

OECD/G20 Base Erosion and Profit Shifting
Project



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



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INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

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Foreword

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

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

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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

Implementation is now the focus of this work. The BEPS package is designed to be implemented via changes in domestic law and practices, and in tax treaties. With the negotiation of a multilateral instrument (MLI) having been finalised in 2016 to facilitate the implementation of the treaty related BEPS measures, over 90 jurisdictions are covered by the MLI. The entry into force of the MLI on 1 July 2018 paves the way for swift implementation of the treaty related measures. OECD and G20 countries also agreed to continue to work together to ensure a consistent and co-ordinated implementation of the BEPS recommendations and to make the project more inclusive. Globalisation requires that global solutions and a global dialogue be established which go beyond OECD and G20 countries.

A better understanding of how the BEPS recommendations are implemented in practice could reduce misunderstandings and disputes between governments. Greater focus on implementation and tax administration should therefore be mutually beneficial to governments and business. Proposed improvements to data and analysis will help support ongoing evaluation of the quantitative impact of BEPS, as well as evaluating the impact of the countermeasures developed under the BEPS Project.

As a result, the OECD established the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework), bringing all interested and committed countries and jurisdictions on an equal footing in the Committee on Fiscal Affairs and all its subsidiary bodies. The

Inclusive Framework, which already has more than 135 members, is monitoring and peer reviewing the implementation of the minimum standards as well as completing the work on standard setting to address BEPS issues. In addition to BEPS members, other international organisations and regional tax bodies are involved in the work of the Inclusive Framework, which also consults business and the civil society on its different work streams.

This report was approved by the Inclusive Framework on 30 August 2021 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

APA	Advance Pricing Arrangement
BEPS	Base Erosion and Profit Shifting
FTA	Forum on Tax Administration
GAZT	General Authority of Zakat and Tax
MAP	Mutual Agreement Procedure
OECD	Organisation for Economic Co-operation and Development

Executive summary

Saudi Arabia has a relatively large tax treaty network with close to 60 tax treaties. Saudi Arabia also has a MAP programme with modest experience in resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and seven cases pending on 31 December 2019. Two out of these seven cases concern allocation/attribution cases. The outcome of the stage 1 peer review process was that overall Saudi Arabia met fewer than half of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Saudi Arabia worked to address them, which has been monitored in stage 2 of the process. In this respect, Saudi Arabia solved almost all of the identified deficiencies.

All of Saudi Arabia's tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 to 3 of Article 25 of the OECD Model Tax Convention (OECD, 2017). Its treaty network is mostly consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that almost 10% of its treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to follow 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, Saudi Arabia signed and ratified the Multilateral Instrument. Through this instrument, a number of its tax treaties have been or will be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force and entry into effect of the Multilateral Instrument, Saudi Arabia reported that it intends to update all of its tax treaties to be compliant with the requirements under the Action 14 Minimum Standard via bilateral negotiations. Such bilateral negotiations have already been initiated, or are envisaged to be initiated for all of those treaties.

As Saudi Arabia has no bilateral APA programme in place, there were no specific elements to assess concerning the prevention of disputes.

Saudi Arabia also meets the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 January 2019 not received any MAP request concerning transfer pricing cases or the application of anti-abuse provisions. It further has in place a documented bilateral consultation process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified, although no such cases have surfaced since 1 January 2019. Saudi Arabia also has clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice, under tax treaties.

Concerning the average time needed to close MAP cases, the MAP statistics for Saudi Arabia 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	0	3	1	2	11.41
Other cases	2	7	4	5	25.79
Total	2	10	5	7	22.91

*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, Saudi Arabia used as the start date the date of notification by the competent authority that received the MAP request from the taxpayer and as end date the date of agreement between both competent authorities.

The number of cases Saudi Arabia closed in 2016-19 is only half of the number of all cases started in those years. During these years, MAP cases were on average closed within a timeframe of 24 months (which is the pursued average for resolving MAP cases received on or after 1 January 2016), as the average time necessary was 22.91 months. Further, Saudi Arabia's MAP inventory as on 31 December 2019 increased to seven cases as compared to two cases on 1 January 2016. In addition, Saudi Arabia was only able to close only one of two of its pre-2016 MAP cases in this period. Finally, peer input suggests that there may be delays in receiving position papers from Saudi Arabia for older cases. Therefore, Saudi Arabia should ensure that resources are made available for the competent authority function in a way that allows an adequate use of such resources for the resolution of MAP cases in a timely, efficient and effective manner. Such adequate resources would enable Saudi Arabia's competent authority to issue position papers and to respond to position papers issued by peers in respect of long-pending cases in due time and to be able to cope with the increase in the number of MAP cases.

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

Lastly, Saudi Arabia almost meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. Saudi Arabia monitors the implementation of such agreements. However, it has a domestic statute of limitation, for which there is a risk that such agreements cannot be implemented where the applicable tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), albeit that no problems have surfaced regarding 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 Saudi Arabia to resolve tax treaty-related disputes

Saudi Arabia has entered into 58 tax treaties on income (and/or capital), 52 of which are in force.¹ These 58 treaties are being applied to an equal number of jurisdictions. All of these treaties provide for a mutual agreement procedure (“MAP”) for resolving disputes on the interpretation and application of the provisions of the tax treaty. None of the treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.

Under Saudi Arabia’s tax treaties, the competent authority function is assigned to the Ministry of Finance or his authorised representative. This function has been delegated to the Governor of the General Authority of Zakat and Tax (“GAZT”). In practice, the Governor of the GAZT has formed a MAP committee that reports directly and solely to him. This committee is chaired by the Deputy Governor for Strategy and Development and comprises experts in tax administration and international/domestic tax laws. In addition, the committee has access to industry experts and any other administrative and technical resources as needed. At present, this committee comprises eight staff members.

Saudi Arabia issued guidance on the governance and administration of the mutual agreement procedure (“MAP Guidance”) in May 2020, which was last updated in April 2021 and is available (in English) at:

https://zatca.gov.sa/en/HelpCenter/guidelines/Documents/Request%20for%20Mutual%20Agreement%20Procedure_EN.pdf

Developments in Saudi Arabia since 1 January 2019

Developments in relation to the tax treaty network

The stage 1 peer review report of Saudi Arabia noted that Saudi Arabia had signed new treaties with Gabon (2015), Mauritania (2018), Morocco (2015) and Switzerland (2018) which had not yet entered into force. This situation remains the same.

In addition, Saudi Arabia reported that since 1 January 2019 it has signed new tax treaties with Albania (2019), Iraq (2019), Kosovo (2019) and Latvia (2019) which are newly negotiated treaties with treaty partners with which there were no treaties yet in place. The treaties with Iraq and Latvia include Article 9(2) and Article 25(1-3) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b). The treaties with Albania and Kosovo include Article 9(2) and Article 25(1-3) of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). The treaties with Albania and Kosovo have entered into force, whereas the treaties with Iraq and Latvia have not entered into force as yet.

Furthermore, on 18 September 2018, Saudi Arabia 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 23 January 2020, Saudi Arabia deposited its instrument of ratification, following which the Multilateral Instrument entered into force for Saudi Arabia on 1 May 2020. With the deposit of the instrument of ratification of the Multilateral Instrument, Saudi Arabia also submitted its list of notifications and reservations to that instrument.² In relation to the Action 14 Minimum Standard, Saudi Arabia has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

For the two treaties that are 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, Saudi Arabia reported that it intends to update them via bilateral negotiations. As regards one of these treaties, Saudi Arabia noted that it planned to initiate negotiations but it could not initiate bilateral negotiations yet owing to the political situation in the treaty partner jurisdiction. As regards the other treaty, Saudi Arabia entered into negotiations with this treaty partner to make this treaty in line with element D.3 and where Saudi Arabia wanted to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), this treaty partner could not agree and where this treaty partner was willing to include both alternative provisions, Saudi Arabia could not agree and thus, negotiations have now been concluded.

Other developments

Further to the above, Saudi Arabia reported that it has made a few changes to the operation of its MAP process and that it has issued MAP guidance. These changes can be summarised as follows:

- *Notification/consultation process*: the introduction and documentation of a bilateral consultation process in its internal procedures
- *MAP guidance*: issuance of comprehensive MAP guidance including *inter alia* the contact details of the competent authority and the specific information and documentation that should be submitted in a taxpayer’s request for MAP assistance and effects of Saudi Arabia’s administrative dispute settlement process on MAP
- *MAP profile*: update of Saudi Arabia’s MAP profile to notify treaty partners about the effects of Saudi Arabia’s administrative dispute settlement process on MAP
- *Handling and resolving MAP cases*: creation of a new Mutual Agreement Procedure Committee in the GAZT which consists of eight staff members chaired by the Deputy Governor of Strategy and Development and the publication of an internal MAP manual comprising operating procedures for staff to handle MAP cases
- *Performance indicators*: introduction of performance indicators for competent authority staff based on number of MAP cases resolved, the time taken to resolve MAP cases and the consistency in resolving MAP cases.

Basis for the peer review process

The peer review process entails an evaluation of Saudi Arabia's implementation of the Action 14 Minimum Standard through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic legislation and regulations, as well as its MAP programme guidance and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by Saudi Arabia, its peers and taxpayers. The questionnaires for the peer review process were sent to Saudi Arabia and the peers on 31 December 2018.

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, Saudi Arabia'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 Saudi Arabia 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.³ 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 Saudi Arabia. In this update report, Saudi Arabia 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 Saudi Arabia is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol were taken into account, even if it concerns a modification or a replacement of an existing treaty. Reference is made to Annex A for the overview of Saudi Arabia's tax treaties regarding the mutual agreement procedure.

Timing of the process and input received from peers and taxpayers

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

The period for evaluating Saudi Arabia's implementation of the Action 14 Minimum Standard for stage 1 ranged 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 four peers provided input: Ireland, Korea, Turkey and the United Kingdom. Out of these four peers, two have MAP cases with Saudi Arabia that started on or after 1 January 2016. These four peers represented approximately 28.6 % of post-2015 MAP cases in Saudi Arabia's inventory that started in 2016, 2017 and 2018. During stage 2, the same peers provided input. In addition, Singapore and Switzerland also provided input

during stage 2. For this stage, these peers represent approximately 60% of post-2015 MAP cases in Saudi Arabia’s MAP inventory that started in 2016, 2017, 2018 or 2019. Two of these peers had experiences with Saudi Arabia in handling and resolving MAP cases. The input given by these peers identify areas of concern regarding the accessibility and responsiveness of Saudi Arabia’s competent authority, as well as concerns regarding delays in the implementation of MAP agreements. Specifically with respect to stage 2, almost all peers that provided input reported that the update report of Saudi Arabia fully reflects the experiences these peers have had with Saudi Arabia since 1 January 2019 and/or that there was no addition to previous input given. However, some peers raised concerns regarding Saudi Arabia’s policy and practice in respect of MAP.

Input by Saudi Arabia and co-operation throughout the process

Saudi Arabia provided basic answers in its questionnaire, which was submitted on time. Saudi Arabia was partly responsive in the course of the drafting of the peer review report and provided further clarity where necessary at times. In addition, Saudi Arabia provided the following information:

- a. MAP profile⁴
- b. MAP statistics⁵ according to the MAP Statistics Reporting Framework (see below), but only for 2018 and 2019.

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

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

Overview of MAP caseload in Saudi Arabia

The analysis of Saudi Arabia’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2019 (“**Statistics Reporting Period**”). According to the statistics provided by Saudi Arabia, 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	0	3	1	2
Other cases	2	7	4	5
Total	2	10	5	7

General outline of the peer review report

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

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

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementation of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).⁶ Apart from analysing Saudi Arabia’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Saudi Arabia during stage 1 and stage 2. Furthermore, the report depicts the changes adopted and plans shared by Saudi Arabia to implement elements of the Action 14 Minimum Standard where relevant. The conclusion of each element identifies areas for improvement (if any) and provides for recommendations how the specific area for improvement should be addressed.

The basis of this report is the outcome of the stage 1 peer review process, which has identified in each element areas for improvement (if any) and provides for recommendations how the specific area for improvement should be addressed. Following the outcome of the peer monitoring process of stage 2, each of the elements have been updated with a recent development section to reflect any actions taken or changes made on how recommendations have been addressed, or to reflect other changes in the legal and administrative framework of Saudi Arabia relating to the implementation of the Action 14 Minimum Standard. Where it concerns changes to MAP guidance or statistics, these changes are reflected in the analysis sections of the elements, with a general description of the changes included in the recent development sections.

The objective of the Action 14 Minimum Standard is to make dispute resolution mechanisms more effective and concerns a continuous effort. Where recommendations have been fully implemented, this has been reflected and the conclusion section of the relevant element has been modified accordingly, but Saudi Arabia 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 Saudi Arabia has entered into are available at: <https://zatca.gov.sa/en/RulesRegulations/Agreements/Pages/default.aspx>. The treaties that are signed but have not yet entered into force are with Gabon (2015), Iraq (2019), Latvia (2019), Mauritania (2018), Morocco (2015) and Switzerland (2018). Reference is made to Annex A for the overview of Saudi Arabia’s tax treaties.
2. www.oecd.org/tax/treaties/beps-mli-position-saudi-arabia-instrument-deposit.pdf.
3. Available at: <https://www.oecd.org/tax/beps/making-dispute-resolution-more-effective-map-peer-review-report-saudi-arabia-stage-1-322136b0-en.htm>.
4. Available at: www.oecd.org/tax/dispute/country-map-profiles.htm.
5. The MAP statistics of Saudi Arabia are included in Annex B and C of this report.
6. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

References

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

Part A

Preventing disputes

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

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

1. Cases may arise concerning the interpretation or the application of tax treaties that do not necessarily relate to individual cases, but are more of a general nature. Inclusion of the first sentence of Article 25(3) of the OECD Model Tax Convention (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 Saudi Arabia's tax treaties

2. All of Saudi Arabia's 58 tax treaties 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.

3. All peers that provided input during stage 1 indicated that their treaty with Saudi Arabia meets the requirement under the Action 14 Minimum Standard for element A.1, which is in line with the above analysis.

Recent developments

Bilateral modifications

4. Saudi Arabia signed new tax treaties with four treaty partners which are newly negotiated treaties with treaty partners with which there were no treaties yet in place. Two of these treaties have entered into force. All of these treaties contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). The effect of these newly signed treaties has been reflected in the analysis above where it has relevance.

Peer input

5. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Saudi Arabia. One of these peers noted that its treaty with Saudi Arabia is in line with the Action 14 minimum standard, which is in line with the above analysis while the remaining two peers did not provide input with respect to this element.

Anticipated modifications

6. Saudi Arabia 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]	-	-

[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.

7. An APA is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustment thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time.¹ The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The “roll-back” of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

Saudi Arabia’s APA programme

8. Saudi Arabia reported that its current legal framework does not provide for the possibility to enter into APAs, whether they are of a unilateral, bilateral or multilateral nature.

Roll-back of bilateral APAs

9. Since Saudi Arabia does not have an APA programme in place, there is no possibility to provide roll-back of bilateral APAs to previous years.

Recent developments

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

*Practical application of roll-back of bilateral APAs**Period 1 January 2016-31 December 2018 (stage 1)*

11. Saudi Arabia reported not having received any requests for bilateral APAs in the period 1 January 2016-31 December 2018, which is logical given that Saudi Arabia does not have such a programme in place.

12. All peers that provided input indicated that they have not received a request for a roll-back of bilateral APAs concerning Saudi Arabia in the period 1 January 2016-31 December 2018.

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

13. Saudi Arabia reported also not having received any requests for a bilateral APA since 1 January 2019, which is logical given that Saudi Arabia still does not have such a programme in place.

14. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

15. Saudi Arabia indicated that it does not anticipate any modifications in relation to element A.2.

Conclusion

	Areas for improvement	Recommendations
[A.2]	-	-

Note

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

16. 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 Saudi Arabia's tax treaties

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

17. Five of Saudi Arabia's 58 tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to submit a MAP request to the competent authority of either state when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state. Furthermore, none of these 58 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.

18. The remaining 53 tax treaties contain a provision that is based on 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. Although 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, since these 53 tax treaties do not contain a non-discrimination provision at all, it is logical that the last part of Article 25(1), first sentence is omitted and that it only allows for the submission of MAP requests to the state of which the taxpayer is a resident. For this reason, these 53 treaties are considered to be in line with this part of element B.1.

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

19. Out of Saudi Arabia’s 58 tax treaties, 53 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.

20. The remaining five tax treaties provide for a filing period of two-years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.

Peer input

21. All but one peer that provided input during stage 1 indicated that their treaty with Saudi Arabia meets the requirements under element B.1, which conforms to the above analysis. One peer noted, however, that its treaty will be modified by the Multilateral Instrument to allow the submission of MAP requests to either competent authority, which is in line with the analysis above.

Practical application

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

22. As per the analysis in paragraphs 17-18 above, all of Saudi Arabia’s tax treaties allow the filing of a MAP request irrespective of domestic remedies. In this respect, Saudi Arabia reported that access to MAP is available even where for the relevant case under review, available judicial and administrative remedies under domestic law are still pending or have already been concluded. Saudi Arabia clarified that where domestic remedies are pending, such remedies may be temporarily suspended, upon request of the taxpayer, till such cases are resolved in MAP. This is confirmed in Saudi Arabia’s MAP guidance in the sub-section titled “Relation between MAPs and Domestic Remedies”.

23. One peer provided input in this respect and noted that it would be helpful if this section of Saudi Arabia’s MAP guidance made clear to taxpayers that they need to request suspension of appeal proceedings when a case is in MAP, and that suspension does not happen automatically. This peer noted that owing to this lack of detail in the published guidance, a taxpayer could in practice not prevent a first-tier tax tribunal hearing even though a MAP request was filed afterwards. Saudi Arabia responded and clarified that the taxpayer requested for a suspension of domestic proceedings in this case only after such hearing was scheduled and that this was why they could not be suspended. The peer further responded and reiterated that irrespective of this, Saudi Arabia’s MAP guidance seems to suggest that the suspension would be automatic. Saudi Arabia took note of this and mentioned that it has announced new measures for suspension of ongoing domestic proceedings and that it would update its MAP guidance to clarify this in the near future.

Accordingly, Saudi Arabia’s MAP guidance was updated in April 2021 to reflect that if a taxpayer files a MAP request in relation to an issue that is being considered under domestic remedies as well, the taxpayer has to request a freeze or suspension of the case at the relevant domestic recourse in order for the case to be considered in MAP.

24. Another peer shared its understanding obtained from Saudi Arabia that in respect of a pending MAP case, taxpayers would first need to make a request to suspend their domestic appeal proceedings with the General Secretariat of Tax Violations and Disputes Resolution Committees before Saudi Arabia’s competent authority could discuss a MAP case. This peer noted its understanding that the suspension is for a period of six months and that the suspension will be extended per request of Saudi Arabia’s competent authority until the MAP process is completed (co-ordinated between the competent authority and the General Secretariat of Tax Violations and Disputes Resolution Committees). The peer further shared its understanding that if the competent authorities do not reach an agreement under MAP or the taxpayer does not accept the MAP agreement, the taxpayer could resume the suspended domestic proceedings. Saudi Arabia confirmed this peer’s input – but noted that the suspension need not be for a period of six months in all cases as noted by the peer, but would always be subject to extension upon request of its competent authority in the manner as explained by the peer.

Recent developments

Bilateral modifications

25. Saudi Arabia signed new tax treaties with four treaty partners which are newly negotiated treaties with treaty partners with which there were no treaties yet in place. Two of these treaties have entered into force. The treaties with two of these treaty partners include Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b). The treaties with the remaining two treaty partners include Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). The effect of these newly signed treaties has been reflected in the analysis above where it has relevance.

Multilateral Instrument

26. Saudi Arabia signed the Multilateral Instrument and has deposited its instrument of ratification on 23 January 2020. The Multilateral Instrument has entered into force for Saudi Arabia on 1 May 2020.

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

27. 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.

28. With the signing of the Multilateral Instrument, Saudi Arabia 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 Saudi Arabia's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which it is a resident, Saudi Arabia opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Saudi Arabia listed 55 of its 58 tax treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for 52 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). None of these 52 treaties concern the treaties mentioned in paragraph 17 above that already allows the submission of a MAP request to either competent authority.

29. In total, 12 of 52 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas seven have not listed their treaty with Saudi Arabia as a covered tax agreement under that instrument and 12 have 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. All of the remaining 21 partners are signatories to the Multilateral Instrument, listed their treaty with Saudi Arabia as a covered tax agreement and made such notification.

30. Of these 21 treaty partners, 15 already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Saudi Arabia and these treaty partners, and therefore 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 six treaty partners, the instrument will, upon entry into force for these treaties, modify the concerned treaties to include this equivalent.

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

31. 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).

32. With regard to the five tax treaties identified in paragraph 20 above that contain a filing period for MAP requests of less than three years, Saudi Arabia listed all five treaties as a covered tax agreement under the Multilateral Instrument and made for all a notification, pursuant to Article 16(6)(b)(i), that they do not contain a provision described in Article 16(4)(a)(ii). Of the five relevant treaty partners, one is not a signatory to the

Multilateral Instrument. All remaining four tax treaties partners are signatories to the Multilateral Instrument, listed their treaty with Saudi Arabia as a covered tax agreement and also made such notification.

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

Other developments

34. For the one tax treaty that does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument to include such equivalent, Saudi Arabia reported that the initiation of negotiations is planned, but it could not initiate bilateral negotiations yet to make this treaty in line with element B.1 owing to political instability in this jurisdiction.

Peer input

35. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Saudi Arabia. One of these peers noted that its treaty with Saudi Arabia is in line with the Action 14 minimum standard, which is in line with the above analysis while another peer noted that its treaty with Saudi Arabia would be modified by the Multilateral Instrument, which is also in line with the above analysis. The remaining two peers did not provide input with respect to this element.

Anticipated modifications

36. Saudi Arabia reported it will seek to include Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[B.1]	<p>Five out of 58 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. Of these five treaties:</p> <ul style="list-style-type: none"> • Three have been modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One is expected to be modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, negotiations are envisaged. 	<p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), Saudi Arabia should continue (the initiation of) negotiations with the treaty partner with a view to including the required provision.</p>

[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).

37. 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

38. As discussed under element B.1, out of Saudi Arabia's 58 tax treaties, five contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. However, as was also discussed under element B.1, 21 treaties have been or will be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

39. Saudi Arabia reported that it has recently introduced internal operating procedures for MAP that includes a domestic bilateral consultation/notification process. Saudi Arabia noted that when its competent authority considers that the objection raised by a taxpayer in a MAP request is not justified, it will inform the other competent authority and request its views. Saudi Arabia reported that the procedure as well as the template for the same has been documented in its internal procedure, but is not published as it is an internal document. Saudi Arabia further clarified that the staff responsible for MAP cases have been briefed about such process and are required to follow this process for all MAP cases.

Recent developments

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

41. As detailed above, Saudi Arabia has since 1 January 2019 introduced a bilateral notification/consultation process that is applicable in situations where its competent authority considers the objection raised in the MAP request not to be justified. Therefore, the recommendation made in stage 1 has been addressed.

Practical application

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

42. Saudi Arabia 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 Saudi Arabia also show that none of its MAP cases was closed with the outcome “objection not justified”.

43. All peers that provided input indicated not being aware of any cases for which Saudi Arabia’s competent authority denied access to MAP in the period 1 January 2016-31 December 2018. They also reported not having been consulted/notified of a case where Saudi Arabia’s competent authority considered the objection raised in a MAP request as not justified since that date, which can be clarified by the fact that no such instances have occurred in Saudi Arabia during this period.

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

44. Saudi Arabia reported that since 1 January 2019, its competent authority also has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was being not justified. The 2019 MAP statistics submitted by Saudi Arabia also show that none of its MAP cases was closed with the outcome “objection not justified”.

45. All peers that provided input during stage 1 also indicated in stage 2 that since 1 January 2019 they are not aware of any cases for which Saudi Arabia’s competent authority considered an objection in a MAP request not justified. They also reported not having been consulted/notified in such cases. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

46. Saudi Arabia indicated that it does not anticipate any modifications in relation to element A.2.

Conclusion

	Areas for improvement	Recommendations
[B.2]	-	-

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

Jurisdictions should provide access to MAP in transfer pricing cases.

47. 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

48. Out of Saudi Arabia's 58 tax treaties, 54 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner. Of the remaining four treaties, one does not contain a provision regarding associated enterprises at all. The remaining three treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but deviate from this provision for the following reasons:

- Two treaties do not contain the last sentence of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) on the possibility of consultation between competent authorities. Furthermore, these treaties contain deviating wording that states that corresponding adjustments can only be granted after consultation by competent authorities.
- One treaty contains a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but contains additional wording stipulating that corresponding adjustments can only be made via MAP.

49. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Saudi Arabia'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, Saudi Arabia indicated that it will provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments under all treaties that contain a provision relating to associated enterprises regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) is contained in its tax treaties. Saudi Arabia's MAP guidance, in the section titled "Description of the Mutual Agreement Procedure", notes transfer pricing cases as an example where MAP access would be provided.

50. Concerning the one treaty that does not contain a provision regarding associated enterprises at all, Saudi Arabia reported that access to MAP for transfer pricing will not be granted due to the lack of a provision on associated enterprises.

Recent developments

Bilateral modifications

51. Saudi Arabia signed new tax treaties with four treaty partners which are newly negotiated treaties with treaty partners with which there were no treaties yet in place. Two of these treaties have entered into force. All of these treaties contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). The effect of these newly signed treaties has been reflected in the analysis above where it has relevance.

Multilateral Instrument

52. Saudi Arabia signed the Multilateral Instrument and has deposited its instrument of ratification on 23 January 2020. The Multilateral Instrument has entered into force for Saudi Arabia on 1 May 2020.

53. 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]).

54. Saudi Arabia has not reserved, pursuant to Article 17(3), the right not to apply Article 17(1) of the Multilateral Instrument for those tax treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). With regard to the three treaties identified in paragraph 48 above (disregarding the one treaty that does not contain Article 9 at all) that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017), Saudi Arabia listed all of them as a covered tax agreement under the Multilateral Instrument and made for all a notification on the basis of Article 17(4) that they do contain a provision described in Article 17(2).

55. Of the relevant treaty three partners, all are signatories to the Multilateral Instrument but one did not list treaty with Saudi Arabia as a covered tax agreement under that instrument. Both of the two remaining treaty partners also made a notification on the basis of Article 17(4). One of these two treaty partners has already deposited its instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Saudi Arabia and this treaty partner, and therefore has replaced the relevant treaty provision to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017). For the remaining treaty, the Multilateral Instrument will, upon entry into force for that treaty, replace the provision in this treaty to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017).

Application of legal and administrative framework in practice

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

56. Saudi Arabia 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 a transfer pricing case.

57. All peers that provided input indicated that they are not being aware of a denial of access to MAP by Saudi Arabia 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)

58. Saudi Arabia reported that also since 1 January 2019, it has for none of the MAP requests it received denied access to MAP on the basis that the case concerned was a transfer pricing case. However, since that date no requests in relation hereto were received by its competent authority.

59. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

60. Saudi Arabia reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention (OECD, 2017) in its tax treaties where possible and that it will seek to include Article 9(2) in all of its future tax treaties. Other than this, Saudi Arabia did not indicate that it anticipates any modifications in relation to element B.3.

Conclusion

	Areas for improvement	Recommendations
[B.3]	-	-

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

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

61. 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

62. None of Saudi Arabia's 58 tax treaties allows competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, the domestic law and/or administrative processes of Saudi Arabia does not contain 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.

63. Saudi Arabia reported that issues related to the application of treaty anti-abuse provisions are within the scope of MAP. Where the issue relates to the application of domestic anti-abuse provisions, Saudi Arabia reported that treaty provisions prevail over domestic law, unless it concerns the application of domestic anti-abuse provisions. However, Saudi Arabia clarified that it accepts MAP requests in all MAP cases and will not deny access to MAP in any case in which there is a disagreement between the taxpayer and the tax authority as to whether a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

64. Saudi Arabia’s MAP guidance, in the section titled “Description of the Mutual Agreement Procedure”, lists cases where a taxpayer disagrees whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty and cases where a taxpayer disagrees with the tax authorities in their application of treaty anti-abuse provisions as examples where MAP access would be provided.

Recent developments

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

Practical application

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

66. Saudi Arabia reported that in the period 1 January 2016-31 December 2018, Saudi Arabia’s competent authority has 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 during this period.

67. All peers that provided input indicated not being aware of cases that have been denied access to MAP in Saudi Arabia 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)

68. Saudi Arabia 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.

69. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

70. Saudi Arabia indicated that it does not anticipate any modifications in relation to element B.4.

Conclusion

	Areas for improvement	Recommendations
[B.4]	-	-

[B.5] Provide access to MAP in cases of audit settlements

Jurisdictions should not deny access to MAP in cases where there is an audit settlement between tax authorities and taxpayers. If jurisdictions have an administrative or statutory dispute settlement/resolution process independent from the audit and examination functions and that can only be accessed through a request by the taxpayer, jurisdictions may limit access to the MAP with respect to the matters resolved through that process.

71. 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

72. Saudi Arabia 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

73. Saudi Arabia reported that it has in place an administrative/statutory dispute settlement process that is independent from the audit and examination function and that can only be accessed through a request by the taxpayer.

74. Where a taxpayer disagrees with a tax assessment issued by GAZT, he has two options, which are: (1) submitting an objection for a reconsideration of the assessment (2) filing a MAP request.

75. Under option (1), if the assessment is upheld by GAZT, the taxpayer can proceed by either (a) attempting an administrative reconsideration through the Settlement Commission, or (b) submitting a judicial appeal to the General Secretariat of Tax Violations and Disputes Resolution Committees. Saudi Arabia noted that despite its official name, the Settlement Commission is not allowed to enter into settlements with taxpayers. Rather, Saudi Arabia reported that the notion of a “settlement” is the ability of a taxpayer to negotiate a different tax liability from the one resulting from the application of the law. As regards the sub-option (a), Saudi Arabia reported that the Settlement Commission is an internal administrative review mechanism that is independent of the audit and examination function and comprised of employees from various departments within GAZT, who are qualified and experienced staff in law and taxation. Saudi Arabia further reported that if a common position (not a technical settlement however) is reached between the Commission and the taxpayer, it will be considered final. If no common position is reached, the taxpayer can always submit a judicial appeal.

76. In any case, whether a common position is reached or not at the administrative Settlement Commission, or whether the taxpayer has filed a judicial appeal, Saudi Arabia emphasised that the taxpayer can always apply for MAP. However, Saudi Arabia clarified that in order for the Settlement Committee to process a taxpayer's request, the taxpayer has to temporarily suspend any other ongoing process, which includes a MAP case. Similarly, if the taxpayer wishes to proceed with MAP instead, the taxpayer is required to apply to the Settlement Commission to temporarily freeze proceedings therein. As noted under element B.1, Saudi Arabia's MAP guidance was updated in April 2021 to note this specifically.

Recent developments

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

Practical application

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

78. Saudi Arabia reported that it has in the period 1 January 2016-31 December 2018 not denied access to MAP for cases where the taxpayer and the tax administration have entered into an audit settlement, which is explained by the fact that such settlements are not possible in Saudi Arabia. Further, Saudi Arabia reported it has in the period 1 January 2016-31 December 2018 not denied access to MAP for cases where the issue presented by the taxpayer in a MAP request has already been resolved through its administrative settlement process.

79. All peers that provided input indicated not being aware of a denial of access to MAP by Saudi Arabia in the period 1 January 2016-31 December 2018 in cases where there was an audit settlement between the taxpayer and the tax administration or in cases that were already resolved via its administrative dispute settlement process.

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

80. Saudi Arabia 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 since such settlements are still not possible in Saudi Arabia. Further, Saudi Arabia reported it has since 1 January 2019 also not denied access to MAP for cases where the issue presented by the taxpayer in a MAP request has already been resolved through its administrative settlement process.

81. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

82. Saudi Arabia indicated that it does not anticipate any modifications in relation to element B.5.

Conclusion

	Areas for improvement	Recommendations
[B.5]	-	-

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

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

83. 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

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

85. Saudi Arabia noted that its competent authority may reject a MAP request if the taxpayer does not provide the information and documentation listed in its MAP guidance. Saudi Arabia clarified in this regard that if a MAP request does not contain all the necessary information, or if its competent authority needs additional information to assess the validity of the request, a request for additional information would generally be sent to the taxpayer. Saudi Arabia noted that the requested information must be provided to its competent authority within 30 days in accordance with the procedures described in the request. Saudi Arabia clarified that if the information is not provided within the requested time, the processing of the MAP request could be delayed and that a failure to provide the information could also lead to the MAP case being closed without further action. Saudi Arabia requires taxpayers to respond completely and quickly to reasonable information requests made and to inform its competent authority of any changes to its submitted information in a timely manner. This process is clarified in Saudi Arabia’s MAP guidance, in the section titled “How to request a MAP”.

Recent developments

86. The stage 1 report noted that no rules were in place in Saudi Arabia regarding what information taxpayers need to include in a MAP request nor were any rules and timelines in place for requesting additional information by the competent authority and for taxpayers to provide such information and thus, Saudi Arabia was recommended to put in place clear procedures and timelines for requesting additional information from taxpayers when such information is not included in the initial MAP request and also provide for timelines within which taxpayers should comply with requests for additional information to ensure that eligible cases are dealt with in MAP and that no unnecessary delays occur.

87. As detailed above, Saudi Arabia has issued its MAP guidance in May 2020 that includes the information and documentation Saudi Arabia requires taxpayers to include in a MAP request and contains clear procedures and timelines for requesting additional

information from taxpayers when such information is not included in the initial MAP request. Therefore, the recommendation made in stage 1 has been addressed.

Practical application

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

88. Saudi Arabia reported that in the period 1 January 2016-31 December 2018 it has not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

89. All peers that provided input indicated not being aware of a limitation of access to MAP by Saudi Arabia 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)

90. Saudi Arabia reported that since 1 January 2019 its competent authority has also not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

91. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

92. Saudi Arabia indicated that it does not anticipate any modifications in relation to element B.6.

Conclusion

	Areas for improvement	Recommendations
[B.6]	-	-

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

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

93. 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 Saudi Arabia's tax treaties

94. Out of Saudi Arabia's 58 tax treaties, 57 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The remaining treaty does not contain a provision that is based on or equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

95. All peers that provided input during stage 1 indicated that their treaty with Saudi Arabia meets the requirement under the Action 14 Minimum Standard for element B.7, which is in line with the above analysis. For the one treaty identified that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), the relevant peer did not provide input.

Recent developments

Bilateral modifications

96. Saudi Arabia signed new tax treaties with four treaty partners which are newly negotiated treaties with treaty partners with which there were no treaties yet in place. Two of these treaties have entered into force. All of these treaties contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). The effect of these newly signed treaties has been reflected in the analysis above where it has relevance.

Multilateral Instrument

97. Saudi Arabia signed the Multilateral Instrument and has deposited its instrument of ratification on 23 January 2020. The Multilateral Instrument has entered into force for Saudi Arabia on 1 May 2020.

98. 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).

99. With regard to the one tax treaty identified above that is considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Saudi Arabia listed it as a covered tax agreement under the Multilateral Instrument and made, pursuant to Article 16(6)(d)(ii), a notification that it does not contain a provision described in Article 16(4)(c)(ii). The relevant treaty partner is a signatory to the Multilateral Instrument, listed its treaty with Saudi Arabia as a covered tax agreement and also made a notification under Article 16(6)(d)(ii).

100. This treaty partner has already deposited its instrument of ratification, following which the Multilateral Instrument has entered into force for the treaty between Saudi Arabia and this treaty partner. Therefore, at this stage, the Multilateral Instrument has modified this treaty to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Peer input

101. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Saudi Arabia. One of these peers noted that its treaty with Saudi Arabia is in line with the Action 14 minimum standard, which is in line with the above analysis while the remaining two peers did not provide input with respect to this element.

Anticipated modifications

102. Saudi Arabia 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]	-	-

[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.

103. 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.

Saudi Arabia's MAP guidance

104. Saudi Arabia issued its MAP guidance in May 2020, which was last updated in April 2021 and is available (in English) at:

https://zatca.gov.sa/en/HelpCenter/guidelines/Documents/Request%20for%20Mutual%20Agreement%20Procedure_EN.pdf

105. This MAP guidance consists of six chapters, containing several sub-sections. The six chapters and the main sub-sections are:

Chapter	Content
1. Preface	<ul style="list-style-type: none"> the purpose of the MAP guidance.
2. Description of the MAP	<ul style="list-style-type: none"> description of MAP in Saudi Arabia's tax treaties typical cases in MAP, including transfer pricing cases, anti-abuse cases, multilateral disputes and bona fide foreign initiated self-adjustments. an explanation on tax covered under tax treaties, double taxation and relief available under tax treaties.

Chapter	Content
3. Conditions for requesting a MAP	<ul style="list-style-type: none"> • actions that may lead to MAP • who can request a MAP • role and rights of taxpayers in MAP • filing period for a MAP request • the possibility of the multi-year resolution of recurring issues through MAP.
4. How to request a MAP	<ul style="list-style-type: none"> • information and documentation that taxpayers should include in their MAP request • procedure for seeking additional information • the relationship between MAP and available domestic remedies.
5. Timeframes for resolving a MAP case	<ul style="list-style-type: none"> • 24-month target for resolving MAP cases • implementation of MAP agreements where treaties contain time-limits.
6. MAP Stages	<ul style="list-style-type: none"> • explanation of the various steps of the MAP phase • situations where an objection would not be justified • the treatment of interest and penalties in MAP • suspension of tax collection during the MAP process • modalities of MAP including how communications should be done and how the agreement should be entered into.

106. The above-described MAP guidance of Saudi Arabia includes detailed information on the availability and the use of MAP and how its competent authority conducts the procedure in practice. This guidance includes the information that the FTA MAP Forum agreed should be included in a jurisdiction's MAP guidance, which concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request.¹

Information and documentation to be included in a MAP request

107. 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.² This agreed guidance is shown below. Saudi Arabia's MAP guidance enumerates which items must be included in a request for MAP assistance (if available). These 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.

108. Further to the above, Saudi Arabia’s MAP guidance also requires the taxpayer to provide transfer pricing documentation required under law or under a guidance and copies of assessments received by and objections submitted as against such assessment by the taxpayer.

Recent developments

109. As detailed above, Saudi Arabia reported that it has issued its MAP guidance in May 2020. Since the guidance includes the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation/information that it should include in such a request, the recommendation made in stage 1 has been addressed.

Anticipated modifications

110. Saudi Arabia indicated that it does not anticipate any modifications in relation to element B.8.

Conclusion

	Areas for improvement	Recommendations
[B.8]	-	-

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

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

111. The public availability and accessibility of a jurisdiction’s MAP guidance increases public awareness on access to and the use of the MAP in that jurisdiction. Publishing MAP profiles on a shared public platform further promotes the transparency and dissemination of the MAP programme.³

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

112. Saudi Arabia issued its MAP guidance in May 2020, which is available (in English) at:

https://zatca.gov.sa/en/HelpCenter/guidelines/Documents/Request%20for%20Mutual%20Agreement%20Procedure_EN.pdf

113. As regards its accessibility, Saudi Arabia’s MAP guidance can easily be found on the website of the GAZT under the sub-section titled “Guidelines” in the section titled “Knowledge Centre”. It can also be easily found by searching on that website for “mutual agreement procedure”.

MAP profile

114. The MAP profile of Saudi Arabia is published on the website of the OECD and was last updated in September 2020, which is shortly after the review period. This MAP profile is complete and contains detailed information. It contains external links that provide extra information and guidance where appropriate.

Recent developments

115. As mentioned above, Saudi Arabia has introduced MAP guidance in May 2020 and has made it publicly available on the website of the GAZT. Further, Saudi Arabia has updated its MAP profile to provide more detailed information, including links to such guidance where appropriate. Therefore, the recommendation made in stage 1 has been addressed.

Anticipated modifications

116. Saudi Arabia indicated that it does not anticipate any modifications in relation to element B.9.

Conclusion

	Areas for improvement	Recommendations
[B.9]	-	-

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

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

117. 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

118. As previously discussed under element B.5, under Saudi Arabia’s domestic law it is not possible that taxpayers and the tax administration enter into audit settlements. In that regard, there is no need to address in its MAP guidance that such settlements do not preclude access to MAP.

119. Peers raised no issues with respect to the availability of audit settlements and the inclusion of information hereon in Saudi Arabia’s MAP guidance.

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

120. As previously mentioned under element B.5, Saudi Arabia has an administrative or statutory dispute settlement/resolution process in place that is independent from the audit and examination functions and that can only be accessed through a request by the taxpayer through the Settlement Commission. Although taxpayers are allowed to pursue MAP simultaneously with this process, in order for the Settlement Committee to consider a taxpayer’s request, the taxpayer has to temporarily suspend any other ongoing process, which includes a MAP case. Similarly, if the taxpayer wishes to proceed with MAP instead, the taxpayer is required to apply to the Settlement Commission to temporarily freeze proceedings therein.

121. There are no domestic rules and/or guidance on such a process. Saudi Arabia’s MAP guidance addresses the effect of the Settlement Commission on MAP in the subsection titled “Relation between MAPs and Domestic Remedies” where it is clarified that if a taxpayer files a MAP request in relation to an issue that is being considered under domestic remedies as well, the taxpayer has to request a freeze or suspension of the case at the relevant domestic recourse in order for the case to be considered in MAP.

122. All but one peer that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in Saudi Arabia. One peer specifically mentioned that it has been informed by Saudi Arabia of such process.

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

123. Saudi Arabia reported that all treaty partners were notified of the existence of its administrative dispute settlement process, by referring to the information included in Saudi Arabia’s MAP profile. However, all but one peer that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in Saudi Arabia. One peer specifically mentioned that it has been informed by Saudi Arabia of such process.

124. As Saudi Arabia included information hereon in its MAP profile, this is considered to be in line with the requirements under element B.10.

Recent developments

125. As mentioned above, Saudi Arabia has addressed the effects of its administrative or statutory dispute settlement/resolution process on MAP in its MAP guidance. Further, it has included information on this process in its MAP profile. Therefore, the recommendation made in stage 1 has been addressed.

Anticipated modifications

126. Saudi Arabia indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

Notes

1. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
2. *Ibid.*
3. The shared public platform can be found at: 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.

127. 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 Saudi Arabia’s tax treaties

128. All of Saudi Arabia’s 58 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.

129. All peers that provided input during stage 1 indicated that their treaty with Saudi Arabia meets the requirement under the Action 14 Minimum Standard for element C.1, which is in line with the above analysis.

Recent developments

Bilateral modifications

130. Saudi Arabia signed new tax treaties with four treaty partners which are newly negotiated treaties with treaty partners with which there were no treaties yet in place. Two of these treaties have entered into force. All of these treaties contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). The effect of these newly signed treaties has been reflected in the analysis above where it has relevance.

Peer input

131. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Saudi Arabia. One of these peers noted that its treaty with Saudi Arabia is in line with the Action 14 Minimum Standard, which is in line with the above analysis while the remaining two peers did not provide input with respect to this element.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[C.1]	-	-

[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).

133. 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

134. 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. Saudi Arabia did not provide its MAP statistics for the years 2016-17 within the given deadline, but reported such statistics for these years in April 2019 after its peer review commenced. For the years 2018 and 2019, Saudi Arabia reported its MAP statistics pursuant to the MAP Statistics Reporting Framework. The statistics discussed below include both pre-2016 and post-2015 cases where applicable and the full statistics are attached to this report as Annex B and Annex C respectively and should be considered jointly to understand the MAP caseload of Saudi Arabia.¹

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

136. Saudi Arabia did not match its statistics for 2016-18 with its MAP partners, but reported that it reached out to all of its MAP partners in 2019 for matching. In that regard, Saudi Arabia indicated that it could match its statistics with all of them.

137. Two peers provided input and noted that they could match the MAP statistics for the years 2016 to 2019 with Saudi Arabia.

138. Based on the information provided by Saudi Arabia’s MAP partners, its post-2015 MAP statistics for 2019 actually match those of its treaty partners as reported by the latter.

Monitoring of MAP statistics

139. Saudi Arabia reported that it monitors its MAP caseload with its treaty partners and regularly exchanges with them information on the status of pending cases and the expected next steps for each case either during competent authority meetings or through e-mails or telephone calls.

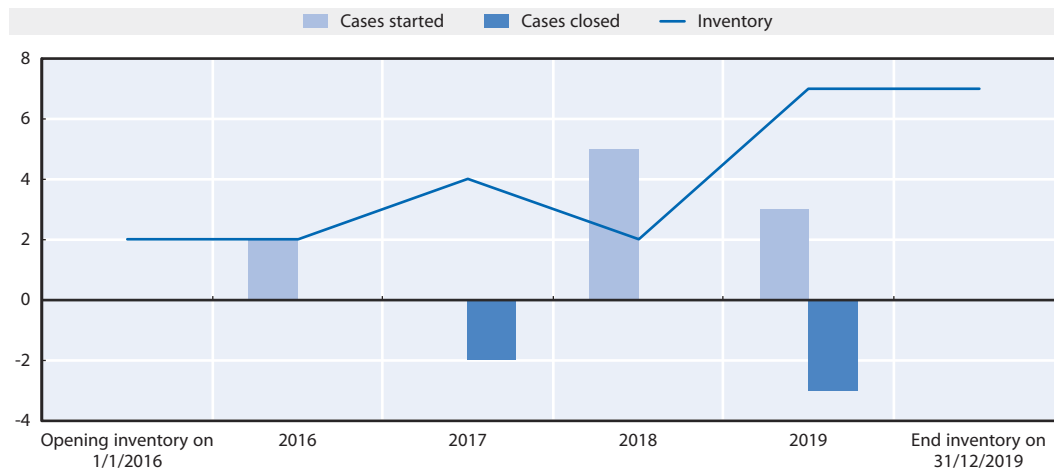
140. Saudi Arabia noted that since it has had only a limited number of MAP cases, its cases are currently being tracked individually by the chief of its competent authority and that it would review this if there would be any increase of MAP cases.

Analysis of Saudi Arabia’s MAP caseload

Global overview

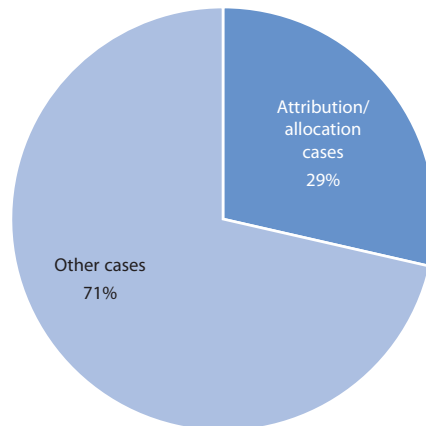
141. Figure C.1 shows the evolution of Saudi Arabia’s MAP caseload over the Statistics Reporting Period.²

Figure C.1. Evolution of Saudi Arabia’s MAP caseload



142. At the beginning of the Statistics Reporting Period Saudi Arabia had two pending MAP cases, both of which were other MAP cases.³ At the end of the Statistics Reporting Period, Saudi Arabia had seven MAP cases in its inventory, of which two are attribution/allocation cases and five are other MAP cases. Saudi Arabia’s MAP caseload has increased from two to seven cases during the Statistics Reporting Period. This concerns an increase of three cases in the number of other cases and an increase of two cases for attribution/allocation cases. The breakdown of the end inventory can be shown as in Figure C.2.

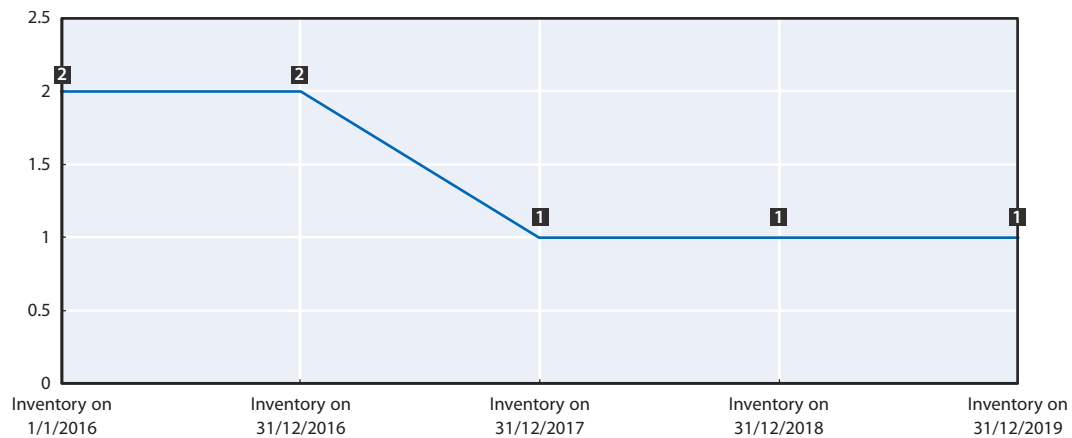
Figure C.2. End inventory on 31 December 2019 (Seven cases)



Pre-2016 cases

143. Figure C.3 shows the evolution of Saudi Arabia's pre-2016 MAP cases over the Statistics Reporting Period.

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

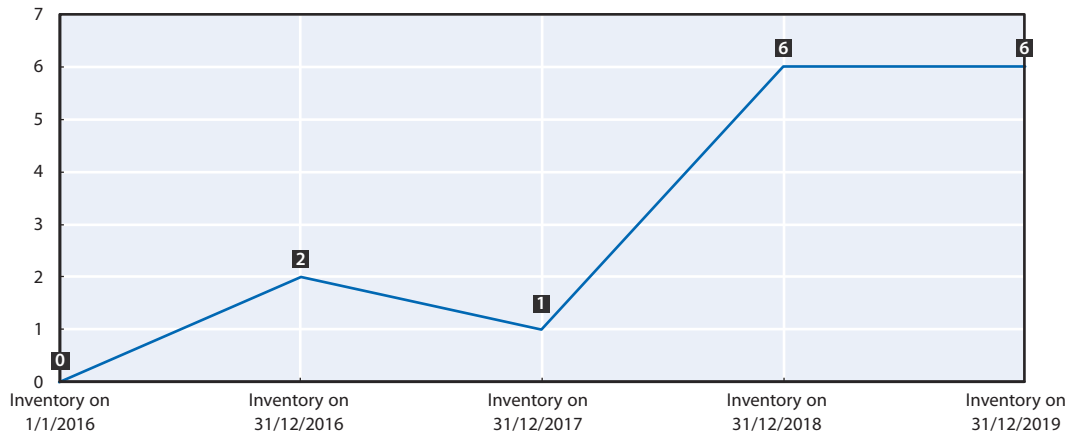


144. At the beginning of the Statistics Reporting Period, Saudi Arabia's MAP inventory of pre-2016 MAP cases consisted of two cases, both of which were other cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases had decreased to one other case. Therefore, Saudi Arabia decreased its pre-2016 MAP caseload from two cases to one case.

Post-2015 cases

145. Figure C.4 shows the evolution of Saudi Arabia's post-2015 MAP cases over the Statistics Reporting Period.

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



146. In total, ten MAP cases started during the Statistics Reporting Period, three of which concerned attribution/allocation cases and seven other cases. At the end of this period the total number of post-2015 cases in the inventory was six cases, consisting of two attribution/allocation cases and four other cases. Accordingly, Saudi Arabia closed four post-2015 cases during the Statistics Reporting Period, one of them being an attribution/allocation case and three of them being other cases. The total number of closed cases represents 40 % of the total number of post-2015 cases that started during the Statistics Reporting Period.

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

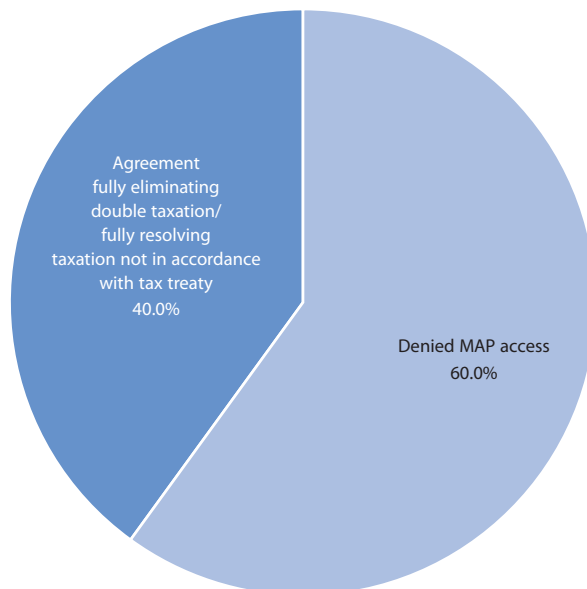
Post-2015 cases	% of cases closed in 2016 compared to cases started in 2016	% of cases closed in 2017 compared to cases started in 2017	% of cases closed in 2018 compared to cases started in 2018	% of cases closed in 2019 compared to cases started in 2019	Cumulative evolution of total MAP caseload over the four years (2016-19)
Attribution/allocation cases	(no case started)	(no case started)	0%	100%	33%
Other cases	0%	(no case started)	0%	100%	43%

Overview of cases closed during the Statistics Reporting Period

148. During the Statistics Reporting Period, Saudi Arabia in total closed four MAP cases for which the outcomes shown in Figure C.5 were reported.

149. Figure C.5 shows that during the Statistics Reporting Period, two out of five cases (40%) were closed with the outcome “agreement fully eliminating double taxation/fully resolving 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

150. In total, one attribution/allocation case was closed during the Statistics Reporting Period. The reported outcome for this case was “denied MAP access”.

Reported outcomes for other cases

151. In total, four other cases were closed during the Statistics Reporting Period, two of which were closed with the outcome “denied MAP access” and two were closed with the outcome “agreement fully eliminating double taxation/fully resolving taxation not in accordance with the tax treaty”.

Average timeframe needed to resolve MAP cases

All cases closed during the Statistics Reporting Period

152. The average time needed to close MAP cases during the Statistics Reporting Period was 22.91 months. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	1	11.41
Other cases	4	25.79
All cases	5	22.91

Pre-2016 cases

153. For pre-2016 cases, Saudi Arabia reported that it needed 38 months to close one other case. For the purpose of computing the average time needed to resolve pre-2016 cases, Saudi Arabia reported that it uses the following dates:

- *Start date*: the date of notification by the competent authority that received the MAP request from the taxpayer
- *End date*: the date of agreement between both competent authorities.

Post-2015 cases

154. For post-2015 cases, Saudi Arabia reported that on average it needed 11.41 months to close one attribution/allocation case and 21.72 months to close three other cases. This resulted in an average time needed of 19.14 months to close four post-2015 cases.

Peer input

155. The peer input in relation to resolving MAP cases will be discussed under element C.3.

Recent developments

156. Saudi Arabia was in the stage 1 peer review report under element C.2 recommended to submit its comprehensive statistics on time for future years and to reach out to its treaty partners to ensure that the reported MAP statistics actually match with those reported by its treaty partners. As noted above, Saudi Arabia submitted its 2019 MAP Statistics on time and reached out to all of its MAP partners for the matching of MAP statistics in 2019. Therefore, the recommendation made in stage 1 has been addressed.

157. Further, Saudi Arabia was in the stage 1 peer review report under element C.2 recommended to seek to resolve the remaining 89% of the post-2015 cases pending on 31 December 2018 (eight cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.

158. With respect to this recommendation, Saudi Arabia reported that since 1 January 2019 it has formed a new competent authority team, the MAP Committee within the GAZT, tasked to address MAP cases based on international standards, including meeting the average 24-month period to resolve the cases. Saudi Arabia noted that the MAP Committee has also been provided with the resources needed to enable it to carry out its duties and to resolve its remaining post-2015 MAP cases. Further, Saudi Arabia's competent authority is now monitoring MAP cases actively as well.

159. In view of these steps and the statistics discussed above, it follows that Saudi Arabia's MAP inventory has still increased during the Statistics Reporting Period. However, the statistics also show that Saudi Arabia has in the period 2016-19 closed its MAP cases within the pursued average of 24 months. However, for these years, the number of post-2015 cases closed as compared to the cases that started in these years was only 40%. Element C.3 will further consider these numbers in light of the adequacy of resources.

160. Almost all peers that provided input during stage 1 confirmed that this input holds equal relevance for the period starting on 1 January 2019. However, some peers have commented on their experience with Saudi Arabia concerning the resolution of MAP cases since that date. This input is further discussed under element C.3.

Anticipated modifications

161. Saudi Arabia 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.

162. 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 Saudi Arabia’s competent authority

163. Under Saudi Arabia’s tax treaties, the competent authority function is assigned to the Ministry of Finance. This function has been delegated to the Governor of the General Authority of Zakat and Tax (“GAZT”). In practice, the Governor of the GAZT has formed a MAP committee that reports directly and solely to him. This committee is chaired by the Deputy Governor for Strategy and Development and comprises experts in tax administration and international/domestic tax laws. In addition, the committee has access to industry experts and any other administrative and technical resources as needed. Saudi Arabia noted that although at present, this committee comprises eight staff members, the number of staff members may be modified at any time depending on Saudi Arabia’s MAP inventory.

164. Saudi Arabia reported that the members assigned to its competent authority are qualified in international taxation as well as its domestic tax laws. Saudi Arabia further noted that its competent authority has been provided with the needed resources, including relevant training, to carry out its functions properly. Saudi Arabia also reported that in addition to its newly issued MAP guidance, Saudi Arabia has issued an internal manual that provides directions to its competent authority staff on how MAP cases must be handled.

165. Lastly, Saudi Arabia clarified that due to the small number of MAP cases to date, it considers that its present resources are sufficient to be able to handle its MAP inventory in an efficient and effective manner.

Monitoring mechanism

166. Saudi Arabia noted that owing to its modest MAP inventory, pending MAP cases are tracked case by case by the chief of its competent authority and that its competent authority has the authority to request additional resources needed to keep up with a possible future increase in MAP cases.

Recent developments

167. In the stage 1 report, Saudi Arabia was recommended to closely monitor whether the current reorganisation of the competent authority function would ensure that pending and future MAP cases are resolved in a timely, efficient and effective manner, and that communications with other competent authorities are done in a timely manner.

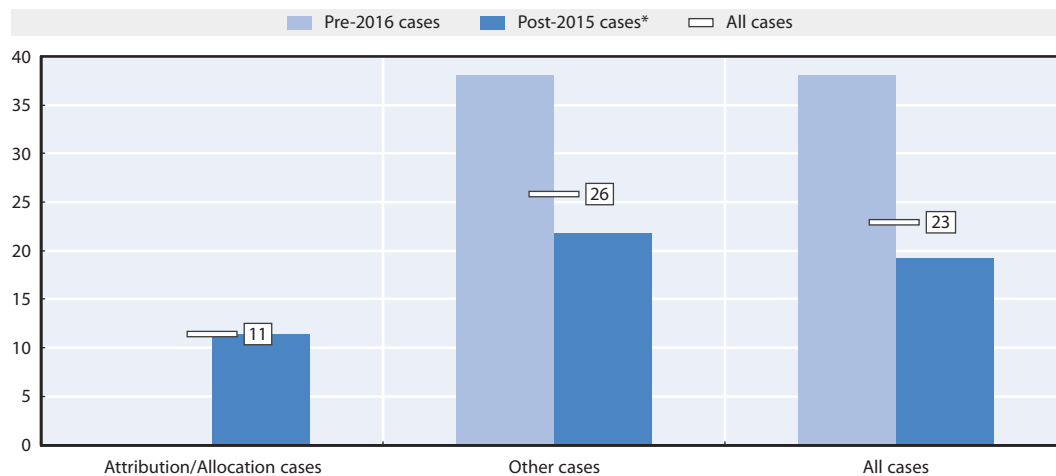
168. As discussed above and also under element C.2, Saudi Arabia reported that it has taken several steps to follow up on this recommendation including the creation of the MAP Committee within the GAZT to act as competent authority, which has been provided the resources required to act in MAP cases and the issuance of an internal manual on the conduct of MAP for its competent authority staff members.

Practical application

MAP statistics

169. As discussed under element C.2, Saudi Arabia has closed its MAP cases during the Statistics Reporting Period within the pursued 24-month average, as it needed 22.91 months to close MAP cases. This is owing to an average time of only 11.41 months for attribution/allocation cases as it took an average time of 25.79 months for other MAP cases. The average time to resolve MAP cases in 2016, 2017, 2018 and 2019 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, 2017, 2018 or 2019.

170. The stage 1 peer review report of Saudi Arabia analysed the 2016-18 MAP statistics and showed a time of 24.00 months to resolve one other MAP case. For stage 2, the 2019 MAP statistics are also taken into account. The average times to close MAP cases for this year are as follows:

	2019
Attribution/Allocation cases	11.41
Other cases	22.43
All cases	18.76

171. The 2019 statistics of Saudi Arabia show that the average completion time of MAP cases decreased from 24 months (2016-18) to 18.76 months (2019).

172. However, as discussed in element C.2, the MAP inventory of Saudi Arabia has increased from two cases to seven cases 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	0	3	1	2	(2 new cases)
Other cases	2	7	4	5	150%
Total	2	10	5	7	250%

173. These numbers show that there was an increase of five MAP cases during this period. Further, the figures in the above table also show that the number of closed cases is only half of the number of all cases started in the period 2016-19. Further, Saudi Arabia was only able to close only one of two of its pre-2016 MAP cases in this period.

Peer input

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

174. In total four peers provided input. Of these four peers, one stated that no input could be provided given that it did not have any MAP cases with Saudi Arabia for the period under review.

175. Another peer mentioned that it does not have a lot of experience with MAP cases with Saudi Arabia, as only one MAP case with Saudi Arabia was initiated in 2018 and is currently pending resolution. This peer also noted that thus far it has not observed any obstacles or impediments to their relationship with Saudi Arabia. Saudi Arabia responded by stating that it had not received a notification of a MAP request from this peer's competent authority or a MAP request from the taxpayer in the period under review. The peer clarified that it had sent a notification letter to Saudi Arabia's competent authority in June 2018, for which it received acknowledgement of receipt by personnel within GAZT in September 2018. Saudi Arabia mentioned that since the notification letter stated that the tax years involved were unknown, it was considered that no formal MAP request was made at that time. It also mentioned that its competent authority was not contacted by the peer's competent authority after it sent the notification letter. In that regard, it did not further consider the MAP case, as it had no knowledge of whether the peer's competent authority had accepted the MAP request and whether it was able to unilaterally resolve the case. The peer stressed that it submitted a position paper to Saudi Arabia's competent authority in January 2019. Saudi Arabia, however, further responded by noting that GAZT still has not received the position paper, but that it would contact the peer to ask them to retransmit the position paper. The peer confirmed that it is now in contact with Saudi Arabia and that the position paper was transmitted.

176. Further to the above, a third peer noted that before 1 January 2016 several of its taxpayers submitted a MAP request regarding withholding taxes levied in Saudi Arabia. Concerning these pre-2016 cases, this peer specified that Saudi Arabia required the taxpayers in question to follow domestic procedures to get a refund of the levied withholding taxes and that ultimately Saudi Arabia did not accept the peer's requests to initiate the MAP process. The peer further reported that the taxpayers also requested a refund by the domestic

procedure in line with Saudi Arabia's requirements, but that some of these requests were still denied by Saudi Arabia. This peer mentioned that it had therefore re-requested the initiation of the MAP process in 2019 and would like Saudi Arabia to accept its request in order to resolve double taxation for the taxpayers concerned. Saudi Arabia responded to this input by stating that in its view the peer's competent authority initiated a discussion regarding refund of claims that Saudi Arabia did not consider to be an initiation of MAP cases. It was Saudi Arabia's understanding that the case was closed after GAZT addressed such claims and further noted that it did not have a record of any official MAP request from either the peer's competent authority or from the taxpayers. After reviewing Saudi Arabia's response, the peer clarified that it had received four MAP requests for cases of double taxation due to levying of withholding taxes in Saudi Arabia and further noted that it had a record of sending initiation letters in 2015 to the same recipient in Saudi Arabia. Three of these cases were not started due to Saudi Arabia's refusal to initiate the process. While for these three cases, domestic procedures were initiated in Saudi Arabia to obtain a refund of the levied withholding taxes, two of them were refused such refund. In that regard, the cases of double taxation were not resolved and have been pending for more than four years. In order to facilitate the commencement of the MAP process, the peer responded that it has sent an official letter again in January 2019. Saudi Arabia noted that it had not yet received such letters. The peer stated it would reach out again to Saudi Arabia and that it also looks forward to having sufficient communications and co-operation with Saudi Arabia's competent authority under the mutual agreement procedure. Lastly, Saudi Arabia reported it is now in contact with the peer's competent authority regarding the four aforementioned cases.

177. The fourth peer stated that it had a few MAP cases with Saudi Arabia and that it held a face-to-face meeting in April 2017. In the peer's view, this meeting was amicable and well organised. Nevertheless, this peer also reported it has experienced substantial delays including a delay in receiving a position paper, whereby it had sent its position paper to Saudi Arabia in 2015. While this peer acknowledged that the delay could be a consequence of a change in personnel in Saudi Arabia's competent authority, the peer also mentioned it had not yet received an update with the relevant successor personnel's details and as result there is no regular channel of communication, written or otherwise. In fact, it only received from Saudi Arabia an explanation that the case is still being reviewed and that a decision will be made soon. Despite multiple follow up attempts, the peer noted that it still has not received a resolution regarding this matter. As a matter of suggestion, this peer noted that working together could be improved if both jurisdictions notified changes of competent authority and of changes to the personnel working on a case as a matter of course and as soon as possible. Furthermore, the peer specified that that the faster provision of position papers would assist the competent authorities in reaching a more timely resolution and give taxpayers greater certainty.

178. Saudi Arabia responded to this peer's input by stating that the peer's competent authority had raised an issue with them regarding withheld amounts from payments from a source in Saudi Arabia to a company resident in the peer's jurisdiction. However, Saudi Arabia noted that, to date, GAZT had not received any request for refund neither from the peer's competent authority nor from any legally authorised representative of the company. Saudi Arabia reported that as a result, no MAP process could have been initiated if the company had not previously requested tax relief directly from GAZT, which in this case would have been in the form of a refund claim.

179. The peer reacted to Saudi Arabia's response by noting that while it did have discussions on the case regarding withholding taxes and that the case was eventually

considered closed, this case did not form part of the peer’s original input. Instead, the peer noted that for the case where it had experienced a substantial delay in receiving a position paper from Saudi Arabia, the peer noted that its position was that the case is still pending resolution. The peer reiterated the fact that its competent authority had contacted its embassy in Saudi Arabia to intervene on its behalf regarding this MAP case. The peer also explained that Saudi Arabia acknowledged the delay in a March 2019 email and expressed its desire to resolve the MAP case shortly. Saudi Arabia confirmed this and responded that in its view the cause for the delay in providing the position paper was that the case concerned a situation where the taxpayer is resident in a third jurisdiction. Saudi Arabia noted that GAZT’s audit department was working on the case with the third jurisdiction’s taxpayer and that the conclusion of such audit will determine the tax treatment of the peer’s taxpayer. Saudi Arabia further noted that the GAZT’s audit department was in the process of closing this case and that it will soon be able to make an assessment on the peer’s taxpayer.

180. The peer responded by underscoring that when the competent authorities originally met in April 2017, its competent authority expressed its view that linking the case to an issue which the peer considered to be unrelated was not appropriate and that this viewpoint was clearly explained at this meeting. The peer further responded by stating that it has not been kept informed with regard to developments on the case despite multiple attempts to obtain such information. In the peer’s view the lack of communication and progress has led the taxpayer to express frustration with the process. It therefore concluded that more frequent and informative communication would be of substantial assistance.

181. Saudi Arabia provided a final response by reiterating its previous viewpoint and noted that the main reason for the delay was the disagreement regarding the linkage between the two cases. Saudi Arabia further responded by stating that it agreed with the peer that there was a lack of communication between the two competent authorities regarding this case and that GAZT has recently undertaken organisational reforms to ensure that no such delay or lack of communication will happen again. Saudi Arabia also stated that GAZT has recently made an assessment on the peer’s taxpayer and that the case is now being reviewed before communicating it to the taxpayer and to the peer’s competent authority.

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

182. Most peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2. Four of these peers provided additional input in this regard.

183. One peer noted that in relation to two other MAP cases that were started in the peer jurisdiction in June 2018, its competent authority submitted its position paper to Saudi Arabia’s competent authority in August 2019. This peer reported that Saudi Arabia’s competent authority acknowledged receipt in January 2020 and it is awaiting a position paper from Saudi Arabia’s competent authority.

184. The second peer reported that it had one MAP case with Saudi Arabia which was opened and closed in 2019. This peer noted that its competent authority received a response via e-mail and post resolving the dispute after its competent authority contacted Saudi Arabia’s competent authority.

185. The third peer provided more details as regards input they provided in stage 1 that stated that Saudi Arabia's competent authority did not accept its competent authority's request to initiate the MAP for three MAP cases (noted in paragraph 178 above). This peer noted that in June 2020, Saudi Arabia's competent authority accepted the MAP requests at issue. This peer reported that although its competent authority requested Saudi Arabia's competent authority for a clarification behind the taxation at issue, Saudi Arabia's competent authority requested a position paper from it first. This peer noted that it would only be appropriate for Saudi Arabia's competent authority to provide its rationale for the taxation at issue without further delay to resolve double taxation in a timely manner and to give the taxpayers greater certainty.

186. Saudi Arabia responded to this input and noted that its competent authority had matched the cases with the peer's competent authority and eventually heard that the taxpayers were unsure whether to proceed with MAP. As regards position papers, Saudi Arabia clarified that since the peer's competent authority had accepted the requests, its competent authority thought it fair to ask for reasons for accepting the request, so that it could then respond to the peer's position paper. Saudi Arabia noted that its competent authority is in communication with the peer's competent authority on the best way forward.

187. Finally, the fourth peer provided detailed input based on its competent authority's experience with Saudi Arabia's competent authority on two related MAP cases (involving the same taxpayer) since 1 January 2019. This peer noted that in the first of these cases, which is a pre-2015 case (which is also discussed above in relation to this peer's input during stage 1 in paragraphs 179 and 182), its competent authority had still not received a substantive position paper from Saudi Arabia's competent authority setting out why it takes the view that the tax treatment in question is in accordance with the treaty, nearly five years after the case was initiated. This peer reported that this has been the case despite responses by Saudi Arabia's competent authority to regular reminders sent by its competent authority that a position paper would be forthcoming and the aim provided in Saudi Arabia's MAP guidance to resolve MAP cases within two years.

188. Additionally, this peer noted that the second of these cases relates to a further issue that was subsequently raised by the audit function in Saudi Arabia with the taxpayer. This peer reported that in this instance, although its competent authority received correspondence from Saudi Arabia's competent authority in a timely manner, its initial response did not explain the basis for the position taken nor as to why the peer's position is incorrect. This peer, however, clarified that Saudi Arabia's competent authority subsequently shared a detailed explanation of its interpretation of the relevant treaty provision.

189. In sum, this peer noted that the insufficiency of some of the responses from Saudi Arabia's competent authority has made it difficult to progress these cases effectively in a timely manner. This peer stated its view that this, in effect, denies the taxpayer the timely and effective dispute resolution in MAP to which it is entitled under the treaty and expressed concerns that this may result in the treaty being applied incorrectly in other cases.

190. Saudi Arabia responded to this peer and noted that its competent authority has provided a substantial position paper, which addresses this comment in its view. Saudi Arabia noted that it is keen to benefit from the peer input received to improve its conduct of MAP and to ensure that it meets the Action 14 minimum standard. Saudi Arabia expressed its view that its competent authority has by now thoroughly prepared its infrastructure and built its capacity to enable it to carry out its duties, including dealing with MAP requests effectively and promptly and in accordance with the relevant treaty.

191. This peer welcomed Saudi Arabia’s statement that its competent authority’s procedures have been strengthened in the light of the peer input and hoped that this would ensure that future MAP correspondence would be dealt with efficiently and promptly.

Anticipated modifications

192. Saudi Arabia indicated that it does not anticipate any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	While Saudi Arabia closed MAP cases on an average of 22.91 months (which is within the pursued average for resolving MAP cases received on or after 1 January 2016), its MAP inventory increased since 1 January 2016 and not many cases have been resolved during this period. Furthermore, peer input indicates that peers experienced some difficulties in obtaining position papers on time for long-pending cases. Therefore, there is a risk that pending post-2015 cases will in the future not be resolved within the pursued average of 24 months and this might indicate that resources are not adequately made available for Saudi Arabia’s competent authority.	Saudi Arabia should ensure that resources are made available for the competent authority function in a way that allows an adequate use of such resources for the resolution of MAP cases in a timely, efficient and effective manner. Such adequate resources would enable Saudi Arabia’s competent authority to issue position papers and to respond to position papers issued by peers in respect of long-pending cases in due time and to be able to cope with the increase in the number of MAP cases.

[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.

193. 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

194. Saudi Arabia reported that MAP cases are conducted by the newly created MAP department of the GAZT, which is completely separate from the audit department and who report directly to the governor of the GAZT. Saudi Arabia further reported that all of its legal positions in disputes with taxpayers and in MAP cases are formulated without any involvement by audit personnel. Saudi Arabia specified that staff in charge of MAP cases typically only take into account the relevant treaty’s provisions as well as any relevant domestic law provision. Saudi Arabia clarified that when its competent authority reaches a MAP agreement, it is submitted to the Board of the GAZT for approval and once the agreement is approved, it is signed by GAZT’s governor after which it can then be implemented.

195. With regard to the above, Saudi Arabia reported that staff in charge of MAP in practice operates independently and has the authority to resolve MAP cases without being dependent on the approval/direction of the tax administration personnel directly involved in the adjustment and the process for negotiating MAP agreements is not influenced by policy considerations that Saudi Arabia would like to see reflected in future amendments to its tax treaties.

Recent developments

196. There are no recent developments with respect to element C.4, except that the competent authority function in Saudi Arabia is now undertaken by the MAP department as noted above, which conducts MAP cases independently as was the case before.

Practical application

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

197. Peers generally reported no impediments in Saudi Arabia to perform its MAP function in the absence of approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy in the period 1 January 2016-31 December 2018.

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

198. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

199. Saudi Arabia indicated that it does not anticipate any modifications in relation to element C.4.

Conclusion

	Areas for improvement	Recommendations
[C.4]	-	-

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

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

200. 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 Saudi Arabia

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

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

202. Saudi Arabia reported that it has recently introduced performance indicators for evaluating staff in charge of MAP that reinforce the goals and requirement of objectivity of the competent authority function, thereby improving the overall effectiveness of the MAP programme. Saudi Arabia noted that these performance indicators directly follow the three examples from the Action 14 final report (OECD, 2015) as stated above.

Recent developments

203. In the stage 1 report, it was noted that Saudi Arabia did not use performance indicators for its competent authority. However, as noted above, since the constitution of the MAP Committee within the GAZT that now acts as its competent authority, Saudi Arabia has introduced new performance indicators using the examples cited in the Action 14 final report (OECD, 2015) as noted above.

Practical application

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

204. All peers that provided input indicated not being aware that Saudi Arabia used performance indicators based on the amount of sustained audit adjustments or maintaining tax revenue in the period 1 January 2016-31 December 2018.

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

205. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

206. Saudi Arabia indicated that it does not anticipate any modifications in relation to element C.5.

Conclusion

	Areas for improvement	Recommendations
[C.5]	-	-

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

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

207. The inclusion of an arbitration provision in tax treaties may help ensure that MAP cases are resolved within a certain timeframe, which provides certainty to both taxpayers and competent authorities. In order to have full clarity on whether arbitration as a final stage in the MAP process can and will be available in jurisdictions it is important that jurisdictions are transparent on their position on MAP arbitration.

Position on MAP arbitration

208. Saudi Arabia reported that it has no domestic law limitations for including MAP arbitration in its tax treaties. However, Saudi Arabia’s tax treaty policy does not allow it to include MAP arbitration in its tax treaties. This position is clearly reflected in Saudi Arabia’s MAP profile.

Recent developments

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

Practical application

210. Saudi Arabia has not incorporated an arbitration clause as a final stage to MAP in any of its tax treaties.

Anticipated modifications

211. Saudi Arabia indicated that it does not anticipate any modifications in relation to element C.6.

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

Notes

- For post-2015 cases, if the number of MAP cases in Saudi Arabia’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, Saudi Arabia reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
- Saudi Arabia’s 2016, 2017, 2018 and 2019 MAP statistics were corrected in the course of its peer review and deviate from the published MAP statistics for these years. See further explanations in Annex B and Annex C.

3. For pre-2016 and post-2015 cases, Saudi Arabia 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>.
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Part D

Implementation of MAP agreements

[D.1] Implement all MAP agreements

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

212. In order to provide full certainty to taxpayers and the jurisdictions, it is essential that all MAP agreements are implemented by the competent authorities concerned.

Legal framework to implement MAP agreements

213. Saudi Arabia clarified that its domestic law statute of limitation also applies for the implementation of MAP agreements, unless a tax treaty contains a provision equivalent to the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017).

214. Saudi Arabia reported that Article 65(a) of its Income Tax Law states that GAZT is allowed to, with a reasoned notification, make or amend a tax assessment within five years from the end of the deadline specified for filing the tax declaration for the taxable year, or at any time, upon a written consent of the taxpayer. Saudi Arabia clarified in this regard that this period of five years is, pursuant to Article 65(b) extended to ten years, if the taxpayer has not filed a tax declaration, or if it is found that the declaration is incomplete, incorrect or that there was an intent to evade taxes. Saudi Arabia noted that where the case concerns a refund of taxes paid, Article 65(c) specifies that taxpayers are allowed to request a refund of overpaid amounts within five years from the end of the overpaid taxable year.

215. However, Saudi Arabia clarified that it will ensure that domestic law limitations are not used to impede or impair a taxpayer's right to MAP relief.

216. Saudi Arabia's MAP guidance, in the sub-section titled "Competent Authority Mutual Agreement" sets out the procedure applicable in Saudi Arabia for the implementation of MAP agreements. It is noted that before finalising an agreement in MAP, its competent authority would notify the terms of such agreement to the taxpayer and require them to declare within 30 days, whether they would accept the agreement, subject to withdrawing any pending administrative or judicial claims. If the taxpayer does not accept the agreement within this time, Saudi Arabia's competent authority would propose to the treaty partner's competent authority to close the case without agreement, in which case the taxpayer is free to access domestic remedies. If the taxpayer accepts the agreement, the agreement is finalised and may result in restoring the taxpayer's original tax position by withdrawing the adjustment which led to the MAP request, making a correlative adjustment or providing a tax offset or credit to relieve any double taxation or amending the taxpayer's tax assessment or tax payable if they agree with the MAP outcome. Saudi Arabia noted that its competent

authority staff is bound to follow this process under its internal operating guidelines as well and that MAP agreements are transmitted to the relevant department immediately for implementation.

217. Saudi Arabia further reported that it monitors the implementation of MAP agreements at the level of the competent authority. In this regard, Saudi Arabia noted that for the one remaining treaty where MAP agreements may still be affected by Saudi Arabia's domestic time-limits following the anticipated effect of the Multilateral Instrument, it will ensure that any MAP agreement is implemented and also inform taxpayers and treaty partners of this possible issue under this treaty in order to mitigate the risk that an agreement cannot be implemented.

Recent developments

218. There are no recent developments with respect to element D.1, except for the creation of a standard process for the implementation of MAP agreements in Saudi Arabia pursuant to the introduction of its MAP guidance.

Practical application

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

219. Saudi Arabia reported that all MAP agreements that were reached in the period 1 January 2016-31 December 2018 have been implemented.

220. All but one peer that provided input reported that they were not aware of any MAP agreement reached in the period 1 January 2016-31 December 2018 that was not implemented by Saudi Arabia. This peer mentioned that it was its understanding that one MAP agreement where resolution was reached in a face-to-face meeting in April 2017 had not yet been implemented despite the taxpayer reporting that all necessary claims have been made. Saudi Arabia responded that delays in addressing some MAP cases were a result of the ongoing transformation of GAZT and that it recently took action to implement this MAP agreement. The peer confirmed this by stating that it had been informed by Saudi Arabia that the agreement had been satisfactorily implemented with effect from February 2019.

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

221. Saudi Arabia reported that all MAP agreements that were reached on or after 1 January 2019 also have been or will be implemented.

222. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

223. Saudi Arabia indicated that it does not anticipate any modifications in relation to element D.1.

Conclusion

	Areas for improvement	Recommendations
[D.1]	As will be discussed under element D.3 not all of Saudi Arabia's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to the 5/10-year time limits in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017) in an assessed jurisdiction's relevant tax treaty, prevent the implementation of a MAP agreement, Saudi Arabia should put appropriate procedures in place to ensure that such an agreement is implemented and follow its stated intention to inform taxpayers in order to mitigate the risk that an agreement cannot be implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Saudi Arabia should for clarity and transparency purposes notify the treaty partner thereof without delay.

[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.

224. 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

225. Saudi Arabia reported there are no specific time limits set for the implementation of MAP agreements. In that regard, general domestic rules apply, which is that that assessments for additional tax are processed as soon as possible and generally within 30 days of concluding a MAP agreement. Saudi Arabia also noted that the same timeframe applies to requests for tax refunds. Saudi Arabia's MAP guidance, in the section titled "Timeframes for resolving a MAP case" also states that its competent authority will work with the competent authorities of its treaty partners to ensure that all MAP agreements are implemented in due time.

Recent developments

226. In the stage 1 report, Saudi Arabia was recommended to ensure that all MAP agreements are implemented on a timely basis if the conditions for such implementation are fulfilled. In this regard, the concerned peer to the one agreement that was not implemented has confirmed that this agreement was implemented in February 2019. Further, peer input received indicates that MAP agreements arrived at by Saudi Arabia's competent authority since 1 January 2019 have been implemented without undue delay. Therefore, the recommendation made in stage 1 has been addressed.

Practical application

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

227. As discussed under element D.1, Saudi Arabia reported that all MAP agreements that were reached in the period 1 January 2016-31 December 2018 have been implemented and that no cases of noticeable delays have occurred.

228. As was also discussed under element D.1, all but one of the peers that provided input reported that it has not reached any MAP agreements with Saudi Arabia in the period 1 January 2016-31 December 2018. The remaining peer was party to the two MAP agreements referred to above. This peer specifically mentioned that it was its understanding that one MAP agreement where resolution was reached in a face-to-face meeting in April 2017 had not yet been implemented despite the taxpayer reporting that all necessary claims have been made. Saudi Arabia responded that delays in addressing some MAP cases were a result of the ongoing transformation of GAZT and that it recently took action to implement this MAP agreement. The peer confirmed this by stating that it had been informed by Saudi Arabia that the agreement had been satisfactorily implemented with effect of February 2019.

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

229. Saudi Arabia reported that all MAP agreements that were reached on or after 1 January 2019 also have been implemented without undue delay.

230. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Saudi Arabia fully reflects their experience with Saudi Arabia since 1 January 2019 and/or there are no additions to the previous input given. The same input was given by the two peers that only provided input during stage 2.

Anticipated modifications

231. Saudi Arabia indicated that it does not anticipate any modifications in relation to element D.2.

Conclusion

	Areas for improvement	Recommendations
[D.2]	-	-

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

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

232. 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 Saudi Arabia’s tax treaties

233. As discussed under element D.1, Saudi Arabia’s domestic legislation contains a statute of limitations of 5/10 years for implementing MAP agreements, unless overridden by tax treaties.

234. Out of Saudi Arabia’s 58 tax treaties, 54 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. Further, none of Saudi Arabia’s tax treaties contain the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making transfer pricing adjustments.

235. For the remaining four treaties the following analysis is made:

- One treaty contains a provision that is based on Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), but also contains a protocol provision stating that “any agreement reached shall be implemented within ten years from the due date or the date of filing of the tax return in that other state”. As such a provision limits the timeframe within which the agreement can be implemented, this treaty is considered not to contain the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017)
- One treaty contains a provision that is based on Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), but also contains additional language stating that any agreement shall not be implemented later than ten years after the end of the concerned taxable year. As this ten-year time limit could obstruct the implementation of MAP agreements notwithstanding domestic time limits, this treaty is not considered to have the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017)
- One treaty contains a provision that is based on Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) but this provision is supplemented with wording that may limit the implementation of MAP agreements due to constraints in the domestic legislation of contracting states (e.g. “except such limitations as apply for the purposes of giving effect to such an agreement”). This treaty is therefore considered to not have the full equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017)
- One treaty does not contain a provision that is based on or equivalent to Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017).

236. For the four 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, one of the relevant peers that provided input during stage 1 acknowledged that its treaty with Saudi Arabia does not meet all the Action 14 minimum standards but confirmed that the Multilateral Instrument would modify this treaty to be in line with the requirement under element D.3. A second peer, that is party to one of the four treaties, provided input, but did not further comment on whether this treaty is in line with the requirements under element D.3.

Recent developments

Bilateral modifications

237. Saudi Arabia signed new tax treaties with four treaty partners which are newly negotiated treaties with treaty partners with which there were no treaties yet in place. Two of these treaties have entered into force. All of these treaties contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). The effect of these newly signed treaties has been reflected in the analysis above where it has relevance.

Multilateral Instrument

238. Saudi Arabia signed the Multilateral Instrument and has deposited its instrument of ratification on 23 January 2020. The Multilateral Instrument has entered into force for Saudi Arabia on 1 May 2020.

239. 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.

240. With regard to the four 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), Saudi Arabia listed all of them as covered tax agreements under the Multilateral Instrument, made for all a notification, pursuant to Article 16(6)(c)(ii), that they do not contain a provision described in Article 16(4)(b)(ii). All four relevant treaty partners are signatories to the Multilateral Instrument, but one did not list its treaty with Saudi Arabia as a covered tax agreement and one made a reservation on the basis of Article 16(5)(a). The remaining two treaty partners also made a notification on the basis of Article 16(6)(c)(ii).

241. Of these two treaty partners, one has already deposited its instrument of ratification, following which the Multilateral Instrument has entered into force for the treaty between Saudi Arabia and this treaty partner. Therefore, at this stage, the Multilateral Instrument has modified this treaty to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the remaining treaty, the instrument will, upon entry into force for the treaty concerned, modify it to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

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

243. For the remaining tax treaty that does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternatives and which will not be modified by the Multilateral Instrument, Saudi Arabia reported that negotiations were ongoing with this treaty partner, where Saudi Arabia wanted to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and this treaty partner could not agree. Similarly, where this treaty partner was willing to include both alternative provisions, Saudi Arabia could not agree. Therefore, negotiations have now been concluded. As the treaty partner was willing to include both alternatives, this treaty is now considered to be in line with this element of the Action 14 minimum standard.

Peer input

244. Of the peers that provided input during stage 2, three provided input in relation to their tax treaty with Saudi Arabia. One of these peers noted that its treaty with Saudi Arabia is in line with the Action 14 minimum standard, which is in line with the above analysis. Another peer noted that it discussed the issue during the negotiation for the conclusion of the treaty where the peer was willing to include time limits for primary adjustments in Articles 7 and 9 and while Saudi Arabia could not agree to this proposal, it was willing to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in the treaty. This peer noted that Saudi Arabia contacted it in 2020 suggesting updating the treaty through the MLI, but that it informed Saudi Arabia that it maintains its position on the issue and thus, considered the treaty with Saudi Arabia to be in line with the Action 14 minimum standard. This input is in line with the explanation provided in paragraph 243 regarding this treaty. The remaining peer did not provide input with respect to this element.

Anticipated modifications

245. Saudi Arabia 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]	-	-

Reference

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

Summary

	Areas for improvement	Recommendations
Part A: Preventing disputes		
[A.1]	-	-
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	<p>Five out of 58 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. Of these five treaties:</p> <ul style="list-style-type: none"> • Three have been modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One is expected to be modified by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, negotiations are envisaged. 	<p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), Saudi Arabia should continue (the initiation of) negotiations with the treaty partner with a view to including the required provision.</p>
[B.2]	-	-
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-
[B.7]	-	-
[B.8]	-	-
[B.9]	-	-
[B.10]	-	-
Part C: Resolution of MAP cases		
[C.1]	-	-
[C.2]	-	-

	Areas for improvement	Recommendations
[C.3]	While Saudi Arabia closed MAP cases on an average of 22.91 months (which is within the pursued average for resolving MAP cases received on or after 1 January 2016), its MAP inventory increased since 1 January 2016 and not many cases have been resolved during this period. Furthermore, peer input indicates that peers experienced some difficulties in obtaining position papers on time for long-pending cases. Therefore, there is a risk that pending post-2015 cases will in the future not be resolved within the pursued average of 24 months and this might indicate that resources are not adequately made available for Saudi Arabia's competent authority.	Saudi Arabia should ensure that resources are made available for the competent authority function in a way that allows an adequate use of such resources for the resolution of MAP cases in a timely, efficient and effective manner. Such adequate resources would enable Saudi Arabia's competent authority to issue position papers and to respond to position papers issued by peers in respect of long-pending cases in due time and to be able to cope with the increase in the number of MAP cases.
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	As will be discussed under element D.3 not all of Saudi Arabia's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to the 5/10-year time limits in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017) in an assessed jurisdiction's relevant tax treaty, prevent the implementation of a MAP agreement, Saudi Arabia should put appropriate procedures in place to ensure that such an agreement is implemented and follow its stated intention to inform taxpayers in order to mitigate the risk that an agreement cannot be implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Saudi Arabia should for clarity and transparency purposes notify the treaty partner thereof without delay.
[D.2]	-	-
[D.3]	-	-

Annex A

Tax treaty network of Saudi Arabia

Treaty partner	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration	
	Column 1	Column 2			Column 3	Column 4	Column 5	Column 6		Column 7
	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6	
	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? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)		
	Y = yes N = signed pending ratification	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different iv = no, other reasons	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
Albania	Y	O	Y	i	Y	Y	Y	Y	Y	N
Algeria	Y	O	Y	i	Y	Y	Y	Y	Y	N
Austria	Y	O	Y	i	Y	Y	Y	Y	Y	N
Azerbaijan	Y	O	Y	i	Y	Y	Y	Y	Y	N
Bangladesh	Y	O	Y	i	Y	Y	Y	Y	Y	N
Belarus	Y	O	Y	i	Y	Y	Y	Y	Y	N

Treaty partner	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration		
	Column 1	Column 2		Column 3	Column 4	Column 5	Column 6		Column 7	Column 8
	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6	
	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)		
	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?						
	DTC in force?									
Bulgaria	Y	N/A	Y	i	Y	Y	Y	Y	N	
China (People's Republic of)	Y	N/A	Y	i	Y	Y	Y	Y	N	
Cyprus ^a	Y	N/A	Y	i	Y	Y	Y	Y	N	
Czech Republic	Y	N/A	Y	i	Y	Y	Y	Y	N	
Egypt	Y	N/A	Y	i	Y	Y	Y	Y	N	
Ethiopia	Y	N/A	Y	i	Y	Y	Y	Y	N	
France	Y	N/A	Y*	i	N/A	Y	Y	Y	N	
Gabon	N	12/17/2015	Y	i	N/A	Y	Y	Y	N	
Georgia	Y	N/A	Y	i	N/A	Y	Y	Y	N	
Greece	Y	N/A	Y	i	N/A	Y	Y	Y	N	
Hong Kong (China)	Y	N/A	Y	i	N/A	Y	Y	Y	N	
Hungary	Y	N/A	Y	i	N/A	Y	Y	Y	N	
India	Y	N/A	Y	i	N/A	Y	Y	Y	N	
Ireland	Y	N/A	Y	i	N/A	Y	Y	Y	N	
Italy	Y	N/A	ii*	i	2-years	Y	Y	Y	N	
Iraq	N	4/17/2019	Y	i	N/A	Y	Y	Y	N	
Japan	Y	N/A	Y	i	N/A	Y	Y	Y	N	
Jordan	Y	N/A	Y	i	N/A	Y	Y	Y	N	
Kazakhstan	Y	N/A	Y	i	N/A	Y	Y	Y	N	
Korea	Y	N/A	Y	i	N/A	Y	Y	Y	N	

Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration	
Column 1	Column 2	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? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?
Kosovo	N/A	Y	N/A	i	Y	Y	Y	Y	N
Kyrgyzstan	N/A	Y	N/A	i	Y	Y	Y	Y	N
Latvia	9/7/2019	Y	N/A	i	Y	Y	Y	Y	N
Luxembourg	N/A	Y	N/A	i	Y	Y	Y	Y	N
Malaysia	N/A	Y	N/A	i	Y	Y	Y	Y	N
Malta	N/A	Y	N/A	i	Y	Y	Y	Y	N
Mauritania	2/12/2018	Y	N/A	i	Y	Y	Y	Y	N
Mexico	N/A	Y	N/A	i	Y	N	Y	Y	N
Morocco	4/14/2015	Y	N/A	i	Y	Y	Y	Y	N
Netherlands	N/A	Y	N/A	i	Y	Y	Y	Y	N
North Macedonia	N/A	Y	N/A	i	Y	Y	Y	Y	N
Pakistan	N/A	Y	N/A	i	Y	Y	Y	Y	N
Poland	N/A	Y	N/A	i	Y	Y	Y	Y	N
Portugal	N/A	Y	N/A	i	Y	Y	Y	Y*	N
Romania	N/A	Y	N/A	i	Y	Y	Y	Y	N
Russia	N/A	Y	N/A	i	Y	Y	Y	Y	N
Singapore	N/A	Y	N/A	i	Y	Y	Y	Y	N
South Africa	N/A	Y	N/A	i	Y	Y	Y	Y	N
Spain	N/A	Y	N/A	i	Y	Y	Y	Y	N
Sweden	N/A	Y	N/A	i	Y	Y	Y	Y	N
Switzerland	2/18/2018	Y	N/A	i	Y	N	Y	Y	N

Treaty partner	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration				
	Column 1	Column 2		Column 3	Column 4	Column 5	Column 6		Column 7	Column 8	Column 9	Column 10
	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6			
Syria	Y	N/A	O	ii	2-years	Y	i	Y	Y	Y	Y	N
Tajikistan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Tunisia	Y	N/A	O	Y	N/A	i	i	Y	Y	Y	Y	N
Turkey	Y	N/A	O*	Y	N/A	Y	i	Y	N*	Y	Y	N
Turkmenistan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Ukraine	Y	N/A	E*	Y	N/A	Y	i	Y	Y	Y	Y	N
United Arab Emirates	Y	N/A	E	Y	N/A	Y	i	Y	Y	Y	Y	N
United Kingdom	Y	N/A	E*	Y*	N/A	Y	i	Y	Y*	Y	Y	N
Uzbekistan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Venezuela	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Viet Nam	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N

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

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

Legend

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

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

Annex B

MAP Statistics Reporting for the 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		
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 14
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	2	0	0	0	0	0	0	0	0	0	0	2	n.a.
Total	2	0	0	0	0	0	0	0	0	0	0	2	n.a.

Notes: Saudi Arabia's pre-2016 case reporting differs from the published statistics in 2016 and onwards owing to correction of errors made while reporting.

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		
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 14
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	2	0	0	0	0	0	1	0	0	0	0	1	38
Total	2	0	0	0	0	0	1	0	0	0	0	1	38

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	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	1	0	0	0	0	0	0	0	0	0	0	1	n.a.
Total	2	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	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	1	0	0	0	0	0	0	0	0	0	0	1	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	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	2	0	0	0	0	0	0	0	0	0	0	0	2	n.a.
Total	0	2	0	0	0	0	0	0	0	0	0	0	0	2	n.a.

Notes: Saudi Arabia's post-2015 case reporting differs from the published statistics in 2016 and onwards owing to correction of errors made while reporting.

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	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	2	0	1	0	0	0	0	0	0	0	0	0	0	1	20.3
Total	2	0	1	0	0	0	0	0	0	0	0	0	0	1	20.3

2018 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2018	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/Allocation	0	2	0	0	0	0	0	0	0	0	0	0	2	n.a.
Others	1	3	0	0	0	0	0	0	0	0	0	0	4	n.a.
Total	1	5	0	0	0	0	0	0	0	0	0	0	6	n.a.

2019 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2019	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 2019	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/Allocation	2	1	1	0	0	0	0	0	0	0	0	0	2	11.41
Others	4	2	1	0	0	0	0	1	0	0	0	0	4	22.43
Total	6	3	2	0	0	0	0	1	0	0	0	0	6	18.76

Glossary

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

OECD/G20 Base Erosion and Profit Shifting Project

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



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