

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



Making Dispute Resolution More Effective – MAP Peer Review Report, Saudi Arabia (Stage 1)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

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Foreword

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

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

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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

Implementation is now the focus of this work. The BEPS package is designed to be implemented via changes in domestic law and practices, and in tax treaties. With the negotiation of a multilateral instrument (MLI) having been finalised in 2016 to facilitate the implementation of the treaty related BEPS measures, over 85 jurisdictions are covered by the MLI. The entry into force of the MLI on 1 July 2018 paves the way for swift implementation of the treaty related measures. OECD and G20 countries also agreed to continue to work together to ensure a consistent and co-ordinated implementation of the BEPS recommendations and to make the project more inclusive. Globalisation requires that global solutions and a global dialogue be established which go beyond OECD and G20 countries.

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

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

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

This report was approved by the Inclusive Framework on 9 August 2019 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

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

Executive summary

Saudi Arabia has a relatively large tax treaty network with over 50 tax treaties. Saudi Arabia has limited experience with resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and four cases pending on 31 December 2018. Of these cases, 50% concern allocation/attribution cases. Overall Saudi Arabia meets fewer than half of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Saudi Arabia is working to address most of them.

All of Saudi Arabia's tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 through 3 of Article 25 of the *Model Tax Convention on Income and Capital 2017* (OECD, 2017). Its treaty network is largely consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that almost 10% of its treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to follow a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Saudi Arabia needs to amend and update a small portion of its tax treaties. In this respect, Saudi Arabia signed the Multilateral Instrument, through which a number of its tax treaties will potentially be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force of this Multilateral Instrument for the treaties concerned, Saudi Arabia reported that it is receptive to any amendment requested from any jurisdiction to bring their treaty in line with Action 14 Minimum Standard. However, Saudi Arabia has not put a plan in place although it is developing such a plan in order to bring all of its treaties in line with this standard.

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

Saudi Arabia 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 2016 not received any MAP request concerning transfer pricing cases or cases where anti-abuse provisions are applied or cases where there has been an audit settlement. Furthermore, Saudi Arabia does not have in place a documented bilateral consultation or notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Saudi Arabia also has no guidance on the availability of MAP and how it applies this procedure in practice, although it indicated that it is planning to publish rules, guidelines and procedures on access to and the use of MAP in Saudi Arabia, including the specific information and documentation that should be submitted in a MAP request. Also there are no rules and specific timelines in place for requesting additional information by the competent authority and for the taxpayer to provide such information, by which

there is a risk that access to MAP is limited even when taxpayers have complied with the information and documentation requirements in Saudi Arabia, or that such access is only granted with substantial delays.

Concerning the average time needed to close MAP cases, the MAP statistics for Saudi Arabia for the period 2016-18 are as follows:

2016-18	Opening inventory 1/1/2016	Cases started	Cases closed	End Inventory 31/12/2017	Average time to close cases (in months)*
Attribution/allocation cases	0	2	0	2	N/A
Other cases	0	7	1	6	24.00
Total	0	9	1	8	24.00

*The average time taken for resolving MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework.

The number of cases Saudi Arabia closed in 2016, 2017 or 2018 is less than the number of all new cases started in those years. Its MAP inventory as per 31 December 2018 increased as compared to its inventory as per 1 January 2016. During these years, MAP cases were closed on average within a timeframe of 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the average time necessary was 24.00 months. Nevertheless, some peers raised an issue with respect to the responsiveness of Saudi Arabia's competent authority. It will be monitored whether the ongoing reorganisation of the competent authority function results in timely responses and future cases are resolved in a timely manner.

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

Lastly, Saudi Arabia does not meet the Action 14 Minimum Standard as regards the implementation of MAP agreements, as not all MAP agreements were implemented on a timely basis. In addition, even though Saudi Arabia has a domestic statute of limitation for implementation of MAP agreements, for which there is a risk that such agreements cannot be implemented where the applicable tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, no problems have surfaced throughout the process.

Reference

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

Introduction

Available mechanisms in Saudi Arabia to resolve tax treaty-related disputes

Saudi Arabia has entered into 54 tax treaties on income (and/or capital), 48 of which are in force.¹ These 54 treaties are being applied to an equal number of jurisdictions. All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. None of the treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.

Under Saudi Arabia’s tax treaties, the competent authority function is assigned to the Ministry of Finance or his authorised representative. This function has been delegated to the Governor of the General Authority of Zakat and Tax (“GAZT”). In practice, the International Affairs Department within GAZT handles MAP cases, which in total is composed of 16 people.

Saudi Arabia has not issued any guidance on the governance and administration of the mutual agreement procedure.

Recent developments in Saudi Arabia

Saudi Arabia reported that it signed new treaties with Bulgaria (2017), Cyprus² (2017), Gabon (2015), Georgia (2018), Mauritania (2018), Morocco (2015), Switzerland (2018) and the United Arab Emirates (2018). All treaties concern newly negotiated treaties with treaty partners for which currently no treaty is in force. Of these, the treaties with Bulgaria, Cyprus³, Hong Kong (China) 2017, Georgia and the United Arab Emirates have recently entered into force. For the remaining treaties, Saudi Arabia has already ratified the treaties with Gabon, Morocco and Switzerland.

Furthermore, on 18 September 2018 Saudi Arabia signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. Saudi Arabia reported that it expects to ratify the Multilateral Instrument by March 2020. With the signing of the Multilateral Instrument, Saudi Arabia also submitted its list of notifications and reservations to that instrument.⁴ In relation to the Action 14 Minimum Standard, Saudi Arabia has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

Where treaties will not be modified by the Multilateral Instrument, Saudi Arabia reported that it is receptive to any amendment requested from any jurisdiction to bring their treaty in line with Action 14 Minimum Standard. However, it has not put a plan in place although it is developing such a plan in order to bring all of its treaties in line with the Action 14 Minimum Standard.

Basis for the peer review process

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

The period for evaluating Saudi Arabia’s implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 31 December 2018 (“**Review Period**”). Furthermore, this report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Saudi Arabia’s implementation of this minimum standard. In the update of this report, being stage 2 of the peer review process, these recent developments will be taken into account in the assessment and, if necessary, the conclusions contained in this report will be amended accordingly.

For the purpose of this report and the statistics below, in assessing whether Saudi Arabia is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty.

In total four peers provided input: Ireland, Korea, Turkey and the United Kingdom. Out of these four peers, three currently have MAP cases with Saudi Arabia that started on or after 1 January 2016. These three peers represent approximately 65% of post-2015 MAP cases in Saudi Arabia’s inventory that started in 2016, 2017 and 2018. Furthermore, two other peers had experiences with Saudi Arabia in handling and resolving MAP cases. The input given by these peers identify areas of concern regarding the accessibility and responsiveness of Saudi Arabia’s competent authority, as well as concerns regarding delays in the implementation of MAP agreements.

Saudi Arabia provided basic answers in its questionnaire, which was submitted on time. Saudi Arabia was somewhat responsive in the course of the drafting of the peer review report by responding to requests for additional information, and provided further clarity where necessary in some instances. In addition, Saudi Arabia provided the following information:

- MAP profile⁵
- MAP statistics according to the MAP Statistics Reporting Framework⁶ (see below)

Finally, Saudi Arabia is a member of the FTA MAP Forum and has co-operated during the peer review process, albeit that all relevant information only became available later on in the process.

Overview of MAP caseload in Saudi Arabia

The analysis of Saudi Arabia’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2018 (“**Statistics Reporting Period**”). According to the statistics provided by Saudi Arabia, its MAP caseload during this period was as follows:

2016-18	Opening inventory on 1/1/2016	Cases started	Cases closed	End inventory on 31/12/2018	Average time to close cases (in months)*
Attribution/allocation cases	0	2	0	2	N/A
Other cases	0	7	1	6	24.00
Total	0	9	1	8	24.00

General outline of the peer review report

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

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

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

The objective of the Action 14 Minimum Standard is to make dispute resolution mechanisms more effective and concerns a continuous effort. Therefore, this peer review report includes recommendations that Saudi Arabia continues to act in accordance with a given element of the Action 14 Minimum Standard, even if there is no area for improvement for this specific element.

Notes

1. The tax treaties Saudi Arabia has entered into are available at: <https://www.gazt.gov.sa/en/circulars-and-tax-agreements>. The treaties that are signed but have not yet entered into force are with Gabon (2015), Georgia (2018), Mauritania (2018), Morocco (2015), Switzerland (2018) and the United Arab Emirates (2018). Reference is made to Annex A for the overview of Saudi Arabia's tax treaties.
2. Footnote by Turkey: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of United Nations, Turkey shall preserve its position concerning the “Cyprus” issue.

Footnote by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.
3. See note 2.
4. Available at: www.oecd.org/tax/treaties/beps-mli-position-saudi-arabia.pdf.
5. Available at: www.oecd.org/tax/dispute/Saudi-Arabia-Dispute-Resolution-Profile.pdf.
6. The MAP statistics of Saudi Arabia are included in Annex B and C of this report.
7. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

Part A

Preventing disputes

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

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

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

Current situation of Saudi Arabia’s tax treaties

2. All of Saudi Arabia’s 54 tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention 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.

Anticipated modifications

3. As all of Saudi Arabia’s 54 tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention there is no need for modifications. Regardless, Saudi Arabia reported that it will continue to seek to include Article 25(3), first sentence in all of its future tax treaties.

4. All peers that provided input indicated that their treaty with Saudi Arabia meets the requirement under the Action 14 Minimum Standard for element A.1, which conforms to the above analysis.

Conclusion

	Areas for improvement	Recommendations
[A.1]	-	Saudi Arabia should maintain its stated intention to include the required provision in all future tax treaties.

[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.

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

Saudi Arabia’s APA programme

6. Saudi Arabia reported it does not have an APA programme in place, by which there is no possibility for providing roll-back of bilateral APAs to previous years.

7. Peers that provided input reported not having any experience with Saudi Arabia regarding roll-back of bilateral APAs since 1 January 2016, which is logical given that Saudi Arabia does not have such a programme in place. In addition, one peer further specified that it has not received any requests for bilateral APAs concerning Saudi Arabia since 1 January 2016.

Anticipated modifications

8. Saudi Arabia indicated that it is considering introducing an APA programme and will decide upon the scope of such programme after it completes a preliminary feasibility analysis. However, Saudi Arabia reported that a date for introducing an APA programme has not been decided, but that if such a programme is eventually introduced it will be accompanied by published APA guidance. Saudi Arabia further reported that it will decide whether to introduce roll-back at the time of implementation of its APA programme.

Conclusion

	Areas for improvement	Recommendations
[A.2]	-	-

Note

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

References

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

OECD (2017b), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, <https://dx.doi.org/10.1787/tpg-2017-en>.

Part B

Availability and access to MAP

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

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

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

Current situation of Saudi Arabia’s tax treaties

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

10. Out of Saudi Arabia’s 54 tax treaties, three contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017a) as changed by the Action 14 final report and allowing taxpayers to submit a MAP request to the competent authority of either state.

11. Furthermore, the remaining 51 tax treaties contain a provision that is based on Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the *Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report* (Action 14 Final Report, OECD, 2015a), 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. However, these treaties are considered not to have the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015b) as it read prior to the adoption of the Action 14 final report, since taxpayers are not allowed to submit a MAP request in the state

of which they are a national where the case comes under the non-discrimination article. Since all these 51 tax treaties do not contain a non-discrimination provision at all, it is logical that the last part of Article 25(1), first sentence is omitted and that it only allows for the submission of MAP requests to the state of which the taxpayer is a resident. For this reason, all these 51 treaties are considered to be in line with this part of element B.1.

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

12. Out of Saudi Arabia's 54 tax treaties, 49 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention 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.

13. The remaining five tax treaties that do not contain such provision all provide a filing period of two-years.

Practical application

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

14. As follows the analysis in paragraphs 10-11 above, all of Saudi Arabia's tax treaties allow the filing of a MAP request irrespective of domestic remedies. In this respect, Saudi Arabia indicated that nothing in its domestic tax law prevents a taxpayer from requesting MAP assistance where the taxpayer has sought to resolve the issue under dispute via the judicial and administrative remedies provided by the domestic law of Saudi Arabia. Furthermore, Saudi Arabia indicated that where the issue under dispute has already been decided via the judicial and administrative remedies provided by its domestic law, taxpayers are still allowed to request for MAP assistance in such cases.

Anticipated modifications

Multilateral Instrument

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

15. Saudi Arabia signed the Multilateral Instrument. Article 16(4)(a)(i) of that instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report 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 as it read prior to the adoption of the Action 14 final report. 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 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.

16. With the signing of the Multilateral Instrument, Saudi Arabia opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that

is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Saudi Arabia's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which it is a resident, Saudi Arabia opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Saudi Arabia listed 53 of its 54 tax treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for 52 of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report.

17. One of these 52 treaties, however, concerns the treaty mentioned in paragraph 10 above that already allows for the submission of a MAP request to either competent authority and for that reason is not taken into account in the analysis below. Therefore, only 51 treaties are taken into account.

18. In total, 14 of 51 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas eight have not listed their treaty with Saudi Arabia as a covered tax agreement under that instrument and 12 reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state. 17 of the relevant 18 treaty partners listed their treaty with Saudi Arabia as having a provision that is equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report. Therefore, at this stage, 17 of Saudi Arabia's tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report.

19. Further to the above, for the remaining treaty where Saudi Arabia did not make a notification on the basis of Article 16(6)(a), the Multilateral Instrument will only supersede this treaty to the extent that the provision contained therein is incompatible with the first sentence of Article 16(1). Since this treaty is considered equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, it is considered incompatible with the first sentence of Article 16(1). This treaty will therefore be superseded upon entry into force of the Multilateral Instrument for this treaty to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report.

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

20. 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 – 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.

21. In regard of the five tax treaties identified in paragraph 13 above that contain a filing period for MAP requests of less than three years, Saudi Arabia listed all five treaties

as a covered tax agreement under the Multilateral Instrument and for all of them did it make, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). Of the five relevant treaty partners, one is not a signatory to the Multilateral Instrument. All remaining four tax treaties partners also made such notification. Therefore, at this stage, four of the five tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention.

Bilateral modifications

22. For the one treaty that does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, and that will not be modified by the Multilateral Instrument, Saudi Arabia reported that it will be receptive to any amendment request from the treaty partner to include this provision and that it will look into the possibility of such an amendment. However, it has not put a plan in place nor conducted any actions to this effect, although Saudi Arabia reported it is developing such a plan. Regardless, Saudi Arabia reported it will seek to include Article 25(1) of the OECD Model Tax Convention, as amended by the Action 14 final report, in all of its future tax treaties.

Peer input

23. All but one peer that provided input indicated that their treaty with Saudi Arabia meets the requirements under the Action 14 Minimum Standard element B.1, which conforms to the above analysis. One peer noted, however, that its treaty will be modified by the Multilateral Instrument to allow the submission of MAP requests to either competent authority, which is in conformity with the analysis above.

Conclusion

	Areas for improvement	Recommendations
[B.1]	Five out of 54 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Four of these five treaties are expected to be modified by the Multilateral Instrument to include such equivalent upon entry into force for these treaties.	<p>Saudi Arabia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in four of the five treaties upon entry into force for the treaties concerned.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent, Saudi Arabia should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Saudi Arabia should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report in all future tax treaties.</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).

24. 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

25. As discussed under element B.1, out of Saudi Arabia's 54 tax treaties, three contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. However, as was also discussed under element B.1, 18 treaties will, upon entry into force, be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

26. Saudi Arabia reported that it has not introduced a bilateral consultation or notification process that allows the other competent authority concerned to provide its views on the case when Saudi Arabia's competent authority considers the objection raised in the MAP request not to be justified.

Practical application

27. Saudi Arabia reported that since 1 January 2016 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2016-18 MAP statistics submitted by Saudi Arabia show that none of its MAP cases were closed with the outcome "objection not justified".

28. All peers that provided input indicated not being aware of any cases for which Saudi Arabia's competent authority denied access to MAP. In addition, one of the peers mentioned that since that 1 January 2016 it has not received any MAP requests related to Saudi Arabia. The peers also reported not having been consulted/notified of a case where Saudi Arabia's competent authority considered the objection raised in a MAP request as not justified. This can be explained by the fact that Saudi Arabia since 1 January 2016 did not consider that an objection raised in a MAP request was not justified.

Anticipated modifications

29. Saudi Arabia indicated that it will introduce a documented bilateral consultation or notification process for those situations where its competent authority considers an objection raised in a MAP request as being not justified. Saudi Arabia further indicated that it is in the process of developing clear and objective criteria for the acceptance or denial of a MAP request.

Conclusion

	Areas for improvement	Recommendations
[B.2]	51 out of the 54 tax treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Saudi Arabia should without further delay document its notification and/or consultation process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Saudi Arabia should apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.

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

Jurisdictions should provide access to MAP in transfer pricing cases.

30. 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

31. Out of Saudi Arabia's 54 tax treaties, 50 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. Of the remaining four treaties, one does not contain a provision regarding associated enterprises at all. The remaining three treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention, but deviate from this provision for the following reasons:

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

32. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Saudi Arabia's tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, Saudi Arabia indicated that it will provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments under all treaties that contain a provision relating to associated enterprises regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention is contained in its tax treaties. Concerning the one treaty that does not contain a provision regarding associated enterprises at all, Saudi Arabia reported that access to MAP for transfer pricing will not be granted due to the lack of a provision on associated enterprises.

33. As Saudi Arabia has not yet published MAP guidance, there is no publicly available information on access to MAP in transfer pricing cases.

Application of legal and administrative framework in practice

34. Saudi Arabia reported that since 1 January 2016, it has not denied access to MAP on the basis that the case concerned a transfer pricing case. However, no such cases in relation hereto were received since that date.

35. All peers that provided input indicated not being aware of a denial of access since 1 January 2016 on the basis that the case concerned was a transfer pricing case. One of these peers further indicated that since that date it has not received any MAP requests in relation to Saudi Arabia.

Anticipated modifications

36. Saudi Arabia reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention in its tax treaties where possible and that it will seek to include this provision in all of its future tax treaties. In that regard, Saudi Arabia signed the Multilateral Instrument. Article 17(2) of that instrument stipulates that Article 17(1) – containing the equivalent of Article 9(2) of the OECD Model Tax Convention – 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. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument. Article 17(2) of the Multilateral Instrument does not take effect for a tax treaty if one or both of the treaty partners have, pursuant to Article 17(3), reserved the right not to apply Article 17(2) for those tax treaties that already contain the equivalent of Article 9(2) of the OECD Model Tax Convention, or not to apply Article 17(2) in the absence of such equivalent under the condition that: (i) it shall make appropriate corresponding adjustments or (ii) its competent authority shall endeavour to resolve the case under mutual agreement procedure of the applicable tax treaty. Where neither treaty partner has made such a reservation, Article 17(4) of the Multilateral Instrument stipulates that both have to notify the depositary whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention. 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).

37. Saudi Arabia has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument for those treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention. In regard of the three treaties identified in paragraph 31 above that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention, but do contain a provision on associated enterprises, Saudi Arabia listed all as a covered tax agreement under the Multilateral Instrument and included all of them in the list of treaties for which Saudi Arabia has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument. Therefore, at this stage, none of the three tax treaties identified above will be replaced or superseded by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 9(2) of the OECD Model Tax Convention.

Conclusion

	Areas for improvement	Recommendations
[B.3]	Although Saudi Arabia reported that it will provide access to MAP in transfer pricing cases, it did not receive any MAP request for such cases during the Review Period. It was therefore not possible at this stage to evaluate the effective implementation of this element in practice.	

[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.

38. 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

39. None of Saudi Arabia's 54 tax treaties allows competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, the domestic law and/or administrative processes of Saudi Arabia does not contain a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

40. Saudi Arabia reported that issues related to the application of treaty anti-abuse provisions are within the scope of MAP. Where the issue relates to the application of domestic anti-abuse provisions, Saudi Arabia reported that treaty provisions prevail over domestic law, unless it concerns the application of domestic anti-abuse provisions. However,

Saudi Arabia clarified that it accepts MAP requests in all MAP cases and will not deny access to MAP in any case in which there is a disagreement between the taxpayer and the tax authority as to whether a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

41. As Saudi Arabia has not yet published MAP guidance, there is no publicly available information on access to MAP in relation to the application of anti-abuse provisions.

Practical application

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

43. All peers that provided input indicated not being aware of cases that have been denied access to MAP in Saudi Arabia since 1 January 2016 in relation to the application of treaty and/or domestic anti-abuse provisions. One of these peers further indicated that since that date it has not received any MAP requests in relation to Saudi Arabia.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[B.4]	Saudi Arabia reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Saudi Arabia is therefore recommended to follow its policy and grant access to MAP in such cases.	

[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.

45. 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

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

Administrative or statutory dispute settlement/resolution process

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

48. Where a taxpayer disagrees with a tax assessment issued by GAZT, he has two options, which are: (1) submitting an objection for a reconsideration of the assessment (2) filing a MAP request. Saudi Arabia reported that these two options are not mutually exclusive.

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

50. In any case, whether a common position is reached or not at the administrative GAZT Settlement Commission, or whether the taxpayer has appealed or not to the judicial Tax Dispute Committee, Saudi Arabia emphasised that the taxpayer can always apply for MAP. Further to the above, Saudi Arabia clarified that the MAP process can be initiated simultaneously alongside the settlement process and further that the outcome of one does not hinder the other.

Practical application

51. Saudi Arabia reported that since 1 January 2016 it has not denied access to MAP in any cases where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration, which is logical as audit settlements are not allowed in Saudi Arabia.

52. All peers that provided input indicated not being aware of a denial of access to MAP in Saudi Arabia since 1 January 2016 in cases where there was an audit settlement between the taxpayer and the tax administration. One of these peers further indicated that since that date it has not received any MAP requests in relation to Saudi Arabia.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[B.5]	-	-

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

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

54. 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

55. As will be discussed under element B.8, Saudi Arabia has not yet issued any MAP guidance. Nevertheless, it reported that where a taxpayer has not included all required information in its MAP request, its competent authority has no restrictions in requesting additional information or documents from the taxpayer. Regardless, Saudi Arabia reported that if the taxpayer does not provide certain information or documentation in its MAP request, Saudi Arabia’s competent authority will specifically request via official letter that the taxpayer provide the information or documentation, but that there are no prescribed timeframes to be followed. Saudi Arabia clarified that its competent authority is generally flexible on timeframes with respect to the processes that are not governed by statutory time limits and that it allows the taxpayer ample time to submit any requested information and/or documentation. Saudi Arabia further noted that generally a taxpayer is informed of the documents needed through correspondence with its competent authority, given that different cases may require different types of documentation, information and records.

56. Saudi Arabia stated that its competent authority will not deny access to MAP due to the MAP request being incomplete. However, the absence of any rules in this respect bears the risk that access to MAP may not be granted or that substantial delays could occur.

Practical application

57. Saudi Arabia reported that it provides access to MAP in all cases where taxpayers have met Saudi Arabia’s requirements with respect to information and documentation. It further reported that since 1 January 2016 it has not denied access to MAP for cases where the taxpayer had not provided sufficient information or documentation.

58. All peers that provided input indicated not being aware of a limitation of access to MAP by Saudi Arabia since 1 January 2016 in situations where taxpayers complied with information and documentation requirements. One of these peers further indicated that since that date it has not received any MAP requests in relation to Saudi Arabia.

Anticipated modifications

59. Saudi Arabia indicated that it is working towards automating communication procedures so that all communication with taxpayers will be done via electronic means. Furthermore, Saudi Arabia indicated that it expects to publish in the near future clear rules, procedures and guidelines on access to and the use of MAP which will also include the specific information and documentation that should be submitted in a MAP request in Saudi Arabia.

Conclusion

	Areas for improvement	Recommendations
[B.6]	No rules are in place regarding what information taxpayers need to include in a MAP request nor are any rules and timelines in place for requesting additional information by the competent authority and for taxpayers to provide such information. This bears the risk that access to MAP may not be granted or that access is only granted with substantial delays.	Saudi Arabia should put in place clear procedures and timelines for requesting additional information from taxpayers when such information is not included in the initial MAP request and also provide for timelines within which taxpayers should comply with requests for additional information to ensure that eligible cases are dealt with in MAP and that no unnecessary delays occur. Such information could be included in the forthcoming published MAP guidance (see element B.8).

[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.

60. 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, enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

Current situation of Saudi Arabia's tax treaties

61. Out of Saudi Arabia's 54 tax treaties, 53 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The remaining treaty does not contain any provision at all relating to Article 25(3), second sentence, of the OECD Model tax Convention.

Anticipated modifications

Multilateral Instrument

62. Saudi Arabia 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 – 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. In other words, in the absence of this equivalent,

Article 16(4)(c)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(ii), the depositary that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention.

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

Bilateral modifications

64. As the one treaty that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention will be modified by the Multilateral Instrument, no bilateral modifications are necessary. Regardless, Saudi Arabia reported that it will continue to seek to include Article 25(3), second sentence, in all of its future tax treaties.

Peer input

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

Conclusion

	Areas for improvement	Recommendations
[B.7]	One out of 53 tax treaties does not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. This treaty is expected to be modified by the Multilateral Instrument to include the required provision for the treaty concerned.	<p>Saudi Arabia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>In addition, Saudi Arabia should maintain its stated intention to include the required provision in all future tax treaties.</p>

[B.8] Publish clear and comprehensive MAP guidance

Jurisdictions should publish clear rules, guidelines and procedures on access to and use of the MAP and include the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance.

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

Saudi Arabia's MAP guidance

67. Saudi Arabia has not issued guidance on the MAP process and how it applies that process in practice. In this respect, Saudi Arabia clarified that due to the very few MAP cases it had to date, that it did not publish rules, guidelines and procedures on access to and use of MAP, including the specific information and documentation that should be submitted in a MAP request.

68. Since Saudi Arabia does not have published MAP guidance, the information that the FTA MAP Forum agreed should be included in such guidance is not available. This 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 taxpayers should submit its MAP request.¹ Furthermore, due to the absence of any MAP guidance, information on various subjects is not specifically addressed. This concerns information on:

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

Information and documentation to be included in a MAP request

69. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in request for MAP assistance.² This concerns:

- identity of the taxpayer(s) covered in the MAP request
- the basis for the request
- facts of the case

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

70. Due to the fact that Saudi Arabia has not issued MAP guidance, there is also no guidance on this in Saudi Arabia.

Anticipated modifications

71. Saudi Arabia indicated that it is planning to publish rules, guidelines and procedures on access to and the use of MAP in Saudi Arabia, including the specific information and documentation that should be submitted in a MAP request. Furthermore, Saudi Arabia indicated that it is planning to publish such materials on the GAZT website in Arabic and English. However, there is no scheduled date by when such MAP guidance is expected to be published, as Saudi Arabia only noted that it will be able to set a definitive timeframe later in 2019.

Conclusion

	Areas for improvement	Recommendations
[B.8] ↓	There is no published MAP guidance.	<p>Saudi Arabia should, without further delay, introduce and publish guidance on access to and use of the MAP, in particular include the contact information of its competent authority.</p> <p>Additionally, although not required by the Action 14 Minimum Standard, Saudi Arabia could consider including information on:</p> <ul style="list-style-type: none"> • how the MAP operates in Saudi Arabia, the rules for accessing MAP, how its competent authority applies the process in practice and the rights and role of taxpayers • whether MAP is available in cases of: (i) transfer pricing, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments • whether taxpayers can request for the multi-year resolution of recurring issues through MAP • the possibility of suspension of tax collection during the course of a MAP • the consideration of interest and penalties in the MAP • the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).

	Areas for improvement	Recommendations
[B.8]	No MAP guidance is available on what information taxpayers should include in their MAP request.	<p>Saudi Arabia should include in its to be published MAP guidance information on the manner and form in which taxpayers should submit their MAP request. In particular, the following items could be included:</p> <ul style="list-style-type: none"> • facts of the case • analysis of the issue(s) requested to be resolved via MAP • whether the MAP request was also submitted to the competent authority of the other treaty partner • whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes • whether the issue(s) involved were dealt with previously • a statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the competent authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the competent authority in a timely manner.
	-	Recommendations on guidance in relation to audit settlements and access to MAP are discussed in element B.10.

[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.

72. 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

73. As discussed under element B.8, Saudi Arabia has not published MAP guidance.

MAP profile

74. The MAP profile of Saudi Arabia has been published on the website of the OECD. While this MAP profile is complete, since Saudi Arabia has not published MAP guidance, detailed information on its MAP programme is not included in most of its responses.

Anticipated modifications

75. Saudi Arabia indicated that it is in the process of preparing MAP guidance, which will be made public once it becomes available.

Conclusion

	Areas for improvement	Recommendations
[B.9]	MAP guidance is not publicly available.	Saudi Arabia should, once it has issued MAP guidance, make this guidance publicly available and easily accessible. Furthermore, Saudi Arabia should ensure that its MAP profile published on the shared public platform is updated once it has published MAP guidance.

[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.

76. 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

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

78. Peers raised no issues with respect to the availability of audit settlements and the fact that Saudi Arabia has not yet published MAP guidance.

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

79. As previously mentioned under element B.5, Saudi Arabia has an administrative or statutory dispute settlement/resolution process in place that is independent from the audit and examination functions and that can only be accessed through a request by the taxpayer. There are no domestic rules and/or guidance on such a process nor is there any published MAP guidance, therefore the relationship between MAP and this process is also not addressed.

80. All peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in Saudi Arabia. One peer specifically mentioned that it has no information about such process.

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

81. Saudi Arabia reported that it has not notified its treaty partners of this process.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[B.10]	Effects of the administrative dispute settlement process on MAP are not addressed in the MAP guidance, as such guidance is not yet available.	Saudi Arabia should include in its to be published MAP guidance information on its administrative dispute settlement process and the effects thereon on the MAP process.
	Treaty partners were not notified of the existence of an administrative dispute settlement process.	Saudi Arabia should notify all of its treaty partners on the existence of its administrative dispute settlement process.

Notes

1. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
2. Available at: 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.

References

- OECD (2015a), “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 (2015b), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>.
- OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

Part C

Resolution of MAP cases

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

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

83. 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, 2017a), which obliges competent authorities, in situations where the objection raised by taxpayers are considered justified and where cases cannot be unilaterally resolved, to enter into discussions with each other to resolve cases of taxation not in accordance with the provisions of a tax treaty.

Current situation of Saudi Arabia’s tax treaties

84. All of Saudi Arabia’s 54 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention 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.

Anticipated modifications

85. As all of Saudi Arabia’s 54 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention there is no need for bilateral modifications. Regardless, Saudi Arabia reported that it will continue to seek to include Article 25(2), first sentence, of the OECD Model Tax Convention in all of its future tax treaties.

Peer input

86. All peers that provided input indicated that their treaty with Saudi Arabia meets the requirement under the Action 14 Minimum Standard for element C.1, which conforms to the above analysis.

Conclusion

	Areas for improvement	Recommendations
[C.1]	-	Saudi Arabia should maintain its stated intention to include the required provision in all feature tax treaties.

[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).

87. 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

88. 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.

89. Saudi Arabia did not provide its MAP statistics for the years 2016-17 within the given deadline, but reported such statistics for these years in April 2019 after its peer review commenced. For the year 2018, Saudi Arabia reported its MAP statistics pursuant to the MAP Statistics Reporting Framework.

90. The statistics discussed below include both pre-2016 and post-2015 cases where applicable and the full statistics are attached to this report as Annex B and Annex C respectively¹ and should be considered jointly to understand the MAP caseload of Saudi Arabia. With respect to post-2015 cases, Saudi Arabia did not report having reached out to any of its MAP partners with a view to have their MAP statistics matching. In that regard, Saudi Arabia’s reported MAP statistics contain mismatches, which indeed follows from the statistics published by its treaty partners.

Monitoring of MAP statistics

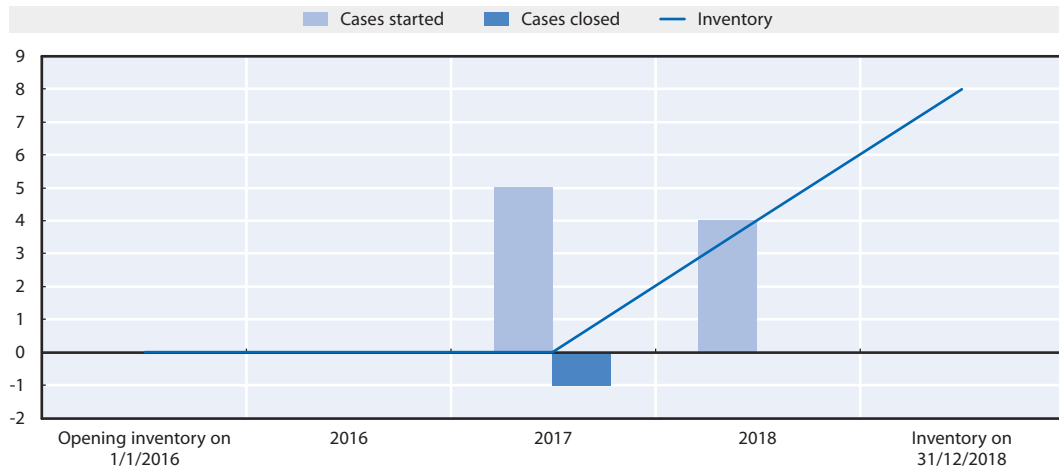
91. Saudi Arabia reported that it does not have a system in place with its treaty partners that communicates, monitors and manages with its treaty partners the MAP caseload.

Analysis of Saudi Arabia’s MAP caseload

Global overview

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

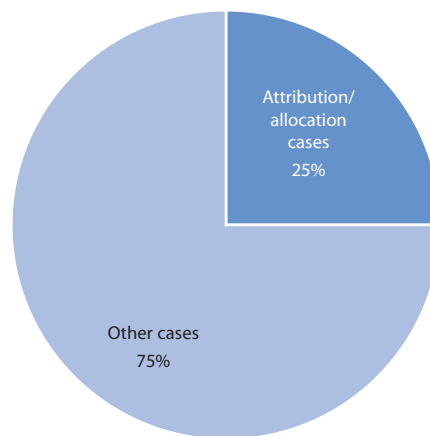
Figure C.1. Evolution of Saudi Arabia’s MAP caseload



93. At the beginning of the Statistics Reporting Period, Saudi Arabia had zero pending MAP cases. At the end of the Statistics Reporting Period, Saudi Arabia had eight MAP cases in its inventory, of which two are attribution/allocation cases and six are other MAP cases.

94. The breakdown of the end inventory can be shown as follows:

Figure C.2. End inventory on 31 December 2018 (8 cases)



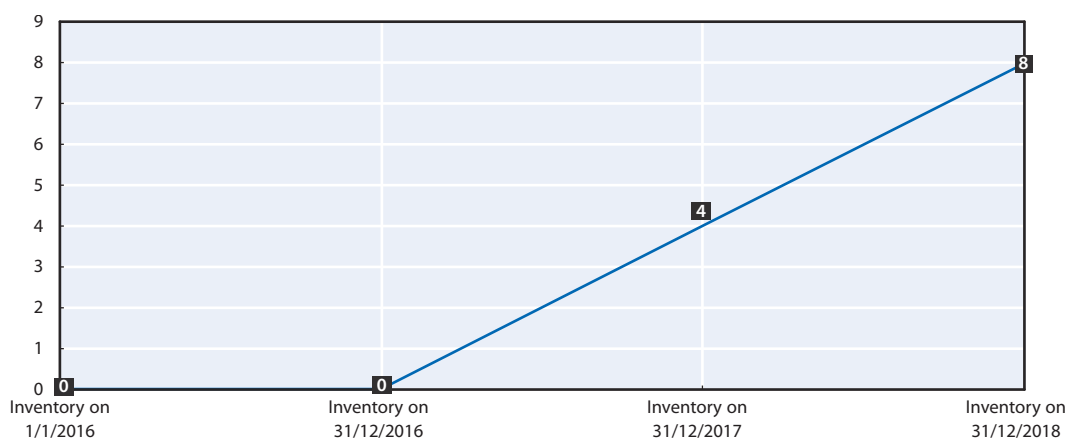
Pre-2016 cases

95. Saudi Arabia did not report having any pre-2016 MAP cases.

Post-2015 cases

96. Figure C.3 shows the evolution of Saudi Arabia’s post-2015 MAP cases over the Statistics Reporting Period.

Figure C.3. Evolution of Saudi Arabia’s MAP inventory Post-2015 cases



97. In total, nine MAP cases started during the Statistics Reporting Period, two of which concerned attribution/allocation cases and seven other cases. At the end of this period the total number of post-2015 cases in the inventory remained the same for attribution/allocation cases and there were six other cases pending. Conclusively, Saudi Arabia closed one post-2015 case during the Statistics Reporting Period, with the outcome “no agreement including agreement to disagree” although Saudi Arabia reported that in its view the case was “withdrawn by taxpayer”.²

Overview of cases closed during the Statistics Reporting Period

98. During the Statistics Reporting Period, Saudi Arabia in total closed one other MAP case, which was withdrawn by the taxpayer.

Average timeframe needed to resolve MAP cases

99. The average time needed to close the one post-2015 MAP case during the Statistics Reporting Period was 24.00 months, as reported by Saudi Arabia.

Peer input

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

Anticipated modifications

101. Saudi Arabia indicated that it intends to introduce a system with that communicates, monitors and manages with its treaty partners the MAP caseload.

Conclusion

	Areas for improvement	Recommendations
[C.2]	<p>Saudi Arabia did not submit comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016 and 2017 but did so for the year 2018. Based on the information provided by Saudi Arabia’s MAP partners, its post-2015 MAP statistics do not match those of its treaty partners as reported by the latter. In that regard, Saudi Arabia is recommended to submit its comprehensive statistics on time for future years and to reach out to its treaty partners to ensure that the reported MAP statistics actually match with those reported by its treaty partners.</p> <p>Saudi Arabia’s MAP statistics show that during the Statistics Reporting Period it closed 11% (one out of nine cases) of its post-2015 cases in 24.00 months on average. In that regard, Saudi Arabia is recommended to seek to resolve the remaining 89% of the post-2015 cases pending on 31 December 2018 (eight cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.</p>	

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

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

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

Description of Saudi Arabia’s competent authority

103. Under Saudi Arabia’s tax treaties, the competent authority function is assigned to the Ministry of Finance. This function has been delegated to the Governor of the General Authority of Zakat and Tax (“GAZT”). In practice, the International Affairs Department within GAZT handles MAP cases, which in total is composed of 16 people. In this respect, Saudi Arabia reported that due to the rarity of MAP cases to date it does not have a dedicated team or group of personnel working exclusively on MAP cases. Saudi Arabia further explained that certain GAZT personnel within its International Affairs Department, who have the necessary expertise, are responsible for handling MAP cases. In addition to MAP cases, Saudi Arabia reported that these employees also work on reviewing objections submitted by taxpayers during the course of administrative procedures.

104. Further to the above, Saudi Arabia reported that due to the rarity of MAP cases, it has not notified all of its treaty partners regarding who its competent authority is. Saudi Arabia reported, however, that it is in the process of notifying all of its treaty partners via official letters of who its competent authority is for MAP cases.

105. Saudi Arabia further reported that typically when it receives a MAP request, staff in charge of MAP will analyse the fact and circumstances of the case to determine whether to accept it as a MAP case based on existing laws and practice. Saudi Arabia further reported such personnel may request further information or documentation from the taxpayer before determining whether to uphold the decision that led to the initial request or whether to accept the request for MAP. Saudi Arabia noted that if the MAP request is accepted, its competent authority will prepare a position paper and communicate it to the other competent authority concerned. If needed, bilateral discussions may be held to resolve the case.

106. Lastly, Saudi Arabia clarified that due to the small number of MAP cases to date, it has not encountered any difficulties in handling MAP cases with respect to the division of work amongst GAZT personnel, and the percentage of time spent by GAZT personnel on MAP cases is negligible in light of the low number of MAP cases received thus far.

Monitoring mechanism

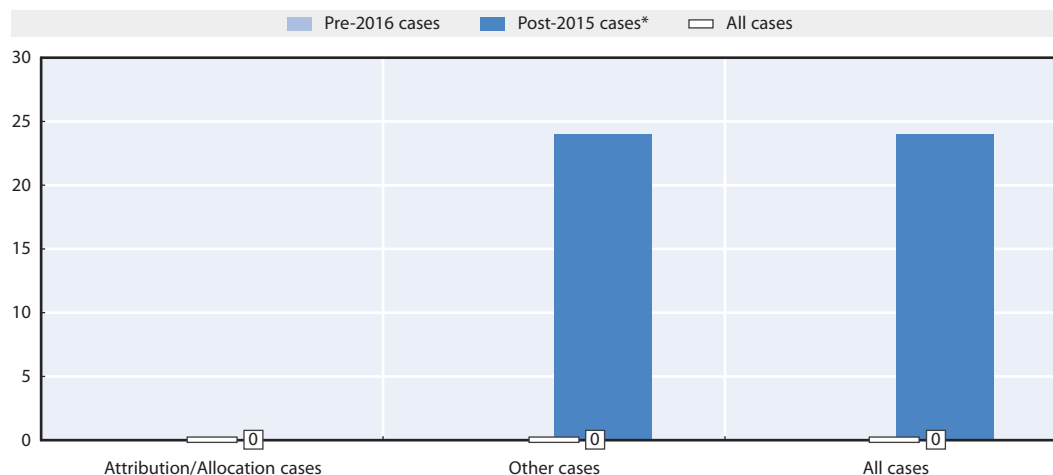
107. Saudi Arabia reported that the framework for assessing whether its resources devoted to MAP are adequate consists of monitoring the time spent by GAZT personnel on MAP cases as well as whether or not estimated target times are being met.

Practical application

MAP statistics

108. As discussed under element C.2, Saudi Arabia closed its one other MAP case during the Statistics Reporting Period within the pursued 24-month average. This can be illustrated by the following graph.

Figure C.4. Average time (in months) to close cases in 2016-18



109. Based on these figures, it follows that on average it took Saudi Arabia 24.00 months to close the one other post-2015 MAP case it reported having during the Statistics Reporting.

Peer input

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

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

received the position paper, but that it would contact the peer to ask them to retransmit the position paper. The peer confirmed that it is now in contact with Saudi Arabia and that the position paper was transmitted.

112. Further to the above, a third peer noted that before 1 January 2016 several of its taxpayers submitted a MAP request regarding withholding taxes levied in Saudi Arabia. Concerning these pre-2016 cases, this peer specified that Saudi Arabia required the taxpayers in question to follow domestic procedures to get a refund of the levied withholding taxes and that ultimately Saudi Arabia did not accept the peer's requests to initiate the MAP process. The peer further reported that the taxpayers also requested a refund by the domestic procedure in line with Saudi Arabia's requirements, but that some of these requests were still denied by Saudi Arabia. This peer mentioned that it had therefore re-requested the initiation of the MAP process in 2019 and would like Saudi Arabia to accept its request in order to resolve double taxation for the taxpayers concerned. Saudi Arabia responded to this input by stating that in its view the peer's competent authority initiated a discussion regarding refund of claims that Saudi Arabia did not consider to be an initiation of MAP cases. It was Saudi Arabia's understanding that the case was closed after GAZT addressed such claims and further noted that it did not have a record of any official MAP request from either the peer's competent authority or from the taxpayers. After reviewing Saudi Arabia's response, the peer clarified that it had received four MAP requests for cases of double taxation due to levying of withholding taxes in Saudi Arabia and further noted that it had a record of sending initiation letters in 2015 to the same recipient in Saudi Arabia. Three of these cases were not started due to Saudi Arabia's refusal to initiate the process. While for these three cases, domestic procedures were initiated in Saudi Arabia to obtain a refund of the levied withholding taxes, two of them were refused such refund. In that regard, the cases of double taxation were not resolved and have been pending for more than four years. In order to facilitate the commencement of the MAP process, the peer responded that it has sent an official letter again in January 2019. Saudi Arabia noted that it had not yet received such letters. The peer stated it would reach out again to Saudi Arabia and that it also looks forward to having sufficient communications and co-operation with Saudi Arabia's competent authority under the mutual agreement procedure. Lastly, Saudi Arabia reported it is now in contact with the peer's competent authority regarding the four aforementioned cases.

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

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

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

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

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

Anticipated modifications

118. Saudi Arabia indicated that once it begins to receive a larger volume of MAP cases, it will ensure that its competent authority is provided adequate resources to the MAP function and that a team will be established dedicated solely to resolving MAP cases. In this respect, Saudi Arabia added that GAZT is undergoing a comprehensive transformation, which includes reforming the competent authority function and the MAP process, with a view to meet the requirements under the Action 14 Minimum Standard.

Conclusion

	Areas for improvement	Recommendations
[C.3]	While Saudi Arabia closed MAP cases on an average of 24.00 months (which is the pursued average for resolving MAP cases received on or after 1 January 2016), its MAP inventory increased significantly since 1 January 2016. Furthermore, most of the peers that provided input expressed having experienced challenges and significant delays in resolving MAP cases with Saudi Arabia due to difficulties in receiving responses from its competent authority, which might indicate that its competent authority is not adequately resourced.	Saudi Arabia should closely monitor whether the current reorganisation of the competent authority function will ensure that pending and future MAP cases are resolved in a timely, efficient and effective manner, and that communications with other competent authorities are done in a timely manner.

[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.

119. 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

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

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

Practical application

122. Peers generally reported no impediments in Saudi Arabia to perform its MAP function in the absence of approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[C.4]	-	As it has done thus far, Saudi Arabia should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that Saudi Arabia would like to see reflected in future amendments to the treaty.

[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.

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

Performance indicators used by Saudi Arabia

125. The Action 14 Final Report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These indicators are:

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

126. In view of these indicators Saudi Arabia reported that currently it does not have any metrics designed to evaluate staff specifically for their work on MAP cases. Saudi Arabia noted, however, that there are broader metrics in place designed to evaluate staff of different administrations within GAZT based on their performance on all tasks undertaken.

127. Further to the above, Saudi Arabia also 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 is not evaluated on the basis of the material outcome of MAP discussions

Practical application

128. Peers generally provided no specific input relating to this element of the Action 14 Minimum Standard.

Anticipated modifications

129. Saudi Arabia indicated that it expects to have performance indicators in place by 2020 in order to evaluate its staff working on MAP. Specifically, Saudi Arabia reported that such performance indicators will measure *inter alia* the number of cases resolved, percentage of cases completed within target timeframes, the consistency of positions and legal opinions on similar issues, whether negotiations with treaty partners were successfully resolved as well as taxpayer satisfaction with MAP outcomes.

Conclusion

	Areas for improvement	Recommendations
[C.5]	-	Saudi Arabia could, in line with its stated intention, consider using the examples of performance indicators mentioned in the final report on Action 14 to evaluate staff in charge of the MAP process.

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

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

130. 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

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

Practical application

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

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

Notes

1. For post-2015 cases, if the number of MAP cases in Saudi Arabia’s inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five, Saudi Arabia reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
2. For the case that was closed, the relevant peer reported the background of the case which was indeed “no agreement including agreement to including agreement disagree”, which was a different outcome than the one Saudi Arabia reported. For purposes of this report, the outcome as reported by the peer was used as the basis.

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.

134. 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

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

136. Furthermore, Saudi Arabia reported that there will be no instance where domestic law limitations will be used to impede or impair a taxpayer's right to MAP relief.

137. Concerning the process for implementing MAP agreements, Saudi Arabia reported that there are no explicit requirements that must be fulfilled by a taxpayer in order for a MAP agreement to be implemented by Saudi Arabia. Saudi Arabia reported that MAP decisions are communicated to the taxpayer. While there is no explicit requirement for taxpayers to accept the agreement reached, Saudi Arabia reported that implicitly the taxpayer has a right not to accept the agreement. Furthermore, Saudi Arabia specified that when a MAP agreement is reached, it will be referred to the concerned local tax office for implementation, which is the office that fulfils the implementation of such agreements.

Practical application

138. Saudi Arabia reported that it monitors the implementation of MAP agreements at the level of the competent authority. In this respect, Saudi Arabia clarified that since 1 January 2016 it has reached a MAP agreement in two cases, which required an implementation in Saudi Arabia. For these cases Saudi Arabia reported that both agreements were implemented. These outcomes, however, do not correspond with the reported MAP statistics by Saudi Arabia for the years 2016-18, as shown in Annex C.

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

Anticipated modifications

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

Conclusion

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

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

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

141. Delays in implementing 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

142. Saudi Arabia reported there are no specific time limits set for the implementation of MAP agreements. In that regard, general domestic rules apply, which is that that assessments for additional tax are processed as soon as possible and generally within 30 days of concluding a MAP agreement. Saudi Arabia also noted that the same timeframe applies to requests for tax refunds.

Practical application

143. As discussed under element D.1, Saudi Arabia reported that the two MAP agreements that were reached after 1 January 2016 have been implemented and that no cases of noticeable delays have occurred.

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

Anticipated modifications

145. Saudi Arabia indicated that if GAZT begins to receive more MAP cases in the future, that it will implement a system to actively monitor its MAP cases to ensure there is adherence to timeframes.

Conclusion

	Areas for improvement	Recommendations
[D.2]	Not all MAP agreements were implemented on a timely basis while the conditions for such implementation are fulfilled.	Saudi Arabia should implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.

[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.

146. In order to provide full certainty to taxpayers it is essential that implementation of MAP agreements is not obstructed by any time limits in the domestic law of the jurisdictions concerned. Such certainty can be provided by either including the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). in

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

Legal framework and current situation of Saudi Arabia’s tax treaties

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

148. Out of Saudi Arabia’s 54 tax treaties, 50 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. None of Saudi Arabia’s tax treaties contain such equivalent or the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making transfer pricing adjustments.

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

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

Anticipated modifications

Multilateral Instrument

150. Saudi Arabia 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.

151. In regard of the four tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or the alternative provisions for Articles 9(1) and 7(2), Saudi Arabia listed three treaties as covered tax agreements under the Multilateral Instrument, but only for one treaty did it make, pursuant to Article 16(6)(c)(ii), a notification that it does not contain a provision described in Article 16(4)(b)(ii). The relevant treaty partner is a signatory to the Multilateral Instrument, listed its treaty with Saudi Arabia as a covered tax agreement and also made a notification on the basis of Article 16(6)(c)(ii). Therefore, at this stage, one of the four 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), second sentence, of the OECD Model Tax Convention.

Bilateral modifications

152. For those treaties, which do not contain the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention, Saudi Arabia reported that it will be receptive to any amendment request from any jurisdiction to include this provision and that it will look into the possibility of such an amendment. However, it has not put a plan in place nor conducted any actions to that effect, although Saudi Arabia reported it is developing such a plan. Regardless, Saudi Arabia 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.

Peer input

153. For the four treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, or both alternatives, one of the relevant peers acknowledged that its treaty with Saudi Arabia does not meet all the Action 14 minimum standards but confirmed that the Multilateral Instrument would modify this treaty to be in line with the requirement under element D.3. A second peer, that is party to one of the four treaties, provided input, but did not further comment on whether this treaty is in line with the requirements under element D.3.

Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>Four out of 54 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). Out of these four treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaty concerned. • Three will not be modified by that instrument to include the required provision. 	<p>Saudi Arabia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining three treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, Saudi Arabia should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>To this end, Saudi Arabia should put a plan in place on how it envisages updating these three treaties to include the required provision.</p> <p>In addition, Saudi Arabia should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.</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]	-	Saudi Arabia should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	Five out of 54 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Four of these five treaties are expected to be modified by the Multilateral Instrument to include such equivalent upon entry into force for these treaties.	<p>Saudi Arabia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in four of the five treaties upon entry into force for the treaties concerned.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent, Saudi Arabia should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Saudi Arabia should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report in all future tax treaties.</p>
[B.2]	51 out of the 54 tax treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Saudi Arabia should without further delay document its notification and/or consultation process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Saudi Arabia should apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.
[B.3]	Although Saudi Arabia reported that it will provide access to MAP in transfer pricing cases, it did not receive any MAP request for such cases during the Review Period. It was therefore not possible at this stage to evaluate the effective implementation of this element in practice.	
[B.4]	Saudi Arabia reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Saudi Arabia is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	-	-

	Areas for improvement	Recommendations
[B.6]	No rules are in place regarding what information taxpayers need to include in a MAP request nor are any rules and timelines in place for requesting additional information by the competent authority and for taxpayers to provide such information. This bears the risk that access to MAP may not be granted or that access is only granted with substantial delays.	Saudi Arabia should put in place clear procedures and timelines for requesting additional information from taxpayers when such information is not included in the initial MAP request and also provide for timelines within which taxpayers should comply with requests for additional information to ensure that eligible cases are dealt with in MAP and that no unnecessary delays occur. Such information could be included in the forthcoming published MAP guidance (see element B.8).
[B.7]	One out of 53 tax treaties does not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. This treaty is expected to be modified by the Multilateral Instrument to include the required provision for the treaty concerned.	Saudi Arabia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned. In addition, Saudi Arabia should maintain its stated intention to include the required provision in all future tax treaties.
[B.8] ↓	There is no published MAP guidance.	Saudi Arabia should, without further delay, introduce and publish guidance on access to and use of the MAP, in particular include the contact information of its competent authority. Additionally, although not required by the Action 14 Minimum Standard, Saudi Arabia could consider including information on: <ul style="list-style-type: none"> • how the MAP operates in Saudi Arabia, the rules for accessing MAP, how its competent authority applies the process in practice and the rights and role of taxpayers • whether MAP is available in cases of: (i) transfer pricing, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments • whether taxpayers can request for the multi-year resolution of recurring issues through MAP • the possibility of suspension of tax collection during the course of a MAP • the consideration of interest and penalties in the MAP • the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).

	Areas for improvement	Recommendations
↓ [B.8]	No MAP guidance is available on what information taxpayers should include in their MAP request.	<p>Saudi Arabia should include in its to be published MAP guidance information on the manner and form in which taxpayers should submit their MAP request. In particular, the following items could be included:</p> <ul style="list-style-type: none"> • facts of the case • analysis of the issue(s) requested to be resolved via MAP • whether the MAP request was also submitted to the competent authority of the other treaty partner • whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes • whether the issue(s) involved were dealt with previously • a statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the competent authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the competent authority in a timely manner. • 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.
	-	Recommendations on guidance in relation to audit settlements and access to MAP are discussed in element B.10.
[B.9]	MAP guidance is not publicly available.	Saudi Arabia should, once it has issued MAP guidance, make this guidance publicly available and easily accessible. Furthermore, Saudi Arabia should ensure that its MAP profile published on the shared public platform is updated once it has published MAP guidance.
[B.10]	Effects of the administrative dispute settlement process on MAP are not addressed in the MAP guidance, as such guidance is not yet available.	Saudi Arabia should include in its to be published MAP guidance information on its administrative dispute settlement process and the effects thereon on the MAP process.
	Treaty partners were not notified of the existence of an administrative dispute settlement process.	Saudi Arabia should notify all of its treaty partners on the existence of its administrative dispute settlement process.
Part C: Resolution of MAP cases		
[C.1]	-	Saudi Arabia should maintain its stated intention to include the required provision in all feature tax treaties.

	Areas for improvement	Recommendations
[C.2]	<p>Saudi Arabia did not submit comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016 and 2017 but did so for the year 2018. Based on the information provided by Saudi Arabia's MAP partners, its post-2015 MAP statistics do not match those of its treaty partners as reported by the latter. In that regard, Saudi Arabia is recommended to submit its comprehensive statistics on time for future years and to reach out to its treaty partners to ensure that the reported MAP statistics actually match with those reported by its treaty partners.</p> <p>Saudi Arabia's MAP statistics show that during the Statistics Reporting Period it closed 11% (one out of nine cases) of its post-2015 cases in 24.00 months on average. In that regard, Saudi Arabia is recommended to seek to resolve the remaining 89% of the post-2015 cases pending on 31 December 2018 (eight cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.</p>	
[C.3]	<p>While Saudi Arabia closed MAP cases on an average of 24.00 months (which is the pursued average for resolving MAP cases received on or after 1 January 2016), its MAP inventory increased significantly since 1 January 2016. Furthermore, most of the peers that provided input expressed having experienced challenges and significant delays in resolving MAP cases with Saudi Arabia due to difficulties in receiving responses from its competent authority, which might indicate that its competent authority is not adequately resourced.</p>	<p>Saudi Arabia should closely monitor whether the current reorganisation of the competent authority function will ensure that pending and future MAP cases are resolved in a timely, efficient and effective manner, and that communications with other competent authorities are done in a timely manner.</p>
[C.4]	-	<p>As it has done thus far, Saudi Arabia should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that Saudi Arabia would like to see reflected in future amendments to the treaty.</p>
[C.5]	-	<p>Saudi Arabia could, in line with its stated intention, consider using the examples of performance indicators mentioned in the final report on Action 14 to evaluate staff in charge of the MAP process.</p>
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	<p>-</p> <p>As will be discussed under element D.3 not all of Saudi Arabia's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to the 5/10-year time limits in its domestic law.</p>	<p>As it has done thus far, Saudi Arabia should continue to implement all MAP agreements reached if the conditions for such implementation are fulfilled. To ensure that all MAP agreements continue to be implemented if the conditions for such implementation are fulfilled, Saudi Arabia could introduce a tracking system.</p> <p>When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention in an assessed jurisdiction's relevant tax treaty, prevent the implementation of a MAP agreement, Saudi Arabia should put appropriate procedures in place to ensure that such an agreement is implemented and follow its stated intention to inform taxpayers in order to mitigate the risk that an agreement cannot be implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Saudi Arabia should for clarity and transparency purposes notify the treaty partner thereof without delay.</p>
[D.2]	<p>Not all MAP agreements were implemented on a timely basis while the conditions for such implementation are fulfilled.</p>	<p>Saudi Arabia should implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.</p>

	Areas for improvement	Recommendations
[D.3]	<p>Four out of 54 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). Out of these four treaties:</p> <ul style="list-style-type: none"> • One is expected to be modified by the Multilateral Instrument to include the required provision upon entry into force for the treaty concerned. • Three will not be modified by that instrument to include the required provision. 	<p>Saudi Arabia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p> <p>For the remaining three treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, Saudi Arabia should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>To this end, Saudi Arabia should put a plan in place on how it envisages updating these three treaties to include the required provision.</p> <p>In addition, Saudi Arabia should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.</p>

Annex A

Tax treaty network of Saudi Arabia

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	Y = yes N = signed pending ratification	If N, date of signing	Inclusion Art. 25(1) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) of the OECD MTC (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) of the OECD MTC (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Arbitration										
Algeria	Y	N/A	E = yes, either CAs O = yes, only one CA N = No	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3-year period is different iv = no, other reasons	Y = yes i = no, but access will be given to TP cases ii = no and access will not be given to TP cases	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes 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	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Austria	Y	N/A	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Azerbaijan	Y	N/A	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Bangladesh	Y	N/A	O	Y	Y	i	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		Column 11
	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration								
	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6										
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) of the OECD MTC (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 abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)										
Belarus	Y	O	Y	Y	i	Y	Y	Y	Y										
Bulgaria	Y	E	Y	Y	i	Y	Y	Y	Y										
China (People's Republic of)	Y	O	Y	Y	i	Y	Y	Y	Y										
Cyprus*	Y	O	Y	Y	i	Y	Y	Y	Y										
Czech Republic	Y	O*	Y	Y	i	Y	Y	Y	Y										
Egypt	Y	O	Y	Y	i	Y	Y	Y	Y										
Ethiopia	Y	O*	Y	Y	i	Y	Y	Y	Y										
France	Y	O*	ii*	2 years	i	Y	Y	Y	Y										
Gabon	N	O	Y	N/A	i	Y	Y	Y	Y										
Georgia	Y	O	Y	N/A	i	Y	Y	Y	Y										
Greece	Y	O*	Y	N/A	i	Y	Y	Y	Y										
Hong Kong (China)	Y	O	Y	N/A	i	Y	Y	Y	Y										
Hungary	Y	O	Y	N/A	i	Y	Y	Y	Y										
India	Y	O	Y	N/A	i	Y	Y	Y	Y										
Ireland	Y	O*	Y	N/A	i	Y	Y	Y	Y										
Italy	Y	O	ii*	2-years	i	Y	Y	Y	Y										

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	Article 25(2) of the OECD MTC	C.1	D.3	A.1	B.7	C.6							
Treaty partner	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 abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Arbitration										
Japan	Y	N/A	O*	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Jordan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Kazakhstan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Korea	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Kyrgyzstan	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Luxembourg	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Malaysia	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Malta	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Mauritania	N	12/2/2018	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Mexico	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Morocco	N	14/4/2015	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Netherlands	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
North Macedonia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Pakistan	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Poland	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Portugal	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N*	N	
Romania	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration									
	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6											
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) (Note 2) if no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion Art. 25(3) first sentence? (Note 6)	Inclusion Art. 25(3) second sentence? (Note 6)									
Russia	Y	N/A	O*	ii*	2-years	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Singapore	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
South Africa	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Spain	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sweden	Y	N/A	O*	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Switzerland	N	18/2/2018	E	Y	N/A	Y	Y	Y	i	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N
Syria	Y	N/A	O	ii	2-years	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Tajikistan	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Tunisia	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Turkey	Y	N/A	O*	Y	N/A	Y	Y	Y	i	Y	N*	Y	Y	Y	Y	Y	Y	Y	Y	N
Turkmenistan	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ukraine	Y	N/A	O*	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
United Arab Emirates	Y	N/A	E	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
United Kingdom	Y	N/A	O**	ii*	2-years	Y	Y	Y	i	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N
Uzbekistan	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Venezuela	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Viet Nam	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

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

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

Legend

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

Annex B

MAP Statistics Reporting for pre-2016 cases

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

2017 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2017	Number of pre-2016 cases closed during the reporting period by outcome								No. of pre-2016 cases remaining in MAP inventory on 31 December 2017	Average time taken (in months) for closing pre-2016 cases during the reporting period		
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	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

2018 MAP Statistics														
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2018	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in MAP inventory on 31 December 2018	Average time taken (in months) for closing pre-2016 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 13
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	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 post-2015 cases

2016 MAP Statistics																
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing post-2015 cases during the reporting period					
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13	Column 14	Column 15
Column 1	Column 2	Column 3	Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 14	Column 15	
Attribution/Allocation	0	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	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2017 MAP Statistics																
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2015 cases during the reporting period					
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13	Column 14	Column 15
Column 1	Column 2	Column 3	Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 14	Column 15	
Attribution/Allocation	0	2	0	0	0	0	0	0	0	0	0	0	0	2	0	n.a.
Others	0	3	0	0	1	0	0	0	0	0	0	0	0	2	0	24.00
Total	0	5	0	0	1	0	0	0	0	0	0	0	0	0	0	24.00

2018 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2018	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome								No. of post-2015 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2015 cases during the reporting period		
			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	2	0	0	0	0	0	0	0	0	0	0	0	2	n.a.
Others	2	4	0	0	0	0	0	0	0	0	0	0	6	n.a.
Total	4	4	0	0	0	0	0	0	0	0	0	0	8	n.a.

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
Multilateral Instrument	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
OECD Transfer Pricing Guidelines	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
Pre-2016 cases	MAP cases in a competent authority's inventory that are pending resolution on 31 December 2015
Post-2015 cases	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2016
Review Period	Period for the peer review process that started on 1 January 2016 and ended on 31 December 2017
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2016 and ended on 31 December 2018
Terms of Reference	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective

OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective – MAP Peer Review Report, Saudi Arabia (Stage 1)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

Under Action 14, countries have committed to implement a minimum standard to strengthen the effectiveness and efficiency of the mutual agreement procedure (MAP). The MAP is included in Article 25 of the OECD Model Tax Convention and commits countries to endeavour to resolve disputes related to the interpretation and application of tax treaties. The Action 14 Minimum Standard has been translated into specific terms of reference and a methodology for the peer review and monitoring process. The minimum standard is complemented by a set of best practices.

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 1 peer review of the implementation of the Action 14 Minimum Standard by Saudi Arabia.

Consult this publication on line at <https://doi.org/10.1787/322136b0-en>.

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