

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



Making Dispute Resolution More Effective - MAP Peer Review Report, Turkey (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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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 80 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 Inclusive Framework on BEPS, 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 120 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 BEPS on 19 October 2018 and prepared for publication by the OECD Secretariat.

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Abbreviations and Acronyms

APA	Advance Pricing Arrangement
EU	European Union
FTA	Forum on Tax Administration
MAP	Mutual Agreement Procedure
OECD	Organisation for Economic Co-operation and Development

Executive summary

Turkey has an extensive tax treaty network with over 85 tax treaties. It has a MAP programme and has modest experience with resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and 14 cases pending on 31 December 2017. Of these cases, 21% concern allocation/attribution cases. Overall Turkey meets most of the elements of the Action 14 Minimum Standard.

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

- Approximately 70% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments; and
- Approximately 30% of its tax treaties do not contain the equivalent of Article 25(1) to the OECD Model Tax Convention, whereby the majority of these treaties do not a provision allowing taxpayers to file a MAP request within a period of at least three years.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Turkey needs to amend and update a significant number of its tax treaties. In this respect, Turkey 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, Turkey reported that it intends to update all of its tax treaties to be compliant with the requirements under the Action 14 Minimum Standard via bilateral negotiations, but has not yet put in place a plan in relation hereto.

Turkey in principle meets the Action 14 Minimum Standard concerning the prevention of disputes. It has in place a bilateral APA programme. This APA programme also enables taxpayers to request rollbacks of bilateral APAs. However, no such cases have occurred during the period of review.

Furthermore, Turkey meets the majority of the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. Its policy is to provide access to MAP in eligible cases, although it has since 1 January 2016 not received any MAP request concerning cases where anti-abuse provisions are applied. Additionally, there is a risk that access to MAP may be denied in cases where the issue under dispute has already been resolved via domestic judicial remedies and in cases where the tax treaty does not include a time limit for the submission of MAP requests, applicable rules under

domestic legislation may lead to a filing period of less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty. Turkey further 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. Apart from these issues, Turkey has published clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice. While Turkey has in place an administrative dispute settlement process that is independent from the audit and examination functions and which can only be accessed through a request from the taxpayer, such process does not prevent taxpayers' access to MAP. However, the effects of this process are not clarified in the public guidance on this administrative dispute settlement process.

Concerning the average time needed to close MAP cases, the MAP statistics for Turkey for the period 2016-2017 are as follows:

2016-2017	Opening Inventory 1/1/2016	Cases started	Cases closed	End Inventory 31/12/2017	Average time to close cases (in months)(*)
Attribution/allocation cases	2	5	4	3	7.63
Other cases	9	7	5	11	21.17
Total	11	12	9	14	15.15

(*) The average time taken for resolving MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. For computing the average time taken for resolving pre-2016 MAP cases, Turkey used as a start date the date when the MAP request from the taxpayer or notification/position paper from the other competent authority to initiate the MAP is received; and as the end date the date of the closing letter sent to the taxpayer or to the other competent authority, or the receipt of such letter from the other competent authority.

The number of cases Turkey closed in 2016 or 2017 is less than the number of all new cases started in those years. Its MAP inventory as per 31 December 2017 increased as compared to its inventory as per 1 January 2016. During the Statistics Reporting Period, Turkey's competent authority closed MAP cases 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 15.15 months, following which the current available resources for the MAP function in Turkey are considered adequate.

Furthermore, Turkey meets all the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Turkey's competent authority operates fully independently from the audit function of the tax authorities and its organisation is adequate for resolving MAP cases.

Lastly, as Turkey did not enter into MAP agreements in 2016 or 2017 that required an implementation by Turkey, it was not yet possible to assess whether it meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. However, Turkey 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.

Introduction

Available mechanisms in Turkey to resolve tax treaty-related disputes

Turkey has entered into 89 tax treaties on income (and/or capital), 85 of which are in force.¹ These 89 treaties are being applied to 90 jurisdictions.² All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty.

In Turkey, the competent authority function to handle MAP cases is assigned to the Minister of Finance (as of 10 July 2018 renamed to the Minister of Treasury and Finance), which in turn has transferred this competence to Turkey's Revenue Administration. In practice the competent authority function is performed by two departments within this administration, which concerns the Department of Revenue Management IV and the Department of EU and Foreign Affairs. The transfer pricing section of the first department employs eight persons, next to the director of the section, head of group and the head of department and is competent to handle attribution / allocation cases, as also requests for APAs. The Department of EU and Foreign Affairs, more specific the double tax agreements sections, handles other MAP cases. These sections employ 14 persons, next to the two directors of the sections, the head of the group and the head of the department. Apart from handling MAP cases, the department is also involved in other tasks, such as: (i) negotiation of tax treaties, (ii) issuing of rulings related to the application of tax treaties and (iii) providing assistance in the collection of taxes.

Turkey has issued guidance on the governance and administration of the mutual agreement procedure ("MAP") in the Guideline on Mutual Agreement Procedure under Double Taxation Agreements, which has been published on the website of Turkey's Revenue Administration since 2009 and has been revised in April 2018. This MAP guidance is in Turkish available at:

<http://www.gib.gov.tr/sites/default/files/fileadmin/CifteVergilendirme/karsiliklianasma2018.pdf>

Recent developments in Turkey

Turkey reported it is currently conducting tax treaty negotiations with Afghanistan, Argentina, Burkina Faso, Burundi, Cameroon, Cuba, Gabon, Ghana, Hong Kong, Iraq, Kenya, Korea, Libya, Mali, Mozambique, Nigeria, Palestine, Rwanda, Tanzania, Turkmenistan and Uganda. Turkey signed a new treaty with Senegal in 2015, with Côte d'Ivoire, Qatar and Somalia in 2016, and with Chad in 2017, all of which have not yet entered into force. The treaty with Qatar will replace the existing treaty of 2001, once it enters into force. Turkey also signed an amending protocol to the tax treaty with Kuwait in 2017, which also has not yet entered into force.

Furthermore, Turkey signed on 7 June 2017 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. Where treaties will not be modified by the Multilateral Instrument, Turkey reported that it strives updating them through future bilateral negotiations, with a prioritisation on the basis of the economic relations with the given treaty partner. It, however, has not yet a plan in place for such renegotiations. With the signing of the Multilateral Instrument, Turkey also submitted its list of notifications and reservations to that instrument.³ In relation to the Action 14 Minimum Standard, Turkey has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

Basis for the peer review process

The peer review process entails an evaluation of Turkey’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 the assessed jurisdiction, its peers and taxpayers. The questionnaires for the peer review process were sent to Turkey and the peers on 10 April 2018.

The period for evaluating Turkey’s implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 30 April 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 Turkey’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 Turkey is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty. Furthermore, the treaty analysis also takes into account the treaties with former Serbia and Montenegro for those jurisdictions to which these treaties are still being applied by Turkey (being both Serbia and Montenegro). As it concerns the same tax treaty that is being applied to multiple jurisdictions, this treaty is only counted as one treaty for this purpose. Reference is made to Annex A for the overview of Turkey’s tax treaties regarding the mutual agreement procedure.

In total five peers provided input: Austria, Canada, Finland, Germany and Italy. Out of these five peers, three had MAP cases with Turkey that started on or after 1 January 2016. These peers represent approximately 25% of post-2015 MAP cases in Turkey’s inventory that started in 2016 or 2017.⁴ The peers indicated having limited MAP experience in handling MAP cases with Turkey’s competent authority, but noted that communications have been positive, which was mainly via written correspondence and for one peer via teleconferencing.

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

- MAP profile⁵; and
- MAP statistics⁶ according to the MAP Statistics Reporting Framework (see below).

Finally, Turkey is a member of the FTA MAP Forum and has shown good co-operation during the peer review process. Turkey provided multiple times peer input, even when it concerned treaty partners with which it has limited MAP experience.

Overview of MAP caseload in Turkey

The analysis of Turkey's MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2017 ("**Statistics Reporting Period**"). According to the statistics provided by Turkey, its MAP caseload during this period was as follows:

2016-2017	Opening Inventory 1/1/2016	Cases started	Cases closed	End Inventory 31/12/2017
Attribution/allocation cases	2	5	4	3
Other cases	9	7	5	11
Total	11	12	9	14

General outline of the peer review report

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

- Preventing Disputes;
- Availability and Access to MAP;
- Resolution of MAP cases; and
- 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 Turkey's legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Turkey. Furthermore, the report depicts the changes adopted and plans shared by Turkey 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 Turkey 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 Turkey has entered into are available at: http://www.gib.gov.tr/uluslararasi_mevzuat. New treaties that have been signed but have not yet entered into force are with Chad (2017), Côte D'Ivoire (2016), Qatar (2016), Senegal (2015) and Somalia (2016). The treaty with Qatar will replace the existing treaty ones it enters into force. Furthermore, in 2017 Turkey signed a new protocol to the existing treaty with Kuwait, which has not yet entered into force, but has been taken into account in the treaty analysis, as this protocol includes a provision modifying the MAP provision. Reference is made to Annex A for the overview of Turkey's tax treaties.
- ². Turkey continues to apply the 2005 treaty with Serbia and Montenegro to both (i) Serbia and (ii) Montenegro.
- ³. Available at: <http://www.oecd.org/tax/treaties/beps-mli-position-Turkey.pdf>.
- ⁴. The breakdown of treaty partners on a jurisdiction-by-jurisdiction basis is only available for post-2015 cases under the MAP Statistics Reporting Framework. Turkey also provided the relevant information for pre-2016 cases, which shows that the peers that provided input represent almost 75% of pre-2016 MAP cases that were in Turkey's inventory in 2016 and 2017.
- ⁵. Available at: <http://www.oecd.org/tax/dispute/country-map-profiles.htm>.
- ⁶. The MAP statistics of Turkey's 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: <http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf>

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- OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>. [2]

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, 2015^[11]) 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.

[A.2] Current situation of Turkey's tax treaties

2. All of Turkey's 89 tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015^[11]) 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 Turkey's tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015^[11]), there is no need for modifications. Regardless, Turkey reported that it will continue to seek to include Article 25(3), first sentence in all of its future tax treaties.

4. Of the peers that provided input, one reported that its treaty with Turkey does not meet all the requirements under the Action 14 Minimum Standard, but that it is expected that via the Multilateral Instrument the treaty will be brought in line with these requirements. Where the modification will not be realised via that instrument, this peer mentioned that it will explore bilateral solutions. Two other peers mentioned that they consider their treaty with Turkey to be in line with the Action 14 Minimum Standard. With respect to element A.1, as noted above, all of Turkey's treaties are considered containing the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015^[11]), which also concerns the treaties with these peers.

Conclusion

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

[A.3] 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

6. 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.

Turkey’s APA programme

7. Turkey reported it has in place an APA programme, pursuant to which it is allowed to enter into unilateral, bilateral and multilateral APAs. The competence for handling APA requests is, pursuant to Ministerial Decree 2007/12888 of 27 November 2007, delegated to Turkey’s Revenue Administration. Furthermore, the legal basis for entering into bilateral and multilateral APAs is Article 13(5) of the Corporate Income Tax Law No. 5520, which allows taxpayers to request advanced approval from the Turkish Ministry of Finance (as of 10 July 2018 renamed to the Ministry of Treasury and Finance) on the to be applied method in transactions with associated enterprises. Turkey further clarified that requests for bilateral and multilateral APAs are considered within the framework of the mutual agreement procedure under Turkey’s tax treaties in force.

8. Turkey further reported that there are no timelines for filing of an APA request and that APAs are entered into for a period of a maximum of three years. When an APA is entered into, Turkey reported that this is announced on the website of its Revenue Administration without disclosing the taxpayer’s identity.² An existing APA can be renewed and revised provided that: (i) taxpayers file a request to that effect within nine months before the existing APA expires, (ii) there are no material changes in the facts and circumstances of the underlying case, (iii) the critical assumptions underlying the APA remain valid and relevant, and (iv) the transfer pricing method used remains to be appropriate.

9. Information on Turkey’s APA programme is included in section 6 of the Transfer Pricing General Communiqué No.1.³ This communiqué contains information on which taxpayers can apply for an APA, what type of APAs are possible, the process for obtaining an APA and the timelines for this process, the period for which an APA can be applied and the relationship between APAs and audits. Furthermore, the communiqué

also notes that since December 2017 the requirement of paying fees for obtaining an APA, or the renewal thereof, has been withdrawn.

Roll-back of bilateral APAs

10. Turkey reported that it allows for roll-back of bilateral APAs, which has been introduced in Turkey's law in June 2016. In more detail, Article 13(5) of Turkey's Corporate Income Tax Law No. 5520 notes that a roll-back of a bilateral APA is possible for those fiscal years that are still open under Turkey's domestic statute of limitation at the moment the APA is entered into. Furthermore, a roll-back can only be granted if: (i) the facts and circumstances of the transaction(s) in the previous fiscal years are similar to those of the fiscal years covered by the APA and (ii) it is possible to apply the provisions regarding the penitence and rectification as set forth in Article 371 of Tax Procedure Law No. 213. This concerns the requirements for taxpayers to apply for an exception to the issuance of penalties in case they have not reported the correct amount of tax due (e.g. the non-initiation of a tax investigation for the years for which a roll-back is requested).

11. Turkey's MAP guidance also describes the possibility of roll-backs and explains the process and the conditions thereof, as outlined above.

Practical application of roll-back of bilateral APAs

12. Turkey reported that it has received one request for a bilateral APA since 1 January 2016, which was granted accordingly. During the Review Period no request for a roll-back of a bilateral APA was received.

13. Of the five peers that provided input, two mentioned that so far they have not received any bilateral APA requests concerning Turkey, whereas the three other peers noted that they have no experiences with Turkey concerning the roll-back of bilateral APAs.

Anticipated modifications

14. Turkey did not indicate that it anticipates any modifications in relation to element A.2.

Conclusion

	Areas for Improvement	Recommendations
[A.2]	Turkey is in theory able to provide for roll-back of bilateral APAs. However, during the Review Period it did not receive a request for roll-back of a bilateral APA. It was therefore not possible at this stage to evaluate the effective implementation of this element in practice.	

Notes

¹ This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD, 2017^[2]).

² Available at (in Turkish): <http://www.gib.gov.tr>.

³ Available at (in Turkish): <http://www.gib.gov.tr/gibmevzuat>. Turkey's MAP guidance also includes a brief section on its APAs programme.

References

- OECD (2017), "OECD Transfer Pricing Guidelines", in *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, <https://doi.org/10.1787/tpg-2017-en>. [2]
- OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>. [1]

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.

15. 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 Turkey's tax treaties

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

16. Out of Turkey's 89 tax treaties, 75 contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015^[1]) as it read prior to the adoption of the Action 14 final report (OECD, 2015^[2]), 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.¹ Furthermore, one of Turkey's 89 tax treaties currently also contains such a provision, but a new protocol is negotiated that contains the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015^[1]), as changed by the Action 14 final report (OECD, 2015^[2]) and allowing taxpayers to submit a MAP request to the competent authority of either state.²

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

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, whereby taxpayers can only submit a MAP request to the competent authority of the contracting state of which they are resident.	12
A variation 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, whereby the taxpayer cannot submit a MAP request irrespective of domestic available remedies and can only submit a MAP request to the competent authority of the contracting state of which they are resident.	1

18. The 12 treaties mentioned in the first row of the table above are considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015^[1]) as it read prior to the adoption of the Action 14 final report (OECD, 2015^[2]), since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, for the following reasons 11 of those 12 treaties are considered to be in line with this part of element B.1:

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

19. The non-discrimination provision in the remaining treaty is almost identical to Article 24(1) of the OECD Model Tax Convention (OECD, 2015^[1]) and applies both to nationals that are and are not resident of one of the contracting states. The omission of the full text of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015^[1]) is therefore for this treaty not clarified by a limited scope of the non-discrimination article, following which it is considered not to be in line with this part of element B.1.

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

“In respect of paragraph 1 of Article 25 the expression “irrespective of the remedies provided by the domestic law” means that the mutual agreement procedure is not alternative with the national contentious proceedings which shall be, in any case, preventively initiated, when the claim is related with an assessment of the taxes not in accordance with this Agreement”.

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

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

22. Out of Turkey’s 89 tax treaties, 36 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015^[1]) allowing taxpayers to submit a MAP request within a period of three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.³ In addition, two tax treaties allow for the filing of a MAP request longer than three years, namely five years.

23. Furthermore, 23 tax treaties do not contain a filing period for MAP requests.⁴

24. The remaining 28 tax treaties can be categorised as follows:

Provision	Number of tax treaties
A filing period for MAP requests that is shorter than three years (two years / one year)	4
No filing period for a MAP request, but reference is made to the time limits in the domestic laws of the treaty partners	19
No filing period for a MAP request at the level of the treaty partner and a reference to domestic time limits in the case of Turkey	1
A filing period for MAP requests of two years for the treaty partner and one year in the case of Turkey	1
A filing period for MAP requests of three years for the treaty partner and one year in the case of Turkey	3

25. All provisions contained in the 28 treaties are considered not to be in line with this part of element B.1, as taxpayers cannot file in all situations a MAP request within a period of three years as from the first notification of the action resulting in taxation not in accordance with the treaty.

Practical application

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

26. As noted in paragraph 19 and 20 above, in all but one of Turkey's tax treaties taxpayers can file a MAP request irrespective of domestic remedies. In this respect, Turkey reported that where a taxpayer seeks to resolve the case first by applying judicial remedies, access to MAP will not be given, unless he withdraws from these judicial remedies. The reason hereof is that under domestic law it is not possible that a MAP is initiated concurrently with domestic judicial remedies due to the fact that taxpayers and the tax administration are bound by court decisions. This rule is further clarified in Turkey's MAP guidance, under the heading "Mutual agreement procedure under double taxation agreement and national remedies". In that section it is specified that since court decisions bind both the tax administration and taxpayers, access to MAP will not be granted by Turkey's competent authority where for the case under review a domestic court already issued a verdict. It is further clarified that in cases where the taxpayer considers the taxation not in accordance with the convention follows from actions by the treaty partner, access to MAP could be granted even if for that case a Turkish court already rendered a decision, but only to allow that other competent authority to provide for correlative relief. The system used, however, bears the risk that taxpayers do not have access to MAP in all appropriate cases, which is not in line with the rights granted to them under Article 25(1) of the OECD Model Tax Convention (OECD, 2015_[1]).

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

27. For those tax treaties mentioned in paragraph 22 above that do not contain a filing period for MAP requests, Turkey reported that its domestic statute of limitation for tax corrections applies. In this respect, Article 114 of the Tax Procedure Law No. 213 defines the statute of limitation as five years from the first day of the year following the calendar year in which the tax claim has arisen. Furthermore, Article 126 of that law defines that the statute of limitations for tax corrections shall not be less than one year for taxes assessed and notified to the taxpayer in the last year of the statute of limitation. These rules bear the risk that taxpayers can for these 23 treaties not file a MAP request within a

period of at least three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.

Anticipated modifications

Multilateral Instrument

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

28. Turkey signed the Multilateral Instrument. Article 16(4)(a)(i) of that instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) as amended by the final report on Action 14 (OECD, 2015_[2]) and allowing the submission of MAP requests to the competent authority of either contracting state – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) as it read prior to the adoption of the final report on Action 14. 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 final report on Action 14 (OECD, 2015_[2]). Where only one of the treaty partners made such a notification, article 16(4)(a)(i) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty is incompatible with Article 16(1) (containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) as amended by the final report on Action 14 (OECD, 2015_[2])). Furthermore, 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.

29. With the signing of the Multilateral Instrument, Turkey opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) as amended by the final report on Action 14 (OECD, 2015_[2]), allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Turkey's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which they are a resident, Turkey opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Turkey listed 88 of its 89 treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for all of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the final report on Action 14.⁵ One of these 88 treaties is the treaty mentioned in paragraph 20 above that already allows the submission of a MAP request to either competent authority and for that reason only the remaining 87 treaties are taken into account in the below analysis.

30. In total, 38 of the 87 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas one did not list its treaty with Turkey as a covered tax agreement and 20 reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties.⁶ All remaining 28 treaty partners listed their treaty with Turkey as having a provision that is equivalent to Article 25(1), first sentence, of the

OECD Model Tax Convention (OECD, 2015_[1]) as it read prior to the adoption of the final report on Action 14 (OECD, 2015_[2]). Therefore, at this stage, these 28 tax treaties 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 (OECD, 2015_[1]) as amended by the final report on Action 14 (OECD, 2015_[2]).

31. In view of the above, for those two treaties identified in paragraphs 18-20 above that are considered not containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) as it read prior to the adoption of the final report on Action 14 (OECD, 2015_[2]), one is included in the list of 28 treaties that will be modified via the Multilateral Instrument with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.

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

32. With respect to the period of filing of a MAP request, Article 16(4)(a)(ii) of the Multilateral Instrument stipulates that Article 16(1), second sentence – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) – will apply where such period is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(b)(i), the depositary that this treaty does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]).

33. In regard of the four tax treaties identified in the first row of the table of paragraph 23 above that contain a filing period for MAP requests of less than three years, Turkey listed all of them as a covered tax agreement under the Multilateral Instrument and made, 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 relevant four treaty partners, two are not a signatory to the Multilateral Instrument. The remaining two treaty partners also made a notification on the basis of Article 16(6)(b)(i). Therefore, at this stage, two of these four tax treaties will be modified by the Multilateral Instrument, upon entry into force for these treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]).

34. With regard to the remaining 24 of the 28 tax treaties identified in the table of paragraph 23 above that contain a provision that is considered not the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]), as it refers to domestic laws of the contracting state for the filing period of MAP requests or contain different rules for treaty partners, Turkey listed all 24 of them as a covered tax agreement under the Multilateral Instrument, but for none of them did it make, pursuant to Article 16(6)(b)(i), a notification that it does not contain a provision described in Article 16(4)(a)(ii) and only made for two treaties a notification on the basis of Article 16(6)(b)(ii) that these treaties contain such a provision. Of the relevant 24 treaty partners, 15 are not a signatory to the Multilateral Instrument, whereas one has made a notification on the basis of Article 16(6)(b)(ii) that its treaty with Turkey contains a provision described in Article 16(4)(a)(ii). The remaining eight treaty partners also listed their treaty with Turkey under the Multilateral Instrument and also did not make a notification on the basis of either Article 16(6)(b)(i) or Article 16(6)(b)(ii). In this situation, Article

16(6)(b)(i) of the Multilateral Instrument stipulates that the second sentence of Article 16(1) – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) – will supersede the provision of the covered tax agreement to the extent it is incompatible with that second sentence. Since the eight treaties refer to the domestic law of the contracting states to determine the filing period of a MAP request, or otherwise contain a provision that deviates from Article 25(1), second sentence, and given the fact that in the case of Turkey such filing period may in some cases be less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty, the provision of the covered tax agreement is considered to be incompatible with the second sentence of Article 16(1). Therefore, at this stage, the eight tax treaties identified above will be superseded 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 (OECD, 2015_[1]).

Bilateral modifications

35. Turkey further reported that when tax treaties that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2015_[1]), as it read prior to the adoption of the final report on Action 14 (OECD, 2015_[2]), will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.1. In this respect, it reported it intends to contact its treaty partners with a prioritisation of those treaty partners with which it has intense economic relations. Turkey, however, has not yet a specific plan in place in relation hereto.

36. With respect to the first sentence of Article 25(1), Turkey reported that it will in those bilateral negotiations propose to include the equivalent as amended by the final report on Action 14. In addition, Turkey reported it will seek to include Article 25(1) of the OECD Model Tax Convention (OECD, 2015_[1]), as amended by the final report on Action 14 (OECD, 2015_[2]), in all of its future tax treaties.

Peer input

37. Three peers provided input, of which one reported that its treaty with Turkey does not meet all the requirements under the Action 14 Minimum Standard, but that it is expected that via the Multilateral Instrument the treaty will be brought in line with these requirements. Where the modification will not be realised via the Multilateral Instrument, this peer mentioned that it will explore bilateral solutions. The other two peers mentioned that they consider their treaty with Turkey to be in line with the Action 14 Minimum Standard.

38. With respect to element B.1, the tax treaty with two of the three peers is in line with element B.1. For the third peer, the treaty is considered not having the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]), but is included in the list of eight treaties identified in paragraph 33 above that will be modified by the Multilateral Instrument.

Conclusion

	Areas for Improvement	Recommendations
[B.1]	<p>28 out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention. Of those 28 tax treaties:</p> <ul style="list-style-type: none"> ○ Two tax treaties do not contain the equivalent to Article 25(1), first sentence and provide that 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; and ○ 26 tax treaties provide that 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. 	<p>Turkey should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1) of the OECD Model Tax Convention in those treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. This concerns:</p> <ul style="list-style-type: none"> • a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention as amended in the final report on Action 14; and/or • a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. <p>For the remaining treaties that will not be modified by the Multilateral Instrument following its entry into force to include the equivalent to Article 25(1) of the OECD Model Tax Convention in those treaties that currently do not contain such equivalent, Turkey should request the inclusion of the required provision via bilateral negotiations. This concerns both:</p> <ul style="list-style-type: none"> • a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either <ul style="list-style-type: none"> a) As amended in the final report on Action 14; or b) As it read prior to the adoption of final report on Action 14, thereby including the full sentence of such provision; and <p>a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.</p> <p>To this end, Turkey should put a plan in place on how it envisages updating these treaties to include the required provision.</p> <p>In addition, Turkey should maintain its stated intention to include the required provision in all future tax treaties.</p>
	<p>Where tax treaties do not include a time limit for submission of a MAP request, applicable rules under domestic legislation may lead to a filing period of less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.</p>	<p>Turkey should ensure that where its domestic time limits apply for filing of MAP requests, in the absence of a provision hereon in its tax treaties, such time limits do not prevent taxpayers from having access to MAP if a request thereto is made within a period of three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.</p>
	<p>There is a risk that access to MAP is denied in eligible cases where the issue under dispute has already been decided via the judicial remedies provided by Turkey's domestic law.</p>	<p>Turkey should ensure that taxpayers that meet the requirements of paragraph 1 of Article 25 of the OECD Model Tax Convention can access the MAP.</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).

39. 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

40. As discussed under element B.1, out of Turkey's 89 treaties, one currently contains a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015^[1]) as changed by the Action 14 final report (OECD, 2015^[2]), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. In addition, as was also discussed under element B.1, 28 of these 89 treaties will, upon entry into force, be modified by the Multilateral Instrument to also allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

41. In Turkey's MAP guidance, under the heading "*How does the process continue after taxpayer's request for the commencement of the mutual agreement procedure*" it is described how the taxpayer is informed when its MAP request is considered by Turkey's competent authority not to be appropriate. It is specified that the taxpayer will be informed of the grounds for not accepting the request. Turkey, however, has not yet in place a (documented) notification or consultation process to be applied when its competent authority considers that the objection raised in a MAP request is not justified.

Practical application

42. Turkey 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 and 2017 MAP statistics submitted by Turkey also show that none of its MAP cases was closed with the outcome "objection not justified".

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

Anticipated modifications

44. As previously discussed under element B.1, Turkey has signed the Multilateral Instrument, *inter alia* with the intention to modify covered tax agreements to allow taxpayers to submit a MAP request to the competent authority of either contracting state. Furthermore, Turkey reported that it envisages introducing a notification process as from 1 January 2019 in those situations where its competent authority considers the objection raised by a taxpayer as being not justified.

Conclusion

	Areas for Improvement	Recommendations
[B.2]	88 of the 89 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.	Turkey should without further delay follow-up its stated intention to introduce a documented notification process, and 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 final report of Action 14.

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

Jurisdictions should provide access to MAP in transfer pricing cases.

45. 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

46. Out of Turkey's 89 tax treaties, 84 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015_[1]) requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner.⁷ Furthermore, three treaties do not contain such equivalent. The remaining two treaties do contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2015_[1]), but deviate from this provision for the following reasons:

- In one treaty corresponding adjustments can only be made through MAP; and

- In one treaty granting of a corresponding adjustment is optional, as the phrase “(...) shall make an appropriate adjustment” is replaced by “(...) may consult together with a view to reach an agreement on the adjustment of profits”. Furthermore, this treaty does not follow the structure and the wording of Article 9(2).

47. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Turkey’s tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B3, as translated from the Action 14 Minimum Standard, Turkey indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments, such regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2015_[1]) is contained in its tax treaties.

48. In view of the above, Turkey’s MAP guidance, under the heading “*in which cases can the commencement of the mutual agreement procedure be requested*”, includes examples of cases for which a MAP request can be submitted. Among these examples are transfer pricing cases.

Application of legal and administrative framework in practice

49. Turkey reported that since 1 January 2016, it has not denied access to MAP on the basis that the case concerned is a transfer pricing case.

50. All peers that provided input indicated not being aware of a denial of access to MAP by Turkey since 1 January 2016 on the basis that the case concerned was a transfer pricing case.

Anticipated modifications

51. Turkey reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention (OECD, 2015_[1]) 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, Turkey signed the Multilateral Instrument. Article 17(2) of that instrument stipulates that Article 17(1) – containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2015_[1]) – 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 (OECD, 2015_[1]). Where such a notification is made by both of them, the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the

provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2015^[11])).

52. Turkey 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 (OECD, 2015^[11]). In regard of the five treaties identified in paragraph 45 above that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention, Turkey listed all of them as a covered tax agreement under the Multilateral Instrument and included three in the list of treaties for which Turkey has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument. Furthermore, Turkey did not make a notification on the basis of Article 17(4) for the remaining two treaties. Of the relevant two treaty partners, one is not a signatory to the Multilateral Instrument, whereas one has not listed its treaty with Turkey under that instrument. Therefore, at this stage, none of the five tax treaties identified above will be modified by the Multilateral Instrument to replace or supersede treaty provisions to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2015^[11]).

Conclusion

	Areas for Improvement	Recommendations
[B.3]	-	As Turkey has thus far granted access to MAP in eligible transfer pricing cases, it should continue granting access for these cases.

[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.

53. 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

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

disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

55. Turkey reported that it will provide access to MAP in cases relating to the application of a treaty anti-abuse provision or for cases concerning the question whether the application of the domestic anti-abuse provision comes into conflict with the provision of a tax treaty. In this respect, Turkey’s MAP guidance, under the heading “*in which cases can the commencement of the mutual agreement procedure be requested*”, includes examples of cases for which a MAP request can be submitted. Among these examples are cases concerning the application of anti-abuse provisions.

Practical application

56. Turkey 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.

57. All peers that provided input indicated not being aware of cases that have been denied access to MAP by Turkey since 1 January 2016 in relation to the application of treaty and/or domestic anti-abuse provisions.

Anticipated modifications

58. Turkey did not indicate that it anticipates any modifications in relation to element B.4.

Conclusion

	Areas for Improvement	Recommendations
[B.4]	Turkey 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 request of this kind from taxpayers during the Review Period. Turkey 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.

59. 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

60. Turkey 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 ending of an audit.

Administrative or statutory dispute settlement/resolution process

61. Turkey reported it has in place an administrative dispute settlement process that is independent from the audit and examination functions and which can only be accessed through a request by the taxpayer. This process is an administrative remedy that is an alternative to domestic judicial procedures and which allows taxpayers to negotiate with Turkey's Revenue Administration on a proposed or issued adjustment in advance of domestic judicial remedies. Taxpayers can request this initiation of the settlement process when they are subject to an audit and at two occasions: settlement before assessment and settlement after assessment.⁸ The legal basis for both types of processes is laid down in Additional Articles 1, 6-9 and 11 of the Tax Procedure Law No. 213.

62. A settlement before assessment can be requested before the tax inspector has issued the final audit report, although the process will only be conducted after that report has been issued.⁹ The settlement commission consists of three senior tax inspectors from the Tax Inspection Board of the Ministry of Finance (as of 10 July 2018 renamed to the Ministry of Treasury and Finance) – (tax inspectors making the audit cannot have a seat in the commission).¹⁰ Turkey reported that this commission will independently decide on the case under review, such without any involvement or approval of another authority or person. Taxpayers will thereby be notified of the date of the settlement at least 15 days in advance.

63. The settlement process after assessment can be requested only after the tax office has issued the additional assessment on the basis of the audit report. Taxpayers should request the initiation of this process within 30 days from the notification of the tax assessment to the taxpayer. Also for this process, and upon receipt of the taxpayer's written application, the settlement commission will notify the date of the settlement to the taxpayer at least 15 days in advance. The settlement commission, however, has a different composition than a settlement before assessment, namely three managers of the Revenue Administration (e.g. from the tax offices directorates and tax offices). Nonetheless, Turkey reported that also for this settlement process the settlement will independently decide on the case under review, such without any involvement or approval of another authority or person.

64. Where a settlement is reached, the taxpayer and Revenue Administration will sign a settlement minute, which will then be effectuated by the latter. Where a settlement cannot be reached, the final offer will be stated in the settlement minute, which will be notified to the local tax authority that is responsible for the collection of taxes.¹¹ The audit report (settlement before assessment) or the tax assessment (settlement after assessment) will then be issued, reflecting the outcome of the tax audit. Taxpayers, however, still have the possibility to accept the settlement commission's final offer, such via a written notification to the local tax office and within the time period for filing a suit. In such a situation an agreement is deemed to be reached and accordingly implemented.

65. Concerning the relationship with MAP, Turkey clarified that if the process leads to a settlement of the case, there is no dispute between the tax administration and the taxpayer anymore that needs to be resolved. While in such situation, pursuant to Article 6 and 13 of the Tax Procedure Law No, 213, domestic judicial remedies would no longer be available, Turkey reported that its competent authority would, however, still provide access to MAP for the purpose of avoiding double taxation and for allowing the other competent authority concerned to provide correlative relief. Where the case is not settled in the process, Turkey reported that taxpayers have the right to further initiate domestic judicial procedures or to request the initiation of a MAP, if still available. This is also the case where the case under review is only partially resolved through the settlement process. For the part that has not been resolved, MAP will then be fully available. Lastly, if a MAP was already initiated, but did not lead to an agreement that resolved the case, then taxpayers would still have the possibility to request the initiation of the settlement process, if still available.

Practical application

66. Turkey reported it has since 1 January 2016 not denied access to MAP for cases where the issue presented by the taxpayer in a MAP request has already been resolved through its administrative settlement process.

67. All peers that provided input indicated not being aware of a denial of access to MAP by Turkey since 1 January 2016 in cases where there was an audit settlement between the taxpayer and the tax administration or in cases that were already resolved via its administrative dispute settlement process.

Anticipated modifications

68. Turkey did not indicate that it anticipates any modifications in relation to element B.5.

Conclusion

	Areas for Improvement	Recommendations
[B.5]	-	-

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

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

69. 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 publically available.

Legal framework on access to MAP and information to be submitted

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

71. Where a taxpayer has not included all required information in its MAP request, Turkey reported that its competent authority will request the taxpayer to supplement the missing information and/or documentation. The competent authority is thereby entitled to give a reasonable timeframe in this regard, but, generally, the information should be requested within a period of 15 days upon receipt of the MAP request. No specific timeframe is set for taxpayers to provide this information, which depends on the nature of each case.

72. Where taxpayers in the end do not submit the required and requested information, Turkey reported that its competent authority will not consider the MAP request. However, if at any time thereafter the information is submitted, Turkey's competent authority will take the MAP request into consideration provided that the information is submitted within the filing period provided for in the applicable tax treaty.

Practical application

73. Turkey reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements as set out in its MAP guidance. It further reported that since 1 January 2016 it has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

74. All peers that provided input indicated not being aware of a limitation of access to MAP by Turkey since 1 January 2016 in situations where taxpayers complied with information and documentation requirements.

Anticipated modifications

75. Turkey did not indicate that it anticipates any modifications in relation to element B.6.

Conclusion

	Areas for Improvement	Recommendations
[B.6]	-	As Turkey has thus far not limited access to MAP in eligible cases when taxpayers have complied with Turkey's information and documentation requirements for MAP requests, it should continue this practice.

[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.

76. For ensuring that tax treaties operate effectively and in order for competent authorities to be able to respond quickly to unanticipated situations, it is useful that tax treaties include the second sentence of Article 25(3) of the OECD Model Tax Convention (OECD, 2015^[1]), enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

Current situation of Turkey's tax treaties

77. Out of Turkey's 89 tax treaties, 81 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties.¹² The remaining eight treaties do not contain a provision that is based on, or equivalent to, Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]).

Anticipated modifications

Multilateral Instrument

78. Turkey signed the Multilateral Instrument. Article 16(4)(c)(ii) of that instrument stipulates that Article 16(3), second sentence – containing the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]). In other words, in the absence of this equivalent, Article 16(4)(c)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(ii), the depositary that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]).

79. In regard of the eight tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]), Turkey listed all of them as a covered tax agreement under the Multilateral Instrument and for all made a notification, pursuant to Article 16(6)(d)(ii), that they do not contain a provision described in Article 16(4)(c)(ii). Of the relevant eight treaty partners, two are not a signatory to the Multilateral Instrument. The remaining six treaty partners also made a notification on the basis of Article 16(6)(d)(ii). Therefore, at this stage, six of the eight tax treaties identified above will be modified by the Multilateral Instrument upon entry into force for these treaties, to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]).

Bilateral modifications

80. Turkey further reported that for the two tax treaties that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) and will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.7. In this respect, it reported it intends to contact its treaty partners with a prioritisation of those treaty partners with which it has intense economic relations. Turkey, however, has not yet a specific plan in place in relation hereto. In addition, Turkey reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) in all of its future tax treaties.

81. Three peers provided input, of which two reported that they consider their treaty with Turkey to be in line with the Action 14 Minimum Standard. The third peer reported that its treaty with Turkey does not meet all the requirements under the Action 14 Minimum Standard, but that it is expected that via the Multilateral Instrument the treaty

will be brought in line with these requirements. Where the modification will not be realised via the Multilateral Instrument, this peer mentioned that it will explore bilateral solutions. The tax treaties with all three peers, however, are already in line with element B.7.

Conclusion

	Areas for Improvement	Recommendations
[B.7]	8 out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention.	<p>Turkey 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 those six treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention following its entry into force for the treaties concerned, Turkey should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end Turkey should put a plan in place on how it envisages updating these two treaties to include the required provision.</p> <p>In addition, Turkey 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.

82. 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.

Turkey's MAP guidance

83. Turkey has issued guidance on the MAP process and how it applies that process in practice in the Guideline on Mutual Agreement Procedure under Double Taxation Agreements ("**MAP guidance**"). This guidance has been published on the website of Turkey's Revenue Administration since 2009 and has been revised in April 2018. This MAP guidance is in Turkish available at:

www.gib.gov.tr/sites/default/files/fileadmin/CifteVergilendirme/karsiliklianasma2018.pdf

84. Turkey's MAP guidance contains information on several aspects of the MAP process, which concerns:

- Framework of the mutual agreement procedure
- Persons eligible for filing of a MAP request and examples of cases for which a MAP request can be filed (including transfer pricing cases)
- Competent authority to submit a MAP request, including examples specifying to which competent authority such a request should be submitted in a given situation
- Commencement date for filing of a MAP request
- Information to be included in a MAP request
- The steps and actions in the MAP process
- Rights and role of the taxpayer in the MAP process
- Implementation of MAP agreements
- Interaction with domestic available remedies

85. Turkey's MAP guidance also provides an overview of the recent developments concerning the mutual agreement procedure, such as the changes to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015^[1]), the choices made by Turkey under the Multilateral Instrument and the effect thereof for Turkey's tax treaties in relation to MAP. Furthermore, the Annex to the MAP guidance specifies for each of Turkey's tax treaties the filing period for a MAP request and the rules for implementing MAP agreements.

86. The above-described MAP guidance of Turkey includes detailed information on the availability and the use of MAP and how its competent authority conducts the procedure in practice. This guidance includes the information that the FTA MAP Forum agreed should be included in a jurisdiction's MAP guidance, which concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request.¹³

87. Although the information included in Turkey's MAP guidance is detailed and comprehensive, some subjects are not specifically touched upon. This concerns information on whether MAP is available in cases of: (i) multilateral disputes and bona fide foreign-initiated self-adjustments, (ii) whether taxpayers can request for the multi-year resolution of recurring issues through MAP and (iii) whether or not tax collection can be suspended during the period a MAP case is pending.

Information and documentation to be included in a MAP request

88. Turkey's MAP guidance sets forth the basic information and documentation taxpayers need to include in their MAP request. The information to be included in a MAP request concerns:

- Name, address, tax identification number
- Information on whether the taxpayer is associated with an individual and/or the enterprise in the other Contracting State
- Contact information of the agent acting on behalf of the competent authority of the other contracting state (if applicable)
- Nature of the case, transaction, or of the domestic law provisions applied in relation to the case and the relevant articles of the applicable tax treaty

- Relevant taxation periods
- Amount of income derived for each taxation period and the amount of the adjusted tax
- Summary of the information related to the case that is reflected in the original tax return
- Calculation made together with supporting data (financial or economic data, reports, the relevant documents and records of taxpayers as well as explanatory notes) – (if related to the case)
- A statement whether domestic available remedies have been initiated (if so, also information on the date of the application and a sample of the application documents)
- A statement whether the taxpayer has previously initiated in Turkey other administrative remedies (settlement, tax ruling, advance pricing arrangement etc.) – (if so, also information on the date of the application and a sample of the application documents)
- A statement that the information submitted is accurate and that requested additional information will be submitted on time.

89. Further to the above, if a taxpayer also has submitted a MAP request to the competent authority of the treaty partner, it should in addition include information on the date of such submission, the contact information of this competent authority and a sample of the submitted documents. Where it concerns transfer pricing cases, the following information should also be submitted in a MAP request:

- General framework of comparable transactions and methods of correction
- Explanation of the applied transfer pricing method and of the appropriateness of this method.

90. 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. This agreed guidance is shown below. With respect to Turkey's MAP guidance, the information to be included in a MAP request is checked in the following list:

- Identity of the taxpayer(s) covered in the MAP request
- The basis for the request
- Facts of the case
- Analysis of the issue(s) requested to be resolved via MAP
- Whether the MAP request was also submitted to the competent authority of the other treaty partner
- Whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes
- Whether the issue(s) involved were dealt with previously

- A statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the competent authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the competent authority in a timely manner.

Anticipated modifications

91. Turkey anticipates issuing an English translation of its MAP guidance on the website of its Revenue Administration, which is in the process of being prepared.

Conclusion

Areas for Improvement	Recommendations
[B.8] -	<p>Although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance, Turkey could consider including information on:</p> <ul style="list-style-type: none"> • Whether MAP is available in cases of: (i) multilateral disputes and (ii) bona fide foreign-initiated self-adjustments • Whether taxpayers can request for the multi-year resolution of recurring issues through MAP • Whether or not it is possible that tax collection can be suspended during the period a MAP case is pending.

[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.

92. 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.¹⁴

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

93. The MAP guidance of Turkey is published in Turkish, which is made publically available at:

<http://www.gib.gov.tr/sites/default/files/fileadmin/CifteVergilendirme/karsiliklianasma2018.pdf>

94. As regards the accessibility of its MAP guidance, it can easily be found on the website of Turkey's Revenue Administration, for example, when searching in Turkish for the term "mutual agreement procedure" on the homepage.

MAP profile

95. The MAP profile of Turkey is published on the website of the OECD since September 2016 and has recently been updated. This MAP profile is complete and contains detailed information and explanations for all items on how Turkey deals with MAP cases. This profile includes external links which provide extra information and guidance where appropriate.

Anticipated modifications

96. As mentioned under element B.8, Turkey anticipates publishing an English translation of its MAP guidance on the website of its Revenue Administration.

Conclusion

	Areas for Improvement	Recommendations
[B.9]	-	As it has thus far made its MAP guidance available and easily accessible and published its MAP profile, Turkey should ensure that its future updates to the MAP guidance continue to be publically available and easily accessible and that its MAP profile published on the shared public platform is updated if needed.

[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.

97. 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

98. As previously discussed under B.5, it is under Turkey's domestic law not possible that taxpayers and the tax administration enter into audit settlements. In that regard, there

is no need to address in Turkey's MAP guidance that audit settlements do not preclude access to MAP.

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

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

100. As previously mentioned under element B.5, Turkey has in place an administrative dispute settlement process that is independent from the audit and examination functions and that can only be accessed through a request by the taxpayer.

101. Turkey's MAP guidance – under the heading “*Mutual agreement procedure under double taxation agreement and national remedies*” – describes the availability of its administrative dispute settlement process, in what forms that process operates (e.g. settlement before and after assessment) and the rules to be applied during that process. It further outlines that where a settlement has been reached between the taxpayer and Turkey's Revenue Administration, there will not be a need for MAP as the dispute in question between the tax administration and the taxpayer is being resolved. Furthermore, Turkey's MAP guidance clearly states that in principle access to MAP will not be granted once a settlement has been reached, but also that when a correlative adjustment is required at the level of the treaty partner to avoid double taxation that may arise from the settlement, Turkey's competent authority may accept a MAP request. In addition, Turkey's MAP guidance also sets forth that where a MAP request has been made, but whereby competent authorities were not able to resolve the case, taxpayers can still apply for the administrative dispute settlement process, provided domestic time limits for requesting such process have not expired.

102. Turkey reported that Turkey's instructions on settlement or the domestic law provisions in relation hereto do not contain a description of the effects of this process on MAP.

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

103. Turkey reported that all treaty partners were notified of the existence of its administrative dispute settlement process, by referring to the information included in Turkey's MAP profile. However, all peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/ resolution process in Turkey. As Turkey included information hereon in its MAP profile, such with a reference to its domestic MAP guidance in which the process is outlined, this is considered to be in line with the requirements under element B.10.

Anticipated modifications

104. Turkey did not indicate that it anticipates any modifications in relation to element B.10.

Conclusion

	Areas for Improvement	Recommendations
[B.10]	Public guidance on its administrative dispute settlement process does not address the effects of that process on MAP.	Turkey should address in its instructions on the administrative dispute settlement process the effect of that process on MAP.

Notes

1. These 75 treaties include the treaty with former Serbia and Montenegro that Turkey continues to apply to both (i) Serbia and (ii) Montenegro.
2. For purposes of this peer review report the text as reflected in the protocol to this treaty is taken into account. The treaty currently in force already contains the required provision, following which the treaty is already in line with element B.1. For that reason no recommendation is made to ratify the protocol as soon as possible.
3. These 36 treaties include the treaty with former Serbia and Montenegro that Turkey continues to apply to both (i) Serbia and (ii) Montenegro.
4. For one of these 23 treaties an amending protocol has been signed, which contains the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention. For purposes of this peer review report the text as reflected in the protocol is taken into account. Since the treaty currently in force already is in line with element B.1, no recommendation is made to ratify the protocol as soon as possible.
5. These 87 treaties include the treaty with former Serbia and Montenegro that Turkey continues to apply to both (i) Serbia and (ii) Montenegro.
6. These 20 treaty partners include Serbia, which made a reservation on the basis of Article 16(5)(a). Montenegro is not a signatory to the Multilateral Instrument. Therefore, the instrument will not take effect as to the treaty with former Serbia and Montenegro, which continues to be applied to both (i) Serbia and (ii) Montenegro.
7. These 84 treaties include the treaty with former Serbia and Montenegro that Turkey continues to apply to both (i) Serbia and (ii) Montenegro.
8. Turkey reported that where the taxpayer has already applied for the settlement before assessment, he cannot apply anymore for settlement after assessment.
9. Turkey clarified that where a taxpayer is audited on the basis of external information and without taxpayer's knowledge, the tax inspector may invite the taxpayer to request for the initiation of the settlement process. In such a case, the settlement process will commence at least 15 days after the notification to the taxpayer. Furthermore, throughout the process taxpayers are allowed to withdraw their request, by which the process ends and an assessment accordingly will be initiated on the basis of the audit report. In such a situation taxpayers can initiate domestic available remedies, if still available.
10. Where a tax audit was conducted by other persons than tax inspectors, the commission will be composed of the head of the Tax Office Directorate, or the director of the group, and two directors from that directorate.
11. Turkey reported that there are three reasons why a settlement agreement may not be reached. This concerns the situations that a taxpayer: (i) does not participate in the settlement meeting, (ii) avoids signing the minute of settlement, or (iii) does not agree on any settlement.
12. These 81 treaties include the treaty with former Serbia and Montenegro that Turkey continues to apply to both (i) Serbia and (ii) Montenegro.

¹³. Available at: <http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf>.

¹⁴. The shared public platform can be found at: <http://www.oecd.org/ctp/dispute/country-map-profiles.htm>.

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Part C. Resolution of MAP cases

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

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

105. 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, 2015^[11]), 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 Turkey's tax treaties

106. All of Turkey's 89 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015^[11]) 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

107. As all of Turkey's tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015^[11]), there is no need for modifications. Turkey reported that it will seek to include Article 25(2), first sentence in all of its future tax treaties.

Peer input

108. Of the three peers that provided input, one reported that its treaty with Turkey does not meet all the requirements under the Action 14 Minimum Standard, but that it is expected that via the Multilateral Instrument the treaty will be brought in line with these requirements. Where the modification will not be realised via the Multilateral Instrument, this peer mentioned that it will explore bilateral solutions. The two other peers mentioned that they consider their treaty with Turkey to be in line with the Action 14 Minimum Standard. With respect to element C.1, as noted above, all of Turkey's treaties are

considered containing the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015^[1]), which also concerns the treaties with these peers.

Conclusion

	Areas for Improvement	Recommendations
[C.1]	-	Turkey should maintain its stated intention to include the required provision in all future 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).

109. 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

110. Statistics regarding all tax treaty related disputes concerning Turkey are published on the website of the OECD as of 2006.¹

111. The FTA MAP Forum has agreed on rules for reporting of MAP statistics ('**MAP Statistics Reporting Framework**') for MAP requests submitted on or after January 1, 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. Turkey provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Turkey and of which its competent authority was aware.² The statistics discussed below include both pre-2016 and post-2015 cases and the full statistics are attached to this report as Annex B and Annex C respectively and should be considered jointly for understanding of the MAP caseload of Turkey.³ With respect to post-2015 cases, Turkey reported having reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, based on the information provided by Turkey's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.

Monitoring of MAP statistics

112. Turkey reported that the policy of its competent authority is to make efforts that the resolution of MAP cases does not exceed the period of two years and further that in practice its staff works diligently on MAP cases, such with the awareness of the sensitivity and importance of the process. This is also reflected in Turkey's MAP guidance, under the heading "*How does the process continue after taxpayer's request for the commencement of the mutual agreement procedure*". It is under that section specified that although there is no time limitation for concluding MAP cases, as this varies per the nature of the case under review; Turkey generally complies with the international set standard of two years for resolving MAP cases.

113. Further to the above, Turkey reported that it monitors its MAP statistics on the basis of the MAP Statistics Reporting Framework.

Analysis of Turkey's MAP caseload

Global overview

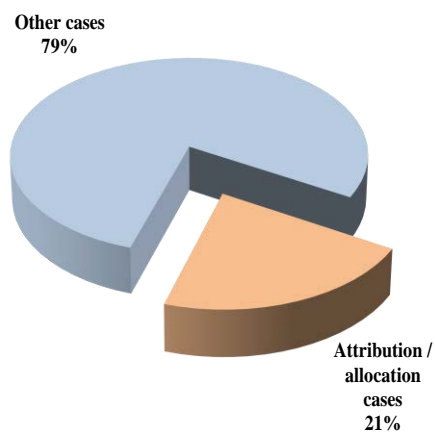
114. The following graph shows the evolution of Turkey's MAP caseload over the Statistics Reporting Period.

Figure C.1. Evolution of Turkey's MAP caseload



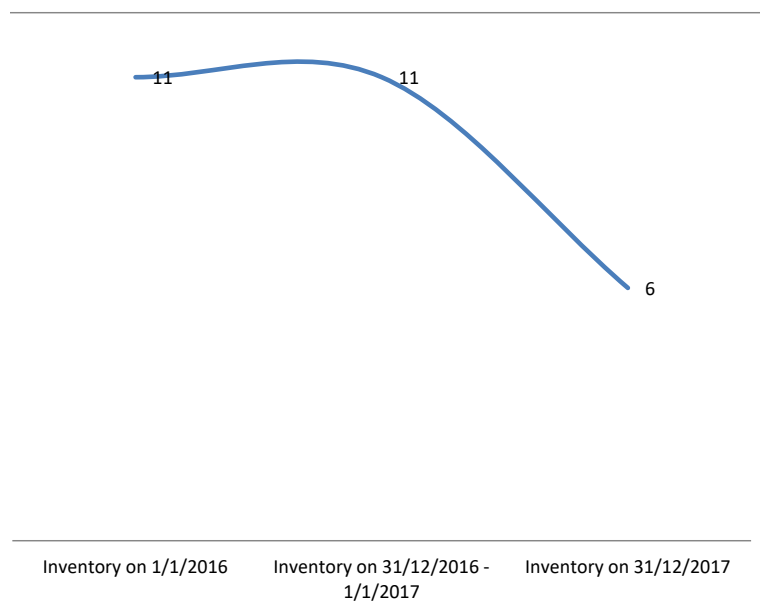
115. At the beginning of the Statistics Reporting Period Turkey had 11 pending MAP cases, two of which were attribution/allocation cases and nine other MAP cases.⁴ At the end of the Statistics Reporting Period, Turkey had 14 MAP cases in its inventory, of which three are attribution/allocation cases and 11 are other MAP cases. Consequently, Turkey's MAP statistics have increased by 27% during the Statistics Reporting Period. This increase can be broken down into a significant increase by 50% for attribution/allocation cases and an increase by 22% for other cases.

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

Figure C.2. End inventory on 31 December 2017 (14 cases)

Pre-2016 cases

117. The following graph shows the evolution of Turkey's pre-2016 MAP cases over the Statistics Reporting Period.

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

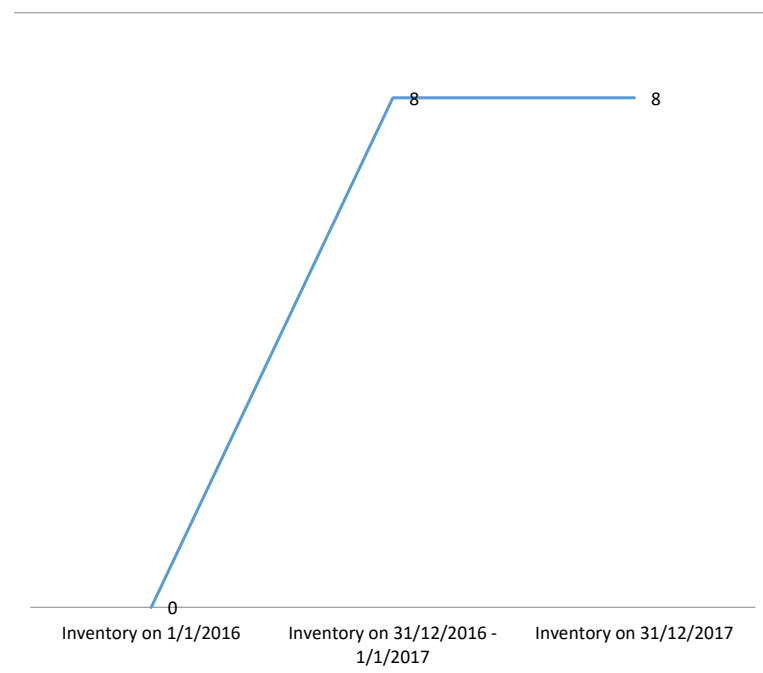
118. At the beginning of the Statistics Reporting Period, Turkey's MAP inventory of pre-2016 MAP cases consisted of 11 cases, two of which were attribution/allocation cases and nine other cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases had decreased to six cases, consisting of one attribution/allocation cases and five other cases. The decrease in the number of pre-2016 MAP cases is shown in the below table:

	Evolution of total MAP caseload in 2016	Evolution of total MAP caseload in 2017	Cumulative evolution of total MAP caseload over the two years (2016+2017)
Attribution / allocation cases	0% (no cases closed)	-50%	-50%
Other cases	0% (no cases closed)	-44%	-44%

Post-2015 cases

119. The following graph shows the evolution of Turkey's post-2015 MAP cases over the Statistics Reporting Period.

Figure C.4. Evolution of Turkey's MAP inventory Post-2015 cases



120. In total, 12 MAP cases started during the Statistics Reporting Period, five of which concerned attribution/allocation cases and seven other cases. At the end of this period the total number of post-2015 cases in the inventory was eight cases, consisting of two attribution/allocation cases and six other cases. Conclusively, Turkey closed four post-2015 cases during the Statistics Reporting Period, three of them being attribution/allocation cases and one other case. The total number of closed cases represent 33% of the total number of post-2015 cases that started during the Statistics Reporting Period.

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

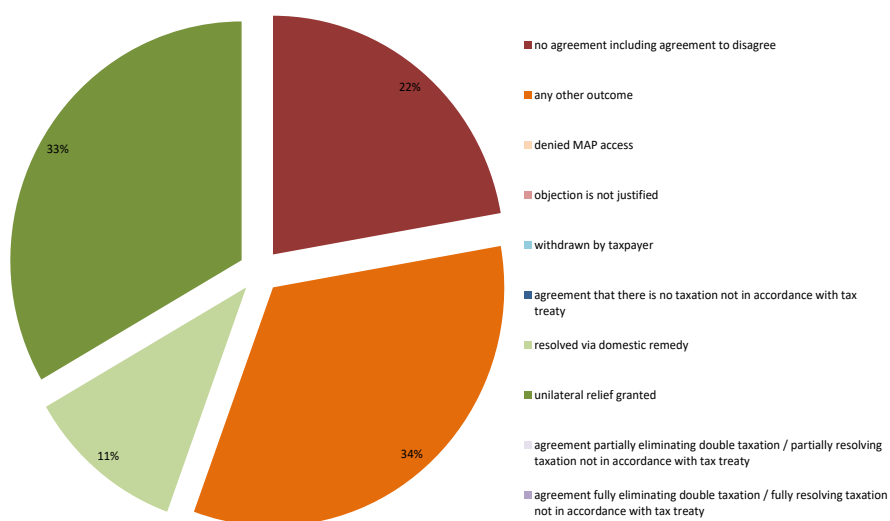
	% of cases closed in 2016 compared to cases started in 2016	% of cases closed in 2017 compared to cases started in 2017	Cumulative % of cases closed compared to cases started over the two years (2016+2017)
Attribution / allocation cases	0% (no cases closed)	150%	60%
Other cases	17%	0% (no cases closed)	14%

Overview of cases closed during the Statistics Reporting Period

Reported outcomes

122. During the Statistics Reporting Period Turkey in total closed nine MAP cases for which the following outcomes were reported:

Figure C.5. Cases closed during 2016 and 2017 (nine cases)



123. This chart shows that during the Statistics Reporting Period, no cases were closed through an agreement that fully eliminated double taxation or fully resolved taxation not in accordance with the tax treaty.

Reported outcomes for attribution / allocation cases

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

- Unilateral relief granted (75%)
- Any other outcome (25%)

Reported outcomes for other cases

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

- Resolved via domestic remedy (20%)
- No agreement including an agreement to disagree (40%)
- Any other outcome (40%)

*Average timeframe needed to resolve MAP cases**All cases closed during the Statistics Reporting Period*

126. The average time needed to close MAP cases during the Statistics Reporting Period was 15.15 months. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution / Allocation cases	4	7.63
Other cases	5	21.17
All cases	9	15.15

Pre-2016 cases

127. For pre-2016 cases Turkey reported that on average it needed 11.52 months to close attribution/allocation cases and 25.56 months to close other cases. This resulted in an average time needed of 22.75 months to close five pre-2016 cases. For the purpose of computing the average time needed to resolve pre-2016 cases, Turkey reported that it uses the following dates:

- Start date: the date when the MAP request from the taxpayer or notification/position paper from the other competent authority to initiate the MAP is received; and
- End date: the date of the closing letter sent to the taxpayer or to the other competent authority, or the receipt of such letter from the other competent authority.

Post-2015 cases

128. As a preliminary remark, it should be noted that the period for assessing post-2015 MAP statistics only comprises 24 months.

129. For post-2015 cases, Turkey reported that on average it needed 6.33 months to close attribution/allocation cases and 3.62 months to close other cases. This resulted in an average time needed of 5.65 months to close four post-2015 cases.

Peer input

130. The peer input in relation to resolving MAP cases will be discussed under element C.3. In relation to the timely resolution of MAP cases, while one peer did not provide input on Turkey's implementation of the Action 14 Minimum Standard due to the absence of any substantive experience in handling and resolving MAP cases, it noted that Turkey was cooperative and responsive in the process of matching the MAP statistics for 2017.

Anticipated modifications

131. Turkey did not indicate that it anticipates any modifications in relation to element C.2.

Conclusion

	Areas for Improvement	Recommendations
[C.2]	Turkey submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016 and 2017. Based on the information provided by Turkey's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter. Turkey's MAP statistics show that during the Statistics Reporting Period it closed 33% (four out of 12 cases) of its post-2015 cases in 5.65 months on average. In that regard, Turkey is recommended to seek to resolve the remaining 67% of the post-2015 cases pending on 31 December 2017 (eight cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.	

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

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

132. 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 Turkey's competent authority

133. Under Turkey's tax treaties, the competent authority function is assigned to the Minister of Finance (as of 10 July 2018 renamed to the Minister of Treasury and Finance), which has transferred this authority to Turkey's Revenue Administration. As its number of MAP cases is relatively low, Turkey reported that there is no specific section that is only involved in handling MAP cases. Within the Revenue Administration, the competence for handling attribution/allocation MAP cases is assigned to the Department of Revenue Management IV and for handling other MAP cases to the Department of EU and Foreign Affairs. In this respect, Turkey noted that it has informed and will inform any changes to its competent authority to all of its treaty partners, such through written notification that includes names, titles, addresses, email address, telephone and fax numbers.

134. Within the Department of Revenue Management IV, the transfer pricing section is responsible for handling all transfer pricing MAP cases and APA cases, and employs eight persons, next to the director of the section, the head of the group and the head of department. Within the Department of EU and Foreign Affairs, the double tax agreements sections handle other MAP cases. Both sections employ 14 persons, in addition to the two directors of the sections, the head of the group and the head of the department. Next to handling MAP cases, the department is also involved in other tasks, such as: (i) negotiating tax treaties, (ii) issuing of rulings related to the application of tax treaties and (iii) providing assistance in the collection of taxes.

135. Turkey reported that all personnel within its Revenue Administration are selected through a merit based exam. Furthermore, Turkey reported that only persons that have at least four years of experience in double taxation cases and have a certain level of knowledge of tax treaties are responsible for handling MAP cases. To keep their knowledge up to date, these persons receive in-service training within the Revenue Administration and further attend trainings organised by the OECD in the OECD

Multilateral Tax Centre in Ankara, as well as other international tax seminars and courses.

Monitoring mechanism

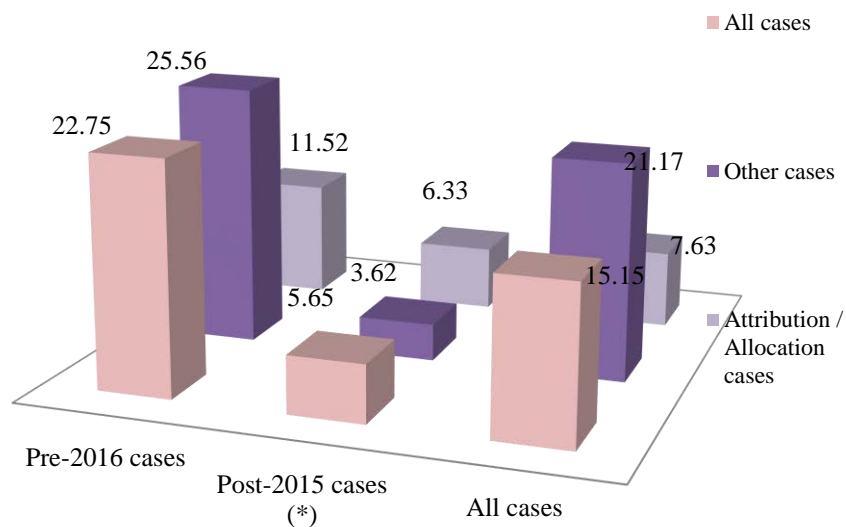
136. In terms of allocating resources to the competent authority function, Turkey reported that its competent authority is funded by the general budget and that the available resources are considered sufficient given the limited number of MAP cases in Turkey.

Practical application

MAP statistics

137. As discussed under element C.2 Turkey closed its MAP cases during the Statistics Reporting Period within the pursued 24-month average. While the average time taken to close other cases is significantly higher (21.17 months) than the average time needed for attribution/allocation cases (7.63 months), the average time for both type of cases is below the 24-month period. The averages can be illustrated by the following graph:

Figure C.6. Average time (in months) to close cases in 2016 or 2017



138. Based on these figures, it follows that on average it took Turkey 15.15 months to close MAP cases during the Statistics Reporting Period.

Peer input

139. Of the five peers that provided input, two of them reported having no actual experience with Turkey's competent authority in resolving MAP cases. One of them thereby noted that there only have been a limited number of MAP cases with Turkey and for that reason this peer indicated that it was unable to assess whether Turkey's competent authority endeavours to resolve MAP cases in a reasonable timeframe. The third peer considered the working relation with Turkey's competent authority as well-

functioning in that it received replies in a timely manner. However, it also mentioned that in the case under review the reply of Turkey's competent authority only stated that it did not agree with the position set forth in this paper, without any reasoning supporting this conclusion. This peer noted that in order to be able to proceed with the case under review, it would appreciate some reasoning as well as further correspondence. With respect to the input given by this peer, Turkey expressed that this input is duly noted for future MAP cases, although it considers that it has indicated the article that the income in question should be dealt with in the view of its competent authority. Since Turkey's competent authority did not receive any response to its position, it was assumed that the evaluation presented was satisfactory to the peer. The fourth peer mentioned that it has had two post-2015 MAP cases with Turkey and reported having very positive experience in resolving these cases, thereby appreciating the easiness of communication with Turkey's competent authority. While this peer noted that the initiation of the bilateral phase of the MAP process was somewhat slow and cumbersome, as it has to put some insistence in being able to discuss the case, but once the case was under discussion the resolution phase went very well by using telephone conferencing. Lastly, the fifth peer reported having one MAP case with Turkey and that in this respect that contacts with Turkey's competent authority have taken place in writing by regular mail and email, for which no problems were encountered.

Anticipated modifications

140. Turkey did not indicate that it anticipates any modifications in relation to element C.3.

Conclusion

	Areas for Improvement	Recommendations
[C.3]	-	Turkey should continue to closely monitor whether it has adequate resources in place to ensure that future MAP cases are resolved in a timely, efficient and effective 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.

141. 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

142. Turkey reported that where a MAP request is received, staff in charge of MAP will first analyse whether or not to accept the request. Input can be requested from other

relevant departments within Turkey's Revenue Administration, if needed. When, subsequently, the case is accepted into MAP, a position paper will be prepared and shared with the other competent authority concerned. The response to this paper will be analysed and evaluated by the person responsible for handling the MAP cases, and further discussed with the group of experienced case handlers. In view of this process, Turkey reported that all decisions in relation to the acceptance of a MAP request, the preparation and issuing of position papers and the approval of MAP agreements are made by its competent authority.

143. Concerning the independent functioning of staff in charge of MAP from the audit department, Turkey 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 at issue. In this respect, Turkey clarified that there is no relationship with the Tax Inspection Board, which is responsible for conducting audits and that its competent authority also has no formal relevance with the relevant departments within Turkey's Revenue Administration. Where needed on the basis of the facts and circumstances of the case under review, it may be that staff in charge of MAP will request the Tax Inspection Board for additional information or additional auditing, but the relevant decision hereto and the final decision on the case remains with the competent authority.

144. Furthermore, Turkey reported that the process for negotiating MAP agreements is also not influenced by policy considerations. While the Department of EU and Foreign Affairs is next to handling MAP cases also involved in treaty negotiations, Turkey clarified that persons whom are conducting treaty negotiations are not always the same persons as persons handling MAP cases. To this Turkey added that as MAP cases require a certain specialisation and expertise, only selected persons are involved in handling these cases. Although in practice it may be that staff in charge of MAP may be involved in the preparation of treaty negotiations, all tax treaty negotiations are conducted by an authorised delegation that consist of persons who are employed within a different department within the Revenue Administration and also persons who are employed in the General Directorate of Revenue Policies (as of 10 July 2018 renamed to the General Directorate of Revenue Regulations, which is under the Ministry of Finance (as of 10 July 2018 renamed to the Ministry of Treasury and Finance).

Practical application

145. One peer provided input on this element and mentioned that it is not being aware that staff in charge of the MAP in Turkey is formal dependent on the approval of MAP agreements by the personnel within the tax administration that made the adjustment under review.

Anticipated modifications

146. Turkey did not indicate that it anticipates any modifications in relation to element C.4.

Conclusion

	Areas for Improvement	Recommendations
[C.4]	-	As it has done thus far, Turkey 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 Turkey 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.

147. 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 Turkey

148. As discussed under element C.3, staff in charge of MAP in Turkey is hired via a merit based competitive exam and needs to be revenue expert. For becoming such expert, staff within Turkey's Revenue Administration needs to pass a proficiency exam, additionally at this stage an evaluation form is filed by the director of the section and the head of the group. This evaluation form addresses the criteria to be met, which are: (i) general criteria (e.g. objectiveness and fairness), (ii) compliance with discipline rules, (iii) level of working, (iv) compliance with cooperation and (v) professional knowledge about tax laws and special legislation applied in the relevant department. In other words, for persons to join Turkey's staff in charge of MAP there is a certain level of knowledge and expertise required, which in itself is an evaluation criteria upfront.

149. Concerning the evaluation process itself, Turkey reported that the Revenue Administration prepares a strategic plan to measure performance of its staff. This plan includes performance targets and performance indicators, for which each of the departments within the administration are assigned some targets and indicators, including those in charge of MAP. Turkey reported that given the relatively small amount of MAP cases, there are no specific criteria or performance indicators in relation hereto to evaluate staff in charge of MAP, but that such criteria could be put in place depending on the future number of MAP cases. In a more general sense, Turkey mentioned that there are no written instructions for personnel that handle MAP cases, but that they have to take into consideration all developments under the Action 14 Minimum Standard in terms of applying tax treaties in good faith and the timely resolution of MAP cases. Moreover, personnel are instructed to evaluate MAP cases in an objective manner, such without prejudice to possible revenue losses or specific performance indicators. In that regard, Turkey specified that directors of the sections handling MAP cases review the evaluation of MAP cases on a monthly basis.

150. The final Report on Action 14 (OECD, 2015^[2]) 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); and
- 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).

151. With respect to these indicators, Turkey reported that none of these indicators are being used, as also not any indicators that are based on the amount of sustained audit adjustments or maintaining a certain amount of tax revenue.

Practical application

152. One peer provided input on this element and stated that it is not aware of the use of performance indicators by Turkey that are based on the amount of sustained audit adjustments or maintaining a certain amount of tax revenue.

Anticipated modifications

153. Turkey did not indicate that it anticipates any modifications in relation to element C.5.

Conclusion

	Areas for Improvement	Recommendations
[C.5]	-	Turkey could consider using the examples of performance indicators mentioned in the final report on Action 14 to evaluate staff 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.

154. 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

155. Turkey reported that its constitution contains limitations for including MAP arbitration in its tax treaties. Article 36 of the constitution includes a right to the initiation judicial process for all kinds of disputes, including disputes relating to the application and interpretation of international agreements. Furthermore, Article 125 defines which disputes can be subject to an arbitration procedure. Tax-treaty related disputes, however, are not included in that definition.

156. Furthermore, Turkey reported that its policy is not to include arbitration provisions in its tax treaties. To this end, Turkey reserved the right in the commentary to the 2017 OECD Model Tax Convention (OECD, 2015^[1]) not to include paragraph 5 of Article 25 in its tax treaties.

Practical application

157. Up to date, Turkey has not incorporated in its tax treaties an arbitration clause as a final stage to the MAP.

158. Peers did not provide input in relation to element C.6.

Anticipated modifications

159. Turkey did not indicate that it anticipates any modifications in relation to element C.6.

Conclusion

	Areas for Improvement	Recommendations
[C.6]	-	-

Notes

¹. Available at: <http://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm>. These statistics are up to and include fiscal year 2016.

². Turkey's 2016 MAP statistics were corrected in the course of the peer review process and deviate from the 2016 published MAP statistics. See for a further explanation Annex B and Annex C.

³. For post-2015 cases, if the number of MAP cases in Turkey'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, Turkey reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution / allocation cases and other cases).

⁴. For pre-2016 and post-2015 Turkey follows the MAP Statistics Reporting Framework for determining whether a case is considered an attribution/allocation MAP case. Annex D of MAP Statistics Reporting Framework provides that "*an attribution/allocation MAP case is a MAP case where the taxpayer's MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the OECD Model Tax Convention); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention), which is also known as a transfer pricing MAP case*".

References

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- OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>. [1]

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.

160. 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

161. Turkey reported that it has a domestic statute of limitation for both upward and downward adjustments. This statute of limitation is five years following the related fiscal year and commences on the first day of the calendar year following the day in which the tax claim arose. This statute of limitation also applies for the implementation of MAP agreements, unless a tax treaty contains the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2015^[11]).

162. Concerning the process for implementing MAP agreements, Turkey reported that once a MAP agreement has been reached with the other competent authority concerned, its competent authority will notify the taxpayer hereof in writing and, if applicable, of the amount of refund. While there is no specific timeline set for notifying the taxpayer, Turkey clarified that in practice, given that the MAP agreement entails an administrative interpretation, such notification will be given directly after the MAP agreement has been entered into.

163. Where the MAP agreements entail a correction to the pre-assessed tax or the issuing of an additional tax assessment, taxpayers have to give their written consent to the agreement reached within a certain timeframe. This timeframe is, pursuant to Article 14 and 18 of the Tax Procedure Law No. 213 in total 15 days following the day of the notification of the MAP agreement. If such consent is not given within this timeframe, it is assumed that the agreement has not been accepted. When the taxpayer has timely given its consent, its Revenue Administration will notify the local tax office of the MAP agreement with the instruction to implement it. The local tax office will subsequently inform the taxpayer about the implementation and, accordingly, will the Revenue Administration inform the competent authority of the treaty partner hereof.

164. Where the MAP agreement, however, entails a refund of taxes in Turkey, the taxpayer should apply to the local tax office within one year from the date of the notification of the MAP agreement in order to obtain this refund. As will be further discussed under element D.3, this requirement has been reflected in a number of Turkey's tax treaties.

165. The process for implementing MAP agreements, as also the rules on the statute of limitations, are clearly described in Turkey's MAP guidance, under the headings "*Can the request for the commencement of the mutual agreement or the commencement of the*

mutual agreement procedure by competent authorities be considered among the circumstances halting or interrupting the statute of limitation” and “Is the final decision reached by competent authorities within the framework of the mutual agreement procedure binding on the taxpayer”.

166. The process for implementing MAP agreements, as also the rules on the statute of limitations, are clearly described in Turkey’s MAP guidance, under the headings “*Can the request for the commencement of the mutual agreement or the commencement of the mutual agreement procedure by competent authorities be considered among the circumstances halting or interrupting the statute of limitation” and “Is the final decision reached by competent authorities within the framework of the mutual agreement procedure binding on the taxpayer”.*

Practical application

167. Turkey reported it will implement all MAP agreements resulting from MAP discussions, including making appropriate adjustments to the tax assessed when the case under review is a transfer pricing case. In this respect, Turkey further reported that since 1 January 2016 it has not reached a MAP agreement that required an implementation by Turkey.

168. Furthermore, Turkey reported not having a system in place that monitors the actual implementation of MAP agreements, although the local tax office has to provide feedback to the competent authority on the actual implementation of a MAP agreement.

169. All peers that provided input reported not being aware of any impediments to the implementation of MAP agreements in Turkey.

Anticipated modifications

170. Turkey did not indicate that it anticipates any modifications in relation to element D.1.

Conclusion

	Areas for Improvement	Recommendations
[D.1]	<p>As there was no MAP agreement reached that required implementation by Turkey during the Review Period, it was not yet possible to assess whether Turkey would have implemented all MAP agreements.</p> <p>To ensure that all MAP agreements will be implemented, if the conditions for such implementation are fulfilled, Turkey could introduce a tracking system.</p> <p>As will be discussed under element D.3 not all of Turkey’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 time limits of five years in its domestic law.</p>	<p>For future MAP agreements, Turkey should ensure that in the absence of the required provisions discussed under element D.3 implementation of MAP agreements is not obstructed by time limits in its domestic law.</p>

[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.

171. Delay of implementation of MAP agreements may lead to adverse financial consequences for both taxpayers and competent authorities. To avoid this and to increase

certainty for all parties involved, it is important that the implementation of any MAP agreement is not obstructed by procedural and/or statutory delays in the jurisdictions concerned.

Theoretical timeframe for implementing mutual agreements

172. As discussed under element D.1, Turkey has a specific system in place for the implementation of MAP agreements. However, there are no specific timelines for each step in the process concerning the implementation.

Practical application

173. Turkey reported that all MAP agreements that were reached on or after 1 January 2016, once accepted by taxpayers, have been (or will be) timely implemented and that no cases of noticeable delays have occurred.

174. All peers that provided input reported not being aware of any impediments to the implementation of MAP agreements in Turkey on a timely basis.

Anticipated modifications

175. Turkey did not indicate that it anticipates any modifications in relation to element D.2.

Conclusion

	Areas for Improvement	Recommendations
[D.2]	As there was no MAP agreement reached during the Review Period, it was not yet possible to assess whether Turkey would have implemented all MAP agreements on a timely basis.	

[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.

176. 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, 2015^[1]) 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.

Current situation of Turkey's tax treaties

177. As discussed under element D.1, Turkey's domestic legislation includes a statute of limitation for implementing MAP agreements of five years for both upward and downward adjustments, unless overridden by tax treaties.

178. Out of Turkey's 89 tax treaties, three contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law.¹ Furthermore, 20 treaties contain such an equivalent, but either in the MAP article or in a protocol provision the obligation for taxpayers is included to ask for a refund of taxes within a certain period after the MAP agreement has been notified to them. While this put an additional obligation on taxpayers, the provision itself does not obstruct the implementation of MAP agreements notwithstanding domestic time limits. These treaties are therefore considered to contain the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015_[1]). One treaty also contains this provision, which is supplemented with the requirement to implement a MAP agreement within one year. As this treaty also does not limit the implementation of such agreement notwithstanding domestic time limits, the provision is also considered to be equivalent to Article 25(2), second sentence. In addition, one treaty the second sentence of Article 25(2) is not contained, but the treaty contains the alternative provisions for Article 9(1) and Article 7(2)

179. For the remaining 64 treaties the following analysis is made:

- In 52 treaties no provision is contained on the implementation of MAP agreements
- In six treaties the implementation of MAP agreements is subject to domestic time limits of the treaty partners
- In two treaties the second sentence of Article 25(2) is contained, but whereby the implementation is made dependent on the notification of a MAP request within a period of five years from the end of the taxable year to which the tax relates, which may cause that a MAP agreement cannot be implemented due to a non-timely notification
- In two treaties the second sentence of Article 25(2) is not contained, but instead a provision that MAP agreements shall be implemented within one year without a reference to domestic statute of limitations
- In one treaty the second sentence of Article 25(2) is contained in a protocol provision, but this provision is only one-sided formulated and only relates to Turkey. Furthermore, any MAP agreement only has to be implemented notwithstanding time limits in Turkey's domestic legislation if the MAP request is filed within the time limits in this legislation
- In one treaty the second sentence of Article 25(2) is not contained, but the treaty contains the alternative provisions for Article 9(1).

180. In view of the above, all 64 treaties are considered not to contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention or the alternative provisions for Article 9(1) and Article 7(2).

Anticipated modifications

Multilateral Instrument

181. Turkey signed the Multilateral Instrument. Article 16(4)(b)(ii) of that instrument stipulates that Article 16(2), second sentence – containing the equivalent of Article 25(2),

second sentence, of the OECD Model Tax Convention (OECD, 2015^[1]) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention. In other words, in the absence of this equivalent, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both, pursuant to Article 16(6)(c)(ii), notified the depositary that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. (OECD, 2015^[1]) Article 16(4)(b)(ii) of the Multilateral Instrument does will for a tax treaty not take effect if one or both of the treaty partners has, pursuant 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.

182. In regard of the 64 tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015^[1]) or both alternatives provided for in Articles 9(1) and 7(2), Turkey listed 63 as covered tax agreements under the Multilateral Instrument and for 61 of them made a notification, pursuant to Article 16(6)(c)(ii), that they do not contain a provision described in Article 16(4)(b)(ii). Of the relevant 61 treaty partners, 35 are not a signatory to the Multilateral Instrument, whereas one did not list its treaty with Turkey under that instrument and three made a reservation on the basis of Article 16(5)(a). Therefore, at this stage, 22 of the 64 tax treaties identified above will be modified by the Multilateral Instrument upon entry into force for these treaties to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015^[1]).

Bilateral modifications

183. Turkey further reported that when tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015^[1]), or both alternatives provided for in Articles 9(1) and 7(2), will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element D.3. In this respect, it reported it intends to contact its treaty partners, whereby priority is made on the basis of intense economic relations, but that there is not yet a specific plan in place in this regard. In addition, Turkey reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015^[1]) or both alternatives in all of its future tax treaties.

Peer input

184. Of the three peers that provided input on this element, two consider their treaty with Turkey to be in line with the Action 14 Minimum Standard. The third peer reported that its treaty with Turkey does not meet all the requirements under the Action 14 Minimum Standard, but that it is expected that via the Multilateral Instrument the treaty will be brought in line with these requirements. Where the modification will not be realised via the Multilateral Instrument, this peer mentioned that it will explore bilateral solutions. All three tax treaties, however, are already in line with element D.3.

Conclusion

	Areas for Improvement	Recommendations
<p>[D.3] 64 out of 89 tax treaties neither contain 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 64 treaties:</p> <ul style="list-style-type: none"> • 63 neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor any of the alternative provisions • One does not contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention and only contains the alternative provision provided in Article 9(1). <p>Furthermore, a protocol to an existing tax treaty contains a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention is not yet in force, while the existing treaty – which is included in the 65 treaties above – with the same jurisdiction that does not contain such equivalent.</p>	<p>Turkey 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 those 22 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the 41 of the 42 remaining treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention following its entry into force, and which do also not contain both alternative provisions, Turkey should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions. To this end, Turkey should put a plan in place on how it envisages updating these 41 treaties to include the required provision or the alternatives.</p> <p>In addition, Turkey should as quickly as possible ratify the protocol to the one tax treaty that contains a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention to replace the existing treaty currently in force with the same jurisdiction that does not contain such equivalent.</p> <p>In addition, Turkey 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>	

Notes

¹ These three treaties include the treaty with former Serbia and Montenegro that Turkey continues to apply to both (i) Serbia and (ii) Montenegro.

References

OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>. [1]

Summary

Areas for Improvement	Recommendations
	Part A: Preventing disputes
[A.1] -	Turkey should maintain its stated intention to include the required provision in all future tax treaties.
[A.2] Turkey is in theory able to provide for roll-back of bilateral APAs. However, during the Review Period it did not receive a request for roll-back of a bilateral APA. It was therefore not possible at this stage to evaluate the effective implementation of this element in practice.	
	Part B: Availability and access to MAP
[B.1] 28 out of 89 tax treaties do not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention. Of those 28 tax treaties:	Turkey should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1) of the OECD Model Tax Convention in those treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. This concerns:
<ul style="list-style-type: none"> • Two tax treaties do not contain the equivalent to Article 25(1), first sentence and provide that 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; and • 26 tax treaties provide that 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. 	<ul style="list-style-type: none"> • a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention as amended in the final report on Action 14; and/or • a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.
	For the remaining treaties that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1) of the OECD Model Tax Convention in those treaties that currently do not contain such equivalent, Turkey should request the inclusion of the required provision via bilateral negotiations. This concerns both:
	<ul style="list-style-type: none"> • a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either <ol style="list-style-type: none"> a) As amended in the final report on Action 14; or b) As it read prior to the adoption of final report on Action 14, thereby including the full sentence of such provision; and • a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.
	To this end, Turkey should put a plan in place on how it envisages updating these treaties to include the required provision. In addition, Turkey should maintain its stated intention to include the required provision in all future tax treaties.
Where tax treaties do not include a time limit for submission of a MAP request, applicable rules under domestic legislation may lead to a filing period of less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.	Turkey should ensure that where its domestic time limits apply for filing of MAP requests, in the absence of a provision hereon in its tax treaties, such time limits do not prevent taxpayers from having access to MAP if a request thereto is made within a period of three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.
There is a risk that access to MAP is denied in eligible cases where the issue under dispute has already been decided via the judicial remedies provided by Turkey's domestic law.	Turkey should ensure that taxpayers that meet the requirements of paragraph 1 of Article 25 of the OECD Model Tax Convention can access the MAP.

[B.2]	88 of the 89 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.	Turkey should without further delay follow-up its stated intention to introduce a documented notification process, and 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 final report of Action 14.
[B.3]	-	As Turkey has thus far granted access to MAP in eligible transfer pricing cases, it should continue granting access for these cases.
[B.4]	Turkey 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 request of this kind from taxpayers during the Review Period. Turkey is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	-	-
[B.6]	-	As Turkey has thus far not limited access to MAP in eligible cases when taxpayers have complied with Turkey's information and documentation requirements for MAP requests, it should continue this practice.
[B.7]	Eight out of 89 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention.	Turkey 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 those six treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention following its entry into force, Turkey should request the inclusion of the required provision via bilateral negotiations. To this end Turkey should put a plan in place on how it envisages updating these two treaties to include the required provision. In addition, Turkey should maintain its stated intention to include the required provision in all future tax treaties.
[B.8]	-	Although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance, Turkey could consider including information on: <ul style="list-style-type: none"> • Whether MAP is available in cases of: (i) multilateral disputes and (ii) bona fide foreign-initiated self-adjustments • Whether taxpayers can request for the multi-year resolution of recurring issues through MAP • Whether or not it is possible that tax collection can be suspended during the period a MAP case is pending.
[B.9]	-	As it has thus far made its MAP guidance available and easily accessible and published its MAP profile, Turkey should ensure that its future updates to the MAP guidance continue to be publically available and easily accessible and that its MAP profile published on the shared public platform is updated if needed.
[B.10]	Public guidance on its administrative dispute settlement process does not address the effects of that process on MAP.	Turkey should address in its instructions on the administrative dispute settlement process the effect of that process on MAP.
[C.1]	-	Turkey should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	Turkey submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016 and 2017. Based on the information provided by Turkey's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter. Turkey's MAP statistics show that during the Statistics Reporting Period it closed 33% (four out of 12 cases) of its post-2015 cases in 5.65	Part C: Resolution of MAP cases

months on average. In that regard, Turkey is recommended to seek to resolve the remaining 67% of the post-2015 cases pending on 31 December 2017 (eight cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.

- | | | |
|-------|---|--|
| [C.3] | - | Turkey should continue to closely monitor whether it has adequate resources in place to ensure that future MAP cases are resolved in a timely, efficient and effective manner. |
| [C.4] | - | As it has done thus far, Turkey 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 Turkey would like to see reflected in future amendments to the treaty. |
| [C.5] | - | Turkey could consider using the examples of performance indicators mentioned in the final report on Action 14 to evaluate staff to evaluate staff in charge of the MAP process. |
| [C.6] | - | - |

Part D: Implementation of MAP agreements

- [D.1] As there was no MAP agreement reached that required implementation by Turkey during the Review Period, it was not yet possible to assess whether Turkey would have implemented all MAP agreements.

To ensure that all MAP agreements will be implemented, if the conditions for such implementation are fulfilled, Turkey could introduce a tracking system.

As will be discussed under element D.3 not all of Turkey'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 time limits of five years in its domestic law.

For future MAP agreements, Turkey should ensure that in the absence of the required provisions discussed under element D.3 implementation of MAP agreements is not obstructed by time limits in its domestic law.

- [D.2] As there was no MAP agreement reached during the Review Period, it was not yet possible to assess whether Turkey would have implemented all MAP agreements on a timely basis.

- [D.3] 64 out of 89 tax treaties neither contain 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 64 treaties:

- 63 neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor any of the alternative provisions
- One does not contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention and only contains the alternative provision provided in Article 9(1).

Furthermore, a protocol to an existing tax treaty contains a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention is not yet in force, while the existing treaty – which is included in the 65 treaties above – with the same jurisdiction that does not contain such equivalent.

Turkey 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 those 22 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.

For the 41 of the 42 remaining treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention following its entry into force, and which do also not contain both alternative provisions, Turkey should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions. To this end, Turkey should put a plan in place on how it envisages updating these 41 treaties to include the required provision or the alternatives.

In addition, Turkey should as quickly as possible ratify the protocol to the one tax treaty that contains a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention to replace the existing treaty currently in force with the same jurisdiction that does not contain such equivalent.

In addition, Turkey 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.

Annex A. Tax treaty network of Turkey

		Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC	Anti-abuse provisions	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration
		B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?
		If yes, submission to either competent authority? (new Art. 25(1), first sentence)	If no, please state reasons		If no, will your CA accept a taxpayer's request for MAP in relation to such cases?		If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)			
	Y = yes	E = yes, either CAs	Y = yes	Y = yes	Y = yes	Y = yes	Y = yes	Y = yes	Y = yes	Y = yes
		O = yes, only one CA	i = no, no such provision ii = no, different	i = no, but access will be given to TP cases	i = no and such cases will be accepted for MAP		i = no, but have Art 7 equivalent ii = no, but have Art 9 equivalent	N = no	N = no	N = no
								-		ii-mandatory
										if yes: i-Art. 25(5)

	N = signed pending ratification	N = No	period iii = no, starting point for computing the 3 year period is different	period -	ii = no and access will not be given to TP cases	ii = no but such cases will not be accepted for MAP	N = no	iii = no, but have both Art 7 & 9 equivalent					other iii - voluntary
			iv = no, others reasons	-									
Albania	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A	
Algeria	Y	O	ii	1-year	Y	i	Y	N	Y	Y	N	N/A	
Australia	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A	
Austria	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A	
Azerbaijan	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A	
Bahrain	Y	O	i	N/A	Y	i	Y	N	Y	Y	N	N/A	
Bangladesh	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A	
Belarus	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A	
Belgium	Y	O**	iv	N/A	Y	i	Y	N**	Y	N**	N	N/A	
Bosnia and Herzegovina	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A	
Brazil	Y	O	iv	domestic law	i	i	Y	N	Y	N	N	N/A	
Bulgaria	Y	O**	i	N/A	Y	i	Y	N**	Y	Y	N	N/A	
Canada	Y	O	iv***	N/A	Y	i	Y	iii	Y	Y	N	N/A	
Chad	N	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A	
China (People's Republic of)	Y	O	ii**	1-year	Y	i	Y	N**	Y	Y	N	N/A	
Côte d'Ivoire	N	O**	Y	N/A	Y	i	Y	N**	Y	Y	N	N/A	

Croatia	Y	O	Y	N/A	Y	i	Y	N**	Y	Y	N	N/A
Czech Republic	Y	O**	iv	domestic law	Y	i	Y	N**	Y	Y	N	N/A
Denmark	Y	O**	iv	N/A	Y	i	Y	Y	Y	Y	N	N/A
Egypt	Y	O**	i	N/A	Y	i	Y	N**	Y	Y	N	N/A
Estonia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Ethiopia	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Finland	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Former Yugoslav Republic of Macedonia	Y	O	ii	5-years	Y	i	Y	N	Y	Y	N	N/A
France	Y	O**	i	N/A	Y	i	Y	Y	Y	Y	N	N/A
Gambia	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Georgia	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Germany	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Greece	Y	O**	Y	N/A	Y	i	Y	N**	Y	Y	N	N/A
Hungary	Y	O	i	N/A	Y	i	Y	N**	Y	Y	N	N/A
India	Y	O	i	N/A	Y	i	Y	N	Y	Y	N	N/A
Indonesia	Y	O	i	N/A	Y	i	Y	N**	Y	Y	N	N/A
Iran	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A
Ireland	Y	O**	Y	N/A	Y	i	Y	Y	Y	N**	N	N/A
Israel	Y	O	i	N/A	Y	i	Y	Y	Y	Y	N	N/A
Italy	Y	N	ii**	2-years	Y	i	Y	N**	Y	N**	N	N/A
Japan	Y	O**	i	N/A	i	i	Y	Y	Y	Y	N	N/A
Jordan	Y	O	i	N/A	Y	i	Y	N	Y	N	N	N/A
Kazakhstan	Y	O	i	N/A	Y	i	Y	N	Y	Y	N	N/A
Korea	Y	O	i	N/A	i	i	Y	N	Y	Y	N	N/A
Kosovo	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Kuwait	Y	E	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Kyrgyzstan	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A

Latvia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Lebanon	Y	O	ii	2-years	Y	i	Y	N	Y	Y	N	N/A
Lithuania	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Luxembourg	Y	O**	Y	N/A	Y	i	Y	N**	Y	Y	N	N/A
Malaysia	Y	O**	i	N/A	Y	i	Y	N**	Y	Y	N	N/A
Malta	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Mexico	Y	O**	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Moldova	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A
Mongolia	Y	O	i	N/A	Y	i	Y	N	Y	Y	N	N/A
Montenegro	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Morocco	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Netherlands	Y	O**	i	N/A	Y	i	Y	Y	Y	Y	N	N/A
New Zealand	Y	O**	ii	5-years	Y	i	Y	Y	Y	Y	N	N/A
Norway	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Oman	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Pakistan	Y	O**	i	N/A	Y	i	Y	N**	Y	N**	N	N/A
Philippines	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Poland	Y	O	i	N/A	Y	i	Y	N**	Y	Y	N	N/A
Portugal	Y	O	Y	N/A	Y	i	Y	Y	Y	N**	N	N/A
Qatar	N	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A
Romania	Y	O	i	N/A	Y	i	Y	N**	Y	Y	N	N/A
Russia	Y	N**	iv	N/A	Y	i	Y	N**	Y	Y	N	N/A
Saudi Arabia	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Senegal	N	O**	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Serbia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Singapore	Y	O	Y	N/A	Y	i	Y	N**	Y	Y	N	N/A
Slovak Republic	Y	O	iv	domestic law	Y	i	Y	N**	Y	Y	N	N/A
Slovenia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A

Somalia	N	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
South Africa	Y	O	iv	domestic law	Y	i	Y	N**	Y	Y	N	N/A
Spain	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Sudan	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A
Sweden	Y	O**	iv	domestic law	Y	i	Y	N**	Y	Y	N	N/A
Switzerland	Y	O**	i	N/A	i	i	Y	ii	Y	Y	N	N/A
Syrian Arab Republic	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Tajikistan	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A
Thailand	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A
Tunisia	Y	O**	iv	domestic law	Y	i	Y	Y	Y	Y	N	N/A
Turkish Republic of Northern Cyprus	Y	O	i	N/A	i	i	Y	N	Y	Y	N	N/A
Turkmenistan	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A
Ukraine	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A
United Arab Emirates	Y	O	i	N/A	Y	i	Y	N	Y	Y	N	N/A
United Kingdom	Y	O**	i	N/A	Y	i	Y	N**	Y	N**	N	N/A
United States	Y	O	i	N/A	Y	i	Y	N	Y	Y	N	N/A
Uzbekistan	Y	O	iv	domestic law	Y	i	Y	N	Y	Y	N	N/A
Viet Nam	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Yemen	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A

* This list was provided by Turkey and its reproduction here is without prejudice to the status of the listed territories under international law

** Treaties will be modified upon entry into force of the Multilateral Instrument for the treaties concerned.

*** Treaties will be modified upon entry into force of the Multilateral Instrument for the treaties concerned, but only to the extent that existing treaty provisions are incompatible with the relevant provision of Article 17 of the Multilateral Instrument.

Annex B. MAP Statistics Reporting for the 2016 and 2017 Reporting Periods (1 January 2016 to 31 December 2017) for Pre-2016 Cases

number of pre-2016 cases closed during the reporting period by outcome:

category of cases	no. of pre-2016 cases in MAP inventory on 1 January 2016	number of pre-2016 cases closed during the reporting period by outcome:										no. of pre-2016 cases remaining in on MAP inventory on 31 December 2016	average time taken (in months) for closing pre-2016 cases during the reporting period	
		denied MAP access	objection is not justified	withdrawn by taxpayer	unilateral relief granted	resolved via domestic remedy	agreement fully eliminating double taxation / fully resolving taxation not in accordance with tax treaty	agreement partially eliminating double taxation / partially resolving taxation not in accordance with tax treaty	agreement that there is no taxation not in accordance with tax treaty	no agreement including agreement to disagree	any other outcome			
Attribution/ Allocation	2	0	0	0	0	0	0	0	0	0	0	0	2	0.00
Others	9	0	0	0	0	0	0	0	0	0	0	0	9	0.00
Total	11	0	0	0	0	0	0	0	0	0	0	0	11	0.00

Notes:

A modification has been made by Turkey as compared to the 2016 MAP statistics that are published on the website of the OECD. One attribution/allocation case has been added, which was only notified to Turkey in 2017. For the other cases, one case was reported as a post-2015 case in 2016, but it concerns a pre-2016 case, and one case was only notified to Turkey by the treaty partner after it was closed in 2017.

category of cases	no. of pre-2016 cases in MAP inventory on 1 January 2017	number of pre-2016 cases closed during the reporting period by outcome:										no. of pre-2016 cases remaining in on MAP inventory on 31 December 2017	average time taken (in months) for closing pre-2016 cases during the reporting period
		denied MAP access	objection is not justified	withdrawn by taxpayer	unilateral relief granted	resolved via domestic remedy	agreement fully eliminating double taxation / fully resolving taxation not in accordance with tax treaty	agreement partially eliminating double taxation / partially resolving taxation not in accordance with tax treaty	agreement that there is no taxation not in accordance with tax treaty	no agreement including agreement to disagree	any other outcome		
Attribution/ Allocation	2	0	0	0	0	0	0	0	0	0	1	1	11.52
Others	9	0	0	0	0	1	0	0	0	2	1	5	25.56
Total	11	0	0	0	0	1	0	0	0	2	2	6	22.75

Annex C. MAP Statistics Reporting for the 2016 and 2017 Reporting Periods (1 January 2016 to 31 December 2017) for Post-2015 Cases

category of cases	no. of post-2015 cases in MAP inventory on 1 January 2016	no. of post-2015 cases started during the reporting period	number of post-2015 cases closed during the reporting period by outcome:										no. of post-2015 cases remaining in on MAP inventory on 31 December 2016	average time taken (in months) for closing post-2015 cases during the reporting period	
			denied MAP access	objection is not justified	withdrawn by taxpayer	unilateral relief granted	resolved via domestic remedy	agreement fully eliminating double taxation / fully resolving taxation not in accordance with tax treaty	agreement partially eliminating double taxation / partially resolving taxation not in accordance with tax treaty	agreement that there is no taxation not in accordance with tax treaty	no agreement including agreement to disagree	any other outcome			
Attribution/ Allocation	0	3	0	0	0	0	0	0	0	0	0	0	0	3	0.00
Others	0	6	0	0	0	0	0	0	0	0	0	0	1	5	3.62
Total	0	9	0	0	0	0	0	0	0	0	0	0	1	8	3.62
Notes: A modification has been made by Turkey as compared to the 2016 MAP statistics that are published on the website of the OECD. One attribution/allocation case has been added, which was only notified to Turkey in 2017.															

category of cases	no. of post-2015 cases in MAP inventory on 1 January 2017	no. of post-2015 cases started during the reporting period	number of post-2015 cases closed during the reporting period by outcome:										no. of post-2015 cases remaining in on MAP inventory on 31 December 2017	average time taken (in months) for closing post-2015 cases during the reporting period		
			denied MAP access	objection is not justified	withdrawn by taxpayer	unilateral relief granted	resolved via domestic remedy	agreement fully eliminating double taxation / fully resolving taxation not in accordance with tax treaty	agreement partially eliminating double taxation / partially resolving taxation not in accordance with tax treaty	agreement that there is no taxation not in accordance with tax treaty	no agreement including agreement to disagree	any other outcome				
Attribution/ Allocation	3	2	0	0	0	3	0	0	0	0	0	0	0	0	2	6.33
Others	5	1	0	0	0	0	0	0	0	0	0	0	0	0	6	0.00
Total	8	3	0	0	0	3	0	0	0	0	0	0	0	0	8	6.33

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
MAP guidance	Guideline on the Mutual Agreement Procedure in Double Taxation Agreements
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 15 July 2014
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 that ended on 30 April 2018
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2016 and that ended on 31 December 2017
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

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OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective - MAP Peer Review Report, Turkey (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 Turkey.

Consult this publication on line at <https://doi.org/10.1787/9789264310087-en>.

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