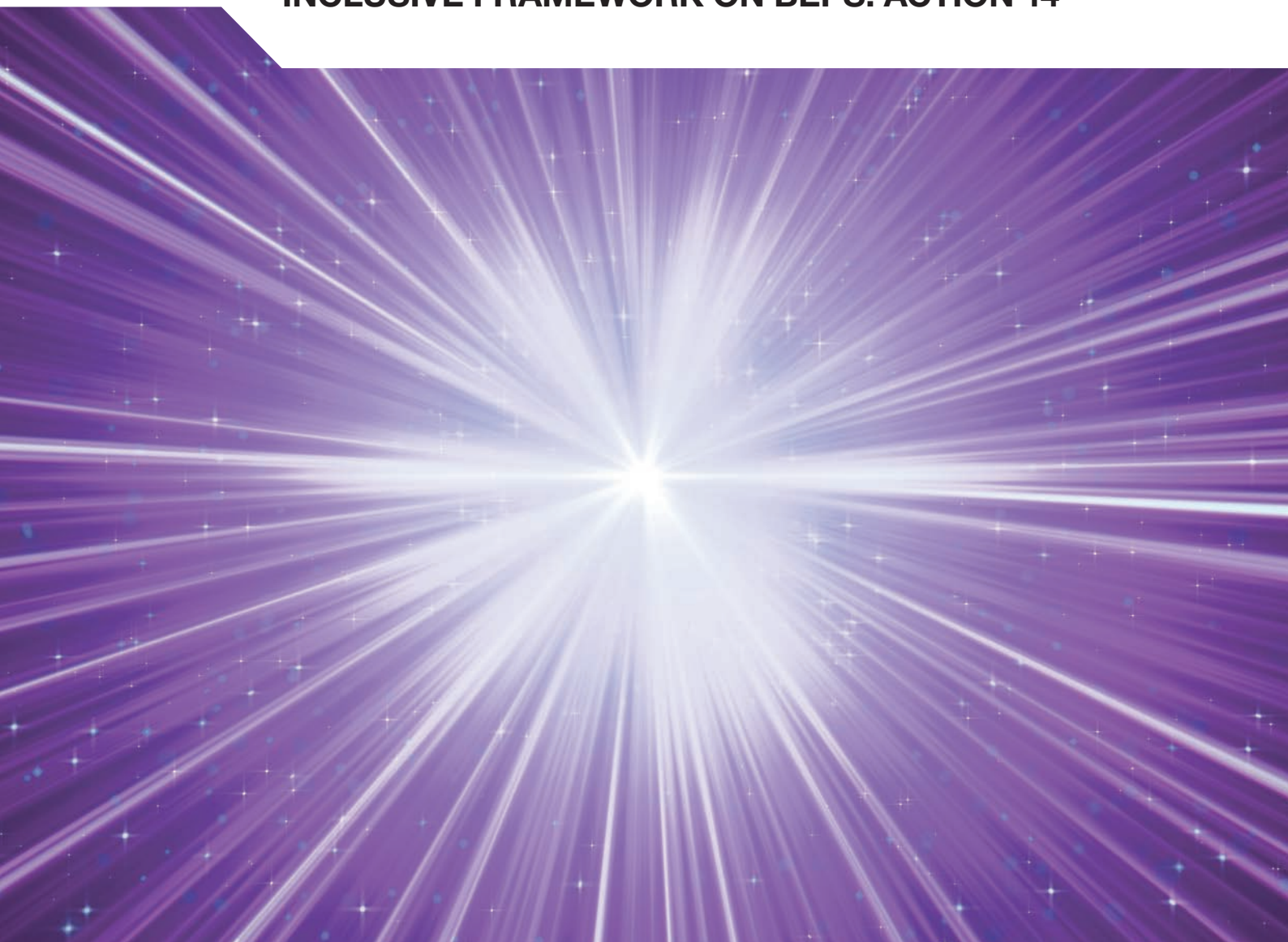


**OECD/G20 Base Erosion and Profit Shifting
Project**



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

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14



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Foreword

Digitalisation and globalisation have had a profound impact on economies and the lives of people around the world, and this impact has only accelerated in the 21st century. These changes have brought with them challenges to the rules for taxing international business income, which have prevailed for more than a hundred years and created 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.

In 2013, the OECD ramped up efforts to address these challenges in response to growing public and political concerns about tax avoidance by large multinationals. The OECD and G20 countries joined forces and developed an Action Plan to address BEPS in September 2013. The Action Plan identified 15 actions aimed at 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, including those published in an interim form in 2014, were consolidated into a comprehensive package and delivered to G20 Leaders in November 2015. The BEPS package represents the first substantial renovation of the international tax rules in almost a century. As the BEPS measures are implemented, 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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

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. As a result, they created 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 its subsidiary bodies. With over 140 members, the Inclusive Framework monitors and peer reviews the implementation of the minimum standards and is completing the work on standard setting to address BEPS issues. In addition to its 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.

Although implementation of the BEPS package is dramatically changing the international tax landscape and improving the fairness of tax systems, one of the key outstanding BEPS issues – to address the tax challenges arising from the digitalisation of the economy – remained unresolved. In a major step forward on 8 October 2021, over 135 Inclusive Framework members, representing more than 95% of global GDP, joined a two-pillar solution to reform the international taxation rules and ensure that multinational enterprises pay a fair share of tax wherever they operate and generate profits in today's

digitalised and globalised world economy. The implementation of these new rules is envisaged by 2023.

This report was approved by the Inclusive Framework on 17 March 2022 and prepared for publication by the OECD Secretariat.

Table of contents

Abbreviations and acronyms	7
Executive summary	9
Reference	10
Introduction	11
Reference	15
Part A. Preventing disputes	17
[A.1] Include Article 25(3), first sentence, of the OECD Model Tax Convention in tax treaties	17
[A.2] Provide roll-back of bilateral APAs in appropriate cases	19
References	21
Part B. Availability and access to MAP	23
[B.1] Include Article 25(1) of the OECD Model Tax Convention in tax treaties	23
[B.2] Allow submission of MAP requests to the competent authority of either treaty partner, or, alternatively, introduce a bilateral consultation or notification process	29
[B.3] Provide access to MAP in transfer pricing cases	31
[B.4] Provide access to MAP in relation to the application of anti-abuse provisions	33
[B.5] Provide access to MAP in cases of audit settlements	35
[B.6] Provide access to MAP if required information is submitted	36
[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties	37
[B.8] Publish clear and comprehensive MAP guidance	39
[B.9] Make MAP guidance available and easily accessible and publish MAP profile	42
[B.10] Clarify in MAP guidance that audit settlements do not preclude access to MAP	43
References	44
Part C. Resolution of MAP cases	45
[C.1] Include Article 25(2), first sentence, of the OECD Model Tax Convention in tax treaties	45
[C.2] Seek to resolve MAP cases within a 24-month average time frame	47
[C.3] Provide adequate resources to the MAP function	51
[C.4] Ensure staff in charge of MAP have the authority to resolve cases in accordance with the applicable tax treaty	53
[C.5] Use appropriate performance indicators for the MAP function	55
[C.6] Provide transparency with respect to the position on MAP arbitration	56
References	57

Part D. Implementation of MAP agreements	59
[D.1] Implement all MAP agreements	59
[D.2] Implement all MAP agreements on a timely basis	60
[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)	61
Reference	64
Summary	65
Annex A. Tax treaty network of Morocco	69
Annex B. MAP statistics reporting for the 2019 and 2020 Reporting Periods (1 January 2019 to 31 December 2020) for pre-2019 cases	75
Annex C. MAP statistics reporting for the 2019 and 2020 Reporting Periods (1 January 2019 to 31 December 2020) for post-2018 cases	76
Glossary	77
Figures	
Figure C.1 Evolution of Morocco’s MAP caseload	48
Figure C.2 End inventory on 31 December 2020 (30 cases)	49
Figure C.3 Evolution of Morocco’s MAP inventory – Pre-2019 cases	49
Figure C.4 Evolution of Morocco’s MAP inventory – Post-2018 cases	50

Abbreviations and acronyms

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

Executive summary

Morocco has a relatively large tax treaty network with more than 75 tax treaties. It has a recently established MAP programme with a small MAP inventory and a small number of new cases submitted each year and 30 MAP cases pending on 31 December 2020. Of these cases, only 6% concern allocation/attribution cases. The outcome of the stage 1 peer review process was that overall Morocco met less than half of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Morocco has worked to address them, which has been monitored in stage 2 of the process. In this respect, Morocco has solved most of the identified deficiencies.

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

- More than 20% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments; and
- Around 10% of its tax treaties do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2017) either because they do not contain the equivalent of Article 25(1), first sentence of the Model of the OECD Tax Convention or because they do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Morocco signed the Multilateral Instrument. Through this instrument, a number of its tax treaties will be modified to fulfil the requirements under the Action 14 Minimum Standard. Morocco is in contact with a few treaty partners to strive to include the required provisions via the Multilateral Instrument. Where treaties will not be modified, upon entry into force and entry into effect of the Multilateral Instrument in spite of this, Morocco 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. However, Morocco does not have a specific plan in place nor has it taken or planned any specific actions for such negotiations.

Morocco meets the Action 14 Minimum Standard concerning the prevention of disputes. It has in place a bilateral APA programme. This APA programme also enables taxpayers to request roll-back of bilateral APAs and such roll-backs would be granted in practice.

Furthermore, Morocco meets all 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 September 2019 not received any MAP request concerning transfer pricing cases or the application of anti-abuse provisions. Furthermore, Morocco 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. Morocco 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 Morocco for the period 2019-20 are as follows:

2019-20	Opening inventory 1/1/2019	Cases started	Cases closed	End inventory 31/12/2020	Average time to close cases (in months)*
Attribution/allocation cases	2	0	0	2	n.a.
Other cases	25	5	2	28	86.90
Total	27	5	2	30	86.90

* The average time taken for resolving MAP cases for both pre-2019 and post-2018 cases follows the MAP Statistics Reporting Framework.

From 2019-20, MAP cases were on average not closed within a timeframe of 24 months (which is the pursued average for resolving MAP cases received on or after 1 January 2019), as the average time necessary was 86.90 months. Further, there was an 11% increase in Morocco's MAP inventory and most of Morocco's pre-2019 inventory and newly started post-2018 MAP cases remain pending at the end of the Statistics Reporting Period. Therefore, further actions need to be taken to ensure a timely resolution of MAP cases and in this regard, Morocco should devote additional resources to its competent authority to resolve all MAP cases that remain pending in a timely, efficient and effective manner.

Furthermore, Morocco meets all other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Morocco's competent authority operates fully independently from the audit function of the tax authorities and adopts a co-operative 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, Morocco almost meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. Morocco 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 Morocco to resolve tax treaty-related disputes

Morocco has entered into 78 tax treaties on income (and/or capital), 57 of which are in force.¹ These 78 treaties are being applied to 81 jurisdictions.² All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. None of these 78 treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.

Under Morocco’s tax treaties, the competent authority function is assigned to the Minister of Finance and is further delegated to the *Direction de la Législation, des Études et de la Coopération Internationale* (Directorate of Legislation, Research and International Co-operation). The competent authority of Morocco currently employs nine staff members who deal with both attribution/allocation and other MAP cases, in addition to other non-MAP-related duties.

Morocco issued guidance on the governance and administration of the mutual agreement procedure (“**MAP guidance**”), which was published in May 2021, which is shortly following the period under review for stage 2, and it is available (in French) at:

https://portail.tax.gov.ma/wps/wcm/connect/f57e16a3-cd5e-4450-b1a7-a1a27c745fd3/Guide_MAP_Final+Version-07-05-21.pdf?MOD=AJPERES&CACHEID=f57e16a3-cd5e-4450-b1a7-a1a27c745fd3

Developments in Morocco since 1 September 2019

Developments in relation to the tax treaty network

The stage 1 peer review report of Morocco noted that Morocco had signed treaties with Albania (2015), Azerbaijan (2018), Bangladesh (2018), Benin (2019), Burkina Faso (2012), Cameroon (2012), Congo (2018), Estonia (2013), Ethiopia (2016), Ghana (2017), Guinea-Bissau (2015), Iran (2008), Liberia (2019), Lithuania (2013), Madagascar (2016), Mauritius (2015), Rwanda (2016), Sao Tome and Principe (2016), Saudi Arabia (2015), Serbia (2013), Slovenia (2016), South Sudan (2017), Yemen (2006) and Zambia (2017), which had not yet entered into force. This treaties with Cameroon, Ethiopia, Rwanda and Zambia have now entered into force. For the remaining treaties, the situation remains the same.

In addition, Morocco reported that since 1 September 2019 it has signed a new tax treaty with Japan (2020) which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty includes Article 9(2) and Article 25(1-3) of the OECD Model Tax Convention (OECD, 2017). This treaty has not entered into force as yet.

Furthermore, on 25 June 2019, Morocco signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral**

Instrument²), to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. With the signing of the Multilateral Instrument, Morocco submitted its list of notifications and reservations to that instrument.³ In relation to the Action 14 Minimum Standard, Morocco has not made any reservations pursuant to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure). The Multilateral Instrument has been approved by the Ministerial Council and the Parliament and is awaiting final approval.

For the 11 treaties that are considered not to be in line with one or more elements of the Action 14 Minimum Standard, Morocco reported that it is in the process of revising its list of notifications and reservations to the Multilateral Instrument to ensure that all treaties with other signatories to the Multilateral Instrument may be revised upon the deposit of its instrument of ratification to make them in line with the Action 14 Minimum Standard. With respect to the treaties that would still not be modified by the Multilateral Instrument, Morocco reported that it intends to update them via bilateral negotiations. In this respect, Morocco indicated that it is currently working on a plan, prioritising jurisdictions with which Morocco has close economic ties and frequent transactions. However, no details were shared as to planned actions, specifically as regards which treaty partners are prioritised for bilateral negotiations.

Other developments

Further to the above, Morocco reported that it has issued 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. Morocco's MAP guidance also includes reference to a new bilateral notification process applicable to situations where the objection raised by a taxpayer in a MAP request is not justified, which has also been documented in its internal procedures.

Basis for the peer review process

The peer review process entails an evaluation of Morocco'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 Morocco, its peers and taxpayers. The questionnaires for the peer review process were sent to Morocco and the peers on 30 August 2019.

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, Morocco'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 12 May 2020. This report identifies the strengths and shortcomings of Morocco 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.⁴ 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 Morocco. In this update report, Morocco 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 Morocco 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. The treaty analysis also takes into account the multilateral tax treaty entered into between Algeria, Libya, Morocco, Mauritania and Tunisia (“**Union of the Arab Maghreb (UMA)**”) (1990). This treaty is counted as one treaty, even though it is applicable to multiple jurisdictions. Reference is made to Annex A for the overview of Morocco’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 Morocco was launched on 30 August 2019, with the sending of questionnaires to Morocco and its peers. The FTA MAP Forum has approved the stage 1 peer review report of Morocco in March 2020, with the subsequent approval by the BEPS Inclusive Framework on 12 May 2020. On 12 May 2021, Morocco submitted its update report, which initiated stage 2 of the process.

The period for evaluating Morocco’s implementation of the Action 14 Minimum Standard for stage 1 ranged from 1 January 2019 to 31 August 2019 and formed the basis for the stage 1 peer review report. The period of review for stage 2 started on 1 September 2019 and depicts all developments as from that date until 30 April 2021.

In total, seven peers provided input: Austria, Canada, Germany, Portugal, Switzerland, Turkey and the United States. Two of these peers are treaty partners that Morocco has had MAP cases with that started in 2019 or 2020. During stage 2, the same peers, except for Germany, provided input. All peers stated that they had little experience with Morocco. However, two peers emphasised the need for procedures to be faster so that co-operation with Morocco could proceed more efficiently, stating that they had encountered difficulties in obtaining specific clarifications. Specifically with respect to stage 2, all peers that provided input reported that the update report of Morocco fully reflects the experiences these peers have had with Morocco since 1 September 2019 and/or that there was no addition to previous input given.

Input by Morocco and co-operation throughout the process

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

- a. MAP profile⁵
- b. MAP statistics⁶ according to the MAP Statistics Reporting Framework (see below).

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

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

Overview of MAP caseload in Morocco

The analysis of Morocco’s MAP caseload relates to the period starting on 1 January 2019 and ending on 31 December 2020 (“**Statistics Reporting Period**”). According to the statistics provided by Morocco, its MAP caseload during this period was as follows:

2019-20	Opening inventory 1/1/2019	Cases started	Cases closed	End inventory 31/12/2020
Attribution/allocation cases	2	0	0	2
Other cases	25	5	2	28
Total	27	5	2	30

General outline of the peer review report

This report includes an evaluation of Morocco’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**”).⁷ Apart from analysing Morocco’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Morocco during stage 1 and stage 2. Furthermore, the report depicts the changes adopted and plans shared by Morocco 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 Morocco 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 Morocco 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 Morocco has entered into are available online at: <https://www.tax.gov.ma/wps/portal/DGI/Documentation-fiscale/Conventions-internationales>. The treaties that are signed but have not yet entered into force are with Albania (2015), Azerbaijan (2018), Bangladesh (2018), Benin (2019), Burkina Faso (2012), Congo (2018), Estonia (2013), Ghana (2017), Guinea-Bissau (2015), Iran (2008), Japan (2020), Liberia (2019), Lithuania (2013), Madagascar (2016), Mauritius (2015), Sao Tome and Principe (2016), Saudi Arabia (2015), Serbia (2013), Slovenia (2016), South Sudan (2017) and Yemen (2006). Reference is made to Annex A for the overview of Morocco’s tax treaties concerning the mutual agreement procedure.
2. Morocco is a signatory to the Union of the Arab Maghreb (UMA) Convention (1990) that for Morocco applies to Algeria, Libya, Mauritania and Tunisia.
3. Available at: www.oecd.org/tax/treaties/beps-mli-position-morocco.pdf.
4. Available at: <https://www.oecd.org/ctp/making-dispute-resolution-more-effective-map-peer-review-report-morocco-stage-1-127cb9d7-en.htm>.
5. Available at: www.oecd.org/tax/dispute/country-map-profiles.htm.
6. The MAP statistics of Morocco are included in Annexes B and C of this report.
7. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

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>.

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 Morocco's tax treaties

2. Out of Morocco's 78 tax treaties, 76 contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty.¹ Of the two remaining treaties, one does not contain a provision that is based or equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). The remaining treaty contains a provision based on Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), but does not include the phrase "difficulties or doubts", but instead refers to "conflicts". Therefore, the treaty is considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

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

4. In respect of the two treaties identified that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), no peer input was provided during stage 1.

Recent developments

Bilateral modifications

5. Morocco signed a new tax treaty which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty has not entered into force and contains a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). The effect of this newly signed treaty has been reflected in the analysis above where it has relevance.

Multilateral Instrument

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

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

Other developments

8. For the remaining treaty that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) and which will not be modified by the Multilateral Instrument to include such equivalent, Morocco reported that it intends to update its list of notifications and reservations to the Multilateral Instrument to have the treaty modified by it.

Peer input

9. Of the peers that provided input during stage 2, none provided input in relation to their tax treaty with Morocco.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[A.1]	Two out of 78 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). One of these two treaties will be modified by the Multilateral Instrument to include the required provision. With respect to the remaining treaty, Morocco will revise its list of notifications and reservations to the Multilateral Instrument with a view to have it modified by the Multilateral Instrument	Morocco should as quickly as possible ratify the Multilateral Instrument, in order to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned. For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence of the OECD Model Tax Convention (OECD, 2017a), Morocco should continue to work in accordance with its stated intention to include the required provision via the Multilateral Instrument

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

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

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

Morocco’s APA Programme

12. Morocco indicated that it is authorised to enter into bilateral APAs and that the legal basis for the bilateral APA programme is found in the article relating to the mutual agreement procedure in the tax conventions in force and ratified by Morocco and in articles 234a and 234b of the General Tax Code. Morocco has also published administrative instructions on the topic, specifying the procedure to follow in order to apply for an APA.³ In this regard, Morocco clarified that an APA request must be filed at least six months before the opening of the first fiscal year covered by the agreement⁴, and that according to article 234 bis of the General Tax Code the duration of an APA cannot exceed four years. Morocco indicated that, on the basis of article 234 ter of the General Tax Code, following the conclusion of an APA, it could initiate a tax audit at any time to verify compliance with the conditions of an APA for the period covered.

13. Morocco noted that information in relation to its APA programme is available (in French) at:

<https://www.tax.gov.ma/wps/wcm/connect/d90140db-0f59-4739-a0ed-38379f0c892f/Circulaire%2BAPP0001.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-d90140db-0f59-4739-a0ed-38379f0c892f-myZvvZz>

Roll-back of bilateral APAs

14. Morocco reported that its bilateral APA programme does not expressly provide for the roll-back of bilateral APAs. However, Morocco indicated that its domestic tax legislation provides for the possibility for the taxpayer, at the initiative of the tax administration, to file a new tax return rectifying the one initially filed, which could *de facto* lead to the roll-back of a bilateral APA for facts and circumstances identical to those of the period covered. Morocco noted that this retroactive rectification is carried out within the framework of a documentary control provided for in article 221 bis-III of the General Tax Code. Through this control, Morocco clarified that the Moroccan tax authorities reserve the right to examine whether the facts and circumstances of the previous financial years were identical to those covered by the APA, without the possibility of this procedure ever leading to an adjustment or assessment. Accordingly, Morocco reported that the granting of a roll-back through this process does not require any audit process that could lead to an adjustment.⁵

15. However, subsequent to the granting of the roll-back, in the same way as for the period covered by the APA, Morocco noted that the administration may carry out an accounting audit (provided for in article 212 of the General Tax Code) to ensure that the taxpayer has complied with the conditions under which it filed the rectification application.

Recent developments

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

Practical application of roll-back of bilateral APAs

Period 1 January 2019-31 August 2019 (stage 1)

17. Morocco reported that it has received two requests for bilateral APAs in the period 1 January 2019-31 August 2019, but that none of them included a roll-back request.

18. All peers indicated that they had not received any requests for roll back of bilateral APAs with Morocco in the period 1 January 2019-31 August 2019.

Period 1 September 2019-30 April 2021 (stage 2)

19. Morocco reported that it had not received any requests for bilateral APAs since 1 September 2019. Morocco also reported that the two cases noted in paragraph 17 are still being processed.

20. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given.

Anticipated modifications

21. Morocco reported that it is considering the introduction of an administrative measure clearly providing for the possibility of using the rectification procedure under article 221 bis-III of the General Tax Code for previous years, subject to the limitation period provided under article 232 of the General Tax Code, following the conclusion of bilateral APAs, provided that the facts and circumstances of the aforementioned years are identical to the period covered. Morocco noted that it is also considering the modalities of such a procedure.

Conclusion

	Areas for improvement	Recommendations
[A.2]	-	-

Notes

1. These 76 treaties include the UMA Convention that for Morocco applies to Algeria, Libya, Mauritania and Tunisia.
2. This description of an APA is based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD, 2017b).
3. Available at the following address: <https://www.tax.gov.ma/wps/wcm/connect/d90140db-0f59-4739-a0ed-38379f0c892f/Circulaire%20BAPP0001.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-d90140db-0f59-4739-a0ed-38379f0c892f-myZvvZz>.
4. In accordance with the provisions of Decree No. 2-16-571 of 8 Chaoual 1438 (July 3, 2017) setting the terms for the conclusion of an APA.
5. In the stage 1 peer review report it was reported that Morocco could only grant a roll-back of an APA if a full tax audit is carried out for the verification of facts and circumstances, which could in turn lead to an adjustment. During stage 2, Morocco has clarified that this reporting was a misunderstanding of its domestic law and has corrected this reporting as seen in this paragraph.

References

- OECD (2017a), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.
- OECD (2017b), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, <https://dx.doi.org/10.1787/tpg-2017-en>.

Part B

Availability and access to MAP

[B.1] Include Article 25(1) of the OECD Model Tax Convention in tax treaties

Jurisdictions should ensure that their tax treaties contain a MAP provision which provides that when the taxpayer considers that the actions of one or both of the Contracting Parties result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty, the taxpayer may, irrespective of the remedies provided by the domestic law of those Contracting Parties, make a request for MAP assistance, and that the taxpayer can present the request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty.

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

Current situation of Morocco's tax treaties

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

23. Out of Morocco's 78 tax treaties, three contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to submit a MAP request to the competent authority of either state 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, 62 tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident.

24. The remaining 13 tax treaties can be categorised as follows:

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), whereby taxpayers can only submit a MAP request to the competent authorities of the contracting state of which they are a resident.	11*
No MAP Provision based on or equivalent to Article 25 of the OECD Model Tax Convention (OECD, 2017)	2

* These 11 treaties include the UMA Convention that for Morocco applies to the Algeria, Libya, Mauritania and Tunisia.

25. The 11 treaties mentioned in the first row of the table above are considered not to have the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, for the following reasons ten out of the 11 treaties are considered to be in line with this part of element B.1:

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

26. For the remaining treaty, the non-discrimination provision is almost identical to Article 24(1) of the OECD Model Tax Convention (OECD, 2017) and applies both to nationals that are and are not resident of one of the contracting states. The omission of the full text of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b) is therefore not clarified by the absence of or a limited scope of the non-discrimination provision. Therefore, this treaty is considered not to be in line with this part of element B.1.

27. The remaining two treaties mentioned in the second row of the table contain a MAP provision, but not a provision based on or equivalent to Article 25 of the OECD Model Tax Convention (OECD, 2017). Consequently, these two treaties are considered not to be in line with this part of element B.1.

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

28. Out of Morocco's 78 tax treaties, 64 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.¹

29. The remaining 14 tax treaties that do not contain such a provision can be categorised as follows:

Provision	Number of tax treaties
No provision for a filing period for a MAP request	8
Filing period more than 3 years for a MAP request (four years)	1
Filing period less than 3 years for a MAP request (two years)	4
Filing period for a MAP request based on the time limits in the domestic law of the treaty partners	1

30. The treaty in the last row of the table provides for a deadline based on the rules of domestic law of the treaty partners for the submission of the MAP request, which may in practice be shorter than three years and thus, the treaty is not considered to be in line with this part of element B.1.

Practical application

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

31. As indicated in paragraphs 23-27 above, all but two of Morocco's tax treaties allow taxpayers to file a MAP request irrespective of domestic remedies. In this respect, Morocco indicated that nothing in its domestic law, policy or practice prevents a taxpayer from requesting MAP assistance where the taxpayer has sought to resolve the issue under dispute via the judicial and administrative remedies provided by the domestic law of Morocco. Further, Morocco reported that it would grant access to MAP even in cases where there is a pending administrative or judicial proceeding or if an administrative or court decision has been issued regarding the same subject matter. This is confirmed in section I of Morocco's MAP guidance. However, Morocco noted that its competent authority cannot derogate from a court decision in MAP and therefore it will only seek to resolve the MAP case by having the treaty partner providing for correlative relief in line with the decision of its court.

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

32. For those tax treaties mentioned in paragraph 29 above that do not contain a filing period for MAP requests, Morocco reported that its competent authority would follow the time limit provided for in Article 25, second sentence, of the OECD Model Tax Convention (OECD, 2017), namely three years as from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty. This is confirmed in section I of Morocco's MAP guidance as well.

Recent developments

Bilateral modifications

33. Morocco signed a new tax treaty with one treaty partner which is a newly negotiated treaty with a treaty partner with which there was not treaty yet in place. This treaty is yet to enter into force. The treaty includes 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 effect of this newly signed treaty has been reflected in the analysis above where it has relevance.

Multilateral Instrument

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

34. Morocco signed the Multilateral Instrument. 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 the 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.

35. With the signing of the Multilateral Instrument, Morocco opted, pursuant to Article 16(4)(a)(i) of that instrument, Morocco opted 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 Morocco's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which a resident, Morocco opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Morocco listed 75 of its 78 treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for 73 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 73 treaties concern the treaties mentioned in paragraph 23 above that already allows the submission of a MAP request to either competent authority.

36. Of the relevant 76 treaty partners to these 73 treaties, 22 are not a signatory to the Multilateral Instrument, whereas eight did not list their treaty with Morocco as a covered tax agreement under that instrument and 15 reserved the right pursuant to Article 16(5)(a) not to apply the first sentence of Article 16(1) to their existing tax treaties.² All 31 treaty partners concerning the 31 remaining listed their treaty with Morocco as including 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). Therefore, at this stage, the Multilateral Instrument will, upon entry into force for the treaties concerned, modify these 31 treaties to incorporate the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention, as amended by the Action 14 final report (OECD, 2015b).

37. Furthermore, for the two treaties mentioned above for which Morocco did not make a notification on the basis of Article 16(6)(a), the Multilateral Instrument will only supersede these treaties to the extent that the provisions contained therein are incompatible with the first sentence of Article 16(1) and insofar none of the treaty partners made a reservation on

the basis of Article 16(5)(a). Of the relevant two treaty partners, one made such a reservation and therefore will the treaty not be superseded by the Multilateral Instrument. For the remaining treaty, since this treaty contains a MAP provision that is considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), it is considered incompatible with the first sentence of Article 16(1). Therefore, at this stage this treaty will be superseded upon entry into force of the Multilateral Instrument for this treaty 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).

38. In view of the above, for those three treaties identified in paragraphs 23-27 above that are considered not containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), one is included in the list of 32 treaties that will be modified or superseded by the Multilateral Instrument.

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

39. 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).

40. With regard to the four tax treaties identified in paragraph 29 above that contain a filing period for MAP requests of less than three years, Morocco listed all of them 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 equivalent to that described in Article 16(4)(a)(ii). Of the relevant four treaty partners, one is not a signatory to the Multilateral Instrument. All of the remaining three treaty partners have listed their tax treaty with Morocco as a covered tax agreement under the Multilateral Instrument and also made a notification on the basis of Article 16(6)(b)(i). Therefore, at this stage, the Multilateral Instrument will, upon entry into force for the treaties concerned, modify three of the four tax treaties identified above to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

41. With regard to the treaty that the filing period for a MAP request based on the time limits in the domestic law of the treaty partners, Morocco listed it as a covered tax agreement under the Multilateral Instrument, and it made, pursuant to Article 16(6)(b)(i), a notification that it does not contain a provision equivalent to that described in Article 16(4)(a)(ii). The relevant treaty partner is a signatory to the Multilateral Instrument, listed the treaty with Morocco as a covered tax agreement and did not make a notification on the basis of either Article 16(6)(b)(i) or Article 16(6)(b)(ii). In this situation, Article 16(6)(b)(i) of the Multilateral Instrument stipulates that the second sentence of Article 16(1) – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will supersede the provision of the covered tax agreement to the extent it is incompatible with that second sentence. Since the treaty concerned refers to the domestic law of the contracting

states to determine the filing period of a MAP request, and given the fact that in the case of the treaty partner such filing period may be less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty, the provision of the covered tax agreement is considered to be incompatible with the second sentence of Article 16(1). Therefore, at this stage, the treaty identified above will, upon entry into force for the treaty concerned, be superseded by the Multilateral Instrument to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Peer input

42. Of the peers that provided input during stage 2, none provided input in relation to their tax treaty with Morocco.

Anticipated modifications

43. Morocco reported that for the three tax treaties that do not contain the equivalent of Article 25(1), first or 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) and will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.1. Morocco, however, reported not having a specific plan in place for such negotiations. In addition, Morocco reported it will seek to include Article 25(1), first and sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2017) in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[B.1]	Three of the 78 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the Action 14 final report (OECD, 2015b) or as amended by that report (OECD, 2017). One of these treaties will be superseded by the Multilateral Instrument to include the required provision. With respect to the remaining two treaties, no actions have been taken nor are any actions planned to be taken.	<p>Morocco should as quickly as possible ratify the Multilateral Instrument, in order 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) in the treaty that currently does not contain such equivalent and that will be superseded by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining two treaties that do not contain the equivalent of Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a) and will not be modified by the Multilateral Instrument 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), Morocco should without further delay request via bilateral negotiations the inclusion of the required provision.</p> <p>This concerns a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention either:</p> <ol style="list-style-type: none"> a. as amended by the Action 14 final report; or b. as it read prior to the adoption of the Action 14 final report, thereby including the full sentence of such provision.

	Areas for improvement	Recommendations
[B.1]	Five of Morocco's 78 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), either (i) because 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, or (ii) because the timeline for submitting a MAP request refers to domestic law of the treaty partners. Four of these treaties will be modified or superseded by the Multilateral Instrument to include the required provision. With respect to the remaining treaty, no actions have been taken nor are any actions planned to be taken.	Morocco should as quickly as possible ratify the Multilateral Instrument, in order to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those four treaties that currently do not contain such equivalent and that will be modified or superseded by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining treaty that does not contain the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument to include such equivalent, Morocco should without further delay request via bilateral negotiations the inclusion of the required provision.

[B.2] Allow submission of MAP requests to the competent authority of either treaty partner, or, alternatively, introduce a bilateral consultation or notification process

Jurisdictions should ensure that either (i) their tax treaties contain a provision which provides that the taxpayer can make a request for MAP assistance to the competent authority of either Contracting Party, or (ii) where the treaty does not permit a MAP request to be made to either Contracting Party and the competent authority who received the MAP request from the taxpayer does not consider the taxpayer's objection to be justified, the competent authority should implement a bilateral consultation or notification process which allows the other competent authority to provide its views on the case (such consultation shall not be interpreted as consultation as to how to resolve the case).

44. 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

45. As discussed under element B.1, three of Morocco's 78 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), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. Furthermore, as was also discussed under element B.1, 32 of these 78 treaties will be modified or superseded by the Multilateral Instrument, when it enters into force, to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

46. Morocco reported that it has introduced a bilateral notification process that allows the other competent authority concerned to provide its views on the case when Morocco's

competent authority considers the objection raised in the MAP request not to be justified. Morocco reported that when Morocco's competent authority considers that the objection raised by a taxpayer in a MAP request is not justified, it will notify the competent authority of the treaty partner and the taxpayer. This is noted in section II(b) of Morocco's MAP guidance. Morocco clarified that the procedure as well as the template for the same has been documented in its internal procedure and that the staff in its competent authority have been briefed on this process.

47. Morocco also noted that in general, for any MAP case, after checking the admissibility of the request, Morocco's competent authority would inform the treaty partner's competent authority, upon receipt of the MAP request and that this notification would contain the identification of the taxpayer concerned, the tax years concerned, a brief description of the dispute and the contact details of the agent in charge of processing the MAP case. This is confirmed in section II(b) of Morocco's MAP guidance as well. Morocco reported that this procedure would apply to the notification process applicable where an objection raised by a taxpayer is considered not justified as well.

Recent developments

48. In the stage 1 report, it was noted that Morocco 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 Morocco's competent authority considered the objection raised in the MAP request not to be justified.

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

Practical application

Period 1 January 2019-31 August 2019 (stage 1)

50. Morocco reported that in the period 1 January 2019-31 August 2019 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.

51. All peers that provided input indicated not being aware of any cases for which Morocco's competent authority denied access to MAP in the period 1 January 2019-31 August 2019. They also reported not having been consulted/notified of a case where Morocco'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 Morocco during this period.

Period 1 September 2019-30 April 2021 (stage 2)

52. Morocco reported that since 1 September 2019 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 2019 and 2020 MAP statistics submitted by Morocco also show that none of its MAP cases was closed with the outcome "objection not justified".

53. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that since 1 September 2019 they are not aware of any cases

for which Morocco’s competent authority considered an objection in a MAP request not justified. They also reported not having been consulted/notified in such cases, which can be clarified by the fact that no such instances have occurred in Morocco since that date.

Anticipated modifications

54. Morocco indicated that it does not anticipate any modifications in relation to element B.2.

Conclusion

	Areas for improvement	Recommendations
[B.2]	-	-

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

Jurisdictions should provide access to MAP in transfer pricing cases.

55. 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 an 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

56. Out of Morocco’s 78 tax treaties, 61 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) requiring their state to make a corresponding adjustment in case a transfer pricing adjustment is imposed by the treaty partner. Furthermore, 16 treaties do not contain a provision that is based on or equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017).³ The remaining treaty contains a provision that based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but is considered not being equivalent thereof as it stipulates that a corresponding adjustment can only be made through an agreement or consultation between the competent authorities.

57. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Morocco’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, Morocco indicated that it will always provide access to MAP in transfer pricing cases and is willing to make corresponding adjustments, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) is contained in its tax treaties. As discussed under element B.8, this is not expressly stated in Morocco’s MAP guidance.

Recent developments

Bilateral modifications

58. Morocco signed a new tax treaty which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty has not entered into force and contains a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). The effect of this newly signed treaty has been reflected in the analysis above where it has relevance.

Multilateral Instrument

59. Morocco signed the Multilateral Instrument. 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 an equivalent provision 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 parties, 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)).

60. Morocco has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument to all of its covered tax agreements on the basis that in the absence of a provision referred to in Article 17(2) in its covered tax agreement: (i) it shall make the appropriate adjustment referred to in Article 17(1); or (ii) its competent authority shall endeavour to resolve the case under the provisions of a covered tax agreement relating to mutual agreement procedure. Therefore, at this stage, the Multilateral Instrument will, upon entry into force, not modify any of Morocco's tax treaties 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 2019-31 August 2019 (stage 1)

61. Morocco reported that in the period 1 January 2019-31 August 2019 it has not denied access to MAP on the basis that the case concerned a transfer pricing case. However, no such cases were received during this period

62. All peers that provided input reported that they were not aware of any cases for which the competent authority of Morocco had refused access to MAP on the basis that the case concerned a transfer pricing case in the period 1 January 2019-31 August 2019.

Period 1 September 2019-30 April 2021 (stage 2)

63. Morocco reported that also since 1 September 2019 it has not denied access to MAP on the basis that the case concerned a transfer pricing case. However, no such cases were received during this period either.

64. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given.

Anticipated modifications

65. Morocco 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.

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.

66. 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

67. None of Morocco's 78 tax treaties allow competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, the domestic law and/or administrative processes of Morocco do not include a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision are in conflict with the provisions

of a tax treaty. As discussed under element B.8, this is not expressly stated in Morocco's MAP guidance.

Recent developments

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

Practical application

Period 1 January 2019-31 August 2019 (stage 1)

69. Morocco reported that in the period 1 January 2019-31 August 2019 it has not denied access to MAP in any cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. However, no such cases were received during this period.

70. All peers who provided input reported that they were not aware of any cases in which the competent authority of Morocco had refused access to MAP in the period 1 January 2019-31 August 2019 with regard to the application of a treaty anti-abuse provision or a domestic law anti-abuse provision.

Period 1 September 2019-30 April 2021 (stage 2)

71. Morocco reported that also since 1 September 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 either.

72. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given.

Anticipated modifications

73. Morocco 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.

74. 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

75. Under Morocco's domestic law, it is possible for taxpayers and the tax administration to enter into an audit settlement. Morocco reported that even when an audit settlement is entered into, the taxpayer would always be provided access the MAP. However, Morocco clarified that its competent authority cannot deviate from the agreement reached in the audit settlement and therefore it will only seek to resolve the MAP case by having the treaty partner providing for correlative relief in line with the settlement. The relationship between audit settlements and MAP is described in Morocco's MAP profile and in section I of Morocco's MAP guidance, as discussed under element B.10.

Administrative or statutory dispute settlement/resolution process

76. Morocco reported it has administrative or statutory dispute settlement/resolution processes in place, which are independent from the audit and examination functions and which can only be accessed through a request by the taxpayer. Morocco reported that this process takes place in two distinct commissions: *la commission locale de taxation* (the local taxation commission) and *la commission nationale des recours fiscal* (the national commission for tax remedies), depending on the amount in dispute. Morocco noted that taxpayers may initiate procedures before these bodies to challenge a tax audit, with the latter also acting as an appellate body to decisions made by the former body, as an alternative to questioning such assessment before a court. Morocco, thus, clarified that approaching these bodies is not a mandatory step prior to a taxpayer approaching a court in Morocco. Morocco reported that the taxpayer has the possibility of requesting the requesting for MAP whether cases are pending before or have already been decided under these administrative dispute settlement processes and that Morocco's competent authority can deviate from any decision taken in such processes.

Recent developments

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

Practical application***Period 1 January 2019-31 August 2019 (stage 1)***

78. Morocco reported that in the period 1 January 2019-31 August 2019 it has not denied access to MAP for cases where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration. In this respect, Morocco reported that it did not receive any MAP case of this kind from a taxpayer during the period under review.

79. All the peers who provided input reported that they were not aware of any cases in which the competent authority of Morocco had refused access to MAP in the period 1 January 2019-31 August 2019 in cases where an audit settlement between the taxpayer and the tax administration had been concluded.

Period 1 September 2019-30 April 2021 (stage 2)

80. Morocco reported that since 1 September 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.

81. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given.

Anticipated modifications

82. Morocco 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 governing access to MAP and information to be submitted

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

85. Morocco reported that after an initial analysis of the MAP request, its competent authority would notify the taxpayer whether additional information or documentation needs to be submitted within two months from the date of submission. Morocco noted that the taxpayer is invited to provide the missing information as soon as possible, without a specific deadline. Morocco reported that in the absence of a response from the taxpayer, Morocco’s competent authority would send a reminder and if the taxpayer does not respond even after such reminder, the case would be closed. This is confirmed in section II(b) of Morocco’s MAP guidance.

Recent developments

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

Practical application

Period 1 January 2019-31 August 2019 (stage 1)

87. Morocco reported that in the period 1 January 2019-31 August 2019 it has not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

88. All peers that provided input indicated not being aware of a limitation of access to MAP by Morocco in the period 1 January 2019-31 August 2019 in situations where taxpayers complied with information and documentation requirements.

Period 1 September 2019-30 April 2021 (stage 2)

89. Morocco reported that since 1 September 2019 its competent authority has also not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

90. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given.

Anticipated modifications

91. Morocco 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.

92. 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 Morocco's tax treaties

93. Out of Morocco's 78 tax treaties, 74 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.⁴ The remaining four tax treaties do not contain a provision that is based on or equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

94. In relation to the four treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), one relevant peer confirmed during stage 1 that its treaty with Morocco did not contain that provision. The other relevant peers did not provide any input.

Recent developments

Bilateral modifications

95. Morocco signed a new tax treaty which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty has not entered into force and contains a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). The effect of this newly signed treaty has been reflected in the analysis above where it has relevance.

Multilateral Instrument

96. Morocco signed the Multilateral Instrument. 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 in question 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).

97. With regard to the four tax treaties identified above that do not contain the equivalent of the second sentence of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Morocco has listed all of them as covered tax agreements under the Multilateral Instrument and has made for all a notification, pursuant to Article 16(6)(d)(ii), that they do not contain the provision described in Article 16(4)(c)(ii). Of the four relevant treaty partners, one is not a signatory to the Multilateral Instrument. The three remaining treaty partners listed their tax treaties with Morocco as covered tax agreements under that instrument and also made a notification on the basis of Article 16(6)(d)(ii). Therefore, at

this stage, the Multilateral Instrument will, upon entry into force for the treaties concerned, modify three of the four treaties identified above to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Peer input

98. Of the peers that provided input during stage 2, none provided input in relation to their tax treaty with Morocco.

Anticipated modifications

99. Morocco reported that for the one remaining tax treaty that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument, it intends to update it via bilateral negotiations with a view to be compliant with element B.7. Morocco, however, reported not having a specific plan in place for such negotiations. In addition, Morocco 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]	Four out of 78 tax treaties do not contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Three of these four treaties will be modified by the Multilateral Instrument to include the required provision. With respect to the remaining treaty, no actions have been taken nor are any actions planned to be taken.	Morocco should as quickly as possible ratify the Multilateral Instrument, in order to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those three treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining treaty that does not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument to include such equivalent, Morocco should without further delay request via bilateral negotiations the inclusion of the required provision.

[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.

100. 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.

Morocco's MAP guidance

101. Morocco issued guidance on the governance and administration of the mutual agreement procedure in May 2021, which is shortly following the period under review for stage 2, and is available (in French) at:

https://portail.tax.gov.ma/wps/wcm/connect/f57e16a3-cd5e-4450-b1a7-a1a27c745fd3/Guide_MAP_Final+Version-07-05-21.pdf?MOD=AJPERES&CACHEID=f57e16a3-cd5e-4450-b1a7-a1a27c745fd3

102. Morocco's MAP guidance is divided into four sections dealing with:

- The purpose of MAP
- Introduction to MAP
- The steps involved in a MAP case
- The closure of a MAP case

103. These sections contain information on:

- a. contact information of the competent authority or the office in charge of MAP cases
- b. the manner and form in which the taxpayer should submit its MAP request
- c. the specific information and documentation that should be included in a MAP request (see also below)
- d. how the MAP functions in terms of timing and the role of the competent authorities
- e. relationship with domestic remedies
- f. information on availability of arbitration
- g. implementation of MAP agreements
- h. rights and role of taxpayers in the process
- i. suspension of tax collection
- j. interest charges, refunds and penalties.

104. The above-described MAP guidance includes detailed information on the availability and the use of MAP and 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.⁵

105. Although the information included in Morocco's MAP guidance is detailed and comprehensive, various subjects are not specifically discussed, including:

- whether MAP is available for transfer pricing cases, multilateral cases, for cases concerning the discussion of anti-abuse provisions, and for cases concerning bona fide foreign-initiated self-adjustments
- whether the multi-year resolution of recurring issues is possible
- the timing of the steps of the process for the implementation of MAP agreements, including any actions to be taken by taxpayers.

Information and documentation to be included in a MAP request

106. 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 a request for MAP assistance.⁶ The agreed guidance is shown below. Morocco's MAP guidance, enumerating which items must be included in a request for MAP assistance, 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) 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.

107. Morocco's MAP guidance also notes that copies of administrative or judicial appeals by the taxpayer, if any, and copies of any other relevant supporting documents should be provided.

Recent developments

108. As detailed above, Morocco reported that it has issued its MAP guidance which was published in May 2021. 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

109. Morocco 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.

110. 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.⁷

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

111. The MAP guidance of Morocco is published and can be found (in French) at:

https://portail.tax.gov.ma/wps/wcm/connect/f57e16a3-cd5e-4450-b1a7-a1a27c745fd3/Guide_MAP_Final+Version-07-05-21.pdf?MOD=AJPERES&CACHEID=f57e16a3-cd5e-4450-b1a7-a1a27c745fd3

112. This guidance was published in May 2021. As regards its accessibility, Morocco’s MAP guidance can be easily found in French through the website of the General Directorate of Taxes, under the section “vos démarches et impôts en bref” (your procedures and taxes in brief), in the sub-section titled “Guides fiscaux” (tax guides).

MAP profile

113. The MAP profile of Morocco is published on the website of the OECD and was last updated in October 2021. This MAP profile is complete and contains detailed information. This profile also contains external links that provide extra information and guidance where appropriate.

114. One peer noted during stage 1 that Morocco’s MAP profile was not available and that this may result in delays if a jurisdiction were required to open a discussion with the competent authority of Morocco. Following publication of Morocco’s MAP profile, this peer provided an update that the publication of Morocco’s MAP profile was welcome.

Recent developments

115. As mentioned above, Morocco has introduced MAP guidance and has made it publicly available on the website of the Director General of Taxes in May 2021 and has updated its MAP profile accordingly. Therefore, the recommendation made in stage 1 has been addressed.

Anticipated modifications

116. Morocco 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 stated under element B.5, under Moroccan domestic law, taxpayers and the tax administration may enter into audit settlements. Morocco reported that entering into an audit settlement does not prevent the taxpayer from having access to MAP. This is confirmed in section I of Morocco's MAP guidance.

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

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

120. As previously mentioned under element B.5, Morocco reported that it 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. Morocco reported that the taxpayer has the possibility of requesting the requesting for MAP whether cases are pending before or have already been decided under these administrative dispute settlement processes and that Morocco's competent authority can deviate from any decision taken in such processes.

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

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

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

Recent developments

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

Anticipated modifications

124. Morocco indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

Notes

1. These 64 treaties include the UMA Convention that for Morocco applies to the Algeria, Libya, Mauritania and Tunisia.
2. These 73 treaties include the UMA Convention that for Morocco applies to the Algeria, Libya, Mauritania and Tunisia, wherein the 22 treaty partners include Algeria, Libya and Mauritania and the eight treaty partners includes Tunisia.
3. These 16 treaties include the UMA Convention that for Morocco applies to the Algeria, Libya, Mauritania and Tunisia.
4. These 74 treaties include the UMA Convention that for Morocco applies to the Algeria, Libya, Mauritania and Tunisia.
5. Available at: www.oecd.org/fr/fiscalite/beps/beps-action-14-accroitre-l-efficacite-des-mecanismes-de-reglement-des-differends-documents-pour-l-examen-par-les-pairs.pdf.
6. Available at: www.oecd.org/fr/fiscalite/beps/beps-action-14-accroitre-l-efficacite-des-mecanismes-de-reglement-des-differends-documents-pour-l-examen-par-les-pairs.pdf.
7. The shared public platform can be found at: www.oecd.org/tax/beps/country-map-profiles.htm.

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Part C

Resolution of MAP cases

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

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

125. It is of critical importance that in addition to allowing taxpayers to request a MAP, tax treaties should 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 Morocco's tax treaties

126. Out of Morocco's 78 tax treaties, 75 contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.¹ The remaining three treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) as these treaties have not incorporated several elements that are considered material.

127. In respect of the three treaties identified that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), one relevant peer confirmed during stage 1 that its treaty with Morocco did not contain that provision. The other relevant peers did not provide any input.

Recent developments

Bilateral modifications

128. Morocco signed a new tax treaty which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty has not entered into force and contains a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). The effect of this newly signed treaty has been reflected in the analysis above where it has relevance.

Multilateral Instrument

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

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

Peer input

131. Of the peers that provided input during stage 2, none provided input in relation to their tax treaty with Morocco.

Anticipated modifications

132. Morocco reported that for the two remaining tax treaties that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element C.1. Morocco, however, reported not having a specific plan in place for such negotiations. In addition, Morocco 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]	Three out of 78 tax treaties do not contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). One of these treaties will be modified by the Multilateral Instrument to include the required provision. With respect to the remaining two treaties, no actions have been taken nor are any actions planned to be taken.	<p>Morocco should as quickly as possible ratify the Multilateral Instrument, in order to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining two treaties that do not contain the equivalent of Article 25(2), first sentence of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument to include such equivalent, Morocco should without further delay request via bilateral negotiations the inclusion of the required provision.</p>

[C.2] Seek to resolve MAP cases within a 24-month average time frame

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 of the year in which the jurisdiction joins the Inclusive Framework, in the case of Morocco, 2019 (“**post-2018 cases**”). Also, for MAP requests submitted prior to that date (“**pre-2019 cases**”), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template. Morocco provided its MAP statistics for the years 2019 and 2020 pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Morocco of which its competent authority was aware. The statistics discussed below include both pre-2019 and post-2018 cases and the full statistics are attached to this report as Annex B and Annex C respectively and should be considered jointly to understand Morocco’s MAP caseload.²

135. With respect to post-2018 cases, Morocco reported having reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, Morocco reported that it could match its post-2018 MAP statistics with all of its treaty partners, except with one treaty partner where the treaty partner missed out on communicating one additional case with Morocco.

136. No peer input was received on the matching of MAP statistics with Morocco for the years 2019-20.

137. In that regard, based on the information provided by Morocco’s MAP partners, its post-2018 MAP statistics match those of its treaty partners as reported by the latter, except as noted above.

Monitoring of MAP statistics

138. Morocco reported that the staff in charge of MAP seeks to resolve MAP cases in a timely manner. In this respect, it clarified that MAP case inventory is monitored using a scorecard that identifies all open MAP cases and tracks their progress (current, dealt with or pending a position paper from the other treaty party) by year. Morocco reported that it also monitors new requests to verify that they are admissible and that the objection raised in these requests are justified. Morocco stated that it monitors the time frame needed to resolve a MAP, including by providing the earliest possible responses to position papers from other competent authorities. Morocco noted that it also monitors MAP agreements by contacting the tax service to ensure that the MAP outcome is implemented.

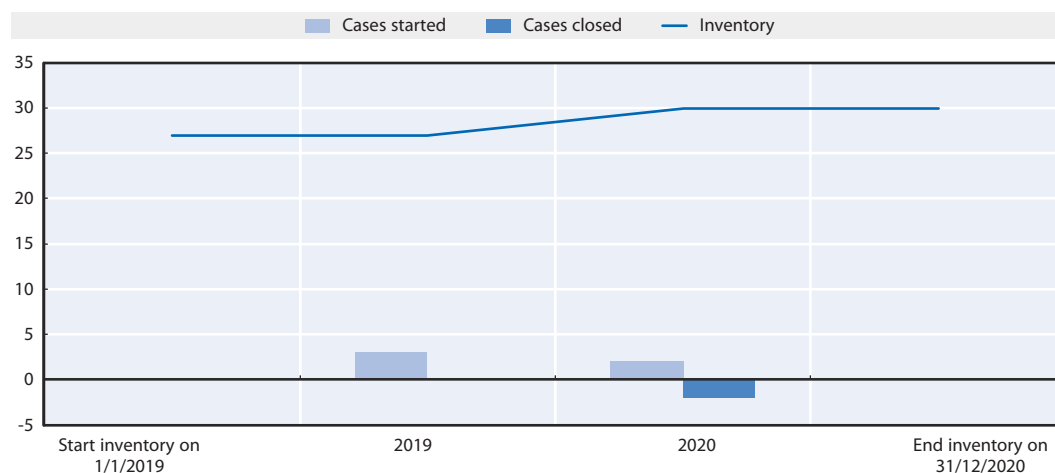
Analysis of Morocco’s MAP caseload

Global overview

139. The analysis of Morocco’s MAP caseload relates to the period starting on 1 January 2019 and ending on 31 December 2020.

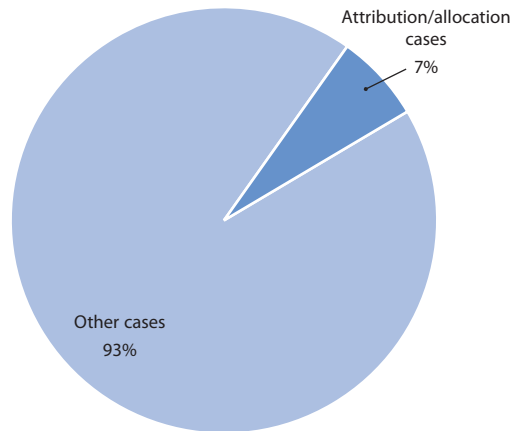
140. Figure C.1 shows the evolution of Morocco’s MAP caseload over the Statistics Reporting Period³.

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



141. At the start of the Statistics Reporting Period, there were 27 MAP cases pending in Morocco’s MAP inventory, of which two were attribution/allocation cases and 25 were other cases.⁴ At the end of the Statistics Reporting Period, 30 MAP cases were pending, two of which are attribution/allocation case and 28 of which are other cases. Morocco’s MAP caseload has increased by 11% during the Statistics Reporting Period, which concerns an increase of 12% in the number of other MAP cases. The breakdown of the end inventory can be shown as in Figure C.2.

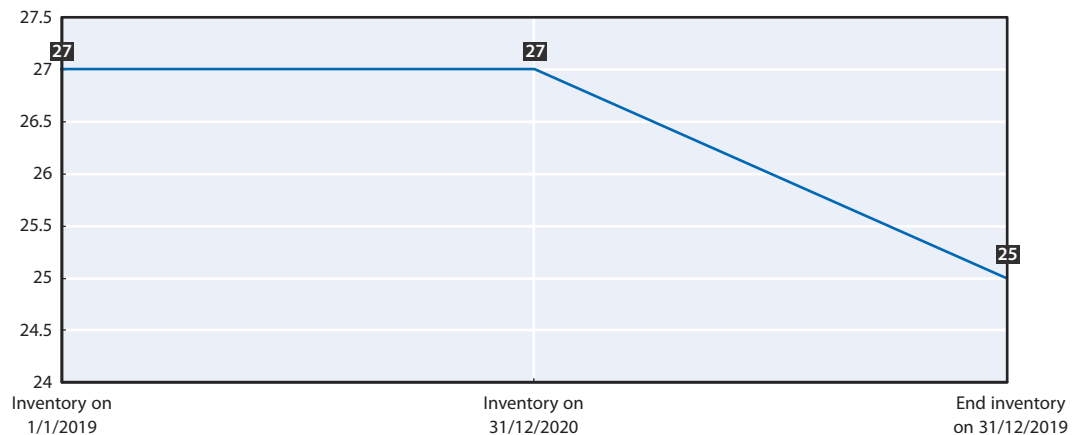
Figure C.2. End inventory on 31 December 2020 (30 cases)



Pre-2019 cases

142. Figure C.3 shows the evolution of Morocco's pre-2019 MAP caseload over the Statistics Reporting Period.

Figure C.3. Evolution of Morocco's MAP inventory – Pre-2019 cases



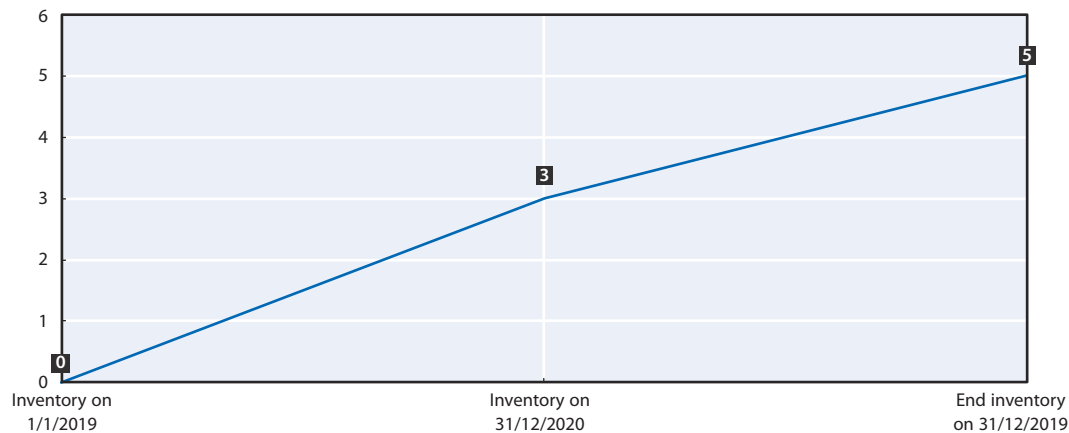
143. At the start of the Statistics Reporting Period, there were 27 pre-2019 MAP cases pending in Morocco, of which two were attribution/allocation cases and 25 were other cases. At the end of the Statistics Reporting Period, the total inventory of pre-2019 cases had decreased to 25 cases, of which two were attribution/allocation cases and 23 were other cases. Therefore, two pre-2019 other cases were closed during the Statistics Reporting Period. The decrease in the number of pre-2019 MAP cases is shown in the table below.

Pre-2019 cases	Evolution of total MAP caseload in 2019	Evolution of total MAP caseload in 2020	Cumulative evolution of total MAP caseload over the three years (2019-20)
Attribution/allocation cases	(no case closed)	(no case closed)	(no case closed)
Other cases	(no case closed)	-8%	-8%

Post-2018 cases

144. Figure C.4 shows the evolution of Morocco’s post-2018 MAP caseload over the Statistics Reporting Period.

Figure C.4. Evolution of Morocco’s MAP inventory – Post-2018 cases



145. A total of five MAP cases were started during the Statistics Reporting Period, all of them being other cases. At the end of the Statistics Reporting Period, the total number of post-2018 cases awaiting resolution was still five as no post-2018 cases were closed during this period.

Overview of cases closed during the Review Period

146. During the Statistics Reporting Period, Morocco closed two pre-2019 other MAP cases which were closed with the outcomes “withdrawn by taxpayer” and “no agreement including agreement to disagree” respectively.

Average timeframe needed to resolve MAP cases

147. During the Statistics Reporting Period, Morocco closed two pre-2019 other MAP cases which were closed in an average time of 86.90 months. For the purpose of computing the average time needed to resolve pre-2016 cases, Morocco reported that it uses the definition of “Start Date” and “End Date” as contained in the MAP Statistics Reporting Framework.

Peer input

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

Recent developments

149. Morocco was in the stage 1 peer review report under element C.2 recommended to seek to resolve future post-2018 cases within a timeframe that results in an average timeframe of 24 months. Morocco noted that there are no recent developments to report with respect to element C.2.

150. In view of the statistics discussed above, it follows that Morocco’s MAP inventory has increased by 11%. The statistics also show that Morocco has in the period 2019-20 not closed the two pre-2019 MAP cases it closed within 24 months. Element C.3 will further consider these numbers in light of the adequacy of resources.

151. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers confirmed that this input holds equal relevance for the period starting 1 September 2019.

Anticipated modifications

152. Morocco indicated that it does not anticipate any modifications in relation to element C.2.

Conclusion

	Areas for improvement	Recommendations
[C.2]	-	-

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

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

153. 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 Morocco's competent authority

154. Under Morocco's tax treaties, the competent authority function is assigned to the Minister of Finance and is further delegated to the *Direction de la Législation, des Études et de la Coopération Internationale* (Directorate of Legislation, Research and International Co-operation). The competent authority of Morocco currently employs nine staff members who deal with both attribution/allocation and other MAP cases, in addition to other non-MAP-related duties.

155. Morocco stated that the General Directorate of Taxation provides ongoing training in international taxation and allows its officials to undergo training delivered in other countries by the OECD or other international organisations. Morocco further reported that any necessary adjustments to the level of resources allocated in its competent authority and the provision of training for staff would be discussed as the need arises.

Monitoring mechanism

156. As mentioned under element C.2, Morocco also reported that the MAP case inventory is monitored using a scorecard that identifies all open MAP cases and tracks their progress, including whether cases are pending, have been dealt with or are pending a position paper from the other party, by year. Morocco further emphasised that new requests are also monitored to verify that they are justified. Morocco also reported that the time taken to resolve cases is monitored by the staff in charge of MAP case resolution, who endeavour to reply to other competent authorities' position papers at the earliest opportunity.

157. Morocco noted that its competent authority is supposed to keep the General Director of the Tax Directorate informed about whether the resources supplied to the competent authorities are adequate. If there was not enough resources, Morocco specified that the tax administration would ensure it takes the necessary measures to solve this deficiency. Morocco stated that, to date, it was of the view that the resources supplied to its competent authority were adequate.

Recent developments

158. In the stage 1 report, Morocco was recommended to ensure that the resources available for the competent authority function are adequate in order to resolve MAP cases in a timely, efficient and effective manner. In this regard, Morocco noted that no actions have been taken and that there are no recent developments to report with respect to element C.3.

Practical application

MAP statistics

159. As discussed under element C.2, Morocco closed only two pre-2019 other MAP cases during the Statistics Reporting Period while it has 25 pre-2019 MAP cases (comprising two attribution/allocation cases and 23 other cases) and five post-2018 other MAP cases pending. The two other MAP cases were closed within an average time of 86.90 months.

160. Further – as analysed in element C.2 – the MAP inventory of Morocco increased since 1 January 2019, with an 11% increase in cases which concerns other cases. This can be shown as follows:

	Opening inventory on 1/1/2019	Cases started	Cases closed	End inventory on 31/12/2020	Increase in %
Attribution/allocation cases	2	0	0	2	-
Other cases	25	5	2	28	12%
Total	27	5	2	30	11%

161. The figures in the above table show that most of Morocco's pre-2019 inventory and newly started post-2018 MAP cases remain pending at the end of the Statistics Reporting Period.

Peer input

Period 1 January 2019-31 August 2019 (stage 1)

162. Two peers commented on the resolution of MAP cases with Morocco. One stated that it has two cases with Morocco's competent authority where difficulties had arisen in the application of the treaty. According to this peer, during exchanges of position papers and in communications between the competent authorities, Morocco's competent authority did not supply enough information, even when expressly asked to do so, and, no evidence was presented to justify or support the tax assessment. The peer stated that these constraints place limits on the case analysis and assessment as well as on the dialogue intended to address the matter. In relation to this input, Morocco reported that indeed, it has two open cases with this peer and that it has expressed its positions for each case. Morocco considers that it has provided all the information necessary to defend its positions during the exchange of notes. Morocco also noted that its competent authority has met with its counterpart during a joint commission. In addition, Morocco reported that both competent authorities have met again recently and have agreed to meet again in the near future to discuss the technical aspects of MAP cases between the two jurisdictions. Morocco provided an update later that it has received the peer's positions and these are currently under review.

163. Another peer stated that it has one current case with Morocco that was initiated by Morocco before 1 January 2016. This peer reported that it had provided its position paper and, three years later, sent a reminder. This peer mentioned that a response is still awaited.

164. One peer noted that due to the small number of cases, it is difficult to assess whether Morocco endeavours to resolve MAP cases in a reasonable timeframe. One other peer further noted that it has no MAP-experience with Morocco, but it has recently received a request for the initiation of a MAP.

Period 1 September 2019-30 April 2021 (stage 2)

165. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given. The peer noted in paragraph 164 above that had received a new MAP request for a case with Morocco provided an update and stated that the MAP request has been withdrawn by the taxpayer.

Anticipated modifications

166. Morocco indicated that it does not anticipate any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	MAP cases were closed in 86.90 months on average, which is above the 24-month average (the pursued average for resolving MAP cases received on or after 1 January 2019). Further, the MAP caseload has increased by 11% since 1 January 2019 and all but two MAP cases, including 25 pre-2019 cases and all of its post-2018 cases, still remain pending. This might indicate that additional resources may need to be devoted by Morocco's competent authority to ensure that MAP cases are closed in a timely, effective and efficient manner.	While Morocco's MAP inventory has not increased substantially, further actions need to be taken to ensure a timely resolution of MAP cases. In that regard, Morocco should devote additional resources to its competent authority to resolve all MAP cases that remain pending in a timely, efficient and effective manner.

[C.4] Ensure staff in charge of MAP have 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.

167. 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

168. As stated under element C.3, the competent authority in Morocco is performed by the *Direction de la Législation, des Études et de la Coopération Internationale* (Directorate of Legislation, Research and International Co-operation). Morocco clarified that its competent authority is also responsible for treaty negotiation, general interpretation of tax treaties and policy work. Morocco reported that when its competent authority handles a MAP request, it would act fully independently because the competent authority is completely independent from its audit function. Morocco also reported that its competent authority staff take into account the provisions of domestic law, the tax treaties in force, the Commentaries on the OECD and United Nations Model Tax Conventions (international guidance), the OECD Transfer Pricing Guidelines and the United Nations Transfer Pricing Manual when resolving MAP cases.

169. With regard to the above, Morocco reported that staff in charge of MAP 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. Morocco further affirmed that the process for negotiating MAP agreements is not influenced by policy considerations that Morocco would like to see reflected in future amendments to the treaty.

Recent developments

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

Practical application

Period 1 January 2019-31 August 2019 (stage 1)

171. Peers generally reported no impediments in Morocco 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 2019-31 August 2019.

Period 1 September 2019-30 April 2021 (stage 2)

172. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given.

Anticipated modifications

173. Morocco 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.

174. In order to ensure 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 Morocco

175. Morocco reported that it does not use specific performance indicators to measure the performance of its competent authority staff. However, Morocco noted that the number of MAP cases resolved and the time taken to settle a MAP case by staff members is verified by the competent authority.

176. The Action 14 final report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These indicators are shown below and checked when they are used by Morocco:

- 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 taxpayers in similar situations)
- time taken to resolve a MAP case (recognising that this may vary depending on its complexity and may be significantly affected by factors outside a competent authority's control).

177. Further to the above, Morocco reported that it does not use any performance indicators for staff in charge of MAP that are related to the outcome of MAP discussions in terms of the amount of sustained audit adjustments or maintained tax revenue. In other words, staff in charge of MAP would not be evaluated on the basis of the material outcome of MAP discussion.

Recent developments

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

Practical application

Period 1 January 2019-31 August 2019 (stage 1)

179. All peers that provided input indicated not being aware that Morocco used performance indicators based on the amount of sustained audit adjustments or maintaining tax revenue in the period 1 January 2019-31 August 2019.

Period 1 September 2019-30 April 2021 (stage 2)

180. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given.

Anticipated modifications

181. Morocco 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.

182. The inclusion of an arbitration provision in tax conventions 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

183. Morocco's MAP profile indicates that it has not opted for arbitration as a mechanism for resolving tax treaty disputes in any of its tax treaties. Further, section I of Morocco's MAP guidance provides that the tax treaties signed by Morocco do not allow for arbitration.

Recent developments

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

Practical application

185. To date, Morocco has not incorporated an arbitration provision into any of its treaties as a final stage to the MAP.

Anticipated modifications

186. Morocco indicated that it does not anticipate any modifications in relation to element C.6.

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

Notes

1. These 75 treaties include the UMA Convention that for Morocco applies to the Algeria, Libya, Mauritania and Tunisia.
2. For post-2018 cases, if the number of MAP cases in Morocco’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, Morocco reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
3. Morocco’s MAP statistics for 2019 were corrected during its peer review and differ from the published statistics for these years. See further explanations in Annexes B and C.
4. For pre-2019 and post-2018 cases, Morocco follows the definition provided by the MAP Statistics Reporting Framework to distinguish between attribution/allocation cases and other cases. Annex D of the MAP Statistics Reporting Framework states that: “An attribution/allocation MAP case is a MAP case where the taxpayer’s MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the OECD Model Tax Convention); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention), which is also known as a transfer pricing MAP case”.

References

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

Part D

Implementation of MAP agreements

[D.1] Implement all MAP agreements

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

187. 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

188. Morocco reported that where the underlying tax treaty contains the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), it will implement all MAP agreements irrespective of its domestic time limits. However, some of the treaties entered into by Morocco do not contain the equivalent of such provision. In those cases, Morocco reported that its domestic statute of limitations of four years, starting from the date the tax is due, is applicable. Morocco clarified that this time limit is not suspended in the event of a MAP.

189. Morocco added that once a tentative MAP agreement is reached, its competent authority would notify the taxpayer in order to proceed with the implementation of the agreement. Morocco noted that the taxpayer is invited to inform the competent authority of its acceptance or refusal of the outcome as soon as possible, without a specific deadline. In the event of acceptance, Morocco noted that the taxpayer must withdraw from any ongoing domestic proceedings to the extent that they involve issues resolved by the MAP. Once the MAP agreement is accepted by the taxpayer, Morocco noted that the relevant tax office is then notified of the details of the MAP agreement so that it can be implemented. This is confirmed in section IV of Morocco's MAP guidance. In addition Morocco specified that its competent authority stays in contact with this tax office to ensure that the MAP agreement is implemented.

Recent developments

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

Practical application

Period 1 January 2019-31 August 2019 (stage 1)

191. Morocco reported that no MAP agreements requiring implementation in Morocco were reached in the period 1 January 2019-31 August 2019.

192. All peers that provided input reported that they were not aware of any MAP agreement reached with Morocco in the period 1 January 2019-31 August 2019.

Period 1 September 2019-30 April 2021 (stage 2)

193. Morocco reported that no MAP agreements requiring implementation in Morocco were reached since 1 September 2019.

194. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given.

Anticipated modifications

195. Morocco 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 Morocco'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 four-year time limit 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, Morocco should put appropriate procedures in place to ensure that such an agreement is implemented and 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, Morocco 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.

196. Delay in the 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 time frame for implementing mutual agreements

197. As noted under element D.1, Morocco reported that it informs taxpayers of a tentative MAP agreement as soon as possible and that the taxpayer is invited to accept or reject such outcome as soon as possible. Morocco did not refer to any other time frames that apply to the implementation of MAP agreements.

Recent developments

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

Practical application*Period 1 January 2019-31 August 2019 (stage 1)*

199. Morocco reported that no MAP agreements requiring implementation in Morocco were reached in the period 1 January 2019-31 August 2019.

200. All peers that provided input reported that they were not aware of any delays concerning MAP agreements reached in the period 1 January 2019-31 August 2019.

Period 1 September 2019-30 April 2021 (stage 2)

201. Morocco reported that no MAP agreements requiring implementation in Morocco were reached since 1 September 2019.

202. All but one peer that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Morocco fully reflects their experience with Morocco since 1 September 2019 and/or there are no additions to the previous input given.

Anticipated modifications

203. Morocco 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.

204. 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 status of Morocco's tax treaties

205. As noted under element D.1, Morocco's domestic law provides for a four-year time limit for implementing MAP agreements that applies in all cases unless the treaty concerned contains the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

206. Out of Morocco's 78 tax treaties, 61 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) requiring that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law.¹ The remaining 17 treaties do not contain a provision that is based on or equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor the alternative provisions for Article 9(1) and Article 7(2) setting a time limit for making transfer pricing adjustments.

207. In respect of the 17 treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions, one peer noted during stage 1 that it proposed an amending protocol after the signature of the Multilateral Instrument by Morocco. Morocco confirmed that it is open to negotiate bilaterally with the peer in question.

Recent developments

Bilateral modifications

208. Morocco signed a new tax treaty which is a newly negotiated treaty with a treaty partner with which there was no treaty yet in place. This treaty has not entered into force and contains a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). The effect of this newly signed treaty has been reflected in the analysis above where it has relevance.

Multilateral Instrument

209. Morocco signed the Multilateral Instrument. 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 provision, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such a provision. 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.

210. With regard to the 17 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) nor the alternative provisions for Article 9(1) and Article 7(2), Morocco listed all of them as a covered tax agreement under the Multilateral Instrument, but only for 16 did it make a notification, pursuant to Article 16(6)(c)(ii), that they do not contain the provision described in Article 16(4)(b)(ii). All of the relevant 16 treaty partners are a

signatory to the Multilateral Instrument, but four did not list their treaty with Morocco as a covered tax agreement under that instrument and one made a reservation on the basis of Article 16(5)(a). All the remaining 11 treaty partners also made a notification on the basis of Article 16(6)(c)(ii). Therefore, at this stage, the Multilateral Instrument will, upon its entry into force for the treaties concerned, modify 11 of the 17 tax treaties identified above, to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

211. For one of the remaining six treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and which will not be modified by the Multilateral Instrument to include such equivalent, Morocco reported that it intends to update its list of notifications and reservations to the Multilateral Instrument to have the treaty modified by it. With respect to the remaining five treaties, Morocco reported that it intends to update them via bilateral negotiations with a view to be compliant with element D.3. Morocco, however, reported not having a specific plan in place for such negotiations.

Peer input

212. Of the peers that provided input during stage 2, none provided input in relation to their tax treaty with Morocco.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>17 out of 78 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). 11 of these 17 treaties will be modified by the Multilateral Instrument to include the required provision. With respect to the remaining six treaties:</p> <ul style="list-style-type: none"> • For one, Morocco will revise its list of notifications and reservations to the Multilateral Instrument with a view to have it modified by the Multilateral Instrument • For five, no actions have been taken nor are any actions planned to be taken. 	<p>Morocco should as quickly as possible ratify the Multilateral Instrument in order to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) into the 11 treaties that do not currently contain this equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the relevant treaties.</p> <p>For the remaining six 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), Morocco should:</p> <ul style="list-style-type: none"> • for one treaty, continue to work in accordance with its stated intention to include the required provision via the Multilateral Instrument • for five treaties, without further delay request via bilateral negotiations the inclusion of the required provision or be willing to accept both alternative provisions.

Note

1. These 61 treaties include the UMA Convention that for Morocco applies to the Algeria, Libya, Mauritania and Tunisia.

Reference

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

Summary

	Areas for improvement	Recommendations
Part A: Preventing disputes		
[A.1]	Two out of 78 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017). One of these two treaties will be modified by the Multilateral Instrument to include the required provision. With respect to the remaining treaty, Morocco will revise its list of notifications and reservations to the Multilateral Instrument with a view to have it modified by the Multilateral Instrument	<p>Morocco should as quickly as possible ratify the Multilateral Instrument, in order to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence of the OECD Model Tax Convention (OECD, 2017), Morocco should continue to work in accordance with its stated intention to include the required provision via the Multilateral Instrument</p>
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	Three of the 78 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the Action 14 final report (OECD, 2015b) or as amended by that report (OECD, 2017). One of these treaties will be superseded by the Multilateral Instrument to include the required provision. With respect to the remaining two treaties, no actions have been taken nor are any actions planned to be taken.	<p>Morocco should as quickly as possible ratify the Multilateral Instrument, in order 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) in the treaty that currently does not contain such equivalent and that will be superseded by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining two treaties that do not contain the equivalent of Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a) and will not be modified by the Multilateral Instrument 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), Morocco should without further delay request via bilateral negotiations the inclusion of the required provision.</p> <p>This concerns a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention either:</p> <ol style="list-style-type: none"> a. as amended by the Action 14 final report; or b. as it read prior to the adoption of the Action 14 final report, thereby including the full sentence of such provision.

	Areas for improvement	Recommendations
[B.1]	Five of Morocco's 78 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), either (i) because 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, or (ii) because the timeline for submitting a MAP request refers to domestic law of the treaty partners. Four of these treaties will be modified or superseded by the Multilateral Instrument to include the required provision. With respect to the remaining treaty, no actions have been taken nor are any actions planned to be taken.	Morocco should as quickly as possible ratify the Multilateral Instrument, in order to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those four treaties that currently do not contain such equivalent and that will be modified or superseded by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining treaty that does not contain the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument to include such equivalent, Morocco should without further delay request via bilateral negotiations the inclusion of the required provision.
[B.2]	-	-
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-
[B.7]	Four out of 78 tax treaties do not contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Three of these four treaties will be modified by the Multilateral Instrument to include the required provision. With respect to the remaining treaty, no actions have been taken nor are any actions planned to be taken.	Morocco should as quickly as possible ratify the Multilateral Instrument, in order to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those three treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining treaty that does not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument to include such equivalent, Morocco should without further delay request via bilateral negotiations the inclusion of the required provision.
[B.8]	-	-
[B.9]	-	-
[B.10]	-	-
Part C: Resolution of MAP cases		
[C.1]	Three out of 78 tax treaties do not contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). One of these treaties will be modified by the Multilateral Instrument to include the required provision. With respect to the remaining two treaties, no actions have been taken nor are any actions planned to be taken.	Morocco should as quickly as possible ratify the Multilateral Instrument, in order to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned. For the remaining two treaties that do not contain the equivalent of Article 25(2), first sentence of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument to include such equivalent, Morocco should without further delay request via bilateral negotiations the inclusion of the required provision.
[C.2]	-	-

	Areas for improvement	Recommendations
[C.3]	MAP cases were closed in 86.90 months on average, which is above the 24-month average (the pursued average for resolving MAP cases received on or after 1 January 2019). Further, the MAP caseload has increased by 11% since 1 January 2019 and all but two MAP cases, including 25 pre-2019 cases and all of its post-2018 cases, still remain pending. This might indicate that additional resources may need to be devoted by Morocco's competent authority to ensure that MAP cases are closed in a timely, effective and efficient manner.	While Morocco's MAP inventory has not increased substantially, further actions need to be taken to ensure a timely resolution of MAP cases. In that regard, Morocco should devote additional resources to its competent authority to resolve all MAP cases that remain pending in a timely, efficient and effective manner.
[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 Morocco'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 four-year time limit 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, Morocco should put appropriate procedures in place to ensure that such an agreement is implemented and 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, Morocco should for clarity and transparency purposes notify the treaty partner thereof without delay.
[D.2]	-	-
[D.3]	<p>17 out of 78 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). 11 of these 17 treaties will be modified by the Multilateral Instrument to include the required provision. With respect to the remaining six treaties:</p> <ul style="list-style-type: none"> • For one, Morocco will revise its list of notifications and reservations to the Multilateral Instrument with a view to have it modified by the Multilateral Instrument • For five, no actions have been taken nor are any actions planned to be taken. 	<p>Morocco should as quickly as possible ratify the Multilateral Instrument in order to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) into the 11 treaties that do not currently contain this equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the relevant treaties.</p> <p>For the remaining six 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), Morocco should:</p> <ul style="list-style-type: none"> • for one treaty, continue to work in accordance with its stated intention to include the required provision via the Multilateral Instrument • for five treaties, without further delay request via bilateral negotiations the inclusion of the required provision or be willing to accept both alternative provisions.

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	DTC in force?	Article 25(1) of the OECD Model Tax Convention ("MTC")	B.1	B.1	Article 9(2) of the OECD MTC	B.4	Article 25(2) of the OECD MTC	C.1	D.3	A.1	B.7	A.1	B.7	C.6						
Belgium	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Benin	N	15-Mar-19	E	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Bulgaria	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Burkina Faso	N	18-May-12	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Cameroon	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Canada	Y	N/A	O	i*	2 years	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
China	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Congo	N	30-Apr-18	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Cote d'Ivoire	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Croatia	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Czech Republic	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Denmark	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	N
Egypt	Y	N/A	O*	iv	Domestic law	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Estonia	N	25-Sep-13	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ethiopia	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Finland	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
France	Y	N/A	N**	i	N/A	Y	Y	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	N
Gabon	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Germany	Y	N/A	O	i	N/A	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Ghana	N	17-Feb-17	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	DTC in force?	Article 25(1) of the OECD Model Tax Convention ("MTC")	B.1	B.1	Article 9(2) of the OECD MTC	B.4	Article 25(2) of the OECD MTC	C.1	D.3	A.1	B.7	A.1	B.7	C.6						
Greece	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Guinea	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Guinea- Bissau	N	28-May-15	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Hungary	Y	N/A	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
India	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Indonesia	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Iran	N	25-Feb-08	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ireland	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Italy	Y	N/A	O	i	N/A	i	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	Y	N
Japan	N	8-Jun-20	E	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Jordan	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Korea	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Kuwait	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Latvia	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Lebanon	Y	N/A	O	ii	2-years	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Liberia	N	25-Mar-19	E	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Libya	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Lithuania	N	19-Apr-13	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Luxembourg	Y	N/A	O*	ii*	2-years	i	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	Y	N
Malaysia	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	Y	N

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Article 25(3) of the OECD MTC	Arbitration								
Madagascar	N	21-Nov-16	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mali	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Malta	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mauritania	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mauritius	N	25-Nov-15	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Netherlands	Y	N/A	O*	i	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
North Macedonia	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Norway	Y	N/A	O	i	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Oman	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Pakistan	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Poland	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Portugal	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Qatar	Y	N/A	O*	ii	2-years	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Romania	Y	N/A	N	ii	4-years	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Russia	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Rwanda	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sao Tome and Principe	N	25-Jan-16	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Saudi Arabia	N	14-Apr-15	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Senegal	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Serbia	N	6/6/2013	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration									
Treaty partner	DTC in force?	Article 25(1) of the OECD MTC		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?	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)	Arbitration									
		Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)																	
		If yes, submission to either competent authority? (new Art. 25(1), first sentence)	If no, please state reasons																	
Singapore	Y	O	N/A	i	i	Y	Y	Y	Y	Y	Y									
Slovenia	N	O	N/A	Y	i	Y	Y	Y	Y	Y	Y									
South Sudan	N	O	N/A	Y	i	Y	Y	Y	Y	Y	Y									
Spain	Y	N*	N/A	i	i	N	N	N*	Y	Y	Y									
Switzerland	Y	O	N/A	i	i	Y	Y	N	Y	Y	Y									
Syria	Y	O	N/A	Y	i	Y	Y	Y	Y	Y	Y									
Tunisia	Y	O	N/A	i	i	Y	Y	Y	Y	Y	Y									
Turkey	Y	O*	N/A	Y	i	Y	Y	N*	Y	Y	Y									
Ukraine	Y	O*	N/A	Y	i	Y	Y	Y	Y	Y	Y									
United Arab Emirates	Y	O*	N/A	Y	i	Y	Y	Y	Y	Y	Y									
United Kingdom	Y	O*	N/A	i	i	Y	Y	N*	Y	N*	N									
United States	Y	O	N/A	i	i	N	N	Y	Y	N	N									
Yemen	N	O	N/A	Y	i	Y	Y	Y	Y	Y	Y									
Viet Nam	Y	O	N/A	Y	i	Y	Y	Y	Y	Y	Y									
Zambia	Y	O	N/A	Y	i	Y	Y	Y	Y	Y	Y									

Legend

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

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

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

Annex B

MAP statistics reporting for the 2019 and 2020 Reporting Periods (1 January 2019 to 31 December 2020) for pre-2019 cases

2019 MAP Statistics													
Category of cases	No. of pre-2019 cases in MAP inventory on 1 January 2019	Number of pre-2019 cases closed during the reporting period by outcome										No. of pre-2019 cases remaining in on MAP inventory on 31 December 2019	Average time taken (in months) for closing pre-2019 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	2	0	0	0	0	0	0	0	0	0	0	2	n.a.
Others	25	0	0	0	0	0	0	0	0	0	0	25	n.a.
Total	27	0	0	0	0	0	0	0	0	0	0	27	n.a.

Notes: Morocco's pre-2019 case reporting differs from the published statistics in 2019 owing to the correction of errors made while reporting.

2020 MAP Statistics													
Category of cases	No. of pre-2019 cases in MAP inventory on 1 January 2020	Number of pre-2019 cases closed during the reporting period by outcome										No. of pre-2017 cases remaining in on MAP inventory on 31 December 2020	Average time taken (in months) for closing pre-2019 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	2	0	0	0	0	0	0	0	0	0	0	2	n.a.
Others	25	0	0	1	0	0	0	0	0	1	0	23	87
Total	27	0	0	1	0	0	0	0	0	1	0	25	87

Annex C

MAP statistics reporting for the 2019 and 2020 Reporting Periods (1 January 2019 to 31 December 2020) for post-2018 cases

2019 MAP Statistics															
Category of cases	No. of post-2018 cases in MAP inventory on 1 January 2019	No. of post-2018 cases started during the reporting period	Number of post-2018 cases closed during the reporting period by outcome							No. of post-2018 cases remaining in on MAP inventory on 31 December 2019	Average time taken (in months) for closing post-2018 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	3	0	0	0	0	0	0	0	0	0	0	0	3	n.a.
Total	0	3	0	0	0	0	0	0	0	0	0	0	0	3	n.a.

Notes: Morocco's post-2018 case reporting differs from the published statistics in 2019 owing to the addition of a case initiated in 2019 that Morocco was informed of only in 2020.

2020 MAP Statistics															
Category of cases	No. of post-2018 cases in MAP inventory on 1 January 2020	No. of post-2018 cases started during the reporting period	Number of post-2018 cases closed during the reporting period by outcome							No. of post-2018 cases remaining in on MAP inventory on 31 December 2020	Average time taken (in months) for closing post-2018 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	3	2	0	0	0	0	0	0	0	0	0	0	0	5	n.a.
Total	3	2	0	0	0	0	0	0	0	0	0	0	0	5	n.a.

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	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-2019 cases	MAP cases in a competent authority’s inventory that were pending resolution on 31 December 2018
Post-2018 cases	MAP cases that are received by a competent authority from a taxpayer on or after 1 January 2019
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2019 and ended on 31 December 2020
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, Morocco (Stage 2)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

Under BEPS Action 14, members of the OECD/G20 Inclusive Framework on BEPS 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 BEPS 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 BEPS Action 14 Minimum Standard by Morocco.



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