

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



# **Making Dispute Resolution More Effective – MAP Peer Review Report, Oman (Stage 2)**

**INCLUSIVE FRAMEWORK ON BEPS: ACTION 14**



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**Please cite this publication as:**

OECD (2022), *Making Dispute Resolution More Effective – MAP Peer Review Report, Oman (Stage 2): Inclusive Framework on BEPS: Action 14*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris,  
<https://doi.org/10.1787/30973512-en>.

ISBN 978-92-64-57032-0 (print)

ISBN 978-92-64-91451-3 (pdf)

OECD/G20 Base Erosion and Profit Shifting Project

ISSN 2313-2604 (print)

ISSN 2313-2612 (online)

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## *Foreword*

Digitalisation and globalisation have had a profound impact on economies and the lives of people around the world, and this impact has only accelerated in the 21<sup>st</sup> century. These changes have brought with them challenges to the rules for taxing international business income, which have prevailed for more than a hundred years and created opportunities for base erosion and profit shifting (BEPS), requiring bold moves by policy makers to restore confidence in the system and ensure that profits are taxed where economic activities take place and value is created.

In 2013, the OECD ramped up efforts to address these challenges in response to growing public and political concerns about tax avoidance by large multinationals. The OECD and G20 countries joined forces and developed an Action Plan to address BEPS in September 2013. The Action Plan identified 15 actions aimed at introducing coherence in the domestic rules that affect cross-border activities, reinforcing substance requirements in the existing international standards, and improving transparency as well as certainty.

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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

OECD and G20 countries also agreed to continue to work together to ensure a consistent and co-ordinated implementation of the BEPS recommendations and to make the project more inclusive. As a result, they created the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework), bringing all interested and committed countries and jurisdictions on an equal footing in the Committee on Fiscal Affairs and its subsidiary bodies. With over 140 members, the Inclusive Framework monitors and peer reviews the implementation of the minimum standards and is completing the work on standard setting to address BEPS issues. In addition to its members, other international organisations and regional tax bodies are involved in the work of the Inclusive Framework, which also consults business and the civil society on its different work streams.

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

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

This report was approved by the Inclusive Framework on 25 August 2022 and prepared for publication by the OECD Secretariat.

## *Acknowledgements*

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

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



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*Abbreviations and acronyms*

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



## Executive summary

Oman has a modest tax treaty network with more than 30 tax treaties. It has a MAP programme with limited experience in resolving MAP cases. It has a small MAP inventory and a small number of new cases submitted each year and four MAP cases pending on 31 December 2020, three of which are attribution/allocation cases. The outcome of the stage 1 peer review process was that overall Oman met the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Oman has worked to address them, which has been monitored in stage 2 of the process. In this respect, Oman has solved most of the identified deficiencies.

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

- Approximately 40% of its tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty
- Almost 20% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments
- More than 40% of its tax treaties do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Oman signed and ratified the Multilateral Instrument. Through this instrument a number of its tax treaties have been or will be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force and entry into effect of the Multilateral Instrument, Oman reported that it intends to update all of its tax treaties to be compliant with the requirements under the Action 14 Minimum Standard via bilateral negotiations. However, Oman does not have a specific plan in place nor has it taken or planned any specific actions for such negotiations.

As Oman has no bilateral APA programme in place, there are no elements to assess regarding the prevention of disputes.

Furthermore, Oman meets almost all the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in

all eligible cases, although it has since 1 January 2020 not received any MAP requests concerning the application of anti-abuse provisions. Oman also has clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice under tax treaties. However, Oman 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.

Concerning the average time needed to close MAP cases, the MAP statistics for Oman for the period 2017-20 are as follows:

2017-20	Opening inventory 1/1/2017	Cases started	Cases closed	End inventory 31/12/2020	Average time to close cases (in months)
Attribution/allocation cases	1	2	0	3	n.a.
Other cases	0	1	0	1	n.a.
<b>Total</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>4</b>	<b>n.a.</b>

From 2017-20, no MAP cases were resolved. Further, there was an increase of three MAP cases during this period. Therefore, Oman should ensure that resources are made available for the competent authority function in a way that allows an adequate use of such resources for the identification and resolution of MAP cases in a timely, efficient and effective manner. Such adequate resources would enable Oman's competent authority to resolve its pending cases in due time and to be able to cope with a possible increase in the number of MAP cases.

Furthermore, Oman meets almost all other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Oman's competent authority operates fully independently from the audit function of the tax authorities and adopts a co-operative approach to resolve MAP cases in an effective and efficient manner. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function. However, it did not submit or match MAP statistics according to the MAP Statistics Reporting Framework within the deadline for all the relevant years.

Lastly, Oman meets the Action 14 Minimum Standard as regards the implementation of MAP agreements in principle although no MAP agreements requiring implementation in Oman have been entered into.

## *Reference*

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

## *Introduction*

### **Available mechanisms in Oman to resolve tax treaty-related disputes**

Oman has entered into 37 tax treaties on income (and/or capital), 35 of which are in force.<sup>1</sup> These 37 treaties are being applied to 37 jurisdictions. All of these treaties provide for a mutual agreement procedure (“**MAP**”) for resolving disputes on the interpretation and application of the provisions of the tax treaty. None of these treaties include an arbitration procedure as a final stage to the MAP process.

Under the tax treaties that Oman has entered into, the competent authority function is generally assigned to the Ministry of Finance or its authorised representative. Accordingly, this function is delegated to the tax agreements department within Oman’s Tax Authority and which is competent to handle both attribution/allocation cases as well as other cases. The tax agreements department comprises a total of eight staff members, one of them being responsible solely for MAP cases, while the others are responsible for MAP cases along with other tasks such as negotiation of tax treaties, tax treaty policy and exchange of information.

Oman issued guidance on the governance and administration of the mutual agreement procedure (“**MAP guidance**”), which was published in October 2021 and is available (in English) at:

[https://tms.taxoman.gov.om/portal/web/taxportal/manual-guide/-/document\\_library/jRcw40CZIm2d/view\\_file/2529383](https://tms.taxoman.gov.om/portal/web/taxportal/manual-guide/-/document_library/jRcw40CZIm2d/view_file/2529383)

### **Developments in Oman since 1 January 2020**

#### ***Developments in relation to the tax treaty network***

The stage 1 peer review report of Oman noted that Oman had signed treaties with Belgium (2008) and the Slovak Republic (2018), which had not yet entered into force. The treaty with the Slovak Republic has now entered into force. The treaty with Belgium has not entered into force as yet since a protocol to this treaty is still being negotiated.

Furthermore, on 26 November 2019, Oman signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. Oman deposited its instrument of ratification of this instrument on 7 July 2020, following which the Multilateral Instrument for Oman entered into force on 1 November 2020. With the depositing of the instrument of ratification, Oman also submitted its list of notifications and reservations to that instrument.<sup>2</sup> In relation to the Action 14 Minimum Standard, Oman has not made any reservations pursuant to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

For the 14 treaties that are considered not to be in line with one or more elements of the Action 14 Minimum Standard and that will not be modified by the Multilateral Instrument, Oman reported that it intends to update them via bilateral negotiations. However, no details were shared as to planned actions, specifically as regards which treaty partners are prioritised for bilateral negotiations.

### ***Other developments***

Further to the above, Oman reported that it has made a few changes to the organisation of its competent authority and that it has issued MAP guidance. These changes can be summarised as follows:

- *MAP guidance*: issuance of comprehensive MAP guidance including inter alia the contact details of the competent authority and the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance.
- *Handling and resolving MAP cases*: the addition of three additional staff members to Oman's competent authority, including one staff member dedicated to the handling and resolving of MAP cases.

### **Basis for the peer review process**

The peer review process entails an evaluation of Oman's implementation of the Action 14 Minimum Standard through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic legislation and regulations, as well as its MAP programme guidance and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by Oman, its peers and taxpayers. The questionnaires for the peer review process were sent to Oman and the peers on 20 December 2019.

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, Oman's implementation of the Action 14 Minimum Standard as outlined above is evaluated, which has been reflected in a peer review report that has been adopted by the BEPS Inclusive Framework on 28 October 2020. This report identifies the strengths and shortcomings of Oman in relation to the implementation of this standard and provides for recommendations on how these shortcomings should be addressed. The stage 1 report is published on the website of the OECD.<sup>3</sup> Stage 2 is launched within one year upon the adoption of the peer review report by the BEPS Inclusive Framework through an update report by Oman. In this update report, Oman reflected (i) what steps it has already taken, or are to be taken, to address any of the shortcomings identified in the peer review report and (ii) any plans or changes to its legislative and/or administrative framework concerning the implementation of the Action 14 Minimum Standard. The update report forms the basis for the completion of the peer review process, which is reflected in this update to the stage 1 peer review report.

### ***Outline of the treaty analysis***

For the purpose of this report and the statistics below, in assessing whether Oman is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol were taken into account, even if it concerns a modification or a replacement of an existing treaty. Reference is made to Annex A for the overview of Oman's tax treaties regarding the mutual agreement procedure.

### *Timing of the process and input received from peers and taxpayers*

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

The period for evaluating Oman’s implementation of the Action 14 Minimum Standard for stage 1 ranged from 1 January 2017 to 31 December 2019 and formed the basis for the stage 1 peer review report. The period of review for stage 2 started on 1 January 2020 and depicts all developments as from that date until 31 October 2021.

In total, four peers provided input: Germany, Singapore, Switzerland and Türkiye. These peers did not have MAP cases with Oman that started on or after 1 January 2017. During stage 2, the same peers provided input. Their inputs only related to the treaty provisions, not to experiences in handling and resolving MAP cases. Specifically with respect to stage 2, all peers that provided input reported that the update report of Oman fully reflects the experiences these peers have had with Oman since 1 January 2020 and/or that there was no addition to previous input given.

### *Input by Oman and co-operation throughout the process*

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

- MAP profile<sup>4</sup>
- MAP statistics<sup>5</sup> according to the MAP Statistics Reporting Framework (see below).

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

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

## Overview of MAP caseload in Oman

The analysis of Oman’s MAP caseload relates to the period starting on 1 January 2017 and ending on 31 December 2020 (“**Statistics Reporting Period**”). According to the statistics provided by Oman, its MAP caseload during this period was as follows:

2017-20	Opening inventory 1/1/2017	Cases started	Cases Closed	End inventory 31/12/2020
Attribution/allocation cases	1	2	0	3
Other cases	0	1	0	1
<b>Total</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>4</b>

## General outline of the peer review report

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

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

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

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

The objective of the Action 14 Minimum Standard is to make dispute resolution mechanisms more effective and concerns a continuous effort. Where recommendations have been fully implemented, this has been reflected and the conclusion section of the relevant element has been modified accordingly, but Oman should continue to act in accordance with a given element of the Action 14 Minimum Standard, even if there is no area for improvement and recommendation for this specific element.

## Notes

1. The tax treaties Oman has entered into are available at: <https://tms.taxoman.gov.om/portal/web/taxportal/double-tax-agreements>. The treaties that are signed but have not yet entered into force are with Belgium (2008) and the Slovak Republic (2018). Reference is made to Annex A for an overview of Oman's tax treaties.
2. Available at: [www.oecd.org/tax/treaties/beps-mli-position-oman-instrument-deposit.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-oman-instrument-deposit.pdf).
3. Available at: <https://www.oecd.org/fr/pays/oman/making-dispute-resolution-more-effective-map-peer-review-report-oman-stage-1-19b019f8-en.htm>.
4. Available at: [www.oecd.org/tax/dispute/country-map-profiles.htm](http://www.oecd.org/tax/dispute/country-map-profiles.htm).
5. The MAP statistics of Oman are included in Annexes B and C of this report.
6. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).



## *Part A*

### Preventing disputes

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

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

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

#### *Current situation of Oman’s tax treaties*

2. All of Oman’s 37 tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty.

3. All of the peers that provided input during stage 1 provided input in relation to their tax treaty with Oman. However, none of these peers provided input concerning this element.

#### *Recent developments*

##### *Peer input*

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

#### *Anticipated modifications*

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

### *Conclusion*

	Areas for improvement	Recommendations
[A.1]	-	-

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

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

6. 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.<sup>1</sup> 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.

#### *Oman’s APA programme*

7. Oman reported that it does not have an APA programme in place.

#### *Roll-back of bilateral APAs*

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

#### *Recent developments*

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

#### *Practical application of roll-back of bilateral APAs*

##### *Period 1 January 2017-31 December 2019 (stage 1)*

10. Oman reported not having received any requests for bilateral APAs in the period 1 January 2017-31 December 2019, which is logical given that Oman does not have such a programme in place.

11. All peers that provided input indicated that they have not received a request for a roll-back of bilateral APAs concerning Oman in the period 1 January 2017-31 December 2019.

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

12. Oman reported also not having received any requests for a bilateral APA since 1 January 2020, which is logical given that Oman still does not have such a programme in place.

13. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

### *Anticipated modifications*

14. Oman indicated that it does not anticipate any modifications in relation to element A.2.

### *Conclusion*

	Areas for improvement	Recommendations
[A.2]	-	-

## *References*

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

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

## **Note**

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



## *Part B*

### **Availability and access to MAP**

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

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

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 Oman's tax treaties***

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

16. None of Oman's 37 tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to submit a MAP request to the competent authority of either state when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state. In addition, 25 of Oman's tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident.

17. The remaining 12 treaties can be categorised as follows:

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), whereby taxpayers can only submit a MAP request to the competent authority of the contracting state of which they are resident.	11
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), whereby the taxpayer can submit a MAP request irrespective of domestic available remedies, but whereby pursuant to a protocol provision the taxpayer is also required to initiate these remedies when submitting a MAP request.	1

18. The 11 treaties in the first row of the table mentioned above are considered not to have the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, for the following reasons all of these 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 (five treaties)
- 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 allow only for the submission of MAP requests to the state of which the taxpayer is a resident (six treaties).

19. The remaining treaty mentioned in the second row of the table above allows taxpayers to submit a MAP request irrespective of domestic available remedies. However, the protocol to this treaty limits such submission, as it requires that a domestic remedy should first be initiated before a case can be dealt with in MAP. Furthermore, with respect to the one treaty included in the second row of the table above, the provision incorporated in the protocol to this treaty reads:

With reference to Article 25 (Mutual agreement procedure) of the Convention, an adjustment of taxes pursuant to that Article may be made only prior to the final determination of such taxes. It is further understood that the preceding sentence means that invoking the mutual agreement procedure does not relieve the taxpayer of the obligation to initiate the procedures of domestic law for resolving tax disputes.

20. 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 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*

21. Out of Oman's 37 tax treaties, 21 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing taxpayers to submit a MAP request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.

22. The remaining 16 tax treaties that do not contain such provision can be categorised as follows:

Provision	Number of tax treaties
No filing period for a MAP request	1
Filing period less than 3 years for a MAP request (2 years)	15

### *Peer input*

23. Almost all peers that provided input during stage 1 confirmed that their treaty with Oman meets the requirements under this element of the Action 14 Minimum Standard.

24. For the one treaty identified that does not contain the equivalent of Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the Action 14 final report or as amended by that report (OECD, 2015b), the relevant peer did not provide input. For the 15 treaties identified that do not contain the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017), one peer provided input. This peer noted that since it had signed and ratified the Multilateral Instrument and Oman had signed the Multilateral Instrument and since both parties had listed the concerned treaty as a covered tax agreement and notified such treaty under Article 16(6)(b)(i), its treaty with Oman would be modified to be in line with element B.1, which is in line with the below analysis.

### ***Practical application***

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

25. As indicated in paragraphs 16-20 above, all but one of Oman’s tax treaties allow taxpayers to file a MAP request irrespective of domestic remedies. Oman reported that submitting a MAP request does not deprive taxpayers from other remedies available under their respective domestic tax law. Oman further clarified that access to MAP would not be denied on the grounds that the taxpayer has pursued domestic remedies. However, Oman reported that its competent authority cannot deviate from court decisions rendered in Oman. In addition, Oman noted that if a taxpayer submits a MAP request while judicial proceedings are ongoing, its competent authority would request the taxpayer to suspend such proceedings until the outcome of the MAP case. If the taxpayer does not agree to suspend the judicial remedies, Oman reported that its competent authority would continue the MAP process only after the judicial proceedings are concluded. This is clarified in Oman’s MAP guidance, in the chapter titled “Interaction with domestic remedies”.

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

26. Oman reported that, if the tax treaty does not contain a filing period for MAP requests, its competent authority will follow the time limit provided for in Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), namely three years as from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty. However, Oman’s MAP guidance is silent on this aspect.

## *Recent developments*

### *Multilateral Instrument*

27. Oman signed the Multilateral Instrument and has deposited its instrument of ratification on 7 July 2020. The Multilateral Instrument has entered into force for Oman on 1 November 2020.

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

28. Article 16(4)(a)(i) of that instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report and allowing the submission of MAP requests to the competent authority of either contracting state – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the Action 14 final report (OECD, 2015b). However, this shall only apply if both contracting parties to the applicable tax treaty have listed this tax treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified the depositary, pursuant to Article 16(6)(a), that this treaty contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the Action 14 final report (OECD, 2015b). Article 16(4)(a)(i) will for a tax treaty not take effect if one of the treaty partners has, pursuant to Article 16(5)(a), reserved the right not to apply the first sentence of Article 16(1) of that instrument to all of its covered tax agreements.

29. With the depositing of its instrument of ratification of the Multilateral Instrument, Oman opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Oman’s tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which they are resident, Oman opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Oman listed 35 of its 37 treaties as a covered tax agreement under the Multilateral Instrument and made for all, on the basis of Article 16(6)(a), a notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the Action 14 final report (OECD, 2015b).

30. In total, 11 of the 35 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas six have not listed their treaty with Oman as a covered tax agreement under that instrument and nine reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state. All the remaining treaty partners are signatories to the Multilateral Instrument, have listed their treaty with Oman as a covered tax agreement and have made a notification on the basis of Article 16(6)(a).

31. Of these nine treaty partners, seven have already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Oman and these treaty partners, and therefore has modified these treaties to include the equivalent of Article 25(1), first sentence, of the

OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b). For the remaining two treaties, the instrument will, upon entry into force for these treaties, modify them to include the equivalent of this provision.

32. However, the treaty identified in paragraphs 19-20 above that is considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the Action 14 final report (OECD, 2015b) is not part of the nine treaties that will be modified by the Multilateral Instrument.

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

33. With respect to the period of filing of a MAP request, Article 16(4)(a)(ii) of the Multilateral Instrument stipulates that Article 16(1), second sentence – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply where such period is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(b)(i), the depositary that this treaty does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

34. With regard to the 15 tax treaties identified in paragraph 21 above that contain a filing period for MAP requests of less than three years, Oman listed all of them as a covered tax agreement under the Multilateral Instrument and made for all, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). Of these 15 treaty partners, six are not a signatory to the Multilateral Instrument, whereas two did not list its treaty with Oman as a covered tax agreement under that instrument. The remaining seven tax treaty partners also made such notification.

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

#### *Peer input*

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

#### *Anticipated modifications*

37. Oman reported that for the eight tax treaties that do not contain the equivalent of Article 25(1), first or second sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b) and will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.1. Oman, however, reported not having a specific plan in place for such negotiations. In addition, Oman reported it will seek to include Article 25(1), first and sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2017) in all of its future tax treaties.

## Conclusion

	Areas for improvement	Recommendations
	One out of 37 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), or as amended by that final report, and also the timeline to submit a MAP request is 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. This treaty will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, no actions have been taken nor are any actions planned to be taken.	As this treaty will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2017), Oman should, without further delay, request the inclusion of the required provision via bilateral negotiations.  This concerns a provision that is equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention either: <ol style="list-style-type: none"> <li>as amended by the Action 14 final report (OECD, 2015b); or</li> <li>as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.</li> </ol>
[B.1]	14 out of 37 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Out of these 14 treaties: <ul style="list-style-type: none"> <li>• Six have been modified by the Multilateral Instrument to include the required provision.</li> <li>• One is expected to be modified by the Multilateral Instrument to include the required provision.</li> <li>• Seven will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken.</li> </ul>	For the remaining seven treaties that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017) in the treaties that currently do not contain such equivalent, Oman should, without further delay, request the inclusion of the required provision via bilateral negotiations.

### [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).

38. 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:

- of either treaty partner; or, in the absence of such provision,
- 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***

39. As discussed under element B.1, none of Oman’s 37 treaties currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. However, as was also discussed under element B.1, nine of these 37 treaties have been or will be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

40. Oman reported that it has not introduced a bilateral consultation or notification process that allows the other competent authority concerned to provide its views on the case when Oman’s competent authority considers the objection raised in the MAP request not to be justified. However, Oman noted that the staff in its competent authority have been instructed to follow such a process in practice.

### ***Recent developments***

41. There are no recent developments with respect to element B.2.

### ***Practical application***

#### *Period 1 January 2017-31 December 2019 (stage 1)*

42. Oman reported that in the period 1 January 2017-31 December 2019, its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2017, 2018 and 2019 MAP statistics submitted by Oman 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 Oman’s competent authority denied access to MAP in the period 1 January 2017-31 December 2019. They also reported not having been consulted/notified of a case where Oman’s competent authority considered the objection raised in a MAP request as not justified since that date, which can be clarified by the fact that no such instances have occurred in Oman during this period.

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

44. Oman reported that also since 1 January 2020 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 2020 MAP statistics submitted by Oman also show that none of its MAP cases was closed with the outcome “objection not justified”.

45. All peers that provided input during stage 1 provided input during stage 2 as well and noted that since 1 January 2020 they are not aware of any cases for which Oman’s competent authority considered an objection in a MAP request not justified. They also reported not having been consulted/notified in such cases, which can be clarified by the fact that no such instances have occurred in Oman since that date.

### *Anticipated modifications*

46. Oman indicated that it will introduce a bilateral consultation or notification process for those situations where its competent authority considers an objection raised in a MAP request as being not justified.

### *Conclusion*

	Areas for improvement	Recommendations
[B.2]	None of the 37 treaties contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty 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.	Oman should without further delay follow its stated intention to introduce a documented notification and/or consultation process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Oman should apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b).

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

Jurisdictions should provide access to MAP in transfer pricing cases.

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

### *Legal and administrative framework*

48. Out of Oman's 37 tax treaties, 20 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner. One tax treaty does not contain in its entirety a provision that is based on Article 9 of the OECD Model Tax Convention (OECD, 2017) with regard to associated enterprises. Furthermore, three tax treaties do not contain a provision that is based on or equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). The remaining 13 treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but deviate from this provision for the following reasons:

- Four treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but the granting of a corresponding adjustment could be read as only optional as the word "shall" is replaced by "may".
- Nine treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but is considered not being equivalent thereof as it stipulates that a corresponding adjustment can only be made through an agreement or consultation between the competent authorities.

49. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Oman’s tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, Oman indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) is contained in its tax treaties.

50. Oman’s MAP guidance, under the section titled “Absence of Article 9(2) in a DTA”, clarifies that access to MAP will be provided in transfer pricing cases even where the treaty concerned does not contain the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017).

### ***Recent developments***

#### *Multilateral Instrument*

51. Oman signed the Multilateral Instrument and has deposited its instrument of ratification on 7 July 2020. The Multilateral Instrument has entered into force for Oman on 1 November 2020.

52. Article 17(2) of that instrument stipulates that Article 17(1) – containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument. Article 17(2) of the Multilateral Instrument does not take effect for a tax treaty if one or both of the treaty partners have, pursuant to Article 17(3), reserved the right not to apply Article 17(1) for those tax treaties that already contain the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), or not to apply Article 17(1) in the absence of such equivalent under the condition that: (i) it shall make appropriate corresponding adjustments or (ii) its competent authority shall endeavour to resolve the case under mutual agreement procedure of the applicable tax treaty. Where neither treaty partner has made such a reservation, Article 17(4) of the Multilateral Instrument stipulates that both have to notify the depositary whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). Where such a notification is made by both of them, the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017)).

53. Oman has, pursuant to Article 17(3), reserved the right not to apply Article 17(1) of the Multilateral Instrument for those treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). With regard to the 16 treaties identified in paragraph 48 above that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) (disregarding the one treaty that does not contain Article 9 at all), Oman listed 15 of them as a covered tax agreement under the Multilateral Instrument and included 13 of them in the list of treaties for which Oman has, pursuant to Article 17(3), reserved the right not to apply Article 17(1) of the Multilateral Instrument. Furthermore, Oman did not make a

notification on the basis of Article 17(4) for the remaining two treaties. Of the relevant two treaty partners, one has not listed its treaty with Oman as a covered tax agreement. The remaining treaty partner has listed its treaty with Oman as a covered tax agreement under that instrument and did not make a reservation on the basis of Article 17(3) for this treaty.

54. The remaining treaty partner has already deposited its instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Oman and this treaty partner, and therefore has been superseded by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but only to the extent that the provision contained in this treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1).

### ***Application of legal and administrative framework in practice***

#### ***Period 1 January 2017-31 December 2019 (stage 1)***

55. Oman reported that in the period 1 January 2017-31 December 2019, it has not denied access to MAP on the basis that the case concerned a transfer pricing case. However, no MAP cases were received during this period.

56. All peers that provided input indicated not being aware of a denial of access to MAP by Oman in the period 1 January 2017-31 December 2019 on the basis that the case concerned was a transfer pricing case.

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

57. Oman reported that also since 1 January 2020 it has not denied access to MAP on the basis that the case concerned a transfer pricing case.

58. All peers that provided input during stage 1 provided input during stage 2 as well and noted that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

### ***Anticipated modifications***

59. Oman reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention (OECD, 2017) in its tax treaties where possible and that it will seek to include Article 9(2) in all of its future tax treaties.

### ***Conclusion***

	Areas for improvement	Recommendations
[B.3]	-	-

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

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

60. 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*

61. None of Oman’s 37 tax treaties allow competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, also the domestic law and/or administrative processes of Oman 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.

62. Oman’s MAP guidance, under the section titled “Treaty anti-abuse and domestic anti-abuse provisions”, clarifies that where issues arise relating to the application of treaty anti-abuse provisions or the application of domestic anti-abuse provisions, Oman’s competent authority will engage in consultations with the other competent authority, but that any claim of taxation not in accordance with the provisions of the convention may not necessarily be resolved and any double taxation may not be eliminated.

##### *Recent developments*

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

##### *Practical application*

###### *Period 1 January 2017-31 December 2019 (stage 1)*

64. Oman reported that in the period 1 January 2017-31 December 2019, it has not denied access to MAP in cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. However, no MAP cases were received during this period.

65. All peers that provided input indicated not being aware of cases that have been denied access to MAP in Oman in the period 1 January 2017-31 December 2019 in relation to the application of treaty and/or domestic anti-abuse provisions.

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

66. Oman reported that also since 1 January 2020 it has also not denied access to MAP in cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. However, no such cases in relation hereto were received since that date either.

67. All peers that provided input during stage 1 provided input during stage 2 as well and noted that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

*Anticipated modifications*

68. Oman indicated that it does not anticipate any modifications in relation to element B.4.

*Conclusion*

	Areas for improvement	Recommendations
[B.4]	-	-

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

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

69. 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*

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

*Administrative or statutory dispute settlement/resolution process*

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

**Recent developments**

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

**Practical application***Period 1 January 2017-31 December 2019 (stage 1)*

73. Oman reported that in the period 1 January 2017-31 December 2019, it has not denied access to MAP in any case where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration, which is explained by the fact that such settlements are not possible in Oman.

74. All peers indicated not being aware of a denial of access to MAP in Oman in the period 1 January 2017-31 December 2019 in cases where there was an audit settlement between the taxpayer and the tax administration.

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

75. Oman reported that since 1 January 2020 it has also not denied access to MAP for cases where the issue presented by the taxpayer has already been dealt with in an audit settlement between the taxpayer and the tax administration since such settlements are still not possible in Oman.

76. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

**Anticipated modifications**

77. Oman indicated that it does not anticipate any modifications in relation to element B.5.

**Conclusion**

	Areas for improvement	Recommendations
[B.5]	-	-

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

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

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

### ***Legal framework on access to MAP and information to be submitted***

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

80. Oman indicated that it will accept a MAP request in all circumstances, except where basic and essential information such as contact details of the taxpayers concerned, the tax period(s) concerned and the nature of action leading to the MAP request is missing.

81. Accordingly, Oman reported that although information beyond such basic information would be required for a MAP request to be complete (as listed in Appendix 1 to its MAP guidance titled “Appendix 1: Information and documentation required to be submitted with a request for MAP assistance”), access to MAP will not be denied on the grounds that such information or any other additional information requested for by the competent authority has not been provided. Oman further reported that it would give a taxpayer 45 days to respond to additional information requests, as noted in its MAP guidance under the section titled “Resolution of a MAP request”.

### ***Recent developments***

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

### ***Practical application***

#### *Period 1 January 2017-31 December 2019 (stage 1)*

83. Oman reported that it will provide access to MAP in all cases where taxpayers have complied with the information or documentation requirements as set out in its MAP guidance. It further reported that in the period 1 January 2017-31 December 2019, it has not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

84. All peers that provided input indicated not being aware of a limitation of access to MAP by Oman in the period 1 January 2017-31 December 2019 in situations where taxpayers complied with information and documentation requirements.

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

85. Oman reported that since 1 January 2020 its competent authority has also not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

86. All peers that provided input during stage 1 provided input during stage 2 as well and noted that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

### ***Anticipated modifications***

87. Oman indicated that it does not anticipate any modifications in relation to element B.6.

### ***Conclusion***

	Areas for improvement	Recommendations
[B.6]	-	-

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

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

88. For ensuring that tax treaties operate effectively and in order for competent authorities to be able to respond quickly to unanticipated situations, it is useful that tax treaties include the second sentence of Article 25(3) of the OECD Model Tax Convention (OECD, 2017), enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

### ***Current situation of Oman's tax treaties***

89. Out of Oman's 37 tax treaties, 21 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The remaining 16 treaties do not contain a provision that is based on or equivalent to Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2017).

90. Almost all peers that provided input during stage 1 confirmed that their treaty with Oman meets the requirements under this element of the Action 14 Minimum Standard. For the 16 treaties identified that do not contain the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017), one peer provided input. This peer noted that since it had signed and ratified the Multilateral Instrument and Oman had signed the Multilateral Instrument and since both parties had notified the concerned treaty as a covered tax agreement and listed such treaty under Article 16(6)(d)(ii), its treaty with Oman would be modified to be in line with element B.7.

### ***Recent developments***

#### ***Multilateral Instrument***

91. Oman signed the Multilateral Instrument and deposited its instrument of ratification on 7 July 2020. The Multilateral Instrument has entered into force for Oman on 1 November 2020.

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

93. With regard to the 16 tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Oman listed 15 treaties as a covered tax agreement under the Multilateral

Instrument and made for all of them, pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). Of the relevant 15 treaty partners, four are not a signatory to the Multilateral Instrument, two did not list its treaty with Oman as a covered tax agreement and one did not make a notification pursuant to Article 16(6)(d)(ii). All of the remaining eight treaty partners made such notification.

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

### *Peer input*

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

### *Anticipated modifications*

96. Oman reported that for the eight tax treaties that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.7. Oman, however, reported not having a specific plan in place for such negotiations. In addition, Oman reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

### *Conclusion*

	Areas for improvement	Recommendations
[B.7]	<p>16 out of 37 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these 16 treaties:</p> <ul style="list-style-type: none"> <li>• Seven have been modified by the Multilateral Instrument to include the required provision.</li> <li>• One is expected to be modified by the Multilateral Instrument to include the required provision.</li> <li>• Eight will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken.</li> </ul>	<p>For the remaining eight 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 (OECD, 2017), Oman should, without further delay, request the inclusion of the required provision via bilateral negotiations. With regard to the one treaty among these eight treaties that was signed but is not in force as yet, Oman should enter into bilateral negotiations with the concerned treaty partner to make this treaty in line with element B.7.</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.

97. 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.

### ***Oman's MAP guidance***

98. Oman issued guidance on the governance and administration of the mutual agreement procedure, which was published in October 2021 and is available (in English) at:

[https://tms.taxoman.gov.om/portal/web/taxportal/manual-guide/-/document\\_library/jRcw40CZIm2d/view\\_file/2529383](https://tms.taxoman.gov.om/portal/web/taxportal/manual-guide/-/document_library/jRcw40CZIm2d/view_file/2529383)

99. This MAP guidance covers the following topics:

- a. contact information for the competent authority or the office in charge of MAP cases
- b. the manner and form in which the taxpayer should submit a MAP request
- c. the specific information and documentation that should be included in a MAP request
- d. how the MAP functions in terms of timing and the role of the competent authorities
- e. access to MAP in transfer pricing cases, anti-abuse provisions, multilateral disputes, bona fide foreign-initiated self-adjustments and for multi-year resolution of cases
- f. relationship with domestic remedies
- g. implementation of MAP agreements
- h. rights and role of taxpayers in the process
- i. suspension of tax collection
- j. interest charges, refunds and penalties.

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

101. Although the information included in Oman's MAP guidance is detailed and comprehensive, the time limit applicable to the implementation of a MAP agreement is not specifically discussed.

### ***Information and documentation to be included in a MAP request***

102. 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.<sup>2</sup> Oman's MAP guidance enumerates in Appendix I, which items must be included in a request for MAP (if available), which are checked in the following list:

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

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

### *Recent developments*

103. The stage 1 report noted that Oman did not have a published MAP guidance and Oman was recommended to introduce a MAP guidance, including the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance and to publish such guidance. As noted above, Oman has now published MAP guidance that contains: (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.

104. Therefore, the recommendation made in stage 1 has been addressed.

### *Anticipated modifications*

105. Oman indicated that it does not anticipate any modifications in relation to element B.8.

### *Conclusion*

	Areas for improvement	Recommendations
[B.8]	-	-

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

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

106. 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.<sup>3</sup>

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

107. The MAP guidance of Oman is published and can be found (in English) at:

[https://tms.taxoman.gov.om/portal/web/taxportal/manual-guide/-/document\\_library/jRcw40CZIm2d/view\\_file/2529383](https://tms.taxoman.gov.om/portal/web/taxportal/manual-guide/-/document_library/jRcw40CZIm2d/view_file/2529383)

108. This guidance was published in October 2021. As regards its accessibility, the Oman’s MAP guidance can be easily found in English through the website of the Oman Tax Authority by searching for the term “mutual agreement procedure”.

### *MAP profile*

109. The MAP profile of Oman is published on the website of the OECD and was last updated in February 2022. This MAP profile is complete and provides information on the MAP process in Oman and contains external links that provide extra information and guidance where appropriate.

### *Recent developments*

110. As mentioned above, Oman has introduced MAP guidance and has made it publicly available on the website of the Tax Authority. Further, Oman has updated its MAP profile to provide more information, including links to such guidance where appropriate. Therefore, the recommendation made in stage 1 has been addressed.

### *Anticipated modifications*

111. Oman indicated that it does not anticipate any modifications in relation to element B.9.

### *Conclusion*

	Areas for improvement	Recommendations
[B.9]	-	-

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

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

112. 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***

113. As previously discussed under B.5, audit settlements are not possible in Oman.
114. Peers raised no issues with respect to the availability of audit settlements and the inclusion of information hereon in Oman’s MAP guidance, which can be clarified by the fact that Oman has no such published guidance and such settlements are not possible in Oman.

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

115. As previously mentioned under element B.5, Oman does not have an administrative or statutory dispute settlement/resolution process in place that is independent from the audit and examination functions and that can only be accessed through a request by the taxpayer. In that regard, there is no need to address the effects of such process with respect to MAP in Oman’s MAP guidance.
116. All peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in Oman, which can be clarified by the fact that such process is not in place in Oman.

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

117. As Oman does not have an internal administrative or statutory dispute settlement/resolution process in place that has an impact on MAP, there is no need for notifying treaty partners of such process.

***Recent developments***

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

***Anticipated modifications***

119. Oman indicated that it does not anticipate any modifications in relation to element B.10.

***Conclusion***

	Areas for improvement	Recommendations
[B.10]	-	-

## References

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

## Notes

1. Available at: [www.oecd.org/fr/fiscalite/beps/beps-action-14-accroitre-l-efficacite-des-mecanismes-de-reglement-des-differends-documents-pour-l-examen-par-les-pairs.pdf](http://www.oecd.org/fr/fiscalite/beps/beps-action-14-accroitre-l-efficacite-des-mecanismes-de-reglement-des-differends-documents-pour-l-examen-par-les-pairs.pdf).
2. Available at: [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).
3. The shared public platform can be found at: [www.oecd.org/ctp/dispute/country-map-profiles.htm](http://www.oecd.org/ctp/dispute/country-map-profiles.htm).



## *Part C*

### **Resolution of MAP cases**

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

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

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

#### ***Current situation of Oman’s tax treaties***

121. All of Oman’s 37 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner in the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.

122. All of the peers that provided input during stage 1 provided input in relation to their tax treaty with Oman. However, none of these peers provided input concerning this element.

#### ***Recent developments***

##### *Peer input*

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

##### ***Anticipated modifications***

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

### *Conclusion*

	Areas for improvement	Recommendations
[C.1]	-	-

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

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

125. 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*

126. The FTA MAP Forum has agreed on rules for reporting of MAP statistics (“**MAP Statistics Reporting Framework**”) for MAP requests submitted on or after 1 January 2016 (“**post-2015 cases**”). Also, for MAP requests submitted prior to that date (“**pre-2016 cases**”), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template. Oman joined in the Inclusive Framework in 2017. For this reason the statistics referred to are pre-2017 cases for cases that were pending on 31 December 2016, and post-2016 cases for cases that started on or after 1 January 2017. Oman provided its MAP statistics for 2017, 2018, 2019 and 2020 pursuant to the MAP Statistics Reporting Framework within the given deadline. However, Oman missed out the reporting of one pre-2017 case for all of these years and three post-2016 cases for 2018, 2019 and 2020 and these cases were not included in its MAP statistics as initially reported and published on the OECD website. The statistics discussed below include both pre-2017 and post-2016 cases and they are attached to this report as Annex B and Annex C respectively, showing that Oman has not been involved in any MAP cases since 1 January 2017.

127. With respect to post-2016 cases, Oman reported having reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, Oman reported that it could match its post-2016 MAP statistics with all of its treaty partners.

128. No peer input was received on the matching of MAP statistics with Oman for the years 2017-20.

129. In that regard, based on the information provided by Oman’s MAP partners, its post-2016 MAP statistics do not match those of its treaty partners as reported by the latter.

#### *Monitoring of MAP statistics*

130. Oman does not have a system in place that communicates, monitors and manages with its treaty partners the MAP caseload.

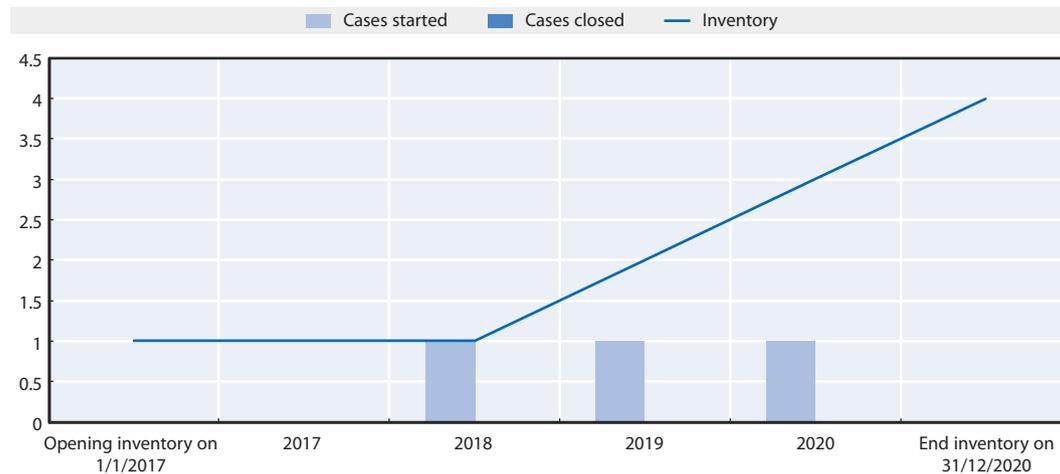
## Analysis of Oman's MAP caseload

### Global overview

131. The analysis of Oman's MAP caseload relates to the period starting on 1 January 2017 and ending on 31 December 2020.

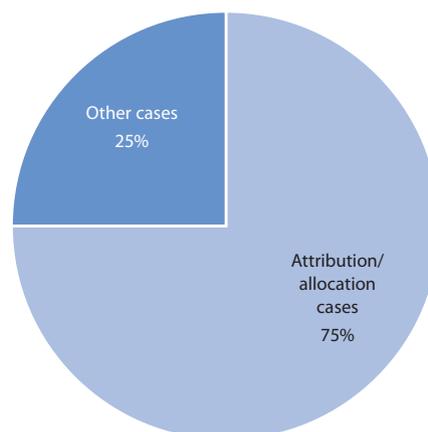
132. Figure C.1 shows the evolution of Oman's MAP caseload over the Statistics Reporting Period.<sup>1</sup>

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



133. At the start of the Statistics Reporting Period, there was one attribution/allocation MAP cases pending in Oman's MAP inventory.<sup>2</sup> At the end of the Statistics Reporting Period, four MAP cases were pending, three of which are attribution/allocation cases and one of which is an other case. Oman's MAP caseload has increased from one case to four cases during the Statistics Reporting Period while none of these cases were closed. The breakdown of the end inventory can be shown as in Figure C.2.

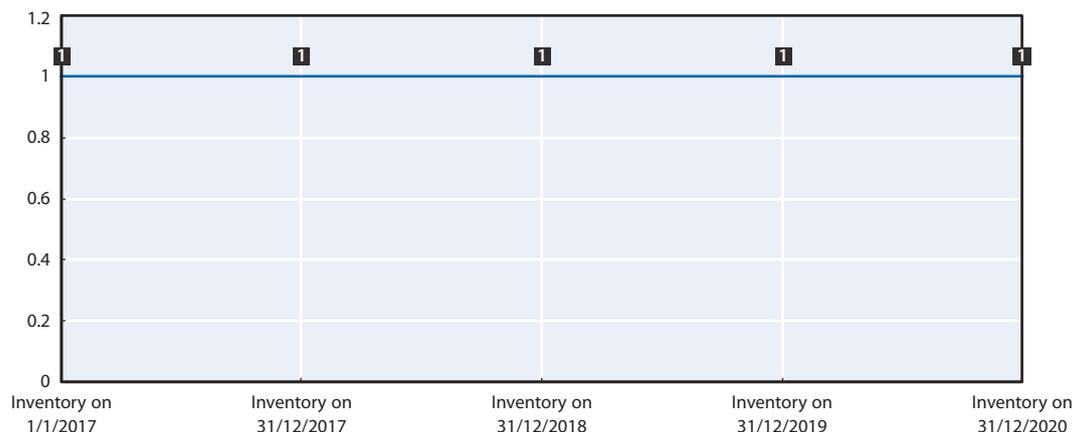
Figure C.2. End inventory on 31 December 2020 (Four cases)



*Pre-2017 cases*

134. Figure C.3 shows the evolution of Oman’s pre-2017 MAP caseload over the Statistics Reporting Period.

Figure C.3. Evolution of Oman’s MAP inventory – Pre-2017 cases

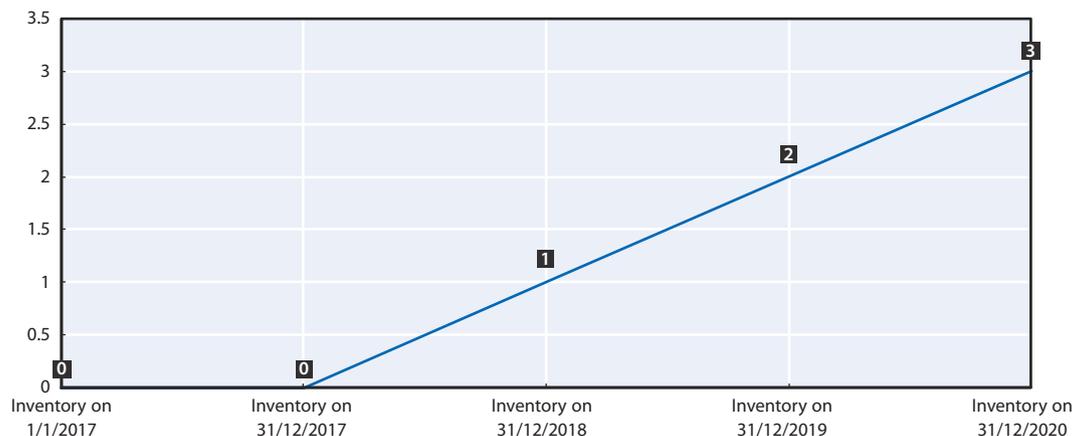


135. At the start of the Statistics Reporting Period, there was one attribution/allocation pre-2017 MAP case pending in Oman, which remained pending at the end of the Statistics Reporting Period as well.

*Post-2016 cases*

136. Figure C.4 shows the evolution of Oman’s post-2016 MAP caseload over the Statistics Reporting Period.

Figure C.4. Evolution of Oman’s MAP inventory – Post-2016 cases



137. A total of three MAP cases were started during the Statistics Reporting Period, two of them being attribution/allocation cases and one being an other case. At the end of the Statistics Reporting Period, the total number of post-2016 cases awaiting resolution was still three as no post-2016 cases were closed during this period.

***Overview of cases closed during the Review Period***

138. Oman has not closed any MAP cases during the Statistics Reporting Period.

***Average timeframe needed to resolve MAP cases***

139. Oman has not closed any MAP cases during the Statistics Reporting Period.

***Peer input***

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

***Recent developments***

141. Oman was in the stage 1 peer review report under element C.2 recommended to evaluate whether Oman’s competent authority seeks to resolve MAP cases within an average time frame of 24 months.

142. In view of the statistics discussed above, it follows that Oman’s MAP inventory has increased from one to four cases. The statistics also show that Oman has in the period 2017-20 not closed any MAP cases. Element C.3 will further consider these numbers in light of the adequacy of resources.

143. All peers that provided input during stage 1 provided input during stage 2 as well. These peers confirmed that this input holds equal relevance for the period starting 1 January 2020.

***Anticipated modifications***

144. Oman indicated that it does not anticipate any modifications in relation to element C.2.

***Conclusion***

	Areas for improvement	Recommendations
[C.2]	Although 2018, 2019 and 2020 MAP statistics were submitted on time, three post-2016 cases were omitted from the MAP statistics for these years. In addition, matching of MAP statistics was not sought with all of the treaty partners.	Oman should report its MAP statistics in accordance with the MAP Statistics Reporting Framework. In addition, Oman should endeavour to match its MAP statistics with all of its treaty partners.

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

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

145. 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 Oman’s competent authority***

146. Under Oman’s tax treaties, the competent authority function is generally assigned to the Ministry of Finance. This has been delegated to the Tax Agreements department of Oman’s tax authority. Oman’s competent authority consists of eight people to deal with

MAP cases along with one member dedicated to the handling and resolving of MAP cases while the others deal with MAP cases along with other tasks such as negotiation of tax treaties, tax treaty policy and exchange of information. Five of these staff members hold university degrees with a background in finance/accounting. These staff members report to the Director General for Planning and Tax Policy.

### ***Monitoring mechanism***

147. Oman reported that it plans to monitor its MAP caseload using Microsoft Excel owing to the small volume of its caseload.

### ***Recent developments***

148. In the stage 1 report, Oman was recommended under element C.3 to monitor whether the resources available for the competent authority function remain adequate in order to resolve future MAP cases in a timely, efficient and effective manner.

149. As noted above, the number of staff members in Oman's competent authority has been increased from five to eight, with one new staff member allocated exclusively for handling MAP cases.

### ***Practical application***

#### *MAP statistics*

150. As discussed under element C.2, Oman did not close any MAP cases during the Statistics Reporting Period. Further, the MAP inventory of Oman has increased from one case to four cases since 1 January 2017. This can be shown as follows:

	Opening inventory on 1/1/2017	Cases started	Cases closed	End inventory on 31/12/2020	Increase
Attribution/allocation cases	1	2	0	3	(1 case to 3 cases)
Other cases	0	1	0	1	(1 new case)
Total	1	3	0	4	(1 case to 4 cases)

151. These numbers show that there was an increase of three MAP cases during this period. Further, the figures in the above table also show that no cases, including the pre-2017 case in its inventory, have been resolved.

#### *Peer input*

Period 1 January 2017-31 December 2019 (stage 1)

152. No peer input was received with respect to element C.3.

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

153. All peers that provided input during stage 1 provided input during stage 2 as well. These peers noted that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

*Anticipated modifications*

154. Oman indicated that it does not anticipate any modifications in relation to element C.3.

*Conclusion*

	Areas for improvement	Recommendations
[C.3]	Oman's MAP inventory increased since 1 January 2017 and no cases have been resolved since this date. Furthermore, Oman's competent authority was not aware of multiple MAP cases that were started at the end of the treaty partner. Therefore, there is a risk that pending post-2016 cases will not be resolved within the pursued average of 24 months and this might indicate that resources are not adequately made available for Oman's competent authority.	Oman should ensure that resources are made available for the competent authority function in a way that allows an adequate use of such resources for the identification and resolution of MAP cases in a timely, efficient and effective manner. Such adequate resources would enable Oman's competent authority to resolve its pending cases in due time and to be able to cope with a possible increase in the number of MAP cases.

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

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

155. 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*

156. As discussed under element C.3, Oman reported that MAP cases would be handled by the Tax Agreements department of the Oman tax authority that is separate from the audit wing of the tax administration. Oman further reported that the negotiation and conclusion of MAP cases does not require the approval of personnel in the tax administration that are responsible for audit. Accordingly, Oman reported that the staff in charge of MAP in Oman would have the necessary authority to resolve MAP cases as it is not dependent on the approval/direction of the tax administration personnel directly involved in the adjustment and there are no impediments in Oman's abilities to perform its MAP functions.

157. Further, Oman clarified that its competent authority will take into consideration the actual terms of a tax treaty as applicable for the relevant year and that it is committed not to be influenced by policy considerations that Oman would like to see reflected in future amendments to the treaty.

*Recent developments*

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

***Practical application****Period 1 January 2017-31 December 2019 (stage 1)*

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

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

160. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

***Anticipated modifications***

161. Oman indicated that it does not anticipate any modifications in relation to element C.4.

***Conclusion***

	Areas for improvement	Recommendations
[C.4]	-	-

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

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

162. 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 Oman***

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

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

164. Oman did not report using any of these performance indicators to assess staff in charge of MAP cases. However, Oman reported that it does not use any performance indicators for staff in charge of MAP that are related to the outcome of MAP discussions

in terms of the amount of sustained audit adjustments or maintained tax revenue. In other words, staff in charge of MAP is not evaluated on the basis of the material outcome of MAP discussions.

### ***Recent developments***

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

### ***Practical application***

#### *Period 1 January 2017-31 December 2019 (stage 1)*

166. Peers that provided input reported not being aware of the use of performance indicators by Oman that are based on the amount of sustained audit adjustments or maintaining a certain amount of tax revenue.

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

167. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

### ***Anticipated modifications***

168. Oman indicated that it does not anticipate any modifications in relation to element C.5.

### ***Conclusion***

	Areas for improvement	Recommendations
[C.5]	-	-

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

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

169. 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***

170. Oman reported that it has no domestic law limitations for including MAP arbitration in its tax treaties. However, Oman's MAP profile states that it has the policy not to include arbitration in any of its tax treaties.

### ***Recent developments***

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

***Practical application***

172. To date, Oman has not incorporated an arbitration clause in any of its treaties as a final stage to the MAP.

***Anticipated modifications***

173. Oman indicated that it does not anticipate any modifications in relation to element C.6.

***Conclusion***

	Areas for improvement	Recommendations
[C.6]	-	-

***References***

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

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

***Notes***

1. Oman’s MAP statistics for 2017, 2018, 2019 and 2020 were corrected during its peer review and differ from the published statistics for these years. See further explanations in Annexes B and C.
2. For pre-2017 and post-2016 cases, Oman follows the definition provided by the MAP Statistics Reporting Framework to distinguish between attribution/allocation cases and other cases. Annex D of the MAP Statistics Reporting Framework states that: “An attribution/allocation MAP case is a MAP case where the taxpayer’s MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the OECD Model Tax Convention); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention), which is also known as a transfer pricing MAP case”.

## *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.

174. 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***

175. Oman reported that where the underlying tax treaty contains the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), it will implement all MAP agreements irrespective of its domestic time limits. Oman’s domestic law includes a statute of limitation of three years from the end of the concerned taxable year. However, Oman reported that where a tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), its policy is to implement all MAP agreements irrespective of its domestic time-limits. In other words, regardless of whether a tax treaty contains the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017), Oman reported it will always implement MAP agreements. However, Oman clarified that once a MAP agreement is implemented, a taxpayer is given a timeframe of five years within which an application for refund must be filed, where applicable after which this right would lapse.

176. Oman’s MAP guidance, under the sections titled “Competent Authority agreement has been reached” and “Implementing Agreement” note that once a mutual agreement has been reached Oman’s competent authority would notify the taxpayer in writing of the agreed outcome, where possible within 30 days, and request that the taxpayer confirm in writing whether it accepts the mutual agreement within 30 days of receipt of such notification. It is further noted that if the taxpayer accepts the agreement, its competent authority would seek to ensure its implementation without delay. Finally, Oman reported that in cases where a refund is due to the taxpayer, the taxpayer would be required to submit revised tax computations for the affected accounting periods for the mutual agreement to be implemented.

#### ***Recent developments***

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

***Practical application****Period 1 January 2017-31 December 2019 (stage 1)*

178. Oman reported that there were no MAP agreements reached with another competent authority in the period 1 January 2017-31 December 2019.

179. Peers reported not being aware of MAP agreements that were reached in the period 1 January 2017-31 December 2019 that were not implemented in Oman, which can be explained as no MAP agreement has been reached as of that date.

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

180. Oman reported that there were also no MAP agreements reached with another competent authority since 1 January 2020.

181. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

***Anticipated modifications***

182. Oman indicated that it does not anticipate any modifications in relation to element D.1.

***Conclusion***

	Areas for improvement	Recommendations
[D.1]	-	-

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

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

183. 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***

184. As discussed under element D.1., Oman reported that there are no specific time limits set for the implementation of MAP agreements. Further, as discussed under element B.8, Oman's MAP guidance does not discuss a timeframe for implementing mutual agreements.

***Recent developments***

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

***Practical application****Period 1 January 2017-31 December 2019 (stage 1)*

186. Oman reported that there were no MAP agreements reached with another competent authority in the period 1 January 2017-31 December 2019.

187. Peers reported not being aware of MAP agreements that were reached in the period 1 January 2017-31 December 2019 that were not implemented on a timely basis in Oman, which can be explained as no MAP agreement has been reached as of that date.

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

188. Oman reported that there were also no MAP agreements reached with another competent authority since 1 January 2020.

189. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Oman fully reflects their experience with Oman since 1 January 2020 and/or there are no additions to the previous input given.

***Anticipated modifications***

190. Oman indicated that it does not anticipate any modifications in relation to element D.2.

***Conclusion***

	Areas for improvement	Recommendations
[D.2]	-	-

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

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

191. In order to provide full certainty to taxpayers it is essential that implementation of MAP agreements is not obstructed by any time limits in the domestic law of the jurisdictions concerned. Such certainty can be provided by either including the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in tax treaties, or alternatively, setting a time limit in Article 9(1) and Article 7(2) for making adjustments to avoid that late adjustments obstruct granting of MAP relief.

***Legal framework and current situation of Oman's tax treaties***

192. As discussed under element D.1, Oman's domestic legislation contains a statute of limitations of three years for tax assessments. However, Oman's policy specifically extends this time-limit to allow implementation of MAP agreements irrespective of domestic time-limits.

193. Out of Oman’s 37 tax treaties, 30 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. Further, five treaties do not contain such equivalent nor the alternative provisions for Article 9(1) and Article 7(2) setting a time limit for making transfer pricing adjustments.

194. The remaining two treaties contain a provision that specifically states that a MAP agreement shall be implemented within the time-limits in accordance with the domestic laws of the Contracting States. Therefore, these two treaties are considered not to be in line with element D.3.

195. Almost all peers that provided input during stage 1 confirmed that their treaty with Oman meets the requirements under this element of the Action 14 Minimum Standard. For the seven treaties identified that do not contain the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017), two peers provided input. One peer noted that its treaty with Oman was not in line with the Action 14 minimum standard, but reported that since MAP cases have not arisen in respect of this treaty, it treated other treaty partners with priority regarding the implementation of the minimum standard in the field of MAP and that it intends to enter into contact with Oman in this respect in due course. The other peer noted that its treaty with Oman does not meet the Action 14 minimum standard, but that it had made all necessary notifications under the Multilateral Instrument. This treaty is one of two treaties that will be modified, upon entry into force, by the Multilateral Instrument to be in line with element D.3.

### ***Recent developments***

#### *Multilateral Instrument*

196. Oman signed the Multilateral Instrument and deposited its instrument of ratification on 7 July 2020. The Multilateral Instrument has entered into force for Oman on 1 November 2020.

197. Article 16(4)(b)(ii) of that instrument stipulates that Article 16(2), second sentence – containing the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). In other words, in the absence of this equivalent, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both, pursuant to Article 16(6)(c)(ii), notified the depositary that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Article 16(4)(b)(ii) of the Multilateral Instrument will for a tax treaty not take effect if one or both of the treaty partners has, pursuant to Article 16(5)(c), reserved the right not to apply the second sentence of Article 16(2) of that instrument for all of its covered tax agreements under the condition that: (i) any MAP agreement shall be implemented notwithstanding any time limits in the domestic laws of the contracting states, or (ii) the jurisdiction intends to meet the Action 14 Minimum Standard by accepting in its tax treaties the alternative provisions to Article 9(1) and 7(2) concerning the introduction of a time limit for making transfer pricing profit adjustments.

198. With regard to the seven tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or the alternative provisions for Articles 9(1) and 7(2), Oman listed all of them as covered tax agreements under the Multilateral Instrument, but only for five treaties did it make, pursuant to Article 16(6)(c)(ii), a notification that they do not contain a provision described in Article 16(4)(b)(ii). Of the relevant five treaty partners, two did not list their treaty with Oman as a covered tax agreement. Of the remaining three treaty partners, two made such notification.

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

### *Peer input*

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

### *Anticipated modifications*

201. Oman reported that for the seven tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element D.3. Oman, however, reported not having a specific plan in place for such negotiations. In addition, Oman reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

### *Conclusion*

	Areas for improvement	Recommendations
[D.3]	<p>Seven out of 37 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). Of these seven treaties:</p> <ul style="list-style-type: none"> <li>• One has been modified by the Multilateral Instrument to include the required provision.</li> <li>• One is expected to be modified by the Multilateral Instrument to include the required provision.</li> <li>• Five will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken.</li> </ul>	<p>For the remaining five treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), Oman should, without further delay, request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p>

## *Reference*

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

## Summary

	Areas for improvement	Recommendations
<b>Part A: Preventing disputes</b>		
[A.1]	-	-
[A.2]	-	-
<b>Part B: Availability and access to MAP</b>		
	<p>One out of 37 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), or as amended by that final report, and also the timeline to submit a MAP request is 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. This treaty will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, no actions have been taken nor are any actions planned to be taken.</p>	<p>As this treaty will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2017), Oman should, without further delay, request the inclusion of the required provision via bilateral negotiations.</p> <p>This concerns a provision that is equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention either:</p> <ol style="list-style-type: none"> <li>a. as amended by the Action 14 final report (OECD, 2015b); or</li> <li>b. as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.</li> </ol>
[B.1]	<p>14 out of 37 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Out of these 14 treaties:</p> <ul style="list-style-type: none"> <li>• Six have been modified by the Multilateral Instrument to include the required provision.</li> <li>• One is expected to be modified by the Multilateral Instrument to include the required provision.</li> <li>• Seven will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken.</li> </ul>	<p>For the remaining seven treaties that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017) in the treaties that currently do not contain such equivalent, Oman should, without further delay, request the inclusion of the required provision via bilateral negotiations.</p>

	Areas for improvement	Recommendations
[B.2]	None of the 37 treaties contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty 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.	Oman should without further delay follow its stated intention to introduce a documented notification and/or consultation process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Oman should apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b).
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-
[B.7]	<p>16 out of 37 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Of these 16 treaties:</p> <ul style="list-style-type: none"> <li>• Seven have been modified by the Multilateral Instrument to include the required provision.</li> <li>• One is expected to be modified by the Multilateral Instrument to include the required provision.</li> <li>• Eight will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken.</li> </ul>	For the remaining eight 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 (OECD, 2017), Oman should, without further delay, request the inclusion of the required provision via bilateral negotiations. With regard to the one treaty among these eight treaties that was signed but is not in force as yet, Oman should enter into bilateral negotiations with the concerned treaty partner to make this treaty in line with element B.7.
[B.8]	-	-
[B.9]	-	-
[B.10]	-	-
<b>Part C: Resolution of MAP cases</b>		
[C.1]	-	-
[C.2]	<p>Although 2018, 2019 and 2020 MAP statistics were submitted on time, three post-2016 cases were omitted from the MAP statistics for these years.</p> <p>In addition, matching of MAP statistics was not sought with all of the treaty partners.</p>	<p>Oman should report its MAP statistics in accordance with the MAP Statistics Reporting Framework.</p> <p>In addition, Oman should endeavour to match its MAP statistics with all of its treaty partners.</p>
[C.3]	Oman's MAP inventory increased since 1 January 2017 and no cases have been resolved since this date. Furthermore, Oman's competent authority was not aware of multiple MAP cases that were started at the end of the treaty partner. Therefore, there is a risk that pending post-2016 cases will not be resolved within the pursued average of 24 months and this might indicate that resources are not adequately made available for Oman's competent authority.	Oman should ensure that resources are made available for the competent authority function in a way that allows an adequate use of such resources for the identification and resolution of MAP cases in a timely, efficient and effective manner. Such adequate resources would enable Oman's competent authority to resolve its pending cases in due time and to be able to cope with a possible increase in the number of MAP cases.
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-

	Areas for improvement	Recommendations
<b>Part D: Implementation of MAP agreements</b>		
[D.1]	-	-
[D.2]	-	-
[D.3]	<p>Seven out of 37 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). Of these seven treaties:</p> <ul style="list-style-type: none"> <li>• One has been modified by the Multilateral Instrument to include the required provision.</li> <li>• One is expected to be modified by the Multilateral Instrument to include the required provision.</li> <li>• Five will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken.</li> </ul>	<p>For the remaining five treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), Oman should, without further delay, request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p>







Column 1		Action 25(1) of the OECD Model Tax Convention ("MTC")		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									
Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
Treaty partner	DTC in force?	Inclusion Art. 25(1)?	Inclusion Art. 25(1) second sentence?	Inclusion Art. 9(2)?	Existence of a provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion Art. 25(2) second sentence?	If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?
South Africa	Y	O	Y	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N/A
Spain	Y	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A
Sri Lanka	Y	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A
Sudan	Y	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A
Switzerland	Y	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A
Syria	Y	O	li	Y	i	Y	2-years	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A
Thailand	Y	O	Y	Y	i	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A
Tunisia	Y	O	Y	Y	i	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A
Türkiye	Y	O*	Y	Y	i	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A
United Kingdom	Y	E*	l	Y	i	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A
Uzbekistan	Y	O	li	Y	i	Y	2-years	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Viet Nam	Y	O	li*	Y	i	Y	2-years	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N*	N/A
Yemen	Y	O	Y	Y	i	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A

### Legend

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

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

O\* The provision contained in this treaty is already in line with the requirements under this element of the Action 14 Minimum Standard, but will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then allow the filing of a MAP request in either contracting state.

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

## Annex B

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

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

Note: Oman's pre-2017 case reporting differs by one case from the published statistics in 2017 and onwards owing to the correction of an error made while reporting.

2018 MAP Statistics													
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2018	Number of pre-2017 cases closed during the reporting period by outcome										No. of pre-2017 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing pre-2017 cases during the reporting period
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	1	0	0	0	0	0	0	0	0	0	0	1	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	1	0	0	0	0	0	0	0	0	0	0	1	n.a.

2019 MAP Statistics													
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2019	Number of pre-2017 cases closed during the reporting period by outcome								No. of pre-2017 cases remaining in on MAP inventory on 31 December 2019	Average time taken (in months) for closing pre-2017 cases during the reporting period		
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Attribution/ Allocation	1	0	0	0	0	0	0	0	0	0	0	1	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	1	0	0	0	0	0	0	0	0	0	0	1	n.a.

2020 MAP Statistics													
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2020	Number of pre-2017 cases closed during the reporting period by outcome								No. of pre-2017 cases remaining in on MAP inventory on 31 December 2020	Average time taken (in months) for closing pre-2017 cases during the reporting period		
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Attribution/ Allocation	1	0	0	0	0	0	0	0	0	0	0	1	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	1	0	0	0	0	0	0	0	0	0	0	1	n.a.

## Annex C

### MAP Statistics Reporting for the 2017, 2018, 2019 and 2020 Reporting Periods (1 January 2017 to 31 December 2020) for post-2016 cases

2017 MAP Statistics															
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2017	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome								No. of post-2016 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2016 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty			No agreement, including agreement to disagree	Any other outcome	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2018 MAP Statistics															
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2018	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome								No. of post-2016 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2016 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty			No agreement, including agreement to disagree	Any other outcome	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	1	0	0	0	0	0	0	0	0	0	0	0	1	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	1	0	0	0	0	0	0	0	0	0	0	0	1	n.a.

Note: Oman's post-2016 case reporting differs from the published statistics in 2018 and onwards owing to correction of errors made while reporting.

2019 MAP Statistics														
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2019	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome							No. of post-2016 cases remaining in on MAP inventory on 31 December 2019	Average time taken (in months) for closing post-2016 cases during the reporting period			
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/Allocation	1	1	0	0	0	0	0	0	0	0	0	0	2	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	1	1	0	0	0	0	0	0	0	0	0	0	2	n.a.

2020 MAP Statistics														
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2020	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome							No. of post-2016 cases remaining in on MAP inventory on 31 December 2020	Average time taken (in months) for closing post-2016 cases during the reporting period			
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/Allocation	1	1	0	0	0	0	0	0	0	0	0	0	2	n.a.
Others	0	1	0	0	0	0	0	0	0	0	0	0	1	n.a.
Total	1	1	0	0	0	0	0	0	0	0	0	0	3	n.a.

## *Glossary*

<b>Action 14 Minimum Standard</b>	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
<b>MAP Statistics Reporting Framework</b>	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
<b>Multilateral Instrument</b>	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
<b>OECD Model Tax Convention</b>	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
<b>OECD Transfer Pricing Guidelines</b>	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
<b>Pre-2017 cases</b>	MAP cases in a competent authority’s inventory that are pending resolution on 31 December 2016
<b>Post-2016 cases</b>	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2017
<b>Statistics Reporting Period</b>	Period for reporting MAP statistics that started on 1 January 2017 and ended on 31 December 2020
<b>Terms of Reference</b>	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective



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

# **Making Dispute Resolution More Effective – MAP Peer Review Report, Oman (Stage 2)**

### **INCLUSIVE FRAMEWORK ON BEPS: ACTION 14**

Under BEPS Action 14, members of the OECD/G20 Inclusive Framework on BEPS have committed to implement a minimum standard to strengthen the effectiveness and efficiency of the mutual agreement procedure (MAP). The MAP is included in Article 25 of the OECD Model Tax Convention and commits countries to endeavour to resolve disputes related to the interpretation and application of tax treaties. The BEPS Action 14 Minimum Standard has been translated into specific terms of reference and a methodology for the peer review and monitoring process. The peer review process is conducted in two stages. Stage 1 assesses countries against the terms of reference of the minimum standard according to an agreed schedule of review. Stage 2 focuses on monitoring the follow-up of any recommendations resulting from jurisdictions' Stage 1 peer review report. This report reflects the outcome of the Stage 2 peer monitoring of the implementation of the BEPS Action 14 Minimum Standard by Oman.



PRINT ISBN 978-92-64-57032-0  
PDF ISBN 978-92-64-91451-3



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