y	Y	Y	N
Norway	Y	O*	Y	N/A	Y	Y	Y	Y	Y	N
Qatar	N	O	Y	N/A	Y	Y	Y	Y	Y	N
Russia	Y	O*	Y	N/A	Y	Y	iii*	Y	Y	N
Spain	Y	O	Y	N/A	Y	Y	Y	Y	Y	N
Sweden	Y	O*	Y	N/A	Y	Y	Y	Y	Y	N
Switzerland	Y	O*	Y	N/A	i*	Y	iii	Y	Y	N
Turkey	N	E	Y	N/A	Y	Y	Y	Y	Y	N
United Arab Emirates	Y	O*	Y	N/A	Y	Y	N*	Y	N*	N
United Kingdom	Y	O*	i	N/A	Y	Y	N*	Y	N*	N

Legend

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

Annex B

MAP Statistics Reporting for the 2016, 2017, 2018 and 2019 Reporting Periods (1 January 2016 to 31 December 2019) 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
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
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	2	0	1	0	0	0	0	0	0	0	0	1	14.00
Others	3	0	0	0	0	0	0	0	0	0	0	3	-1.00
Total	5	0	1	0	0	0	0	0	0	0	0	4	14.00

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
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
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	1	0	0	0	0	0	0	0	0	0	0	1	-1.00
Others	3	0	0	2	0	0	0	0	0	0	0	1	20.00
Total	4	0	0	2	0	0	0	0	0	0	0	2	20.00

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
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 14
Attribution/Allocation	1	0	0	0	0	0	0	0	0	0	0	1	-1.00
Others	1	0	0	0	0	0	0	0	0	0	0	1	-1.00
Total	2	0	0	0	0	0	0	0	0	0	0	2	-1.00

2019 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2019	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 2019	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 14
Attribution/Allocation	1	0	0	0	0	0	0	0	0	0	0	1	-1
Others	1	0	0	0	0	0	0	0	0	0	0	1	-1
Total	2	0	0	0	0	0	0	0	0	0	0	2	-1

Annex C

MAP Statistics Reporting for the 2016, 2017, 2018 and 2019 Reporting Periods (1 January 2016 to 31 December 2019) for post-2015 cases

2016 MAP Statistics															
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing post-2015 cases during the reporting period				
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	0	2	0	0	0	0	0	0	0	0	0	0	0	2	-1.00
Others	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0.00
Total	0	3	0	0	0	0	1	0	0	0	0	0	0	2	0.00

2017 MAP Statistics															
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2015 cases during the reporting period				
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	2	2	0	0	0	0	0	0	0	0	0	0	0	4	-1.00
Others	0	2	0	0	0	0	0	0	0	0	0	0	0	2	-1.00
Total	2	4	0	0	0	0	0	0	0	0	0	0	0	6	-1.00

Notes: There is a discrepancy between the number of post-2015 MAP cases in Argentina's inventory on 31 December 2017 and 1 January 2018.

- The reported number of MAP cases pending on 31 December 2017 was 5, which consists of 3 attribution/allocation cases and 2 other cases.
- The corrected number of MAP cases pending on 1 January 2018 was 6, which consists of 4 attribution/allocation cases and 2 other cases.

In order to have matching numbers for 31 December 2017 and 1 January 2018, the number of post-2015 attribution/allocation cases that started during the reporting period was corrected.

2018 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2018	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	
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12			Column 13
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 14	Column 15
Attribution/Allocation	4	0	0	0	0	0	0	0	0	0	0	0	6	-1.00
Others	2	0	0	0	0	0	1	0	0	0	0	0	6	7.20
Total	6	0	0	0	0	0	1	0	0	0	0	0	12	7.20

Notes: There is a discrepancy between the number of post-2015 MAP cases in Argentina's inventory on 31 December 2018 and 1 January 2019.

- The reported number of MAP cases pending on 31 December 2018 was 11, which consists of 5 attribution/allocation cases and 6 other cases.
 - The reported number of MAP cases pending on 1 January 2019 was 12, which consists of 6 attribution/allocation cases and 6 other cases.
- In order to have matching numbers for 31 December 2018 and 1 January 2019, the number of post-2015 attribution/allocation cases that started during the reporting period was corrected.

2019 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2019	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 2019	Average time taken (in months) for closing post-2015 cases during the reporting period	
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12			Column 13
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 14	Column 15
Attribution/Allocation	6	0	0	0	1	0	1	1	0	0	0	0	6	19.78
Others	6	1	0	0	0	0	0	0	0	0	0	0	8	0.43
Total	12	1	0	0	1	0	1	1	0	0	0	0	14	14.94

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
MAP 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 2019
Terms of Reference	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective

OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective – MAP Peer Review Report, Argentina (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 Argentina.



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