

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



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

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14



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Note by the Republic of Türkiye

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Please cite this publication as:

OECD (2022), *Making Dispute Resolution More Effective – MAP Peer Review Report, Bahrain (Stage 2): Inclusive Framework on BEPS: Action 14*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris,
<https://doi.org/10.1787/0f90e048-en>.

ISBN 978-92-64-75983-1 (print)

ISBN 978-92-64-82582-6 (pdf)

OECD/G20 Base Erosion and Profit Shifting Project

ISSN 2313-2604 (print)

ISSN 2313-2612 (online)

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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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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 25 August 2022 and prepared for publication by the OECD Secretariat.

Acknowledgements

Making Dispute Resolution More Effective – MAP Peer Review Report, Bahrain (Stage 2) has been produced by the Organisation for Economic Co-operation and Development (OECD)'s Centre for Tax Policy and Administration (CTPA) under the auspices of the Forum on Tax Administration (FTA)'s Mutual Agreement Procedure (MAP) Forum of the Committee on Fiscal Affairs. The report was prepared by Ms Félicie Bonnet, Mr Jonathan Fraser, Mr Sriram Govind, and Ms Tamami Matsuka, all part of the MAP Unit, under the supervision of Ms Sandra Knaepen, Head of the MAP Unit, and Mr Achim Pross, Head of the International Co-operation and Tax Administration (ICA) division of the CTPA.

The authors would like to thank colleagues in the OECD for their invaluable comments and practical support in finalising the publication, including Ms Sonia Nicolas and Ms Zoe Wellenkamp of the ICA, in addition to the CTPA Communications team. The authors would also like to thank FTA MAP Forum delegates and their colleagues working in national administrations for their input and comments.

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Abbreviations and acronyms

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

Executive summary

Bahrain has a modest tax treaty network with 45 tax treaties. Bahrain has a newly established MAP programme and has no experience with resolving MAP cases as it has not yet been involved in any cases. Overall Bahrain meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Bahrain has worked to address them, which has been monitored in stage 2 of the process. In this respect, Bahrain has solved almost all the identified deficiencies.

All of Bahrain'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:

- Almost 18% 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.
- Almost 18% of its tax treaties do not contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) 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.
- Almost 16% of its tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as there is no timeline to file a MAP request or it 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 Bahrain needs to amend and update a certain number of its tax treaties. In this respect, Bahrain signed and ratified the Multilateral Instrument, through which a number of its tax treaties have been and will be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force of this Multilateral Instrument for the treaties concerned, Bahrain reported that it intends to update all of its tax treaties via bilateral negotiations to be compliant with the requirements under the Action 14 Minimum Standard and has put in place a plan in relation hereto.

As Bahrain has no bilateral APA programme in place, there were no further elements to assess regarding the prevention of disputes.

Bahrain meets some of the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 January 2018 not received any MAP requests from a taxpayer.

Furthermore, Bahrain has in place a documented bilateral notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Finally, Bahrain has clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice.

Bahrain has not been involved in any MAP cases during the reporting period but it meets in principle all the requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Bahrain's competent authority operates fully independently from the audit function of the tax authorities. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function. As there was no MAP agreement reached that required implementation in the reporting period, it was not yet possible to assess whether Bahrain meets the Action 14 Minimum Standard as regards the implementation of MAP agreements.

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 Bahrain to resolve tax treaty-related disputes

Bahrain has entered into 45 tax treaties on income (and/or capital), of which are in force.¹ These 45 treaties are being applied to 45 jurisdictions. All of these treaties provide for a mutual agreement procedure (“MAP”) for resolving disputes on the interpretation and application of the provisions of the tax treaty.

Under Bahrain’s tax treaties, the competent authority function is assigned to the Minister of Finance and National Economy and is further delegated to his authorised representative, the National Bureau for Revenue. The competent authority of Bahrain currently employs five full time staff members, including the Director of Foreign Tax Relations, who deal with both attribution/allocation and other MAP cases, in addition to other non-MAP-related duties.

Bahrain updated its guidance on the governance and administration of the MAP in September 2021. The MAP guidance is available in English at:

https://www.nbr.gov.bh/publications/view/Bahrains_Mutual_Agreement_Procedure_MAP_Guidance

Developments in Bahrain since 1 January 2020

Developments in relation to the tax treaty network

The stage 1 peer review report of Bahrain noted it was conducting tax treaty negotiations with a few jurisdictions. The stage 1 report also noted that Bahrain had signed a treaty with Switzerland, which had not yet entered into force. Bahrain ratified its treaty with Switzerland on 28th January 2021, which treaty entered into force on 27th July 2021.

Furthermore, on 27 November 2020, Bahrain signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties.

With the signing and ratification of the Multilateral Instrument, Bahrain submitted its list of notifications and reservations to that instrument.² In relation to the Action 14 Minimum Standard, Bahrain has not made any reservations pursuant to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure). Bahrain ratified the Multilateral Instrument on 14 February 2022 and deposited the instrument of approval to the OECD on 23 February 2022. The Multilateral Instrument shall enter into force for Bahrain on 1 June 2022.

For the 12 treaties that are considered not to be in line with one or more elements of the Action 14 Minimum Standard and that have not been modified by the Multilateral Instrument, Bahrain reported that it intends to update them via bilateral negotiations or via a request for amendment to that treaty partner's Multilateral Instrument notifications. In this respect, Bahrain indicated that it is currently working on a plan, prioritising jurisdictions with which Bahrain has close economic ties and frequent transactions. However, no details were shared as to the planned actions, specifically as regards which treaty partners are prioritised for bilateral negotiations.

Other developments

Bahrain reported in September 2021 it updated its guidance on the governance and administration of the MAP.

Basis for the peer review process

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

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, Bahrain'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 28 October 2020. This report identifies the strengths and shortcomings of Bahrain in relation to the implementation of this standard and provides for recommendations on how these shortcomings should be addressed. The stage 1 report is published on the website of the OECD.³ Stage 2 is launched within one year upon the adoption of the peer review report by the BEPS Inclusive Framework through an update report by Bahrain. In this update report, Bahrain 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 Bahrain 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.

Timing of the process and input received from peers and taxpayers

Stage 1 of the peer review process for Bahrain was launched on 20 December 2019, with the sending of questionnaires to Bahrain and its peers. The FTA MAP Forum has approved the stage 1 peer review report of Bahrain in September 2020, with the subsequent approval by the BEPS Inclusive Framework on 28 October 2020. On 28 October 2021, Bahrain submitted its update report, which initiated stage 2 of the process.

The period for evaluating Bahrain’s implementation of the Action 14 Minimum Standard for stage 1 ranged from 1 January 2018 to 31 December 2019 and formed the basis for the stage 1 peer review report. The period of review for stage 2 started on 1 January 2020 and depicts all developments as from that date until 31 October 2021.

No peer input was provided on Bahrain’s implementation of the Action 14 Minimum Standard.

Input by Bahrain and co-operation throughout the process

Bahrain provided informative answers in its questionnaire. Bahrain was responsive in the course of the drafting of the peer review report responding in a timely and comprehensive manner to requests for additional information, and provided further clarity where necessary.

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

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

Overview of MAP caseload in Bahrain

Bahrain has not been involved in any MAP cases during the period under review for stage 1 or stage 2.

General outline of the peer review report

This report includes an evaluation of Bahrain’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**”).⁴ Apart from analysing Bahrain legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Bahrain during stage 1 and stage 2. Furthermore, the report depicts the changes adopted and plans shared by Bahrain 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 Bahrain 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 Bahrain 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 Bahrain has entered into are available at: <https://www.mofne.gov.bh/RulesandPolicies.aspx>. Reference is made to Annex A for the overview of Bahrain's tax treaties.
2. <https://www.oecd.org/tax/treaties/beps-mli-position-bahrain.pdf>.
3. Available at: <https://www.oecd.org/ctp/making-dispute-resolution-more-effective-map-peer-review-report-morocco-stage-1-127cb9d7-en.htm>.
4. 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.

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 Bahrain’s tax treaties

2. 37 out of Bahrain’s 45 tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty. The other eight treaties contain such a provision, but with deviating wording. In one treaty, the expression “any difficulties or doubts”, is replaced by “issues and disputes”. In five treaties, the same expression is replaced by “disputes”. In one treaty, the expression contains only the first part “difficulties”. In one treaty, the expression is replaced by “difficulties and uncertainty”. Therefore, these treaties are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention.

3. Bahrain reported that irrespective of whether the applicable treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), its competent authority would be allowed to enter into MAP agreements with respect to the interpretation of the tax treaty.

4. No peer input was provided during stage 1.

Recent developments

Multilateral Instrument

5. Bahrain ratified the Multilateral Instrument on 14 February 2022 and deposited the instrument of approval to the OECD on 23 February 2022. The Multilateral Instrument shall enter into force for Bahrain on 1 June 2022.].

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

7. With regard to the eight tax treaties identified above that are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), Bahrain listed all of those as a covered tax agreement under the Multilateral Instrument and made notifications pursuant to Article 16(6)(d)(i), a notification that they do not contain a provision described in Article 16(4)(c)(i). However, only one treaty partner that is a signatory to the Multilateral Instrument made a similar notification pursuant to Article 16(6)(d)(i). This treaty partner has already deposited its instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Bahrain and this treaty partner. Therefore, at this stage, the Multilateral Instrument has modified this treaty to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

8. Further, one treaty partner did not list Bahrain in their notification pursuant to Article 16(6)(d)(i) of the Convention. However, Bahrain listed the treaty partner in this notification. Bahrain has reported it intends to discuss with this treaty partner potential amending its notification or modifying the tax treaty through bilateral modification.

Peer input

9. No peer input was provided.

Anticipated modifications

Bilateral modifications

10. For the seven tax treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) and which have not been modified by the Multilateral Instrument to include such equivalent, Bahrain has reported it intends to put in place a plan for bringing these treaties in line with the requirements under element A.1 by bilateral negotiation.

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

Conclusion

	Areas for improvement	Recommendations
[A.1]	<p>Eight out of 45 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). Out of these eight treaties:</p> <ul style="list-style-type: none"> • one has been modified by the Multilateral Instrument to include the required provision. • one will be not modified by that instrument as the treaty partner did not list Bahrain in their notification pursuant to Article 16(6)(d)(i). However, Bahrain listed the treaty partner in its notification. With respect to this treaty, no actions have been taken nor are any actions planned to be taken. • the remaining six will be not modified by the Multilateral Instrument upon ratification to include the required provision. With respect to this treaty, no actions have been taken nor are any actions planned to be taken. 	<p>For the treaty will not be modified by the Multilateral Instrument as the treaty partner did not list Bahrain in their notification pursuant to Article 16(6)(d)(i), Bahrain should without further delay request to incorporate the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) via either:</p> <ol style="list-style-type: none"> a. requesting the treaty partner changing its Multilateral Instrument notification pursuant to Article 16(6)(d)(i), or b. via bilateral negotiations. <p>For the remaining six tax treaties that will not be modified by the Multilateral Instrument following its entry into force to include such equivalent, Bahrain should without further delay request via bilateral negotiations the inclusion of the required provision.</p>

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

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

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

Bahrain’s APA programme

13. Bahrain has reported that it does not have an APA programme.

Roll-back of bilateral APAs

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

Recent developments

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

Practical application of roll-back of bilateral APAs

Period 1 January 2018-31 December 2019 (stage 1)

16. Bahrain reported not having received any requests for bilateral APAs in the period 1 January 2018-31 December 2019, which is logical given that Bahrain does not have such a programme in place.
17. No peer input was provided.

Period 1 January 2020-31 October 2021 (stage 2)

18. Bahrain reported also not having received any requests for a bilateral APA since 1 September 2019, which is logical given that Bahrain still does not have such a programme in place.
19. No peer input was provided.

Anticipated modifications

20. Bahrain indicated that it does not anticipate any modifications in relation to element A.2.

Conclusion

	Areas for improvement	Recommendations
[A.2]	-	-

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>.

Note

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

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.

21. 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 Bahrain’s tax treaties

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

22. Out of Bahrain’s 45 tax treaties, only one tax treaty contains 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. The remaining 44 tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state.

23. Therefore, all of Bahrain’s tax treaties are considered to contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention, either as it read prior to the adoption of the Action 14 final report (OECD, 2015b) or as amended by that report.

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

24. Out of Bahrain’s 45 tax treaties, 37 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.

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

Provision	Number of tax treaties
No filing period for a MAP request	2
Filing period less than 3 years for a MAP request (2 years)	5
Filing period more than 3 years for a MAP request (4 years)	1

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

26. As indicated above, all of Bahrain’s tax treaties allow taxpayers to file a MAP request irrespective of domestic remedies. Bahrain reported that pursuing remedies available under their domestic tax law does not prevent a taxpayer to present a MAP case. Bahrain noted that it would provide access to MAP irrespective of the remedies provided by Bahrain’s domestic law. In this respect, Bahrain also reported that its competent authority cannot deviate from court decisions rendered in Bahrain.

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

27. Bahrain has reported that for treaties that do not include a filing period for a MAP request, Bahrain would follow the time-period prescribed under Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017), as expressed in its MAP guidance, granting three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.

Peer input

28. No peer input was provided during stage 1.

Recent developments*Bilateral modifications*

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

Multilateral Instrument

30. Bahrain ratified the Multilateral Instrument on 14 February 2022 and deposited its instrument of approval on 23 February 2022. The Multilateral Instrument has entered into force for Bahrain on 1 June 2022.

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

31. Article 16(4)(a)(i) of Multilateral Instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) and allowing the submission of MAP requests to the competent authority of either contracting state – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). However, this shall only apply if both contracting parties to the applicable tax treaty have listed this tax treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified the depositary, pursuant to Article 16(6)(a), that this treaty contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report. 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.

32. With the depositing of its instrument of approval of the Multilateral Instrument, Bahrain opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in 44 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. With regard to the 44 treaties identified above that are considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain listed all 44 treaties as covered tax agreements under the Multilateral Instrument and made a notification, pursuant to Article 16(6)(d)(i), that it does not contain a provision described in Article 16(4)(c)(i).

33. Of these 44 tax treaties, 21 treaty partners listed its treaty with Bahrain as a covered tax agreement under that instrument and made a notification on the basis of Article 16(6)(d)(i). Seventeen treaty partners have already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Bahrain and these treaty partners. Therefore, at this stage the Multilateral Instrument has modified these 17 treaties to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017). The remaining five treaties will be modified by the Multilateral Instrument upon its entry into force with respect to those treaty partners.

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

34. 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).

35. With regard to the five tax treaties identified above that contain a filing period for MAP requests of less than three years, Bahrain listed all of them as a covered tax agreement under the Multilateral Instrument and made for all, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii).

36. Of the five relevant treaty partners, one is not a signatory to the Multilateral Instrument. All the remaining four tax treaties partners are signatories to the Multilateral Instrument, listed their treaty with Bahrain as a covered tax agreement, made the relevant notification and have already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Bahrain and these treaty partners. Therefore, at this stage, the Multilateral Instrument has modified these four treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Peer input

37. No peer input was provided.

Anticipated modifications

38. Bahrain reported that where tax treaties do not contain the equivalent of equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), and for which the filing period for MAP requests is less than three years and will not be modified by the Multilateral Instrument, it will strive to update those treaties via bilateral negotiations. However, no details were shared as to planned actions, specifically as regards which treaty partners are prioritised for bilateral negotiations.

39. In addition, Bahrain reported it will seek to include Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), as it read after the adoption of the Action 14 final report (OECD, 2015b), in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[B.1]	<p>Five out of 45 tax treaties do not contain a provision that is equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is in these treaties shorter than three years, from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Of these five treaties:</p> <ul style="list-style-type: none"> • Four treaties have been modified or superseded by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One treaty will not be modified by the Multilateral Instrument to include to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to this treaty, no actions have been taken nor are any actions planned to be taken. 	<p>For the treaty that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017), Bahrain should without further delay request via bilateral negotiations the inclusion of the required provision.</p>

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

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

40. 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

41. As discussed under element B.1, out of Bahrain's 45 treaties, one currently contains a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partner.

42. However, as was also discussed under element B.1, this treaty been will be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

43. As part of the stage 1 review, Bahrain reported that it has introduced a bilateral notification process that allows the other competent authority concerned to provide its views on the case when Bahrain's competent authority considers the objection raised in the MAP request not to be justified. Bahrain reported that it has not yet used this process, but will apply the procedure and notify the other competent authority as quickly as possible if necessary.

Recent developments

44. There are no other recent developments in relation to element B.2.

Practical application*Period 1 January 2018-31 December 2019 (stage 1)*

45. Bahrain reported that in the period 1 January 2018-31 January 2019 its competent authority has not received any MAP requests. Therefore, there were no cases where it was decided that the objection raised by taxpayers in such request was not justified.

46. No peer input was provided.

Period 1 January 2020-31 October 2021 (stage 2)

47. Bahrain reported its competent authority has not received any MAP requests. Therefore, there were no cases where it was decided that the objection raised by taxpayers in such request was not justified.

48. No peer input was provided.

Anticipated modifications

49. Bahrain reported that it will apply its notification process when its competent authority considers the objection raised in a MAP request not to be justified.

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.

50. Where two or more tax administrations take different positions on what constitutes arm's length conditions for specific transactions between associated enterprises, economic double taxation may occur. Not granting access to MAP with respect to a treaty partner's transfer pricing adjustment, with a view to eliminating the economic double taxation that may arise from such adjustment, will likely frustrate the main objective of tax treaties. Jurisdictions should thus provide access to MAP in transfer pricing cases.

Legal and administrative framework

51. Out of Bahrain's 45 tax treaties, 36 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner. Furthermore, nine do not contain such equivalent.

52. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Bahrain's tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B3, as translated from the Action 14 Minimum Standard, Bahrain indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention is contained in its tax treaties.

Recent developments

Multilateral Instrument

53. Bahrain ratified the Multilateral Instrument and has deposited its instrument of approval on 23 February 2022. The Multilateral Instrument shall enter into force for Bahrain on 1 June 2022.

54. 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(1) 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(1) in the absence of such equivalent under the condition that: (i) it shall make appropriate corresponding adjustments or (ii) its competent authority shall endeavour to resolve the case under mutual agreement procedure of the applicable tax treaty. Where neither treaty partner has made such a reservation, Article 17(4) of the Multilateral Instrument stipulates that both have to notify the depositary whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). Where such a notification is made by both of them, the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017)).

55. Bahrain has not reserved, pursuant to Article 17(3), the right not to apply Article 17(1) of the Multilateral Instrument for those tax treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). With regard to the nine tax treaties identified that are considered not to contain this equivalent, Bahrain listed all those treaties as a covered tax agreement under the Multilateral Instrument.

56. Of the relevant treaty nine partners, five are signatories to the Multilateral Instrument, and four have listed their treaty with Bahrain as a covered tax agreement under that instrument. One treaty partner has, on the basis of Article 17(3), reserved the right not to apply Article 17(1) as they considered that their treaty with Bahrain already contains the equivalent of Article 9(2). One of the three remaining treaty partners also made a notification on the basis of Article 17(4).

57. Of these treaty partners, one already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Bahrain and that treaty partner, and therefore has replaced the relevant treaty provision to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017). For the remaining two treaty partners that did not make a notification on the basis of Article 17(4), one of these treaty partners have already deposited its instrument of ratification of the Multilateral Instrument. Therefore, the Multilateral Instrument has entered into force for that treaty and has superseded the relevant treaty provisions to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but only to the extent that the provision contained in these treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).

Other developments

58. There are no other developments in relation to element B.3.

Application of legal and administrative framework in practice*Period 1 January 2018-31 December 2019 (stage 1)*

59. Bahrain reported that in the period 1 January 2018-31 December 2019, it has not received any MAP requests and therefore has not denied access to MAP on the basis that the case concerned a transfer pricing case.

60. No peer input was provided.

Period 1 January 2020-31 October 2021 (stage 2)

61. Bahrain reported that it has not received any MAP requests and therefore has not denied access to MAP on the basis that the case concerned a transfer pricing case.

62. No peer input was provided.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[B.3]	-	-

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

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

64. 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

65. None of Bahrain’s 45 tax treaties allow competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, also the domestic law and/or administrative processes of Bahrain do not include a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

Recent developments

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

Practical application***Period 1 January 2018-31 December 2019 (stage 1)***

67. Bahrain reported that in the period 1 January 2018-31 December 2019, Bahrain’s competent authority has not received any MAP requests and therefore, has not denied access to MAP in cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

68. No peer input was provided.

Period 1 January 2020-31 October 2021 (stage 2)

69. Bahrain reported that its competent authority has not received any MAP requests and therefore, has not denied access to MAP in cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

70. No peer input was provided.

Anticipated modifications

71. Bahrain 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.

72. 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***

73. Bahrain does not have in place in its domestic law audit settlements between taxpayers and the tax administration.

Administrative or statutory dispute settlement/resolution process

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

Recent developments

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

Practical application***Period 1 January 2018-31 December 2019 (stage 1)***

76. Bahrain reported that in the period 1 January 2018-31 December 2019 it has not denied access to MAP in any case where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration, which is explained by the fact that such settlements are not possible in Bahrain.

77. No peer input was provided.

Period 1 January 2020-31 October 2021 (stage 2)

78. Bahrain reported that it has also not denied access to MAP for cases where the issue presented by the taxpayer has already been dealt with in an audit settlement between the taxpayer and the tax administration since such settlements are still not possible in Bahrain.

79. No peer input was provided.

Anticipated modifications

80. Bahrain 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.

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

Legal framework on access to MAP and information to be submitted

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

83. Bahrain reported that its MAP guidance lists all the information and documentation that the taxpayer is required to provide. Bahrain further stated that, after an initial analysis of the MAP request, and within 30 days of the date of its receipt, its competent authority will notify the taxpayer whether additional information or documentation needs to be submitted, allowing a deadline of one month for submission. In the absence of a response from the taxpayer, the tax authority sends him a reminder letter inviting him to provide the missing documents.

Recent developments

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

*Practical application**Period 1 January 2018-31 December 2019 (stage 1)*

85. Bahrain reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements as set out in its MAP guidance. It further reported that in the period 1 January 2018-31 December 2019 its competent authority has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation, which can be clarified by the fact that no MAP cases have arisen in Bahrain during this period.

86. No peer input was provided.

Period 1 January 2020-31 October 2021 (stage 2)

87. Bahrain reported that its competent authority has also not denied access to MAP for cases where the taxpayer had provided the required information or documentation, which can be clarified by the fact that no MAP cases have arisen in Bahrain since this date either.

88. No peer input was provided.

Anticipated modifications

89. Bahrain 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.

90. 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 Bahrain's tax treaties

91. Out of Bahrain's 45 tax treaties, 41 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The other four treaties do not contain such provision at all.

92. No peer input was provided during stage 1.

Recent developments***Multilateral Instrument***

93. Bahrain 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 as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(ii), the

depository that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

94. With regard to the four tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain listed all four treaties as a covered tax agreement under the Multilateral Instrument and pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). All the relevant four treaty partners are signatories to the Multilateral Instrument, listed their treaty with Bahrain as a covered tax agreement and also made such notification. Three of the four treaty partners have had already deposited their instruments of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Bahrain and these treaty partners, and therefore has been superseded by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the remaining treaty partner, the instrument will, upon entry into force for this treaty, modify that treaty to include the equivalent of this provision.

Other developments

95. There are no other recent developments with respect to element B.7.

Peer input

96. No peer input was provided.

Anticipated modifications

Bilateral modifications

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

Conclusion

	Areas for improvement	Recommendations
[B.7]	<p>Four out of 45 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these four treaties:</p> <ul style="list-style-type: none"> • Three treaties have been modified by the Multilateral Instrument to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). • The remaining treaty will be modified by the Multilateral Instrument to include to include Article 25(1), second sentence, of the OECD Model Tax Convention, once the treaty partner lodges its instrument of ratification. 	-

[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.

98. 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.

Bahrain's MAP guidance

99. As reported in its stage 1 peer review, as Bahrain had not yet published MAP guidance, the information that the FTA MAP Forum agreed should be included in a jurisdiction's guidance was not publicly available.¹

100. Bahrain's MAP guidance was published in April 2020 and updated in September 2021. The MAP guidance is available in English at:

[https://www.nbr.gov.bh/publications/view/
Bahrain's_Mutual_Agreement_Procedure_MAP_Guidance](https://www.nbr.gov.bh/publications/view/Bahrain's_Mutual_Agreement_Procedure_MAP_Guidance)

101. Bahrain reported that its MAP guidance contains the following information:
- 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. information on availability of arbitration
 - f. relationship with domestic available remedies
 - g. access to MAP in transfer pricing cases, audit settlements, anti-abuse provisions, multilateral disputes and for multi-year resolution of cases
 - h. implementation of MAP agreements
 - i. rights and role of taxpayers in the process
 - j. refunds and penalties.

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

Information and documentation to be included in a MAP request

103. 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.² The agreed guidance is shown below. Although not publicly available, during the review period, the elements that should be included in a MAP request to Bahrain are checked:

- 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.

104. In addition to the items enumerated above, Bahrain reported that the following items are also required, in accordance with what is provided in its MAP guidance:

- in the case of withholding tax, additional information on the taxpayer who withheld the tax
- the relationship, situation, or structure of the transactions, issues, or related parties involved
- any copies of correspondence from the other tax administration, copies of briefs, objections, etc., submitted in response to the action or proposed action of a treaty partner (if any).

Recent developments

105. As noted above, Bahrain published its MAP guidance in April 2020 and updated it in September 2021. Furthermore, details of this guidance were provided in its update MAP profile on the OECD website.

Anticipated modifications

106. Bahrain 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.

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

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

108. The MAP guidance of Bahrain was published in April 2020 and updated in September 2021 and is available (in English) at:

[https://www.nbr.gov.bh/publications/view/
Bahrains_Mutual_Agreement_Procedure_MAP_Guidance](https://www.nbr.gov.bh/publications/view/Bahrains_Mutual_Agreement_Procedure_MAP_Guidance)

109. Bahrain’s MAP guidance can easily be found on the website of the tax administration by searching for the keywords “mutual agreement procedure”.

MAP profile

110. The MAP profile of Bahrain is published on the website of the OECD and last updated on 27 October 2021. This MAP profile is complete and often with detailed information. This profile includes external links that provide extra information and guidance where appropriate.

Recent developments

111. Apart from the fact that Bahrain issued its MAP guidance and updated its MAP profile published on the website of the OECD, there are no recent developments with respect to element B.9.

Anticipated modifications

112. Bahrain 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.

113. 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

114. As previously discussed under B.5, audit settlements are not in place in Bahrain.

115. No peer input was provided.

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

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

117. No peer input was provided.

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

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

Recent developments

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

Anticipated modifications

120. Bahrain indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

References

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

Notes

1. See: <https://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>.
2. See: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
3. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.

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.

121. It is of critical importance that in addition to allowing taxpayers to request for a MAP, tax treaties also include the equivalent of the first sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017), which obliges competent authorities, in situations where the objection raised by taxpayers are considered justified and where cases cannot be unilaterally resolved, to enter into discussions with each other to resolve cases of taxation not in accordance with the provisions of a tax treaty.

Current situation of Bahrain’s tax treaties

122. All but two of Bahrain’s 45 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.

123. Of the remaining treaties, one treaty contains a provision based on Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) but also additional language that sets a condition for the provision to apply. This condition consists of a notification from the competent authority that received the MAP request within a time limit of four and a half years from the due date or the date of filing the return, whichever is later. Such an obligation may prevent that cases are effectively dealt with in MAP. This treaty is therefore considered as not having the full equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

124. The remaining tax treaty contains the text of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), but also contains additional language that limits the possibility to discuss cases bilaterally if a final tax assessment has been made. This additional language reads: “...unless the tax assessment was final”. Therefore, this

provision is considered as not being equivalent to Article 25(2), first sentence of the OECD Model Tax Convention (OECD, 2017).

125. No peer input was provided during stage 1.

Recent developments

Multilateral Instrument

126. Bahrain 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, 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).

127. With regard to the two tax treaties identified above that are considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain listed both of them as a covered tax agreement under the Multilateral Instrument and made, pursuant to Article 16(6)(c)(i), a notification that it does not contain a provision described in Article 16(4)(b)(i).

128. Both treaty partners are a signatory to the Multilateral Instrument, listed their treaties with Bahrain as a covered tax agreement. However, only one treaty partner has made the required notification pursuant to Article 16(6)(c)(i). The other has made a notification in relation to the Bahrain treaty pursuant to Article 16(6)(c)(ii). Therefore, at this stage, one of the two tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

Other developments

129. There are no other developments with respect to element C.1.

Peer input

130. No peer input was provided.

Anticipated modifications

131. Bahrain has reported that it will seek to discuss with its treaty partner about changing its notification pursuant to Article 16(6)(c)(ii) to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). However, no details of any plan have been provided.

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

Conclusion

	Areas for improvement	Recommendations
[C.1]	<p>Two out of 45 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). Of these two treaties:</p> <ul style="list-style-type: none"> • One treaty is expected to be modified by the Multilateral Instrument to include the required provision, once the treaty partner deposits its instrument of ratification. • One treaty will not be modified by that instrument to include the required provision. With respect to this treaty, no actions have been taken nor are any actions planned to be taken 	<p>For the treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should, without further delay, request the inclusion of the required provision via bilateral negotiations.</p>

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

Jurisdictions should seek to resolve MAP cases within an average time frame of 24 months. This time frame applies to both jurisdictions (i.e. the jurisdiction which receives the MAP request from the taxpayer and its treaty partner).

133. As double taxation creates uncertainties and leads to costs for both taxpayers and jurisdictions, and as the resolution of MAP cases may also avoid (potential) similar issues for future years concerning the same taxpayers, it is important that MAP cases are resolved swiftly. A period of 24 months is considered as an appropriate time period to resolve MAP cases on average.

Reporting of MAP statistics

134. The FTA MAP Forum has agreed on rules for reporting of MAP statistics (“**MAP Statistics Reporting Framework**”) for MAP requests submitted on or after 1 January 2016 (“**post-2015 cases**”). Also, for MAP requests submitted prior to that date (“**pre-2016 cases**”), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template.

135. Bahrain joined in the Inclusive Framework in 2018. For this reason the statistics referred to are pre-2018 cases for cases that were pending on 31 December 2017, and post-2017 cases for cases that started on or after 1 January 2017. Bahrain provided its MAP statistics for 2018-20 pursuant to the MAP Statistics Reporting Framework within the given deadline. As Bahrain has not been involved in any MAP cases, it was not necessary to match its statistics with its treaty partners.

Monitoring of MAP statistics

136. As Bahrain has never been involved in a MAP case, it has no system in place that communicates, monitors and manages with its treaty partners the MAP caseload.

Analysis of Bahrain’s MAP caseload

137. Bahrain has not been involved in any MAP cases during the Statistics Reporting Period.

Overview of cases closed during the Statistics Reporting Period

138. Bahrain has not been involved in any MAP cases during the Statistics Reporting Period.

Average timeframe needed to resolve MAP cases

139. Bahrain has not been involved in any MAP cases during the Statistics Reporting Period.

Peer input

140. No peer input was provided.

Recent developments

141. There are no recent developments with respect to element C.2.

Anticipated modifications

142. Despite not having received any MAP requests, Bahrain reported that any future MAP statistics will be compiled by Bahrain's competent authority. Bahrain indicated that they will be responsible for monitoring MAP cases inventory, new MAP requests, the outcomes as well as the times needed to resolve MAP cases.

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.

143. 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 Bahrain's competent authority

144. Under Bahrain's tax treaties, the competent authority function is assigned to the Minister of Finance and National Economy and is further delegated to his authorised representative, the National Bureau for Revenue. The competent authority of Bahrain currently employs six full time staff members, including the Director of Foreign Tax Relations, who deal with both attribution/allocation and other MAP cases, in addition to other non-MAP-related duties.

145. Bahrain also noted that these staff members are not responsible for audits and assessment.

146. Bahrain reported that any necessary adjustments to the level of resources available in its competent authority will be discussed when necessary. Bahrain further noted that it intends to expose relevant staff to MAP training. Given that Bahrain has not yet been involved in any MAP cases, there has been no need for a monitoring mechanism to request more staff to handle MAP inventory.

Monitoring mechanism

147. As discussed under element C.2, Bahrain has not been involved in any MAP cases during the Review Period, so it does not have a monitoring mechanism of available resources at this point.

Recent developments

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

Practical application

MAP statistics

149. As discussed under element C.2, Bahrain's competent authority has not yet been involved in any MAP cases, by which there were no MAP statistics available to analyse the pursued 24-month average.

Peer input

150. No peer input was provided.

Anticipated modifications

151. Bahrain indicated that it does not anticipate any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	-	-

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

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

152. 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

153. Bahrain reported that the staff members in its competent authority are also responsible for treaty negotiations, general interpretation of tax treaties and policy work.

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

Recent developments

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

Practical application

156. No peer input was provided.

Anticipated modifications

157. Bahrain 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.

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

Performance indicators used by Bahrain

159. As Bahrain has not yet received a MAP request, it reported that at the time of review performance indicators have not yet been set for the MAP office.

160. The Action 14 final report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These indicators are shown below in bullet form:

- number of MAP cases resolved
- consistency (i.e. a treaty should be applied in a principled and consistent manner to MAP cases involving the same facts and similarly-situated taxpayers)

- time taken to resolve a MAP case (recognising that the time taken to resolve a MAP case may vary according to its complexity and that matters not under the control of a competent authority may have a significant impact on the time needed to resolve a case).

161. Although Bahrain does not use any of these performance indicators, it 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 discussions.

Recent developments

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

Practical application

163. No peer input was provided.

Anticipated modifications

164. Bahrain indicated that once it receives a quantifiable number of MAP requests it will consider to introduce performance indicators using the examples mentioned in the Action 14 final report (OECD, 2015).

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.

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

Position on MAP arbitration

166. As clarified in Bahrain's MAP profile, Bahrain reported that it has no domestic law limitations for including MAP arbitration in its tax treaties and some of its treaties currently in force include an arbitration provision. As mentioned in B.8, Bahrain's MAP guidance mentions its position on MAP arbitration.

Recent developments

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

Practical application

168. Bahrain has incorporated an arbitration clause in six of its 45 treaties as a final stage to the MAP.

Anticipated modifications

169. Bahrain indicated that it does not anticipate any modifications in relation to element C.6.

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

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.

170. 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

171. Bahrain has no general personal or corporate income taxes and does not have a domestic statute of limitation for amending tax assessments. Any limitations in Bahrain's tax treaties would override any domestic law limitations. In addition, Bahrain indicated that all MAP agreements will be implemented notwithstanding time limits in its domestic laws, and that this would apply even in the absence of the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017).

172. Bahrain included information on the process of implementing MAP agreements in its MAP guidance. Bahrain noted that when an outcome is reached between the competent authorities, the taxpayer will be informed in writing immediately after conclusion of mutual agreement and the taxpayer would have 30 days to accept the agreed outcome. Bahrain further confirmed that as soon as possible after acceptance of the mutual agreement by the taxpayer there would be an exchange of closing letters. Bahrain noted that implementation would take place no later than 90 days after the exchange of closing letters.

Recent developments

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

Practical application

Period 1 January 2018-31 December 2019 (stage 1)

174. Bahrain reported that no MAP agreements requiring implementation were reached in the period 1 January 2018-31 December 2019.

175. No peer input was provided.

Period 1 January 2020-31 October 2021 (stage 2)

176. Bahrain reported that no MAP agreements requiring implementation were reached since 1 January 2020 as well.

177. No peer input was provided.

Anticipated modifications

178. Bahrain indicated that it does not anticipate any modifications in relation to element D.1.

Conclusion

	Areas for improvement	Recommendations
[D.1]	-	-

[D.2] Implement all MAP agreements on a timely basis

Agreements reached by competent authorities through the MAP process should be implemented on a timely basis.

179. Delay of implementation of MAP agreements may lead to adverse financial consequences for both taxpayers and competent authorities. To avoid this and to increase certainty for all parties involved, it is important that the implementation of any MAP agreement is not obstructed by procedural and/or statutory delays in the jurisdictions concerned.

Theoretical timeframe for implementing mutual agreements

180. As discussed under element D.1., the timeframes that would be applicable for the implementation of mutual agreements reached are clearly stated in Bahrain's MAP guidance, as well as the steps of the process. Bahrain noted that its competent authority would also be responsible for the monitoring and the implementation of MAP agreements.

181. Information on the implementation of MAP agreements is available on Bahrain's MAP profile and in its MAP guidance.

Recent developments

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

Practical application*Period 1 January 2018-31 December 2019 (stage 1)*

183. Bahrain reported that no MAP agreements requiring implementation were reached in the period 1 January 2018-31 December 2019.

184. No peer input was provided.

Period 1 January 2020-31 October 2021 (stage 2)

185. Bahrain reported that no MAP agreements requiring implementation were reached since 1 January 2020.

186. No peer input was provided.

Anticipated modifications

187. Bahrain 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.

188. 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 in tax treaties, or alternatively, setting a time limit in Article 9(1) and Article 7(2) for making adjustments to avoid that late adjustments obstruct granting of MAP relief.

Legal framework and current situation of Bahrain's tax treaties

189. As discussed under element D.1, Bahrain's domestic legislation would be overridden by its tax treaties and implementation of MAP agreements would take place notwithstanding any domestic time limits.

190. Out of Bahrain's 45 tax treaties, 38 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention requiring that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. None of the remaining seven tax treaties contain the equivalent or the alternative provisions in Article 9(1) and Article 7(2).

191. No peer input was provided.

Recent developments***Multilateral Instrument***

192. Bahrain 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 – 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. In other words, in the absence of this equivalent, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both, pursuant to Article 16(6)(c)(ii), notified the depositary that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. 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.

193. With regard to the seven tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or the alternative provisions for Articles 9(1) and 7(2), Bahrain listed all seven treaties as covered tax agreements under the Multilateral Instrument and pursuant to Article 16(6)(c)(ii), a notification that they do not contain a provision described in Article 16(4)(b)(ii). Of the seven relevant treaty partners, two are not a signatory to the Multilateral Instrument. All of the remaining five treaty partners are signatories to the Multilateral Instrument, listed their treaty with Bahrain as a covered tax agreement and made such notification, or has an impending withdrawal of a reservation to the Multilateral Instrument by a treaty partner and intends to make the required notifications.

194. Of these five treaty partners, two have already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Bahrain and these treaty partners, and therefore has modified these treaties to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the remaining three treaties, the instrument will, upon entry into force for these treaties, modify them to include the equivalent of this provision.

Other developments

195. There are no other developments in relation to element D.3.

Peer input

196. No peer input was provided.

Anticipated modifications

Bilateral modifications

197. Bahrain has reported that for the remaining two tax treaties it will strive to update them via bilateral negotiations to be compliant with element D.3. Bahrain further reported it is currently working on a plan on how to amend the relevant treaties.

198. In addition, Bahrain reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention or both alternatives in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>Seven out of 45 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2). Of these treaties:</p> <ul style="list-style-type: none"> • Two have been modified by the Multilateral Instrument to include the required provision. • Three treaties are expected to be modified by the Multilateral Instrument to include the required provision. • Two treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken. 	<p>For the two treaties that treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax or both alternative provisions, Bahrain should without further delay request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p>

Reference

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

Summary

	Areas for improvement	Recommendations
Part A: Preventing disputes		
[A.1]	<p>Eight out of 45 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). Out of these eight treaties:</p> <ul style="list-style-type: none"> • one has been modified by the Multilateral Instrument to include the required provision • one will be not modified by that instrument as the treaty partner did not list Bahrain in their notification pursuant to Article 16(6)(d)(i). However, Bahrain listed the treaty partner in its notification. With respect to this treaty, no actions have been taken nor are any actions planned to be taken • the remaining six will be not modified by the Multilateral Instrument upon ratification to include the required provision. With respect to this treaty, no actions have been taken nor are any actions planned to be taken. 	<p>For the treaty will not be modified by the Multilateral Instrument as the treaty partner did not list Bahrain in their notification pursuant to Article 16(6)(d)(i), Bahrain should without further delay request to incorporate the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) via either:</p> <ol style="list-style-type: none"> a. requesting the treaty partner changing its Multilateral Instrument notification pursuant to Article 16(6)(d)(i), or b. via bilateral negotiations. <p>For the remaining six tax treaties that will not be modified by the Multilateral Instrument following its entry into force to include such equivalent, Bahrain should without further delay request via bilateral negotiations the inclusion of the required provision.</p>
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	<p>Five out of 45 tax treaties do not contain a provision that is equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is in these treaties shorter than three years, from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Of these five treaties:</p> <ul style="list-style-type: none"> • Four treaties have been modified or superseded by the Multilateral Instrument to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). • One treaty will not be modified by the Multilateral Instrument to include to include Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to this treaty, no actions have been taken nor are any actions planned to be taken. 	<p>For the treaty that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017), Bahrain should without further delay request via bilateral negotiations the inclusion of the required provision.</p>
[B.2]	-	-
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-

	Areas for improvement	Recommendations
[B.7]	<p>Four out of 45 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these four treaties:</p> <ul style="list-style-type: none"> • Three treaties have been modified by the Multilateral Instrument to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). • The remaining treaty will be modified by the Multilateral Instrument to include to include Article 25(1), second sentence, of the OECD Model Tax Convention, once the treaty partner lodges its instrument of ratification. 	-
[B.8]	-	-
[B.9]	-	-
[B.10]	-	-
Part C: Resolution of MAP cases		
[C.1]	<p>Two out of 45 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). Of these two treaties:</p> <ul style="list-style-type: none"> • One treaty is expected to be modified by the Multilateral Instrument to include the required provision, once the treaty partner deposits its instrument of ratification. • One treaty will not be modified by that instrument to include the required provision. With respect to this treaty, no actions have been taken nor are any actions planned to be taken 	For the treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Bahrain should, without further delay, request the inclusion of the required provision via bilateral negotiations.
[C.2]	-	-
[C.3]	-	-
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	-	-
[D.2]	-	-
[D.3]	<p>Seven out of 45 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2). Of these treaties:</p> <ul style="list-style-type: none"> • Two have been modified by the Multilateral Instrument to include the required provision. • Three treaties are expected to be modified by the Multilateral Instrument to include the required provision. • Two treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken. 	For the two treaties that treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax or both alternative provisions, Bahrain should without further delay request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.

Annex A

Tax treaty network of Bahrain

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
			Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration								
	B.1	B.1	B.1	B.1	B.3	B.3	B.4	C.1	D.3	A.1	B.7	C.6									
	Inclusion Art. 25(1) first sentence?		Inclusion Art. 25(1) second sentence? (Note 1)		Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?		Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?		Inclusion Art. 25(2) first sentence? (Note 3)		Inclusion Art. 25(3) first sentence? (Note 5)		Inclusion Art. 25(3) second sentence? (Note 6)		Inclusion arbitration provision?						
	If yes, submission to either competent authority? (new Art. 25(1), first sentence)		If no, please state reasons		Y = yes i = no, but access will be given to TP cases ii = no and access will not be given to TP cases		Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP		Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9		Y = yes N = no		Y = yes N = no		Y = yes N = no						
Algeria	Y		O	N/A																	
Austria	Y		O	N/A																	
Bangladesh	Y		O	N/A																	
Barbados	Y		E*	N/A																	

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	DTC in force?	Article 25(1) of the OECD Model Tax Convention ("MTC")	B.1	B.1	Article 9(2) of the OECD MTC	B.4	C.1	D.3	A.1	B.7	C.6	Arbitration								
		Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) of the OECD MTC	Anti-abuse	Inclusion Art. 25(2) of the OECD MTC	Inclusion Art. 25(2) of the OECD MTC	Inclusion Art. 25(2) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC	Inclusion Art. 25(3) of the OECD MTC
Belarus	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Belgium	Y	N/A	E*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Bermuda	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Brunei Darussalam	Y	N/A	O	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
China (Peoples Republic of)	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Cyprus ^a	Y	N/A	E*	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
Egypt	Y	N/A	E*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Estonia	Y	N/A	E*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
France	Y	N/A	E*	Y	N/A	Y	Y*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Georgia	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Hungary	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Iran	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ireland	Y	N/A	E*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Isle of Man	Y	N/A	E*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Jordan	Y	N/A	E*	Y	N/A	Y	Y*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Korea	Y	N/A	E*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Lebanon	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Luxembourg	Y	N/A	E*	Y	N/A	Y	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		Arbitration
	Article 25(1) of the OECD Model Tax Convention ("MTC")	B.1	B.1	B.1	Article 9(2) of the OECD MTC	B.4	C.1	D.3	A.1	B.7	C.6								
	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?	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)										
Malaysia	Y	E*	Y	N/A	i****	Y	Y*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Malta	Y	E*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mexico	Y	O*	ii	4-years	Y	Y	N*	N*	N*	N*	N*	N*	N*	N*	N*	N*	N*	N*	N
Morocco	Y	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Netherlands	Y	E*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Pakistan	Y	E*	Y*	2 years	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Philippines	Y	O	ii	2 years	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Portugal	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Seychelles	Y	E*	Y*	2 years	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Singapore	Y	O	Y	N/A	Y*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sri Lanka	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Switzerland	Y	E	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sudan	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Syria	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Tajikistan	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Thailand	Y	O	Y	N/A	i**	Y	N*	N*	N*	N*	N*	N*	N*	N*	N*	N*	N*	N*	N
Türkiye	Y	O*	i	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Turkmenistan	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
United Kingdom	Y	E*	i	N/A	Y	Y	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y
Uzbekistan	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Yemen	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

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

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

Legend

E*	The provision contained in this treaty was already in line with the requirements under this element of the Action 14 Minimum Standard, but has been modified by the Multilateral Instrument to allow the filing of a MAP request in either contracting state.
E**	The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this standard.
O*	The provision contained in this treaty is already in line with the requirements under this element of the Action 14 Minimum Standard, but will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then allow the filing of a MAP request in either contracting state.
Y*	The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this element of the Action 14 Minimum Standard.
Y**	The provision contained in this treaty already included an arbitration provision, which has been replaced by part VI of the Multilateral Instrument containing a mandatory and binding arbitration procedure.
Y***	The provision contained in this treaty did not include an arbitration provision, but part VI of the Multilateral Instrument applies, following which a mandatory and binding arbitration procedure is included in this treaty
i*/ii*/iv*/N*	The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then be in line with this element of the Action 14 Minimum Standard.
i**/iv**/N**	The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be superseded by the Multilateral Instrument upon entry into force for this specific treaty only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.
i***	The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.
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.
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 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 2018, 2019 and 2020 Reporting Periods (1 January 2018 to 31 December 2020) for pre-2018 cases

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

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

2020 MAP Statistics														
Category of cases	No. of pre-2018 cases in MAP inventory on 1 January 2020	Number of pre-2018 cases closed during the reporting period by outcome										No. of pre-2018 cases remaining in on MAP inventory on 31 December 2020	Average time taken (in months) for closing pre-2018 cases during the reporting period	
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12			Column 13
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome			
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

Annex C

MAP Statistics Reporting for the 2018, 2019 and 2020 Reporting Periods (1 January 2018 to 31 December 2020) for post-2017 cases

2018 MAP Statistics															
Category of cases	No. of post-2017 cases in MAP inventory on 1 January 2018	No. of post-2017 cases started during the reporting period	Number of post-2017 cases closed during the reporting period by outcome							No. of post-2017 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2017 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	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2019 MAP Statistics															
Category of cases	No. of post-2017 cases in MAP inventory on 1 January 2019	No. of post-2017 cases started during the reporting period	Number of post-2017 cases closed during the reporting period by outcome							No. of post-2017 cases remaining in on MAP inventory on 31 December 2019	Average time taken (in months) for closing post-2017 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	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2020 MAP Statistics															
Category of cases	No. of post-2017 cases in MAP inventory on 1 January 2020	No. of post-2017 cases started during the reporting period	Number of post-2017 cases closed during the reporting period by outcome								No. of post-2017 cases remaining in on MAP inventory on 31 December 2020	Average time taken (in months) for closing post-2017 cases during the reporting period			
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11			Column 12	Column 13	Column 14
			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			
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	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 Guidance	Guidance on Mutual Agreement Procedure (MAP)
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
Multilateral Instrument	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
OECD Transfer Pricing Guidelines	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
Pre-2018 cases	MAP cases in a competent authority’s inventory that are pending resolution on 31 December 2017
Post-2017 cases	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2018
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2018 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, Bahrain (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 Bahrain.



PRINT ISBN 978-92-64-75983-1
PDF ISBN 978-92-64-82582-6



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