

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



# **Making Dispute Resolution More Effective – MAP Peer Review Report, Russian Federation (Stage 2)**

**INCLUSIVE FRAMEWORK ON BEPS: ACTION 14**



OECD/G20 Base Erosion and Profit Shifting Project

# **Making Dispute Resolution More Effective – MAP Peer Review Report, Russian Federation (Stage 2)**

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

**Please cite this publication as:**

OECD (2021), *Making Dispute Resolution More Effective – MAP Peer Review Report, Russian Federation (Stage 2): Inclusive Framework on BEPS: Action 14*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris,  
<https://doi.org/10.1787/fe683c93-en>.

ISBN 978-92-64-90362-3 (print)

ISBN 978-92-64-87454-1 (pdf)

OECD/G20 Base Erosion and Profit Shifting Project

ISSN 2313-2604 (print)

ISSN 2313-2612 (online)

**Photo credits:** Cover © ninog-Fotolia.com.

Corrigenda to publications may be found on line at: [www.oecd.org/about/publishing/corrigenda.htm](http://www.oecd.org/about/publishing/corrigenda.htm).

© OECD 2021

---

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.

---

## *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 30 August 2021 and prepared for publication by the OECD Secretariat.

## *Table of contents*

<b>Abbreviations and acronyms</b> .....	7
<b>Executive summary</b> .....	9
Reference .....	10
<b>Introduction</b> .....	11
<b>Part A. Preventing disputes</b> .....	17
[A.1] Include Article 25(3), first sentence, of the OECD Model Tax Convention in tax treaties .....	17
[A.2] Provide roll-back of bilateral APAs in appropriate cases .....	19
References .....	21
<b>Part B. Availability and access to MAP</b> .....	23
[B.1] Include Article 25(1) of the OECD Model Tax Convention in tax treaties .....	23
[B.2] Allow submission of MAP requests to the competent authority of either treaty partner, or, alternatively, introduce a bilateral consultation or notification process .....	30
[B.3] Provide access to MAP in transfer pricing cases .....	32
[B.4] Provide access to MAP in relation to the application of anti-abuse provisions .....	35
[B.5] Provide access to MAP in cases of audit settlements .....	37
[B.6] Provide access to MAP if required information is submitted .....	38
[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties .....	40
[B.8] Publish clear and comprehensive MAP guidance .....	42
[B.9] Make MAP guidance available and easily accessible and publish MAP profile .....	45
[B.10] Clarify in MAP guidance that audit settlements do not preclude access to MAP .....	46
References .....	48
<b>Part C. Resolution of MAP cases</b> .....	49
[C.1] Include Article 25(2), first sentence, of the OECD Model Tax Convention in tax treaties .....	49
[C.2] Seek to resolve MAP cases within a 24-month average timeframe .....	50
[C.3] Provide adequate resources to the MAP function .....	56
[C.4] Ensure staff in charge of MAP has the authority to resolve cases in accordance with the applicable tax treaty .....	61
[C.5] Use appropriate performance indicators for the MAP function .....	63
[C.6] Provide transparency with respect to the position on MAP arbitration .....	64
References .....	65

<b>Part D. Implementation of MAP agreements</b> .....	67
[D.1] Implement all MAP agreements .....	67
[D.2] Implement all MAP agreements on a timely basis .....	68
[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) .....	69
Reference .....	72
<b>Summary</b> .....	73
<b>Annex A. Tax treaty network of Russian Federation</b> .....	77
<b>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</b> .....	84
<b>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</b> .....	86
<b>Glossary</b> .....	89
<b>Figures</b>	
Figure C.1 Evolution of Russia’s MAP caseload .....	51
Figure C.2 End inventory on 31 December 2019 (32 cases) .....	52
Figure C.3 Evolution of Russia’s MAP inventory – Pre-2016 cases .....	52
Figure C.4 Evolution of Russia’s MAP inventory – Post-2015 cases .....	53
Figure C.5 Cases closed in 2016, 2017, 2018 or 2019 (Five cases) .....	54
Figure C.6 Average time (in months) to close cases in 2016-19 .....	57



*Abbreviations and acronyms*

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



## Executive summary

The Russian Federation (“**Russia**”) has an extensive tax treaty network with almost 90 tax treaties. Russia has an established MAP programme, but has limited experience with resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and 32 cases pending on 31 December 2019. Of these cases, approximately 50% concern allocation/attribution cases. Overall Russia meets half of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Russia worked to address some of them, which has been monitored in stage 2 of the process. In this respect, Russia solved some of the identified deficiencies.

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

- Approximately 30% of its tax treaties do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.
- Approximately 20% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.
- Approximately 10% of its tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (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.

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

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

Russia meets most of the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases. Furthermore, Russia has a clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice. However, Russia does not have in place a documented bilateral consultation or notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified.

Concerning the average time needed to close MAP cases, the MAP statistics for Russia 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	17	2	17	20.05
Other cases	0	18	3	15	10.97
<b>Total</b>	<b>2</b>	<b>35</b>	<b>5</b>	<b>32</b>	<b>14.60</b>

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

The number of cases Russia closed in the period 2016-19 is 14% of 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 14.60 months. However, some peers experienced difficulties in receiving prompt responses from Russia's competent authority to communications and position papers from peers as well as in providing position papers by Russia. Furthermore, Russia's MAP inventory has significantly increased during these years, which both regards attribution/allocation cases and other cases. Therefore, Russia should devote additional resources to its competent authority, or take actions to be able to cope with the increase in the number of MAP cases, which also enables Russia to timely submit positions papers, timely respond to such papers issued by the treaty partner, and timely respond to communications on MAP cases.

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

Lastly, Russia in principle meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. Since Russia did not enter into any MAP agreements that required implementation by Russia during the period under review, no problems 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 Russia to resolve tax treaty-related disputes**

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

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

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

[www.minfin.ru/ru/performance/tax\\_relations/international/  
?id\\_57=126601&area\\_id=57&page\\_id=179&popup=Y](http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y)

### **Developments in Russia since 1 January 2019**

#### ***Developments in relation to the tax treaty network***

In the stage 1 peer review report of Russia, it is reflected that Russia recently signed a new treaty with Ecuador (2016), which has entered into force, and that five of Russia’s 89 treaties have not entered into force. This concerns the treaty with Estonia (2002), Ethiopia (1999), Laos (1999), Mauritius (1995) and Oman (2001). Since 1 January 2019, none of these treaties have entered into force, albeit that Estonia and Oman already ratified the treaty. Furthermore, Russia re-negotiated its current treaty with Belgium (2015), which will replace the existing treaty of 1995 once it enters into force. This treaty has not yet entered into force, as only Russia ratified it.

Furthermore, on 7 June 2017 Russia signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. On 29 January 2019, Russia deposited its instrument of ratification, following which the Multilateral Instrument has for Russia entered into force on 1 May 2019. With the depositing its instrument of ratification, Russia also submitted its list of notifications and reservations to that instrument.<sup>3</sup> In relation to the Action 14

Minimum Standard, Russia has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

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, Russia reported that it strives updating them through future bilateral negotiations. In the stage 1 report, however, it was noted that Russia had no plan for such negotiations. In total, 21 of Russia’s tax treaties need a bilateral modification in order to be in line with the requirements under the Action 14 Minimum Standard. With respect to one treaty that will at this stage not be modified by the Multilateral Instrument, the treaty partner has informed Russia that it will withdraw its reservation under the Multilateral Instrument, following which also this treaty will be in line with the requirements under the Action 14 Minimum Standard. For four of the remaining 20 treaties, Russia reported that it already undertook some actions to bring these treaties in line with the requirements under the Action 14 Minimum Standard. This concerns:

- negotiations are pending with three treaty partners on an amendment of the treaty
- the new treaty with one treaty partner, which will replace the existing treaty of 2001 once it enters into force, was initialled in February 2020 and is prepared to the signing.

In addition, for four other treaties, Russia reported that it has a plan for the bilateral negotiation of amending protocols to bring them in line with the requirements under the Action 14 Minimum Standard during 2021.

With respect to another nine treaties, Russia has planned any actions yet to bring these treaties in line with the requirements under the Action 14 Minimum Standard.

Furthermore, Russia reported that it has no intention for renegotiations of three treaties due to some policies or other factors in Russia or its treaty partners.

### ***Other developments***

Russia reported that the special Chapter 20.3 “Mutual agreement procedure according to international tax treaty of the Russian Federation” was introduced in the Tax Code of the Russian Federation in 2019, which stipulates a definition of the term “mutual agreement procedure” and the procedure of MAP. It also excluded out of the Russian Tax Code a three year limitation period for the crediting or refund of the overpaid tax to implement the MAP agreements results.

Russia also reported that pursuant to the provisions of the Chapter 20.3, the Ministry of Finance issued the Order “On the procedure and periods for submission and reviewing mutual agreement procedure requests in accordance with international tax treaties of the Russian Federation” № 102H of 11 June 2020.

## **Basis for the peer review process**

### ***Outline of the peer review process***

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

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, Russia'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 9 August 2019. This report identifies the strengths and shortcomings of Russia 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.<sup>4</sup> 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 Russia. In this update report, Russia 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 Russia is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty. Furthermore, the treaty analysis also takes into account the treaty with the former Federal Republic of Yugoslavia which Russia continues to apply to both Serbia and Montenegro. As it concerns the same tax treaty that is applicable to multiple jurisdictions, this treaty is only counted as one treaty for this purpose. Reference is made to Annex A for the overview of Russia's tax treaties regarding the mutual agreement procedure.

### ***Timing of the process and input received by peers and taxpayers***

Stage 1 of the peer review process was for Russia launched on 31 December 2018, with the sending of questionnaires to Russia and its peers. The FTA MAP Forum has approved the stage 1 peer review report of Russia in June 2019, with the subsequent approval by the BEPS Inclusive Framework on 9 August 2019. On 9 August 2020, Russia submitted its update report, which initiated stage 2 of the process.

The period for evaluating Russia's implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 31 December 2018 and formed the basis for the stage 1 peer review report. The period of review for stage 2 started on 1 January 2019 and depicts all developments as from that date until 31 July 2020.

In total ten peers provided input during stage 1: Austria, Denmark, Germany, Italy, the Netherlands, Sweden, Switzerland, Turkey, the United Kingdom and the United States. Out of these ten peers, eight had MAP cases with Russia that started on or after 1 January 2016. These eight peers represent 75% of post-2015 MAP cases in Russia's inventory that started in 2016-18. Generally, some peers indicated co-operative relationship with Russia's competent authority, but most of them reported difficulties in obtaining responses from it. During stage 2, the same peers provided input. In addition, Finland provided input during stage 2. For this stage, these peers represent 77% of post-2015 MAP cases in Russia's inventory that started in 2016-19. Generally, all peers indicated having a good relationship with Russia's competent authority with regard to MAP. Specifically with respect to stage 2, most of the peers that provided input reported that the update report of Russia fully reflects

the experiences these peers have had with Russia since 1 January 2019 and/or that there was no addition to previous input given. Some peers, however, reflected additional input or new experiences, which are reflected throughout this document under the elements where they have relevance. This input particularly relates to the resolution of MAP cases, for which some peers mentioned they experienced difficulties in resolving MAP cases in terms of timely receiving position papers or responses.

### *Input by Russia and co-operation throughout the process*

During stage 1, Russia provided informative answers in its questionnaire, which was submitted on time. Russia was responsive in the course of the drafting of the peer review report by responding comprehensively to requests for additional information, and provided further clarity where necessary. In addition, Russia provided the following information:

- MAP profile<sup>5</sup>
- MAP statistics<sup>6</sup> according to the MAP Statistics Reporting Framework (see below).

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

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

## Overview of MAP caseload in Russia

The analysis of the Russia’s MAP caseload for stage 1 relates to the period starting on 1 January 2016 and ending on 31 December 2018. For stage 2 the period ranges from 1 January 2019 to 31 December 2019. Both periods are taken into account in this report for analysing the MAP statistics of Russia. The analysis of Russia’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 Russia, 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	17	2	17
Other cases	0	18	3	15
<b>Total</b>	<b>2</b>	<b>35</b>	<b>5</b>	<b>32</b>

## General outline of the peer review report

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

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



Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).<sup>7</sup> Apart from analysing Russia’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Russia. Furthermore, the report depicts the changes adopted and plans shared by Russia to implement elements of the Action 14 Minimum Standard where relevant. The conclusion of each element identifies areas for improvement (if any) and provides for recommendations how the specific area for improvement should be addressed.

The 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 has 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 Russia 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 Russia 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 Russia has entered into are available at: [www.minfin.ru/ru/performance/tax\\_relations/international/?id\\_57=124786&area\\_id=57&page\\_id=179&popup=Y](http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=124786&area_id=57&page_id=179&popup=Y). The treaties that are signed but have not yet entered into force are Estonia (2002), Ethiopia (1999), Laos (1999), Mauritius (1995) and Oman (2001). Russia also re-negotiated its treaty with Belgium (2015), which will replace the existing treaty of 1995 once it enters into force. For that reason, this newly negotiated treaty is taken into account in the treaty analysis. Reference is made to Annex A for the overview of Russia’s tax treaties regarding the mutual agreement procedure.
2. Russia continues to apply the 1995 treaty with the former Federal Republic of Yugoslavia to both Serbia and Montenegro.
3. Available at: [www.oecd.org/tax/treaties/beps-mli-position-russia.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-russia.pdf).
4. Available at: <https://www.oecd.org/tax/beps/making-dispute-resolution-more-effective-map-peer-review-report-russian-federation-stage-1-4599c8b2-en.htm>.
5. Available at [www.oecd.org/tax/dispute/Russia-Dispute-Resolution-Profile.pdf](http://www.oecd.org/tax/dispute/Russia-Dispute-Resolution-Profile.pdf).
6. The MAP statistics of Russia are included in Annex B and C of this report.
7. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).



## *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 Russia’s tax treaties*

2. Out of Russia’s 89 tax treaties, 87 contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (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.<sup>1</sup> Of the remaining two tax treaties, one does not contain such an equivalent at all, whereas the other contains such a provision, but does not contain the term “interpretation”. For this reason, both treaties are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

3. All peers that provided input during stage 1, indicated that their treaty with Russia meets the requirements under element A.1, which is in line with the above analysis. For the two treaties identified that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), the relevant peers did not provide input.

#### *Recent developments*

##### *Bilateral modifications*

4. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element A.1.

### *Multilateral Instrument*

5. Russia signed the Multilateral Instrument and has deposited its instrument of ratification on 18 June 2019. The Multilateral Instrument has for Russia entered into force on 1 October 2019.

6. 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).

7. In regard of the two tax treaties identified above that are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), Russia listed one of them as a covered tax agreement under the Multilateral Instrument and made, pursuant to Article 16(6)(d)(i), a notification that it does not contain a provision described in Article 16(4)(c)(i). The relevant treaty partner is a signatory to the Multilateral Instrument and listed its treaty with Russia as a covered tax agreement and also made a notification pursuant to Article 16(6)(d)(i). This treaty partner has deposited its instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Russia and this treaty partner. Therefore, at this stage, the Multilateral Instrument has modified this treaty to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

### *Peer input*

8. Of the peers that provided input during stage 2, one provided input in relation to its tax treaty with Russia. This peer stated that its treaty is in line with the requirements under the Action 14 Minimum Standard.

### *Anticipated modifications*

9. For the remaining 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, Russia reported that it intends to update it via bilateral negotiations with a view to be compliant with element A.1. In this respect, Russia reported that it has a plan for bilateral negotiations of amending protocols with this treaty partner during 2021.

10. In addition, Russia 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>Two out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). Of these two treaties:</p> <ul style="list-style-type: none"> <li>• One has been modified by the Multilateral Instrument to include the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).</li> <li>• One will not be modified by the Multilateral Instrument to include the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). For this treaty, negotiations on an amending protocol to include such equivalent are envisaged.</li> </ul>	<p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), Russia should continue the process to initiate negotiations with the treaty partner to include the required provision.</p>

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

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

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

#### *Russia’s APA programme*

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

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

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

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

### ***Roll-back of bilateral APAs***

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

### ***Recent developments***

17. Russia reported that it has updated its MAP profile to describe the contents of Russia's APA programme.

### ***Practical application of roll-back of bilateral APAs***

#### *Period 1 January 2016-31 December 2018 (stage 1)*

18. Russia reported that in the period 1 January 2016-31 December 2018 it received three requests for bilateral APAs, none of which have been concluded up to date. Furthermore, none of these requests concern a roll-back.

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

#### *Period 1 January 2019-31 July 2020 (stage 2)*

20. Russia reported that since 1 January 2019 its competent authority received eight requests for bilateral APAs, none of which included a request for roll-back. Russia further reported that all of the eight requests are still under consideration.

21. Further to the above, Russia also reported that for the three APA requests that it received in the period 1 January 2016-31 December 2018, one of them has been granted and the remaining two requests are still under consideration.

22. All peers that provided input in stage 2 staged that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. One peer noted that one APA case with Russia was resolved within two years and negotiations were conducted in good spirit.

### ***Anticipated modifications***

23. Russia did not indicate that it anticipates any modifications in relation to element A.2.

### *Conclusion*

	Areas for improvement	Recommendations
[A.2]	Roll-back of bilateral APAs is not available.	Russia should without further delay introduce the possibility of and in practice provide for roll-back of bilateral APAs in appropriate cases.

### **Notes**

1. These 87 treaties include the treaty with former Federal Republic of Yugoslavia that Russia continues to apply to both Serbia and Montenegro.
2. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines 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.

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

#### ***Current situation of Russia's tax treaties***

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

25. Out of Russia's 89 tax treaties, three contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b), and allowing taxpayers to submit a MAP request to the competent authority of either state. Furthermore, 57 tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident 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.

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

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (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.	28*
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 and whereby the taxpayer can pursuant to a protocol provision not submit a MAP request irrespective of domestic available remedies.	1

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

27. The 28 treaties mentioned in the first row of the table are considered not to have the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (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 23 of those treaties are considered to be in line with this part of element B.1:

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

28. For the remaining five treaties, the non-discrimination provision is almost identical to Article 24(1) of the OECD Model Tax Convention (OECD, 2017) and applies both to nationals that are and are not resident of one of the contracting states. The omission of the full text of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) is therefore not clarified by the absence of or a limited scope of the non-discrimination provision, following which these five treaties are not in line with this part of element B.1.

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

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

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

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

31. Out of Russia’s 89 tax treaties, 72 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.<sup>2</sup>

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

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

*Peer input*

33. All peers that provided input during stage 1 indicated that their treaty with Russia meets the requirements under element B.1. One of these peers indicated that although its treaty with Russia does not meet these requirements, it expects that the treaty will be modified by the Multilateral Instrument to include the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2017), which is in line with the below analysis. Furthermore, one peer, which treaty also does not meet the requirements under element B.1, has recently notified Russia that the protocol provision requiring the taxpayer to initiate domestic available remedies when submitting a MAP request will become ineffective, once this peer ratifies the Multilateral Instrument. For the other treaties that do not meet the requirements under element B.1, the relevant peers did not provide input.

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

34. As noted in paragraphs 29-30 above, in all but one of Russia’s tax treaties taxpayers can file a MAP request irrespective of domestic remedies. In this respect, Russia reported that there are no legislative provisions or practices that define the interaction between domestic remedies and the MAP process, or which define that both processes shall either run in parallel or the one is pursued first. Regardless, Russia clarified that taxpayers can submit a MAP request and at the same time initiate domestic remedies. Furthermore, where a domestic court has issued a ruling, Russia reported its competent authority is bound by such a decision and is not able to derogate from it in a MAP.

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

35. For those five tax treaties mentioned in paragraph 32 above that do not contain a filing period for a MAP request, Russia reported that the Order “On the procedure and periods for submission and reviewing mutual agreement procedure requests in accordance with international tax treaties of the Russian Federation” № 102H of 11 June 2020 has been issued, which establishes a three-year filing period from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty for MAP requests for those situations where the tax treaty does not contain a filing period. In this respect, Russia clarified that paragraph 6 of the Order stipulates that taxpayers should

submit a MAP request within three years from the day of delivery of a tax audit report, a reasoned opinion of a tax authority under tax monitoring or the act of the tax authority decision of the other state, if the taxpayer considers that the actions of tax authorities result or will result in taxation of its income, profit or property not in accordance with provisions of the international tax treaty.

### ***Recent developments***

#### *Bilateral modifications*

36. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element B.1.

#### *Multilateral Instrument*

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

37. Russia signed the Multilateral Instrument and has deposited its instrument of ratification on 18 June 2019. The Multilateral Instrument has for Russia entered into force on 1 October 2019.

38. 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.

39. With the depositing of the instrument of ratification of the Multilateral Instrument, Russia opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (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 Russia's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which a resident, Russia opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Russia listed 69 of its 89 tax treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for all of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b).<sup>3</sup> One of these 69 treaties, however, concerns one of the treaties mentioned in paragraph 25 above that already allows the submission of a MAP request to either competent authority and for that reason is not taken into account in the below analysis. In other words, only 68 treaties are taken into account.

40. In total, 16 out of 68 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas one has not listed their treaty with Russia as a covered tax agreement under that instrument and 20 reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.<sup>4</sup> The remaining 31 treaty partners listed their treaty with Russia as having a provision that is equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). Of these 31 treaty partners, 22 already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Russia and these treaty partners. Therefore, at this stage, the Multilateral Instrument has modified 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). For the remaining nine treaties, the instrument will, upon entry into force for these treaties, modify them to include this equivalent.

41. In view of the above, for those six treaties identified in paragraphs 26-30 above that are considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), one is included in the 22 treaties mentioned above that have been modified via that instrument to incorporate 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). Furthermore, two are included in the list of 31 treaties that will be modified via the Multilateral Instrument.

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

42. 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).

43. In regard of the 12 tax treaties identified in paragraph 32 above that contain a filing period for MAP requests of less than three years, Russia listed nine as a covered tax agreement under the Multilateral Instrument and for eight of them did it make, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). Of the eight relevant treaty partners, two are not a signatory to the Multilateral Instrument. The remaining six tax treaties partners also made a notification on the basis of Article 16(6)(b)(i). Five of these six treaty partners have already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Russia and these treaty partners. Therefore, at this stage, the Multilateral Instrument has modified these five treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). The remaining treaty will be modified via the Multilateral Instrument upon its entry into force for the treaty concerned.

44. In addition, with regard to one treaty for which Russia did not make a notification pursuant to Article 16(6)(b)(i), the treaty partner listed its treaty with Russia as a covered tax agreement, but also did not make a notification on this treaty pursuant to Article 16(6)(b)(ii). In this situation, Article 16(6)(b)(i) of the Multilateral Instrument stipulates that the second sentence of Article 16(1) – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will supersede the provision of the covered tax agreement to the extent it is incompatible with that second sentence. Since the treaty contains a provision that deviates from Article 25(1), second sentence, the provision of the covered tax agreement is considered to be incompatible with the second sentence of Article 16(1). Therefore, at this stage, this treaty will be superseded by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

#### *Other developments*

45. For one of the five tax treaties that do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument, Russia reported that a new treaty with this treaty partner, which contains such equivalent and that will replace the existing treaty once it enters into force, was initialled in February 2020 and is prepared to the signing.

#### *Peer input*

46. Of the peers that provided input during stage 2, one provided input in relation to its tax treaty with Russia. This peer stated that its treaty is in line with the requirements under the Action 14 Minimum Standard.

#### *Anticipated modifications*

47. For one of the remaining four treaties that do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument, Russia reported that it has a plan for the bilateral negotiation of amending protocols to bring them in line with the requirements under the Action 14 Minimum Standard during 2021.

48. For the remaining treaties, Russia, however, has not reported a specific plan for such negotiations nor has it conducted any actions to that effect.

49. Regardless, Russia reported it will seek to include Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b), in all of its future tax treaties.

## Conclusion

	Areas for improvement	Recommendations
	<p>Three out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (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. Of these three treaties:</p> <ul style="list-style-type: none"> <li>• One is expected to be modified by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty is also expected to be superseded by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• One will not be modified by the Multilateral Instrument to include Article 25(1), first sentence, but will so as to the second sentence. For this treaty no actions have been taken nor are any actions planned to be taken.</li> <li>• 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.</li> </ul>	<p>For the two treaties that will not be modified by the Multilateral Instrument following its entry into force to include the equivalent to Article 25(1), first sentence and/or second sentence, of the OECD Model Tax Convention (OECD, 2017), Russia should without further delay request the inclusion of the required provision via bilateral negotiations.</p> <p>This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2017) either:</p> <ol style="list-style-type: none"> <li>a. as amended by the Action 14 final report (OECD, 2015b); or</li> <li>b. as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.</li> </ol>
[B.1]	<p>Three out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a). Of these three treaties:</p> <ul style="list-style-type: none"> <li>• One has been modified by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• One is expected to be modified by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• 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.</li> </ul>	<p>For the treaty that does not contain such equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) and that will not be modified by the Multilateral Instrument to include such equivalent, Russia should without further delay request the inclusion of the required provision via bilateral negotiations.</p> <p>This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2017) either:</p> <ol style="list-style-type: none"> <li>a. as amended in the Action 14 final report (OECD, 2015b); or</li> <li>b. as it read prior to the adoption of Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.</li> </ol>
	<p>Eight out of 89 tax treaties do not contain the equivalent to 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. With respect to these eight treaties:</p> <ul style="list-style-type: none"> <li>• Five have been modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• Three will not be modified by that instrument to include the Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these three treaties: <ul style="list-style-type: none"> <li>- for one negotiations on an amending protocol to include such equivalent is envisaged</li> <li>- for two no actions have been taken nor are any actions planned to be taken.</li> </ul> </li> </ul>	<p>For the three treaties that currently do not contain the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument to include such equivalent, Russia should:</p> <ul style="list-style-type: none"> <li>• continue with the process for which negotiations are envisaged to request the inclusion of the required provision via bilateral negotiations</li> <li>• for the two remaining treaty partners without further delay request the inclusion of the required provision via bilateral negotiations.</li> </ul>

## [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 Russia's 89 treaties, three currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as changed by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. In addition, as was also discussed under element B.1, 29 treaties will, upon entry into force, be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

52. Russia reported that Section III of the newly issued Order № 102H of 11 June 2020 stipulates that its competent authority assesses whether the objection is justified or not within 90 days from the day of the receipt of the MAP request and informs the taxpayer and the other competent authority of its decision. Russia noted that such notification will include: (i) identification of the person who submitted the MAP request, (ii) date of receipt of the request, (iii) summary of the request and (iv) justification for consideration. Alongside this notification, a copy of the taxpayer's request and its attachments will also be sent to the other competent authority concerned.

53. While, as a matter of practice Russia will notify the other competent authority concerned when its competent authority considers that the objection raised in the MAP request is not justified, Russia reported that it has not documented its notification process and also has not provided instructions for staff in charge of MAP cases in what cases the objection raised should be considered as not justified and how then to pursue. However, Russia clarified that according to Section III of the order above it would determine whether the objection raised in a MAP request as not justified based on the following criteria:

- the providing of documents and the information in relation to the facts and circumstances which are under the MAP consideration



- the submitting of the MAP request in time
- the residence of the person that submitted the MAP request of one of the Contracting States
- the taxation not in accordance with the treaty.

54. Russia noted that when its competent authority arrives at the conclusion that the objection is justified or not, it will inform the taxpayer and the other competent authority.

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

- The taxpayer did not correct deficiencies in its MAP request, despite receiving a request to do so.
- The taxpayer did not submit the necessary documents for determining whether the objection raised is justified.
- The objection raised by the taxpayer is not justified.

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

### ***Recent developments***

57. Russia reported that the Order № 102Н of 11 June 2020 was newly issued, and according to Section III of the order, Russia's competent authority assesses whether objection is justified or not within 90 days from the day of the receiving the MAP request and informs the taxpayer and the other competent authority of its decision.

### ***Practical application***

#### *Period 1 January 2016-31 December 2018 (stage 1)*

58. Russia reported that in the period 1 January 2016-31 December 2018 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2016-18 MAP statistics submitted by Russia show that one of its MAP cases was closed with the outcome "objection not justified". In this respect, Russia mentioned that the decision hereto was made by the treaty partners, not by Russia's competent authority.

59. All but one peers that provided input indicated not being aware of any cases for which Russia's competent authority denied access to MAP in the period 1 January 2016-31 December 2018. They also reported not having been consulted/notified since that date of a case where Russia's competent authority considered the objection raised in a MAP request as not justified, which can be clarified by the fact that no such instances have occurred in Russia during this period. The remaining peer reported that it had one MAP case with Russia, which was closed in 2017 with the outcome "objection not justified", since the case related to the levying of VAT in Russia, which is not covered by the treaty. The peer clarified that its competent authority took the relevant decision hereto, which is in line with Russia's statement above.

*Period 1 January 2019-31 July 2020 (stage 2)*

60. Russia reported that since 1 January 2019 its competent authority has for none of the MAP requests it received decided that the objection raised by the taxpayer in its request was not justified. The 2019 MAP statistics submitted by Russia confirm that none of its MAP cases were closed with the outcome “objection not justified”.

61. All peers that provided input in stage 2 stated that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. One peer provided additional input that it is not aware of any MAP requests made in Russia with respect to which Russia considered an objection as not being justified and therefore this peer has not been notified or consulted in this respect. This peer noted that it reached out to Russia’s competent authority in a bilateral consultation process in one case that this peer received, and it had the view that the objection was not justified. It further noted that Russia did not reply to the consultation letter from this peer, and therefore the case was closed with the outcome “Objection not justified”.

***Anticipated modifications***

62. Russia did not indicate that it anticipates any modifications in relation to element B.2.

***Conclusion***

	Areas for improvement	Recommendations
[B.2]	86 of the 89 tax treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as changed by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer’s objection raised in the MAP request is considered not to be justified.	Russia should without further delay document its bilateral notification process and set out in that document the rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps.  Furthermore, Russia should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (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.

63. 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***

64. Out of Russia’s 89 tax treaties, 56 contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner.<sup>5</sup>

Furthermore, four do not contain Article 9 at all and 20 do not contain a provision that is based on or equivalent to Article 9(2).

65. For the remaining nine treaties the following analysis can be made:

- Five treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but the granting of a corresponding adjustment is only optional as the word “shall” is used instead of “may”, following which the provision is considered not to be equivalent to Article 9(2).
- Two treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but deviate from it as corresponding adjustments can only be granted on the basis of a mutual agreement between the competent authorities.
- Two treaties contain a provision on the granting of corresponding adjustments, but deviates as regards the wording and structure of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) and for that reason is considered not being the equivalent thereof.

66. In view of the above treaties and the deviations from Article 9(2) of the OECD Model Tax Convention (OECD, 2017), these follow from the fact that Russia has expressed its positions on Article 9 of the OECD Model Tax Convention (OECD, 2017). These positions read:

- Russia reserves the right to replace “shall” by “may” in the first sentence of paragraph 2 (of Article 9) in its conventions.
- Russia reserves that the right not to insert paragraph 2 (of Article 9) in its conventions but is prepared in the course of negotiations to accept this paragraph based on the understanding that the other Contracting State is only obliged to make an adjustment to the amount of tax to the extent that it agrees, unilaterally in a mutual agreement procedure, with the adjustment of profits by the first-mentioned state.

67. With respect to these reservations, Russia reported that its current treaty policy is to include Article 9(2) of the OECD Model Tax Convention (OECD, 2017) in its treaties and all new treaties of Russia contain such provision. In this respect, Russia indicated that it intends to modify the tax treaties that do not contain Article 9(2) to include such provision through the Multilateral Instrument, and for the treaties not covered by that instrument it intends to include such provision via bilateral negotiations.

68. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Russia’s tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, Russia indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) is contained in its tax treaties.

69. Russia’s MAP guidance does not contain information on access to MAP in transfer pricing cases. Section 5 of this guidance only stipulates that there are no administrative or legal provisions in Russia that limit access to MAP. Section 7.2, however, lists what information taxpayers should include in their MAP request, which makes a reference to transfer pricing cases, following which it can be derived that MAP is available in such cases.

## *Recent developments*

### *Bilateral modifications*

70. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element B.3.

### *Multilateral Instrument*

71. Russia 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, Russia signed the Multilateral Instrument and has deposited its instrument of ratification on 18 June 2019. The Multilateral Instrument has for Russia entered into force on 1 October 2019.

72. 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 not take effect for a tax treaty if one or both of the treaty partners have, pursuant to Article 17(3), reserved the right not to apply Article 17(2) for those tax treaties that already contain the equivalent of Article 9(2) of the OECD Model Tax Convention (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 notify the depositary 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)).

73. Russia has, pursuant to Article 17(3), reserve the right not to apply Article 17(2) of the Multilateral Instrument for those treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). In regard of the 29 treaties identified in paragraph 64 above that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017; not including those four tax treaties that do not contain Article 9 at all, which are not taken into account in this analysis), Russia listed 23 of them as a covered tax agreement under the Multilateral Instrument and included eight of them in the list of treaties for which Russia has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument. Furthermore, Russia did not make a notification on the basis of Article 17(4) for any of the remaining 15 treaties.

74. Of the relevant 15 treaty partners, five are not a signatory to the Multilateral Instrument and five have, on the basis of Article 17(3)(b), reserved the right not to apply Article 17(2) on the basis that they shall make the appropriate referred to in Article 17(1) or their competent authority shall endeavour to resolve the case under the provisions of a covered tax agreement

relating to mutual agreement procedure. Three of the remaining five treaties have already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Russia and these treaty partners, and therefore has superseded the relevant treaty provisions 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 those treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1). The provisions in the other two treaties will, upon entry into force, be superseded by the Multilateral Instrument to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but only to the extent that the provisions contained in those treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).

### *Application of legal and administrative framework in practice*

#### *Period 1 January 2016-31 December 2018 (stage 1)*

75. Russia reported that in the period 1 January 2016-31 December 2018, it has not denied access to MAP on the basis that the case concerned is a transfer pricing case.

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

#### *Period 1 January 2019-31 July 2020 (stage 2)*

77. Russia reported that since 1 January 2019 has not received any MAP requests relating to transfer pricing.

78. All peers that provided input in stage 2 stated that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. Two peers provided additional input and mentioned that they are not aware of any MAP requests concerning transfer pricing for which access to MAP was denied by Russia.

### **Conclusion**

	Areas for improvement	Recommendations
[B.3]	-	-

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

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

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

Subsequently, to avoid cases in which the application of domestic anti-abuse legislation is in conflict with the provisions of a tax treaty, it is also important that taxpayers have access to MAP in such cases.

### ***Legal and administrative framework***

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

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

### ***Recent developments***

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

### ***Practical application***

#### *Period 1 January 2016-31 December 2018 (stage 1)*

83. Russia reported that in the period 1 January 2016-31 December 2018 it has not denied access to MAP cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. However, no such cases in relation hereto were received since that date.

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

#### *Period 1 January 2019-31 July 2020 (stage 2)*

85. Russia reported that since 1 January 2019 it has also not denied access to MAP in cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. However, no such cases in relation hereto were received since that date.

86. All peers that provided input in stage 2 stated that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. Two of them stated that they are not aware of any MAP requests for which access to MAP was denied by Russia in relation to the application of treaty and/or domestic anti-abuse provisions.

*Anticipated modifications*

87. Russia 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.

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

*Legal and administrative framework**Audit settlements*

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

*Administrative or statutory dispute settlement/resolution process*

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

*Recent developments*

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

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

92. Russia reported that in the period 1 January 2016-31 December 2018 it has not denied access to MAP in cases where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration, which is logical as audit settlements are not allowed in Russia.

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

*Period 1 January 2019-31 July 2020 (stage 2)*

94. Russia reported that since 1 January 2019 it has also not denied access to MAP for cases where the issue presented by the taxpayer has already been dealt with in an audit settlement between the taxpayer and the tax administration. However, no such cases in relation hereto were received since that date.

95. All peers that provided input in stage 2 stated that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. Two of them stated that they are not aware of any MAP requests for which access to MAP was denied by Russia in cases where there was an audit settlement between the taxpayer and the tax administration.

*Anticipated modifications*

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

*Conclusion*

	Areas for improvement	Recommendations
[B.5]	-	-

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

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

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

*Legal framework on access to MAP and information to be submitted*

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

99. Where a taxpayer has not included all required information in its MAP request, Russia reported that access to MAP will not be denied, as long as the MAP request meets the formal requirements under the MAP article included in Russia's tax treaties. Russia reported that its competent authority will upon receipt of a MAP request check whether all required information is available. If not all information is contained in the request, its competent authority will revert back to the taxpayer to require additional information in writing, or, alternatively, contact the local tax authorities in order to obtain such information. At this stage, no specific timeframe is set, which is also dependent on the



nature of the information missing. In any case, the taxpayer is instructed to provide the additional information as soon as possible. If, however, the taxpayer does, after a request, still not provide sufficient information for a consideration of the case, Russia reported its competent authority may grant the taxpayer another opportunity to submit the information if it deems this appropriate (inappropriateness may occur in case of extensive delays caused by the taxpayer). In the case that a taxpayer still does not provide the requested information and such information is also not available from other sources such as local tax authorities, Russia reported its competent authority would close the case.

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

### ***Recent developments***

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

### ***Practical application***

#### *Period 1 January 2016-31 December 2018 (stage 1)*

102. Russia reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements. It further reported that in the period 1 January 2016-31 December 2018 it has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

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

#### *Period 1 January 2019-31 July 2020 (stage 2)*

104. Russia reported that since 1 January 2019 it has only limited access to MAP in one case and in that case the taxpayer had not complied with information or documentation requirements according to paragraph 3 of Article II of its MAP guidance, although its competent authority asked the taxpayer to provide such required information or documentation.

105. All peers that provided input in stage 2 stated that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. Two of them stated that they are not aware of any MAP requests for which access to MAP was denied by Russia in situations where taxpayers complied with information and documentation requirements.

### ***Anticipated modifications***

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

## Conclusion

	Areas for improvement	Recommendations
[B.6]	-	-

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

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

107. For ensuring that tax treaties operate effectively and in order for competent authorities to be able to respond quickly to unanticipated situations, it is useful that tax treaties include the second sentence of Article 25(3) of the OECD Model Tax Convention (OECD, 2017), enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

#### *Current situation of Russia's tax treaties*

108. Out of Russia's 89 tax treaties, 63 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.<sup>6</sup> The remaining 26 treaties do not contain a provision that is based on, or equivalent to, Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

109. All but one of the peers that provided input during stage 1, indicated that their treaty with Russia meets the requirements under element B.7, which is in line with the above analysis. For the 26 treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), one of the relevant peers indicated that their treaty with Russia will be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), which is in line with the above analysis.

#### *Recent developments*

##### *Bilateral modifications*

110. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element B.7.

##### *Multilateral Instrument*

111. Russia signed the Multilateral Instrument and has deposited its instrument of ratification on 18 June 2019. The Multilateral Instrument has for Russia entered into force on 1 October 2019.

112. 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).

113. In regard of the 26 tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Russia listed 18 treaties as a covered tax agreement under the Multilateral Instrument and for all of them did it make, pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). Of the relevant 18 treaty partners, three are not a signatory to the Multilateral Instrument. All the remaining 15 listed their treaty with Russia as a covered tax agreement under the Multilateral Instrument and also made a notification on the basis of Article 16(6)(d)(ii). 11 of these 15 treaty partners have already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Russia and these treaty partners. Therefore, at this stage, the Multilateral Instrument has modified 11 tax treaties identified above to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the remaining four treaties, the instrument will, upon its entry into force for these treaties, modify them to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017)

#### *Other developments*

114. Russia reported that with respect to the 11 tax treaties do 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, for two negotiations are pending with a view to be compliant with element B.7. Russia also reported that a third treaty, which will replace the existing treaty once it enters into force, was initialled in February 2020 and is prepared to the signing.

#### *Peer input*

115. Of the peers that provided input during stage 2, one provided input in relation to its tax treaty with Russia. This peer stated that its treaty is in line with the requirements under the Action 14 Minimum Standard.

#### *Anticipated modifications*

116. For three of the remaining eight treaties, Russia reported that it has a plan for the bilateral negotiation of amending protocols to bring them in line with the requirements under element B.7 during 2021. For two treaties, Russia reported that it has not yet put in place a specific plan to renegotiate the treaties with a view to bring them in line with the requirements under element B.7.

117. Furthermore, Russia reported that it has no plans for renegotiations of three treaties due to some policies or other factors in Russia or its treaty partners.

118. Regardless, Russia 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>26 out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these 26 treaties:</p> <ul style="list-style-type: none"> <li>• 11 tax treaties have been modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• Four tax treaties are expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaties concerned.</li> <li>• 11 tax treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these 11 tax treaties: <ul style="list-style-type: none"> <li>- for two negotiations are pending</li> <li>- for one negotiations have been finalised</li> <li>- for three no actions have been taken, but are included in the plan for renegotiations</li> <li>- for five no actions have been taken nor are any actions planned to be taken.</li> </ul> </li> </ul>	<p>For the remaining 11 treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Russia should:</p> <ul style="list-style-type: none"> <li>• continue negotiations with two treaty partners to include the required provision</li> <li>• sign the newly negotiated treaty as soon as possible with the treaty partner for which negotiations have been finalised to include the required provision via bilateral negotiations</li> <li>• for two treaties request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations</li> <li>• without further delay request the inclusion of the required provision via bilateral negotiations for the remaining five treaties.</li> </ul>

## [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.

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

### *Russia's MAP guidance*

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

[www.minfin.ru/ru/performance/tax\\_relations/international/?id\\_57=126601&ar\\_ea\\_id=57&page\\_id=179&popup=Y](http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&ar_ea_id=57&page_id=179&popup=Y)

121. This MAP guidance consists of three chapters and sets out in detail how taxpayers can access the mutual agreement procedure and what rules apply during that procedure under tax treaties entered into by Russia. More specifically, it contains information on:

1. General provisions	<ol style="list-style-type: none"> <li>1. MAP: definition</li> <li>2. the competent authority</li> <li>3. purpose of MAP</li> <li>4. provisions of DTAs which allow MAP</li> <li>5. jurisdictions which Russia is able to conduct MAP with.</li> </ol>
2. Mutual Agreement Procedure	<ol style="list-style-type: none"> <li>1. persons who may present their cases for initiating MAP</li> <li>2. MAP process flowchart</li> <li>3. form of a MAP request</li> <li>4. duty for submitting the MAP application</li> <li>5. access to MAP</li> <li>6. time limits for presenting MAP request</li> <li>7. the procedure of the MAP request</li> <li>8. the procedure after a MAP request</li> <li>9. opportunity of participating in MAP and rights of a person to whom DTA applies</li> <li>10. rights and obligations of persons to whom the DTA applies</li> <li>11. costs of MAP under DTAs.</li> </ol>
3. Initiation of the mutual agreement procedure by foreign tax authorities	-

122. In addition to its MAP guidance, Russia reported that some information related to MAP are included in (i) the special Chapter 20.3 “Mutual agreement procedure according to international tax treaty of the Russian Federation” in the Tax Code of the Russian Federation, which stipulates a definition of the term “mutual agreement procedure” and the procedure of MAP and (ii) the Order “On the procedure and periods for submission and reviewing mutual agreement procedure requests in accordance with international tax treaties of the Russian Federation” № 102Н of 11 June 2020.

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

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

### ***Information and documentation to be included in a MAP request***

124. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in request for MAP assistance.<sup>8</sup> This agreed

guidance is shown below. Russia’s MAP guidance enumerating which items must be included in a request for MAP assistance (if available) are checked in the following list:

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

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

### ***Recent developments***

126. Russia reported that while there are no recent developments in relation to the MAP guidance, the special Chapter 20.3 “Mutual agreement procedure according to international tax treaty of the Russian Federation” was introduced in the Tax Code of the Russian Federation in 2019, which stipulates a definition of the term “mutual agreement procedure” and the procedure of MAP. Russia further reported that according to paragraph 3 of Article 142.8 of the Tax Code of the Russian Federation, Russia’s Ministry of Finance issued the Order “On the procedure and periods for submission and reviewing mutual agreement procedure requests in accordance with international tax treaties of the Russian Federation” № 102H of 11 June 2020.

### ***Anticipated modifications***

127. Russia reported that it intends to modify its MAP guidance according to the newly introduced special chapter 20.3 in the Tax Code as well as the order described above.

### ***Conclusion***

	Areas for improvement	Recommendations
[B.8]	-	-

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

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

128. 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.<sup>9</sup>

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

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

[www.minfin.ru/ru/performance/tax\\_relations/international/  
?id\\_57=126601&area\\_id=57&page\\_id=179&popup=Y](http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y)

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

***MAP profile***

131. The MAP profile of Russia is published on the website of the OECD and was last updated in August 2020. This MAP profile is complete and often with detailed information. This profile includes external links that provide extra information and guidance where appropriate.

***Recent developments***

132. Russia reported that its MAP profile has been updated to reflect, inter alia, the details of its APA programme and the MAP guidance in addition to the amendment of the Tax Code. Therefore, the recommendation made in stage 1 has been followed up.

***Anticipated modifications***

133. Russia did not indicate that it anticipates any modifications in relation to element B.9.

***Conclusion***

	Areas for improvement	Recommendations
[B.9]	-	-

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

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

134. 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***

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

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

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

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

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

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

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



***Recent developments***

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

***Anticipated modifications***

141. Russia did not indicate that it anticipates any modifications in relation to element B.10.

***Conclusion***

	Areas for improvement	Recommendations
[B.10]	-	-

**Notes**

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

## *References*

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

## *Part 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.

142. 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 Russia’s tax treaties***

143. All of Russia’s 89 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.

144. All peers that provided input during stage 1 indicated that their treaty with Russia meets the requirements under element C.1, which is in line with the above analysis.

#### ***Recent developments***

##### *Bilateral modifications*

145. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element C.1.

*Peer input*

146. Of the peers that provided input during stage 2, one provided input in relation to its tax treaty with Russia. This peer stated that its treaty is in line with the requirements under the Action 14 Minimum Standard.

*Anticipated modifications*

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

*Conclusion*

	Areas for improvement	Recommendations
[C.1]	-	-

**[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).

148. 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*

149. Statistics regarding all tax treaty related disputes concerning Russia are published on the website of the OECD as of 2016.<sup>1</sup>

150. The FTA MAP Forum has agreed on rules for reporting of MAP statistics (“**MAP Statistics Reporting Framework**”) for MAP requests submitted on or after 1 January 2016 (“**post-2015 cases**”). Also, for MAP requests submitted prior to that date (“**pre-2016 cases**”), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template. Russia provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Russia and of which its competent authority was aware.<sup>2</sup> The statistics discussed below include both pre-2016 and post-2015 cases and the full statistics are attached to this report as Annex B and Annex C respectively<sup>3</sup> and should be considered jointly to understand the MAP caseload of Russia.

151. With respect to post-2015 cases, Russia reported having reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, Russia reported that it could match its post-2015 MAP statistics with its MAP partners.

152. One peer provided input on the matching of MAP statistics with Russia. The peer mentioned that its competent authority reached out to Russia to match the statistics but it was not possible to match pre-2016 cases for the year 2019 since this peer could not receive a response from Russia. With respect to this mismatch, this peer clarified that when Russia reached out to the peer in 2019 to match the pending cases, it noticed that several cases

were missing in the Russian files, even though it had either informed Russia about these cases via official notification letter or the concerning cases were already matched during the MAP statistics for former years. Furthermore, this peer noted that in September 2020, it reached out to Russia and reminded of the outstanding responses on the pre-2016 cases, but no response was received in this respect. In this respect, Russia responded that it reported all the cases under consideration.

### *Monitoring of MAP statistics*

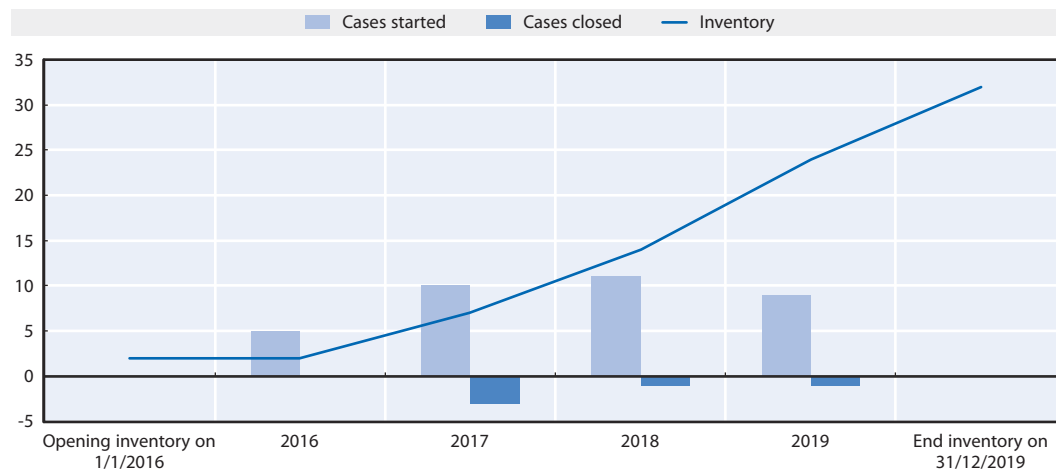
153. Russia reported that the Ministry of Finance has not in place a formal framework for the monitoring of its MAP statistics, but has in place a system to record and monitor all its documentation, including MAP cases. This system further allows to register all correspondence in relation to the MAP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

### *Analysis of Russia’s MAP caseload*

154. The analysis of Russia’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2019.

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

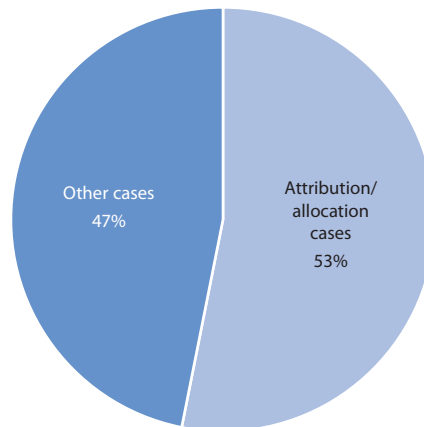
Figure C.1. Evolution of Russia’s MAP caseload



156. At the beginning of the Statistics Reporting Period Russia had two pending MAP cases, all of which were attribution/allocation cases.<sup>4</sup> At the end of the Statistics Reporting Period, Russia had 32 MAP cases in its inventory, of which 17 are attribution/allocation cases and 15 are other MAP cases. Russia’s MAP caseload has been multiplied by 15 during the Statistics Reporting Period.

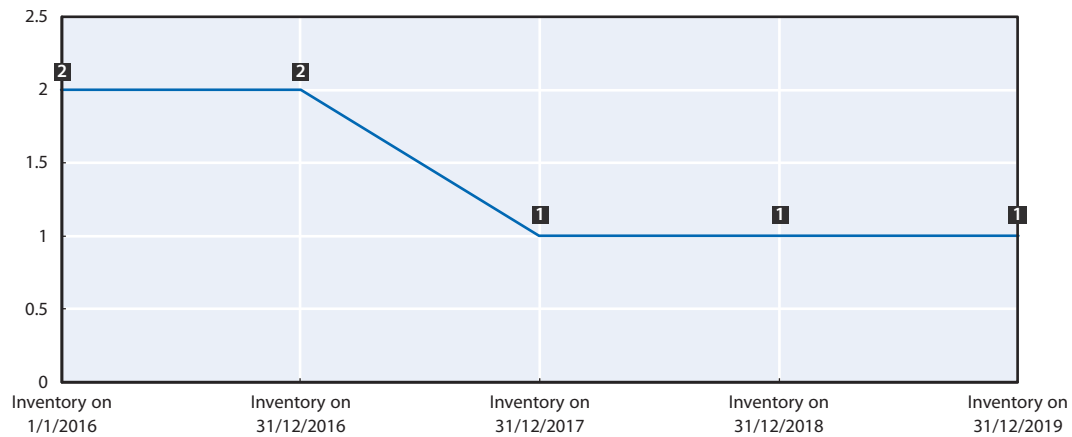
157. The breakdown of the end inventory can be shown as in Figure C.2.

Figure C.2. End inventory on 31 December 2019 (32 cases)

*Pre-2016 cases*

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

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



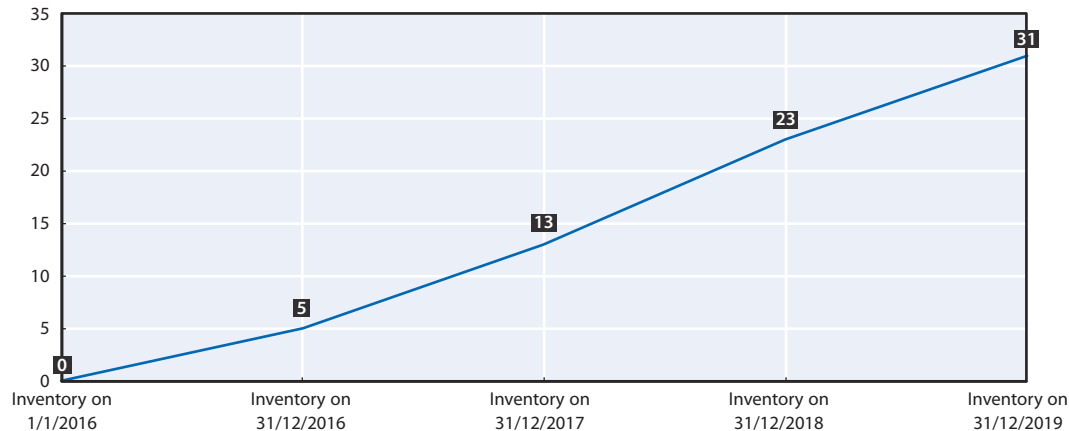
159. At the beginning of the Statistics Reporting Period, Russia's MAP inventory of pre-2016 MAP cases consisted of two cases, all of which were attribution/allocation cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases has decreased to one attribution/allocation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

	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 three years (2016-19)
Attribution/allocation cases	(no case closed)	-50%	(no case closed)	(no case closed)	-50%
Other cases	(no case closed)	(no case closed)	(no case closed)	(no case closed)	(no case closed)

*Post-2015 cases*

160. Figure C.4 shows the evolution of Russia’s post-2015 MAP cases over the Statistics Reporting Period.

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



161. In total, 35 MAP cases started during the Statistics Reporting Period, 17 of which concerned attribution/allocation cases and 18 other cases. At the end of this period the total number of post-2015 cases in the inventory was 31 cases, consisting of 16 attribution/allocation cases and 15 other cases. Conclusively, Russia closed four post-2015 cases during the Statistics Reporting Period, one of them being an attribution/allocation case and three of them of them being other cases. The total number of closed cases represents 11% of the total number of post-2015 cases that started during the Statistics Reporting Period.

162. 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 three years (2016-19)
Attribution/allocation cases	0%	33%	0%	0%	6%
Other cases	0%	14%	14%	33%	17%

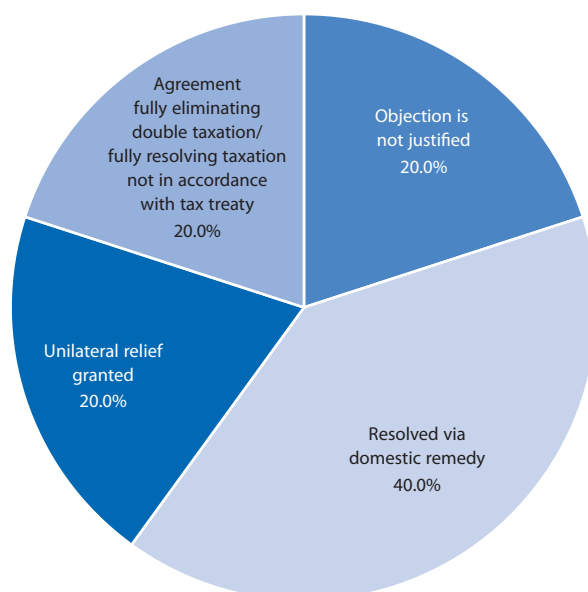
### *Overview of cases closed during the Statistics Reporting Period*

#### *Reported outcomes*

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

164. Figure C.5 shows that during the Statistics Reporting Period, one of the five case was 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 (Five cases)



#### *Reported outcomes for attribution/allocation cases*

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

- resolved via domestic remedy (50%)
- unilateral relief granted (50%).

#### *Reported outcomes for other cases*

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

- agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty (33%)
- objection is not justified (33%)
- resolved via domestic remedy (33%).

#### *Average timeframe needed to resolve MAP cases*

##### *All cases closed during the Statistics Reporting Period*

167. The average time needed to close MAP cases during the Statistics Reporting Period was 14.60 months. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	2	20.05
Other cases	3	10.97
<b>All cases</b>	<b>5</b>	<b>14.60</b>



*Pre-2016 cases*

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

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

*Post-2015 cases*

169. For post-2015 cases Russia reported that on average it needed 2.60 months to close one attribution/allocation case and 10.97 months to close three other cases. This resulted in an average time needed of 8.88 months to close four post-2015 cases.

*Peer input*

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

***Recent developments***

171. Russia was in the stage 1 peer review report under element C.2 recommended to seek to resolve the remaining 88% of its post-2015 MAP cases that were pending on 31 December 2018 within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.

172. With respect to this recommendation, Russia reported that its competent authority intends to resolve the pending MAP cases as soon as possible. Furthermore, Russia reported that the one pending pre-2016 case was not closed in 2019 since it required supplementary information on the facts and circumstances from the taxpayer.

173. From the statistics discussed above, it follows that Russia has in the period 2016-19 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 11%. Furthermore, its MAP inventory has increased by 1 500% since 1 January 2016. Element C.3 will further consider these numbers in light of the adequacy of resources.

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

***Anticipated modifications***

175. Russia 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.

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

**Description of Russia's competent authority**

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

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

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

**Monitoring mechanism**

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

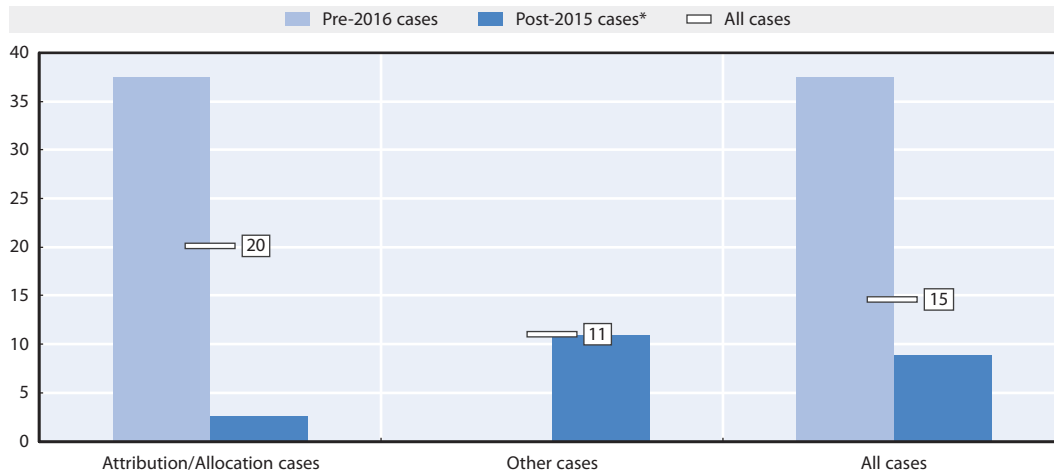
**Recent development**

181. There are no recent developments with respect to element C.3.

**Practical application****MAP statistics**

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

183. Based on these figures, it follows that on average it took Russia 14.60 months to close MAP cases during the Statistics Reporting Period. It took Russia 20.05 months to resolve attribution/allocation cases, and 10.97 months for other cases.

184. The stage 1 peer review report of Russia analysed the 2016-18 statistics and showed an average of 14.08 months, which is within the pursued average of 24 months to close MAP cases. This both regards attribution/allocation cases (20.05 months) and other cases (8.10 months). However, Russia's MAP caseload has increased significantly in the period 1 January 2016-31 December 2018. In addition, some peers indicated having a co-operative relationship with Russia's competent authority, but most of them reported difficulties in obtaining responses from it.

185. Taking the above into account, Russia was recommended to ensure that adequate resources are made available for the competent authority function in order to resolve MAP cases in a timely, efficient and effective manner. In this respect, it was noted that Russia should closely monitor whether the recent addition of resources for the competent authority function will enable the timely issuing of position papers and responses to such papers issued by the treaty partner, as well as timely responses to communications on new and pending MAP cases.

186. For stage 2, the 2019 MAP statistics are also taken into account. The average time to close MAP cases for this year are:

	2019
Attribution/Allocation cases	n.a.
Other cases	16.70
All cases	16.70

187. The 2019 statistics of Russia show that the average completion time of MAP cases increased from 14.08 months to 16.70 months, whereby the average for other cases increased from 8.10 months to 16.70 months. No attribution/allocation cases were closed in 2019.

188. Furthermore – as analysed in element C.2 – the MAP inventory of Russia multiplied by more than 15 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	17	2	17	750%
Other cases	0	18	3	15	(no cases in start inventory)
<b>Total</b>	2	35	5	32	1 500%

### *Peer input*

#### Period 1 January 2016-31 December 2018 (stage 1)

189. In total ten peers provided input on their experiences with Russia in handling and resolving MAP cases. Of these ten peers, two reported that in the period 1 January 2016-31 December 2018 they did not have any MAP cases with Russia. The other peers mentioned that they have a limited number of MAP cases with Russia.

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

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

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

193. Similar input was echoed by three other peers. The first peer mentioned that for pending pre-2016 and post-2015 cases it has notified Russia's competent authority about these cases through several occasions and also sent position papers on the case, but so far never received a response. The second peer mentioned it has 1.5 years ago initiated a MAP case concerning a transfer pricing adjustment made in Russia. The response received from Russia's competent authority dates back one year, in which it was stated that the case is

still under consideration. So far no position paper has been received, nor an indication of a specific timeline within which such paper will be presented. In a response, Russia mentioned that it hopes to provide this peer with the information as soon as possible.

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

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

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

#### Period 1 January 2019-31 July 2020 (stage 2)

197. Almost all peers that provided input in stage 1 stated in stage 2 that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. Of the peers that provided input, five provided input in relation to their experience in resolving MAP cases since 1 January 2019. Most of the peer input concerns delays in providing position papers and no response or responses with substantial delays.

198. One peer that currently has three pending MAP cases provided input that with respect to the three pending MAP cases mentioned in its peer input during stage 1 as in paragraph 192, no progress has been made due to a lack of response from Russia. Specifically for two pre-2016 cases, this peer clarified that it sent a letter to Russia in November 2020, indicating that due to the very long time elapsed since the MAP started (one in 2012 and the other in 2000) and a lack of response during the process, it would like to close the two cases with the outcome “no agreement including agreement to disagree”, in case it does not receive a response from Russia by 31 December 2020. In that regard, this peer stated that as it did not receive an answer from Russia, it regards these two cases as being concluded.

199. Russia responded to this input and mentioned that for the pre-2016 case the peer referring to the case that started in 2000, it does not have the case in its inventory as the peer did not provide Russia with any materials on the case concerned. With respect to the pre-2016 case that started in 2012, Russia confirmed that it is in its inventory. Russia,

however, stated that it has only received a short letter by this peer without any supporting documentation including facts and circumstances on the case. Russia considers that it is hardly feasible to receive the documents on the case from Russian Tax Authority after 9 years and it is a taxpayer's responsibility to provide the documents to start MAP. Russia noted that it is open to consider the case if the necessary documents are submitted. Furthermore, Russia stated that the third case the peer referred to is a post-2015 case, and in its view the case closed in 2019 as the peer informed Russia of the existing Supreme Administrative Court's decision on the case, which the competent authority of the peer cannot deviate from.

200. In response, the peer stated that for the pre-2016 case that started in 2000, it provided all the documents requested by Russia, but Russia had stopped responding in 2009, despite multiple reminders from the peer. For the other pre-2016 case, the peer clarified that it did not receive any response from Russia and was not requested to provide any additional documents. Furthermore, for the post-2015 case, the peer stressed that it had not been aware of the fact that the case had been closed, since it did not receive a response from Russia to its position paper in 2018 or from the reminder sent in 2019 to ask for the status of the case or during the matching for MAP statistics.

201. The second peer stated that it has still not received any reactions from Russia on its requests for response concerning one pre-2016 and one post-2015 transfer pricing MAP case that were referred in paragraph 194, except for one confirmation of receipt of one e-mail in February 2020. In response, Russia mentioned that it sends its position paper to this peer concerning the post-2015 case on 30 October 2020, whereas for the pre-2016 case it takes time to find documentation and analyse all materials. In this respect, this peer confirmed that it received Russia's position paper on the post-2015 case in November 2020.

202. The third peer also mentioned that it has experienced difficulties in receiving a response from Russia, which concerns either no response or responses with substantial delays, to communicate on the case. This peer also noted difficulties in obtaining position papers from Russia even with several requests including reminders via mail and formal letter. Furthermore, this peer clarified that in the last years only a few cases could be solved (predominantly via unilateral relief from this peer) and no mutual agreement has been reached, and therefore its inventory with Russia is increasing. This peer further clarified that in 2019, two pre-2016 cases were closed without reaching an agreement due to non-response from Russia, and that it is currently considering whether more pre-2016 cases should be closed without reaching an agreement, as it has partially been waiting for a response for almost 10 years. Taking this situation into account, this peer considers that there might be a problem with the adequacy of resources for Russia's competent authority, and also expects to improve communication with Russia. In response to this input, Russia mentioned that all the cases are under consideration.

203. The fourth peer mentioned that it does not have a very active exchange of information with Russia, and that it has one transfer pricing MAP case, which is a consequence of transfer pricing adjustments by Russia. This peer clarified the situation of the case concerned. Whereas the case has been filed three years ago, this peer has recently received the position paper from Russia. Russia suggests to close the case with a reason that there was no taxation that could be treated as being "not in accordance with the provisions of the Agreement" and therefore there are no grounds for initiating MAP. In this respect, this peer takes a different position and expects to discuss the case concerned. Furthermore, this peer noted that it also has one interpretation MAP case with Russia, which has been filed recently, and it intends to notify Russia soon. For the transfer pricing case, Russia clarified that it provided its position paper on 11 March 2020 and suggested to close the case, but there is no answer from this peer.

204. The fifth peer expressed a concern on Russia’s communication and timeliness in resolving MAP cases. This peer clarified that on 7 November 2018, Russia confirmed by email the receipt of the peer’s letter initiating a MAP case. However, even with several emails by this peer since January 2019 to move forward with the resolution of the case, this peer has not received any communications from Russia regarding that case. In this respect, Russia responded that all the cases are under consideration.

### *Anticipated modifications*

205. Russia indicate that it intends to increase one staff member to the MAP function.

### *Conclusion*

	Areas for improvement	Recommendations
[C.3]	<p>While MAP cases were on average resolved in 14.60 months, which is below 24 months (which is the pursued average for resolving MAP cases received on or after 1 January 2016), some peers indicated that there are no responses, or only responses with substantial delays, to communications on the case or to issued position papers, as well as delays in providing position papers. This might indicate that Russia’s competent authority is not adequately resourced.</p> <p>Furthermore, the MAP caseload has significantly increased since 1 January 2016, which both regards attribution/allocation cases and other cases. This may also indicate that the competent authority is not adequately resourced to cope with this increase.</p>	<p>Russia should devote additional resources to its competent authority, or take actions to be able to cope with the increase in the number of MAP cases, which both regards attribution/allocation cases and other cases. Such addition of resources should also enable Russia to timely submit positions papers, timely respond to such papers issued by the treaty partner, and timely respond to communications on MAP cases.</p>

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

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

206. 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*

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

208. Further to the above, Russia reported that staff in charge of MAP cases have the authority to resolve MAP cases in accordance with the terms of the applicable tax treaty, whereby it should take into account the Commentary to the OECD Model Tax Convention (OECD, 2017), memoranda of understanding and comparable MAP cases that have previously been resolved with the other competent authority concerned. Russia thereby clarified that its competent authority has the authority to enter into MAP agreements. When a (tentative) MAP agreement is reached, it is generally reviewed and approved by the Head of Russia's competent authority (e.g. the Deputy Director of the Tax and Customs Policy Department).

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

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

### ***Recent developments***

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

### ***Practical application***

#### *Period 1 January 2016-31 December 2018 (stage 1)*

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

#### *Period 1 January 2019-31 July 2020 (stage 2)*

213. All peers that provided input in stage 2 stated that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. One peer noted that it was not aware of any issues in relation to element C.4.

### ***Anticipated modifications***

214. Russia did not indicate 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.

215. For ensuring that each case is considered on its individual merits and will be resolved in a principled and consistent manner, it is essential that any performance indicators for the competent authority function and for the staff in charge of MAP processes are appropriate and not based on the amount of sustained audit adjustments or aim at maintaining a certain amount of tax revenue.

### *Performance indicators used by Russia*

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

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

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

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

### *Recent developments*

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

### *Practical application*

#### *Period 1 January 2016-31 December 2018 (stage 1)*

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

*Period 1 January 2019-31 July 2020 (stage 2)*

221. All peers that provided input in stage 2 stated that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given.

*Anticipated modifications*

222. Russia 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.

223. 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*

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

*Recent developments*

225. Russia reported that it has clarified its position on MAP arbitration in its updated MAP profile. Therefore, the recommendation made in stage 1 has been addressed.

*Practical application*

226. Up to date, Russia has incorporated a voluntary and binding arbitration clause in one of 89 treaties as a final stage to the MAP. In addition, three treaties contain a most-favoured nation clause concerning the inclusion of an arbitration provision. This provision stipulates that Russia will start negotiations with the treaty partner, as soon as it agrees on the inclusion of an arbitration provision in a tax treaty with a third state, or that an arbitration provision analogous to Article 25(5) of the OECD Model Tax Convention (OECD, 2017) will be included in the treaty in such circumstances.

*Anticipated modifications*

227. Russia indicated that it intends to update its MAP profile to reflect its position on MAP arbitration.

### Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

### Notes

1. Available at: [www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm](http://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm). These statistics are up to and include fiscal year 2019.
2. Russia’s 2016 and 2019 MAP statistics were corrected in the course of its peer review and deviate from the published MAP statistics for 2016 and 2019. See further explanations in Annex B and Annex C.
3. For post-2015 cases, if the number of MAP cases in Russia’s inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five, Russia reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
4. For pre-2016 and post-2015 cases, Russia follows the MAP Statistics Reporting Framework for determining whether a case is considered an attribution/allocation MAP case. Annex D of MAP Statistics Reporting Framework provides that “an attribution/allocation MAP case is a MAP case where the taxpayer’s MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the OECD Model Tax Convention); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention), which is also known as a transfer pricing MAP case”.

### References

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



## *Part D*

### **Implementation of MAP agreements**

#### **[D.1] Implement all MAP agreements**

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

228. 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***

229. Russia reported that under its domestic legislation, taxpayers are allowed to submit an adjusted tax return at any point in time. Russia also reported that in 2019 a three year limitation period for the crediting or refund of the overpaid tax was excluded out of the Russian Tax Code in order to implement MAP agreements reached, and therefore, all MAP agreements can now be implemented irrespective of time limits in its domestic law, even if the relevant treaty does not contain the equivalent to the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017).

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

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

#### ***Recent developments***

232. Russia reported that the special Chapter 20.3 "Mutual agreement procedure according to international tax treaty of the Russian Federation" was introduced in the Tax Code of the Russian Federation in 2019, which stipulates the procedure of MAP. Russia further reported that a three year limitation period for the crediting or refund of the overpaid tax to implement the MAP agreements results was excluded out of the Tax Code. In this respect, Russia clarified that the provision concerning the submitting an application for the crediting or refund of overpaid tax or tax recovered in excess within three years period from the day on which the amount in question was paid does not apply to MAP agreements. With this development, the recommendation made in stage 1 has been addressed.

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

233. Russia reported that in the period 1 January 2016-31 December 2018 it has entered into six MAP agreements. These agreements, however, did not require the implementation by Russia.

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

*Period 1 January 2019-31 July 2020 (stage 2)*

235. Russia reported that since 1 January 2019 its competent authority did not enter into any MAP agreements that required implementation by Russia.

236. All peers that provided input in stage 2 stated that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. One peer noted that it is not aware of any issues concerning the implementation of MAP agreement, as no mutual agreements have been reached.

***Anticipated modifications***

237. Russia reported that it intends to reflect the process for implementing MAP agreements in its MAP guidance according to the newly introduced special chapter 20.3 in the Tax Code.

***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.

238. 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***

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

***Recent developments***

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

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

241. Russia reported that that in the period 1 January 2016-31 December 2018 it has entered into six MAP agreements. These agreements, however, did not require the implementation by Russia.

242. All peers that provided input have not indicated experiencing any problems with Russia regarding the implementation of MAP agreements reached on a timely basis, which can be explained by the fact that no such agreements have been reached in the period 1 January 2016-31 December 2018 and that required the implementation in Russia.

***Period 1 January 2019-31 July 2020 (stage 2)***

243. As discussed under element D.1, Russia reported that since 1 January 2019 its competent authority did not enter into any MAP agreements that required implementation by Russia.

244. All peers that provided input in stage 2 stated that the update report provided by Russia fully reflects their experience with Russia since 1 January 2019 and/or there are no additions to the previous input given. One peer noted that it is not aware of any issues concerning the implementation of MAP agreement, as no mutual agreements have been reached.

***Anticipated modifications***

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

***Conclusion***

	Areas for improvement	Recommendations
[D.2]	-	-

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

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

246. 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 Russia's tax treaties***

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

248. Out of Russia's 89 tax treaties, 67 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.<sup>1</sup> Furthermore, one tax treaty contains the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making transfer pricing adjustments.

249. The remaining 21 treaties are categorised as follows:

- 18 treaties neither contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor any of the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making transfer pricing adjustments.
- Three treaties do not contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), and only contain an alternative provision Article 9(1), setting a time limit for making transfer pricing adjustments.

250. All but one of the peers that provided input during stage 1, indicated that their treaty with Russia meets the requirements under element D.3, which is in line with the above analysis. For the 21 treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), or both alternatives provisions, one peer provided input and reported that it is willing to accept the alternative provision and the two jurisdictions are working together on a draft of an amending protocol to adapt the treaty in line with the Action 14 Minimum Standard.

### ***Recent developments***

#### ***Bilateral modifications***

251. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element B.1.

#### ***Multilateral Instrument***

252. Russia signed the Multilateral Instrument and has deposited its instrument of ratification on 18 June 2019. The Multilateral Instrument has for Russia entered into force on 1 October 2019.

253. 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.

254. In regard of the 21 tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or the alternative provisions for Articles 9(1) and 7(2), Russia listed 18 treaties as covered tax agreements under the Multilateral Instrument and for 17 of the 18 treaties it made, pursuant to Article 16(6)(c)(ii), a notification that they do not contain a provision described in Article 16(4)(b)(ii). Of the relevant 17 treaty partners, six are not a signatory to the Multilateral Instrument and three made a reservation on the basis of Article 16(5)(c). All remaining eight treaty partners made a notification on the basis of Article 16(6)(c)(ii). Three of these eight treaty partners have already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Russia and these treaty partners. Therefore, at this stage, the Multilateral Instrument has modified these three treaties to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the remaining five treaties, the instrument will, upon entry into force for the treaties concerned, modify them to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

### *Other developments*

255. Russia reported that with respect to three of the remaining 13 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 that will not be modified by the Multilateral Instrument, for one, the treaty partner has informed Russia that it will withdraw its reservation under the Multilateral Instrument, following which also this treaty will be modified to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the other two treaties, Russia reported that negotiations are pending with a view to be compliant with element D.3.

### *Peer input*

256. Of the peers that provided input during stage 2, one provided input in relation to its tax treaty with Russia. This peer stated that its treaty is in line with the requirements under the Action 14 Minimum Standard.

### *Anticipated modifications*

257. For one of the remaining ten 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 that will not be modified by the Multilateral Instrument, Russia reported that it has a plan for bilateral negotiations of amending protocols to bring it in line with the requirements under element D.3 during 2021.

258. For the remaining nine tax treaties, Russia reported that it has not put in place a specific plan to renegotiate the treaties with a view to bring them in line with the requirements under element D.3.

259. Russia reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

### Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>21 out of 89 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). With respect to these 21 tax treaties:</p> <p>Three have been modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).</p> <ul style="list-style-type: none"> <li>• Five are expected to be modified by the Multilateral Instrument to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), upon entry into force for the treaties concerned.</li> <li>• One will also be modified by that instrument, once the treaty partner has changed its notifications under the Multilateral Instrument.</li> <li>• 12 tax treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these 12 tax treaties: <ul style="list-style-type: none"> <li>- for two negotiations are pending</li> <li>- for one no actions have been taken, but are included in the plan for renegotiations</li> <li>- for nine no actions have been taken nor are any actions planned to be taken.</li> </ul> </li> </ul>	<p>For the 12 tax treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Russia should:</p> <ul style="list-style-type: none"> <li>• continue negotiations with the two relevant treaty partners to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), or be willing to accept the inclusion of both alternative provisions</li> <li>• for one treaty 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</li> <li>• without further delay request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions for the remaining nine tax treaties.</li> </ul>

### Note

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

### Reference

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

## Summary

	Areas for improvement	Recommendations
<b>Part A: Preventing disputes</b>		
[A.1]	<p>Two out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017). Of these two treaties:</p> <ul style="list-style-type: none"> <li>• One has been modified by the Multilateral Instrument to include the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• One will not be modified by the Multilateral Instrument to include the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017). For this treaty, negotiations on an amending protocol to include such equivalent are envisaged.</li> </ul>	<p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017), Russia should continue the process to initiate negotiations with the treaty partner to include the required provision.</p>
[A.2]	<p>Roll-back of bilateral APAs is not available.</p>	<p>Russia should without further delay introduce the possibility of and in practice provide for roll-back of bilateral APAs in appropriate cases.</p>
<b>Part B: Availability and access to MAP</b>		
[B.1]	<p>Three out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (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. Of these three treaties:</p> <ul style="list-style-type: none"> <li>• One is expected to be modified by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty is also expected to be superseded by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• One will not be modified by the Multilateral Instrument to include Article 25(1), first sentence, but will so as to the second sentence. For this treaty no actions have been taken nor are any actions planned to be taken.</li> <li>• 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.</li> </ul>	<p>For the two treaties that will not be modified by the Multilateral Instrument following its entry into force to include the equivalent to Article 25(1), first sentence and/or second sentence, of the OECD Model Tax Convention (OECD, 2017), Russia should without further delay request the inclusion of the required provision via bilateral negotiations.</p> <p>This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2017) either:</p> <ol style="list-style-type: none"> <li>a. as amended by the Action 14 final report (OECD, 2015b); or</li> <li>b. as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.</li> </ol>

	Areas for improvement	Recommendations
	<p>Three out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a). Of these three treaties:</p> <ul style="list-style-type: none"> <li>• One has been modified by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• One is expected to be modified by the Multilateral Instrument to include Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• 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.</li> </ul>	<p>For the treaty that does not contain such equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) and that will not be modified by the Multilateral Instrument to include such equivalent, Russia should without further delay request the inclusion of the required provision via bilateral negotiations.</p> <p>This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2017) either:</p> <ol style="list-style-type: none"> <li>a. as amended in the Action 14 final report (OECD, 2015b); or</li> <li>b. as it read prior to the adoption of Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.</li> </ol>
[B.1]	<p>Eight out of 89 tax treaties do not contain the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (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. With respect to these eight treaties:</p> <ul style="list-style-type: none"> <li>• Five have been modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• Three will not be modified by that instrument to include the Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these three treaties: <ul style="list-style-type: none"> <li>- for one negotiations on an amending protocol to include such equivalent is envisaged</li> <li>- for two no actions have been taken nor are any actions planned to be taken.</li> </ul> </li> </ul>	<p>For the three treaties that currently do not contain the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) and that will not be modified by the Multilateral Instrument to include such equivalent, Russia should:</p> <ul style="list-style-type: none"> <li>• continue with the process for which negotiations are envisaged to request the inclusion of the required provision via bilateral negotiations</li> <li>• for the two remaining treaty partners without further delay request the inclusion of the required provision via bilateral negotiations.</li> </ul>
[B.2]	<p>86 of the 89 tax treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as changed by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.</p>	<p>Russia should without further delay document its bilateral notification process and set out in that document the rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps.</p> <p>Furthermore, Russia should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b).</p>
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-

	Areas for improvement	Recommendations
[B.7]	<p>26 out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these 26 treaties:</p> <ul style="list-style-type: none"> <li>• 11 tax treaties have been modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• Four tax treaties are expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaties concerned.</li> <li>• 11 tax treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these 11 tax treaties: <ul style="list-style-type: none"> <li>- for two negotiations are pending</li> <li>- for one negotiations have been finalised</li> <li>- for three no actions have been taken, but are included in the plan for renegotiations</li> <li>- for five no actions have been taken nor are any actions planned to be taken.</li> </ul> </li> </ul>	<p>For the remaining 11 treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Russia should:</p> <ul style="list-style-type: none"> <li>• continue negotiations with two treaty partners to include the required provision</li> <li>• sign the newly negotiated treaty as soon as possible with the treaty partner for which negotiations have been finalised to include the required provision via bilateral negotiations</li> <li>• for two treaties request the inclusion of the required provision via bilateral negotiations in accordance with its plan for renegotiations</li> <li>• without further delay request the inclusion of the required provision via bilateral negotiations for the remaining five treaties.</li> </ul>
[B.8]	-	-
[B.9]	-	-
[B.10]	-	-
<b>Part C: Resolution of MAP cases</b>		
[C.1]	-	-
[C.2]	-	-
[C.3]	<p>While MAP cases were on average resolved in 14.60 months, which is below 24 months (which is the pursued average for resolving MAP cases received on or after 1 January 2016), some peers indicated that there are no responses, or only responses with substantial delays, to communications on the case or to issued position papers, as well as delays in providing position papers. This might indicate that Russia's competent authority is not adequately resourced.</p> <p>Furthermore, the MAP caseload has significantly increased since 1 January 2016, which both regards attribution/allocation cases and other cases. This may also indicate that the competent authority is not adequately resourced to cope with this increase.</p>	<p>Russia should devote additional resources to its competent authority, or take actions to be able to cope with the increase in the number of MAP cases, which both regards attribution/allocation cases and other cases. Such addition of resources should also enable Russia to timely submit positions papers, timely respond to such papers issued by the treaty partner, and timely respond to communications on MAP cases.</p>
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-
<b>Part D: Implementation of MAP agreements</b>		
[D.1]	-	-
[D.2]	-	-

	Areas for improvement	Recommendations
[D.3]	<p>21 out of 89 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). With respect to these 21 tax treaties:</p> <ul style="list-style-type: none"> <li>• Three have been modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• Five are expected to be modified by the Multilateral Instrument to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), upon entry into force for the treaties concerned.</li> <li>• One will also be modified by that instrument, once the treaty partner has changed its notifications under the Multilateral Instrument.</li> <li>• 12 tax treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these 12 tax treaties: <ul style="list-style-type: none"> <li>- For two negotiations are pending.</li> <li>- For one no actions have been taken, but are included in the plan for renegotiations.</li> <li>- For nine no actions have been taken nor are any actions planned to be taken.</li> </ul> </li> </ul>	<p>For the 12 tax treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Russia should:</p> <ul style="list-style-type: none"> <li>• Continue negotiations with the two relevant treaty partners to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), or be willing to accept the inclusion of both alternative provisions,</li> <li>• For one treaty 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</li> <li>• Without further delay request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions for the remaining nine tax treaties.</li> </ul>

## Annex A

## Tax treaty network of Russian Federation

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

Treaty partner	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?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) of the OECD MTC If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(2) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Article 25(3) of the OECD MTC	Arbitration									
	B.1	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6										
Azerbaijan	Y	N/A	Y	N/A	i	i	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N
Belarus	Y	N/A	Y	N/A	N/A	i	N/A	Y	N/A	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N
Belgium	N	5/19/2015	Y	N/A	Y	i	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Botswana	Y	N/A	Y	N/A	Y	i	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Brazil	Y	N/A	i	N/A	i	i	N/A	Y	N/A	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N
Bulgaria	Y	N/A	Y	N/A	Y	i	N/A	Y	N/A	Y	N*	Y	Y	Y	Y	Y	Y	Y	Y	N
Canada	Y	N/A	ii*	N/A	Y	i	2 years	Y	N/A	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	N
Chile	Y	N/A	i	N/A	Y	i	N/A	Y	N/A	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N
China (People's Republic of)	Y	N/A	Y	N/A	Y	i	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Croatia	Y	N/A	Y	N/A	Y	i	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Cuba	Y	N/A	Y	N/A	Y	i	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Cyprus <sup>a</sup>	Y	N/A	Y	N/A	Y	i	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Czech Republic	Y	N/A	Y	N/A	Y	i	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Denmark	Y	N/A	Y	N/A	Y	E**	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ecuador	Y	N/A	Y	N/A	Y	O	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Egypt	Y	N/A	Y	N/A	Y	E*	N/A	Y	N/A	Y	Y	Y*	Y	Y	Y	Y	Y	Y	Y	N
Estonia	N	11/5/2002	Y	N/A	Y	O	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ethiopia	N	11/26/1999	ii	N/A	Y	N	2 years	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Finland	Y	N/A	Y	N/A	Y	E*	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
France	Y	N/A	Y	N/A	Y	E*	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Germany	Y	N/A	Y	N/A	Y	O	N/A	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N



Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	DTC in force?	Article 25(1) of the OECD Model Tax Convention ("MTC")	Article 25(1) of the OECD 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.1	B.1	B.1	B.1	B.1	B.1	B.1	B.1	B.1	B.1	B.1
Greece	Y	N/A	O*	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Hong Kong (China)	Y	N/A	O*	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Hungary	Y	N/A	O	Y	N/A	Y	Y	i**	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Iceland	Y	N/A	E*	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
India	Y	N/A	O	Y	N/A	Y	Y	i***	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Indonesia	Y	N/A	O	ii	2 years	Y	Y	i	i	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N
Iran	Y	N/A	O	ii	2 years	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ireland	Y	N/A	E*	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Israel	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Italy	Y	N/A	N	ii*	2 years	Y	Y	i	i	Y	Y	Y	N*	Y	Y	Y	Y	N*	Y	Y	N
Japan	Y	N/A	E	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Kazakhstan	Y	N/A	E*	Y	N/A	Y	Y	i	i	Y	Y	Y	Y	Y	Y*	Y*	Y*	Y*	Y*	Y*	N
Korea	Y	N/A	E*	Y	N/A	Y	Y	i***	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Korea (Democratic People's Republic of)	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Kuwait	Y	N/A	O*	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Kyrgyzstan	Y	N/A	O	Y	N/A	Y	Y	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Laos	N	5/14/1999	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Latvia	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

Treaty partner	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?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) of the OECD MTC If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Arbitration										
	B.1	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6										
Lebanon	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Lithuania	Y	E*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Luxembourg	Y	E*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Malaysia	Y	E*	Y	N/A	i	Y	Y*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mali	Y	O	Y	N/A	i	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Malta	Y	E*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mauritius	N	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mexico	Y	N*	i	N/A	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	N*	Y	Y	Y	N
Moldova	Y	O	Y	N/A	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N
Mongolia	Y	O	Y	N/A	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N
Montenegro	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Morocco	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N
Namibia	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Netherlands	Y	E*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
New Zealand	Y	E*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y*	Y	Y	N
North Macedonia	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Norway	Y	E*	Y	N/A	i	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Oman	N	O	ii	2 years	i	Y	2 years	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Philippines	Y	O	ii	2 years	Y	Y	2 years	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N
Poland	Y	O	Y	N/A	N/A	Y	N/A	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Portugal	Y	O	Y*	2 years	Y	Y	2 years	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y*	Y	Y	N

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration									
	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6											
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	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?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)									
		If yes, submission to either competent authority? (new Art. 25(1), first sentence)	If no, please state reasons		If no, will your CA accept a taxpayer's request for MAP in relation to such cases?															
Qatar	Y	E*	Y	N/A	i	Y	Y	Y	Y*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Romania	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Saudi Arabia	Y	E*	Y*	2 years	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Serbia	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Singapore	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Slovak Republic	Y	O	Y*	2 years	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Slovenia	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
South Africa	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Spain	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sri Lanka	Y	O	ii	2 years	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sweden	Y	E	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Switzerland	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Syria Arab Republic	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Tajikistan	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Thailand	Y	N	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Turkey	Y	N*	iv**	N/A	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	Y	Y	Y	N
Turkmenistan	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ukraine	Y	E*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y*	Y	N
United Arab Emirates	Y	E*	Y	N/A	N/A	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y*	Y	N
United Kingdom	Y	E*	i	N/A	Y	Y	Y	Y	Y	Y	Y*	Y	Y	Y	Y	Y	Y	Y*	Y	N

Column 1	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration					
	B.1	B.1			B.3	B.4	C.1	D.3		A.1	B.7	C.6		
Column 2	Column 3		Column 4		Column 5		Column 6		Column 7	Column 8	Column 9	Column 10	Column 11	
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	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?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(3) first sentence? (Note 4)	Inclusion Art. 25(3) second sentence? (Note 5)	Inclusion Art. 25(3) third sentence? (Note 6)	Inclusion Art. 25(2) first sentence? (Note 4)	If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)
		If yes, submission to either competent authority? (new Art. 25(1), first sentence)	If no, please state reasons											
United States	Y	N/A	O	i	N/A	i	i	Y	Y	Y	Y	Y	Y	Y
Uzbekistan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y
Venezuela	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y
Viet Nam	Y	N/A	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y

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

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

#### Legend

E\* The provision contained in this treaty was already in line with the requirements under this element of the Action 14 Minimum Standard, but has been modified by the Multilateral Instrument to allow the filing of a MAP request in either contracting state.

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

O\* The provision contained in this treaty is already in line with the requirements under this element of the Action 14 Minimum Standard, but will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then allow the filing of a MAP request in either contracting state.

O\*\*/E\*\*\* The provision contained in this treaty is already in line with the requirements under this element of the Action 14 Minimum Standard, but will be or has been superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.

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

Y**	The provision contained in this treaty already included an arbitration provision, which has been replaced by part VI of the Multilateral Instrument containing a mandatory and binding arbitration procedure.
Y***	The provision contained in this treaty did not include an arbitration provision, but part VI of the Multilateral Instrument applies, following which a mandatory and binding arbitration procedure is included in this treaty.
i*/ii*/iv*/N*	The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then be in line with this element of the Action 14 Minimum Standard.
i**/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 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	0	0	0	0	0	0	0	0	0	2	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	2	0	0	0	0	0	0	0	0	0	0	2	n.a.

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

- The reported number of MAP cases pending on 31 December 2016 was 0.
- The reported number of MAP cases pending on 1 January 2017 was 2, which consists of 2 attribution/allocation cases. In order to have matching numbers for 31 December 2016 and 1 January 2017, the number of pre-2016 cases pending on 1 January 2016 was corrected.

2017 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2017	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
	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	0	0	0	1	0	0	0	0	0	1	37.50
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	2	0	0	0	0	1	0	0	0	0	0	1	37.50

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
	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	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	1	0	0	0	0	0	0	0	0	0	0	1	n.a.

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
	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	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	1	0	0	0	0	0	0	0	0	0	0	1	n.a.

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

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

- The reported number of MAP cases pending on 31 December 2016 was 2, which consists of 2 attribution/allocation cases.
  - The reported number of MAP cases pending on 1 January 2017 was 5, which consists of 4 attribution/allocation cases and 1 other case.
- In order to have matching numbers for 31 December 2016 and 1 January 2017, the number of post-2015 cases started during the reporting period was corrected.

2017 MAP Statistics															
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome								No. of post-2015 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty			No agreement, including agreement to disagree	Any other outcome	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/ Allocation	4	3	0	0	0	1	0	0	0	0	0	0	0	6	2.60
Others	1	7	0	1	0	0	0	0	0	0	0	0	0	7	7.00
Total	5	10	0	1	0	1	0	0	0	0	0	0	0	13	4.80



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	6	0	0	0	0	0	0	0	0	0	0	0	10	n.a.
Others	7	0	0	0	0	0	1	0	0	0	0	0	13	9.20
Total	13	0	0	0	0	0	1	0	0	0	0	0	23	9.20

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	10	0	0	0	0	0	0	0	0	0	0	0	16	n.a.
Others	13	0	0	0	0	1	0	0	0	0	0	0	15	16.70
Total	23	0	0	0	0	1	0	0	0	0	0	0	31	16.70

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

- The reported number of MAP cases pending on 31 December 2018 was 23, which consists of 10 attribution/allocation cases and 13 other cases.
  - The reported number of MAP cases pending on 1 January 2019 was 20, which consists of 10 attribution/allocation cases and 10 other cases.
- In order to have matching numbers for 31 December 2018 and 1 January 2019, the number of post-2015 cases pending on 1 January 2019 was corrected. In addition, the number of other cases on 31 December 2019 was corrected as one case was closed during the reporting period.



## *Glossary*

<b>Action 14 Minimum Standard</b>	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
<b>MAP Guidance</b>	Guidance on Mutual Agreement Procedure pursuant to the provision of the Double Taxation Agreements
<b>MAP Statistics Reporting Framework</b>	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
<b>Multilateral Instrument</b>	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
<b>OECD Model Tax Convention</b>	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
<b>OECD Transfer Pricing Guidelines</b>	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
<b>Pre-2016 cases</b>	MAP cases in a competent authority’s inventory that are pending resolution on 31 December 2015
<b>Post-2015 cases</b>	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2016
<b>Statistics Reporting Period</b>	Period for reporting MAP statistics that started on 1 January 2016 and that ended on 31 December 2019
<b>Terms of Reference</b>	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective

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

# **Making Dispute Resolution More Effective – MAP Peer Review Report, Russian Federation (Stage 2)**

### **INCLUSIVE FRAMEWORK ON BEPS: ACTION 14**

Under Action 14, countries have committed to implement a minimum standard to strengthen the effectiveness and efficiency of the mutual agreement procedure (MAP). The MAP is included in Article 25 of the OECD Model Tax Convention and commits countries to endeavour to resolve disputes related to the interpretation and application of tax treaties. The Action 14 Minimum Standard has been translated into specific terms of reference and a methodology for the peer review and monitoring process. The peer review process is conducted in two stages. Stage 1 assesses countries against the terms of reference of the minimum standard according to an agreed schedule of review. Stage 2 focuses on monitoring the follow-up of any recommendations resulting from jurisdictions' stage 1 peer review report. This report reflects the outcome of the stage 2 peer monitoring of the implementation of the Action 14 Minimum Standard by the Russian Federation.



**PRINT ISBN 978-92-64-90362-3**

**PDF ISBN 978-92-64-87454-1**



9 789264 903623