

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



# **Making Dispute Resolution More Effective – MAP Peer Review Report, Bulgaria (Stage 1)**

**INCLUSIVE FRAMEWORK ON BEPS: ACTION 14**





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## *Foreword*

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

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

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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

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

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

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

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

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

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### *Abbreviations and acronyms*

<b>APA</b>	Advance Pricing Arrangement
<b>FTA</b>	Forum on Tax Administration
<b>MAP</b>	Mutual Agreement Procedure
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>TSSPC</b>	Tax and Social Security Procedure Code



## Executive summary

Bulgaria has a relatively large tax treaty network with almost 70 tax treaties and has signed and ratified the EU Arbitration Convention. Bulgaria has an established MAP programme and has modest experience with resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and 12 cases pending on 31 December 2018. Of these cases, 42% concern allocation/attribution cases. Overall Bulgaria meets the most of the elements of the Action 14 Minimum Standard. Where it has deficiencies Bulgaria is working to address them.

All of Bulgaria's tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 through 3 of Article 25 of the OECD Model Tax Convention. Its treaty network is largely consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that 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 of the OECD Model Tax Convention), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Bulgaria needs to amend and update a certain number of its tax treaties. In this respect, Bulgaria signed the Multilateral Instrument, through which a number of its tax treaties will potentially be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force of this Multilateral Instrument for the treaties concerned, Bulgaria reported that it strives to update them through future bilateral negotiations but it has not yet put a plan in place in relation hereto.

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

Bulgaria meets some requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 January 2016 not received any MAP requests concerning cases where anti-abuse provisions are applied. Furthermore, Bulgaria has in place a notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. However, this process is not yet documented. Bulgaria did not publish guidance on the availability of MAP and how it applies this procedure in practice at the time of review.

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

2016-18	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2018	Average time to close cases (in months)*
Attribution/allocation cases	8	5	8	5	16.33
Other cases	7	7	7	7	37.01
Total	15	12	15	12	24.63

\*The average time taken for resolving MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. For computing the average time taken for resolving pre-2016 MAP cases, Bulgaria used as a start date the date of receipt of the MAP case by the competent authority and as the end date notification by the competent authority to the taxpayer of the outcome of the MAP request.

The number of cases Bulgaria closed in 2016, 2017 and 2018 is higher than the number of all new cases started in those years. Its MAP inventory as per 31 December 2018 decreased as compared to its inventory as per 1 January 2016. During these years, MAP cases were closed on average slightly over the timeframe of 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the average time necessary was 24.63 months. This mainly concerns the resolution of other cases, as the average time to close these cases is thereby considerably longer (37.01 months) than the average time to close attribution/allocation case (16.33 months). However, Bulgaria specified that the median time needed to close MAP cases was significantly lower than 24 months (17.5 months), and the median time needed to close attribution/allocation cases was 3.35 months, and was 17.56 months for other cases. In addition, Bulgaria specified that more resources have recently been assigned to the competent authority for the resolution of such cases.

Furthermore, Bulgaria meets all of the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Bulgaria's competent authority operates fully independently from the audit function of the tax authorities and adopts a pragmatic approach to resolve MAP cases in an effective and efficient manner. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function.

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

## *Introduction*

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

Bulgaria has entered into 69 tax treaties on income (and/or capital), 68 of which are in force.<sup>1</sup> These 69 treaties are being applied to 70 jurisdictions.<sup>2</sup> All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty.

Furthermore, Bulgaria is a signatory to the EU Arbitration Convention, which provides for a mutual agreement procedure supplemented with an arbitration procedure for settling transfer pricing disputes and disputes on the attribution of profits to permanent establishments between EU Member States.<sup>3</sup> In addition, Bulgaria adopted the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union. This directive needs to be implemented in Bulgaria's domestic legislation as from 1 July 2019.<sup>4</sup>

In Bulgaria, the competent authority function to conduct MAP is performed by the Tax Treaties Directorate of the National Revenue Agency. The competent authority of Bulgaria currently employs 14 staff members, including one director and two technical assistants. All of these employees work on MAP cases (except for the technical assistants) in addition to other tasks relating to international taxation and co-operation.

Bulgaria has not yet issued guidance on the governance and administration of the mutual agreement procedure (“MAP”).

### **Recent developments in Bulgaria**

Bulgaria reported that it recently concluded a tax treaty with Pakistan, which it expects to sign by the end of 2019, and that it is in the final stage of initialling a new tax treaty with the Netherlands.

Furthermore, on 7 June 2017 Bulgaria 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. Bulgaria reported that it expects to ratify the Multilateral Instrument by the end of 2019. With the signing of the Multilateral Instrument, Bulgaria also submitted its list of notifications and reservations to that instrument.<sup>5</sup> In relation to the Action 14 Minimum Standard, Bulgaria has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

Where treaties will not be modified by the Multilateral Instrument, Bulgaria reported that it strives to update them through future bilateral negotiations.

Bulgaria also specified at the time of review that it was preparing MAP guidance to describe how to access the MAP and how it functions in practice in Bulgaria.<sup>6</sup>

### Basis for the peer review process

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

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

For the purpose of this report and the statistics below, in assessing whether Bulgaria is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty. Furthermore, the treaty analysis also takes into account the treaty with the former state of the Federal Republic of Yugoslavia that Bulgaria continues to apply to both Montenegro and Serbia. As it concerns the same tax treaty that is applicable to multiple jurisdictions, each treaty is only counted as one treaty for this purpose. Reference is made to Annex A for the overview of Bulgaria's tax treaties regarding the mutual agreement procedure.

In total six peers provided input: Belgium, Germany, Israel, Switzerland, Turkey and the United Kingdom. Out of these six peers, three had MAP cases with Bulgaria that started on or after 1 January 2016. These three peers represent approximately 65% of post-2015 MAP cases in Bulgaria's inventory that started in 2016, 2017 or 2018. Generally, peers indicated that communication was good with Bulgaria's competent authority, some of them emphasising that they had little experience with Bulgaria.

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

- MAP profile<sup>7</sup>
- MAP statistics<sup>8</sup> according to the MAP Statistics Reporting Framework (see below).

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

## Overview of MAP caseload in Bulgaria

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

2016-18	Opening inventory on 1/1/2016	Cases started	Cases closed	End inventory on 31/12/2018	Average time to close cases (in months)*
Attribution/allocation cases	8	5	8	5	16.33
Other cases	7	7	7	7	37.01
Total	15	12	15	12	24.63

\*The average time taken for resolving MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. For computing the average time taken for resolving pre-2016 MAP cases, Bulgaria used as a start date the date of receipt of the MAP case by the competent authority and as the end date the date of notification by the competent authority to the taxpayer of the outcome of the MAP request.

## General outline of the peer review report

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

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

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).<sup>9</sup> Apart from Bulgaria’s legal framework and its administrative practice, the report also incorporates peer input. Furthermore, the report depicts the changes adopted and plans shared by Bulgaria to implement elements of the Action 14 Minimum Standard where relevant. The conclusion of each element identifies areas for improvement (if any) and provides for recommendations how the specific area for improvement should be addressed.

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

## Notes

1. The tax treaties Bulgaria has entered into are available at: [www.nap.bg/en/document?id=192](http://www.nap.bg/en/document?id=192). The treaty that is signed but has not yet entered into force is with Saudi Arabia. Reference is made to Annex A for the overview of Bulgaria's tax treaties.
2. Bulgaria continues to apply the 1998 treaty with the former state of the Federal Republic of Yugoslavia to both Montenegro and Serbia.
3. Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (90/436/EEC) of July 23, 1990.
4. Available at: <https://eur-lex.europa.eu/eli/dir/2017/1852/oj>.
5. Available at: [www.oecd.org/tax/treaties/beps-mli-position-Bulgaria.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-Bulgaria.pdf).
6. This Guidance was published in March 2019 and is available at: <https://nap.bg/en/document?id=415>.
7. Available at: [www.oecd.org/tax/dispute/Bulgaria-Dispute-Resolution-Profile.pdf](http://www.oecd.org/tax/dispute/Bulgaria-Dispute-Resolution-Profile.pdf).
8. The MAP statistics of Bulgaria are included in Annex B and C of this report.
9. 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, 2017) 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 Bulgaria's tax treaties***

2. Out of Bulgaria's 69 tax treaties, 68 contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty.<sup>1</sup> The remaining treaty does not contain the word "interpretation" and is therefore considered to not have the equivalent of Article 25(3), first sentence of the OECD Model Tax Convention.

3. Bulgaria reported that irrespective of whether the applicable treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention, there is nothing in its domestic legislation and/or administrative practices that limits it from entering into an interpretive MAP agreement.

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

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

4. Bulgaria signed the Multilateral Instrument on 7 June 2017. Article 16(4)(c)(i) of that instrument stipulates that Article 16(3), first sentence – containing the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention. In other words, in the absence of this equivalent, Article 16(4)(c)(i) of the Multilateral Instrument will modify the applicable tax treaty to

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

5. In regard of the tax treaty identified above that is considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention, Bulgaria listed it as a covered tax agreement under the Multilateral Instrument and made, pursuant to Article 16(6)(d)(i), a notification that it does not contain a provision described in Article 16(4)(c)(i). The relevant treaty partner is a signatory to the Multilateral Instrument and listed its treaty with Bulgaria as a covered tax agreement. It also made such notification. Therefore, at this stage, the tax treaty identified above will be modified by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention.

### *Bilateral modifications*

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

### *Peer input*

7. All peers that provided input indicated that their treaty with Bulgaria meets the requirements under element A.1. For the treaty identified above that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention, the relevant peer did not provide peer input.

### *Conclusion*

	Areas for improvement	Recommendations
[A.1]	One out of 69 tax treaties does not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention.	Bulgaria should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.  In addition, Bulgaria should maintain its stated intention to include the required provision in all future tax treaties.

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

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

8. 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>2</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.

### ***Bulgaria’s APA programme***

9. Bulgaria is not authorised to enter into bilateral APAs and does not have an APA programme, by which there is no possibility for providing roll-back of bilateral APAs to previous years.

10. Peers confirmed that they did not have any experience with Bulgaria regarding roll-back of bilateral APAs since 1 January 2016, which is logical given that Bulgaria does not have such a programme in place. One of them mentioned that it did not receive any request for roll-back of a bilateral APA involving Bulgaria.

### ***Anticipated modifications***

11. Bulgaria indicated that it does not anticipate any modifications in relation to element A.2.

### ***Conclusion***

	Areas for improvement	Recommendations
[A.2]	-	-

## **Notes**

1. These 68 treaties include the 1998 treaty with the former state of the Federal Republic of Yugoslavia that Bulgaria continues to apply to both Montenegro and Serbia.
2. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines (OECD, 2017b) for Multinational Enterprises and Tax Administrations.

## **References**

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



## *Part B*

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

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

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

12. 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 Bulgaria's tax treaties***

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

13. Out of Bulgaria's 69 tax treaties, 59 contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as it read prior to the adoption of the *Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report* (Action 14 final report, OECD, 2015a), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by the domestic law of either state. In addition, two of Bulgaria's tax treaties contain a provision equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention, as changed by the Action 14 final report and allowing taxpayers to submit a MAP request to the competent authority of either state.

14. Bulgaria reported that its model tax treaty text used as a basis for treaty negotiations also contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention, as changed by the Action 14 final report that allows taxpayers to submit a MAP request to the competent authority of either state.

15. The remaining eight treaties can be categorised as follows:

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, whereby 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
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, whereby taxpayers can only submit a MAP request to the competent authority of the contracting state of which they are resident.	7

16. The treaty mentioned in the first 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. The provision incorporated in the protocol to this treaty reads:

(...) the term “irrespective of the remedies provided by domestic law” means that invoking a mutual agreement procedure is not alternative with national contentious proceedings which, in any case, shall be preventively initiated, when the claim is related with an application of taxes not in conformity with the Convention.

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

18. The seven treaties mentioned in the second row above are considered not to have the full equivalent of Article 25(1), first sentence, of the 2015 OECD Model Tax Convention (OECD, 2015b), as it read prior to the adoption of the Action 14 final report, since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, five of those seven treaties are considered to be in line with this part of element B.1. This is because the non-discrimination provision of these five tax treaties 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.<sup>1</sup>

19. For the remaining two treaties, the non-discrimination provision is almost identical to Article 24(1) of the OECD Model Tax Convention and applies both to nationals that are and are not resident of one of the contracting states. The omission of the full text of Article 25(1), first sentence, of the OECD Model Tax Convention is therefore not clarified by the absence of or a limited scope of the non-discrimination provision, following which these two treaties are not in line with this part of element B.1.

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

20. Out of Bulgaria’s 69 tax treaties, 63 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention allowing taxpayers to submit a MAP request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.<sup>2</sup>

21. The remaining six 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	3
Filing period less than 3 years for a MAP request (2-years)	3

### ***Practical application***

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

22. As noted in paragraphs 16 and 17 above, in all but one of Bulgaria's tax treaties taxpayers can file a MAP request irrespective of domestic remedies. In this respect, Bulgaria reported that it would grant access to MAP even in cases where there is a pending court proceeding or if a court decision has been rendered regarding the same subject matter. Bulgaria also reported that its competent authority is unable to deviate from final decisions rendered by its domestic courts. Bulgaria further noted that it is able to suspend court proceedings for a certain period of time in order to let the competent authorities reach an agreement, but that its judges ultimately have discretion regarding the length of time they wait before resuming consideration of the case in question.

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

23. With respect to the three tax treaties that do not contain a filing period for MAP requests, Bulgaria reported that there is no domestic legislation regulating the filing of MAP requests. However, Bulgaria noted that in such cases it would apply in practice a three-year filing period for filing a MAP request starting as from the notification of the action resulting in taxation not in accordance with the provisions of the relevant tax treaty.

### ***Anticipated modifications***

#### *Multilateral Instrument*

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

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



25. With the signing of the Multilateral Instrument, Bulgaria opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Bulgaria's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which a resident, Bulgaria opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Bulgaria listed 65 of its 69 treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for 64 of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report.

26. In total, 19 of 65 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas two have not listed their treaty with Bulgaria as a covered tax agreement under that instrument and 22 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.<sup>3</sup> The remaining 23 treaty partners listed their treaty with Bulgaria as having a provision that is equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report. Therefore, at this stage, 23 of the 69 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report.

27. In view of the above and in relation to the five treaties identified in paragraphs 16-19 above that are considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the final Action 14 final report, two are part of the 23 treaties that will be modified via the Multilateral Instrument.

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

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

29. In regard of the three tax treaties identified in paragraph 21 above that contain a filing period for MAP requests of less than three years, Bulgaria listed all three treaties as a covered tax agreement under the Multilateral Instrument and for all of them made, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). All of the relevant treaty partners are signatories to the Multilateral Instrument, whereas one did not list its treaty with Bulgaria as a covered tax agreement under that instrument. Of the remaining two tax treaties partners, both also made such notification. Therefore, at this stage, two of the three tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention.



### *Bilateral modifications*

30. Bulgaria reported that when the tax treaties do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention, as it read prior to the adoption of the Action 14 final report, 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. Bulgaria, however, reported not having in place a specific plan for such negotiations.

31. With respect to the first sentence of Article 25(1), Bulgaria reported that it will in those bilateral negotiations propose to include the equivalent as it read after the adoption of the Action 14 final report. For those treaties, which do not contain the second sentence of Article 25(1), Bulgaria reported that it will apply a three-year time period for filing a MAP request starting as from the notification of the action resulting in taxation not in accordance with the provisions of the relevant tax treaty.

### *Peer input*

32. Several peers indicated that their tax treaties with Bulgaria are in line with Element B.1. For the treaty identified that does not contain the full equivalent of both sentences of Article 25(1) of the OECD Model Tax Convention, the relevant peer did not provide input. For the other treaties identified that do not contain the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention the relevant four peers also did not provide input.

### *Conclusion*

	Areas for improvement	Recommendations
	One out of 69 tax treaties does not contain a provision that is equivalent to both sentences contained in Article 25(1), of the OECD Model Tax Convention. This treaty will be modified by the Multilateral Instrument to include a filing period of at least three years, but not as regards Article 25(1), first sentence.	As this treaty will not be modified by the Multilateral Instrument to include the full equivalent to Article 25(1) of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent, Bulgaria should follow its stated intention to request the inclusion of the required provision via bilateral negotiations, either <ul style="list-style-type: none"> <li>a. as amended in the Action 14 final report; or</li> <li>b. as it read prior to the adoption of Action 14 final report, thereby including the full sentence of such provision.</li> </ul>
[B.1]	Two out of 69 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention. These two treaties will not be modified by the Multilateral Instrument.	As these two treaties will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent, Bulgaria should follow its stated intention to request the inclusion of the required provision via bilateral negotiations, either <ul style="list-style-type: none"> <li>a. as amended in the Action 14 final report; or</li> <li>b. as it read prior to the adoption of Action 14 final report, thereby including the full sentence of such provision.</li> </ul>

	Areas for improvement	Recommendations
[B.1]	Two out of 69 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Of these two treaties: <ul style="list-style-type: none"> <li>• One is expected to be modified by the Multilateral Instrument to include the required provision.</li> <li>• One will not be modified by that instrument to include the required provision.</li> </ul>	Bulgaria should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.  For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), second sentence of the OECD Model Tax Convention, Bulgaria should request the inclusion of a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.
	-	To this end, Bulgaria should put a plan in place on how it envisages updating this treaty to include the required provisions.
	-	In addition, Bulgaria should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as amended in the Action 14 final report in all future tax treaties.

## **[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).

33. In order to ensure that all competent authorities concerned are aware of MAP requests submitted, for a proper consideration of the request by them and to ensure that taxpayers have effective access to MAP in eligible cases, it is essential that all tax treaties contain a provision that either allows taxpayers to submit a MAP request to the competent authority:

- i. of either treaty partner; or, in the absence of such provision,
- ii. where it is a resident, or to the competent authority of the state of which they are a national if their cases come under the non-discrimination article. In such cases, jurisdictions should have in place a bilateral consultation or notification process where a competent authority considers the objection raised by the taxpayer in a MAP request as being not justified.

### ***Domestic bilateral consultation or notification process in place***

34. As discussed under element B.1, out of Bulgaria's 69 treaties, two currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to

the competent authority of either treaty partner. However, as was also discussed under element B.1, 23 treaties will, upon entry into force, be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

35. Bulgaria reported that it has introduced a notification process that allows the other competent authority concerned to provide its views on the case when Bulgaria's competent authority considers the objection raised in the MAP request not to be justified. However, Bulgaria reported that this process is not yet documented.

### ***Practical application***

36. Bulgaria reported that since 1 January 2016 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2016, 2017 and 2018 MAP statistics submitted by Bulgaria also show that none of its MAP cases was closed with the outcome "objection not justified".

37. All peers that provided input indicated not being aware of any cases for which Bulgaria's competent authority denied access to MAP. They also reported not having been consulted or notified of a case where Bulgaria's competent authority considered the objection raised in a MAP request as not justified. This can be explained by the fact that since 1 January 2016 Bulgaria did not consider that an objection raised in a MAP request was not justified.

### ***Anticipated modifications***

38. Bulgaria indicated that as part of the EU Dispute Resolution Directive, as from 1 July 2019 it will implement a notification process for those situations where its competent authority considers an objection raised in a MAP request as being not justified. Bulgaria reported that it would extend this notification process to non-EU treaty partners as well.

### ***Conclusion***

	Areas for improvement	Recommendations
[B.2]	67 of the 69 treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Bulgaria should without further delay document its notification 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, Bulgaria should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.

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

Jurisdictions should provide access to MAP in transfer pricing cases.

39. 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***

40. Out of Bulgaria's 69 tax treaties, 40 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner.<sup>4</sup> Of the remaining 29 tax treaties, eight do not contain any article relating to associated enterprises at all. Furthermore, four other treaties contain an article relating to associated enterprises but do not contain any provision based on Article 9(2). The remaining 17 treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention, but deviate from this provision for the following reasons:

- 12 treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention, but the granting of a corresponding adjustment could be read as only optional as the word "shall" is replaced by "may".
- Three treaties contain language that only indicates that the competent authorities may consult together with a view to reaching an agreement on the adjustment of profits.
- For two treaties, the second sentence of Article 9 lacks the words "if necessary" in the second sentence, thereby imposing a requirement that competent authorities consult each other even where it may not be necessary to do so. Furthermore, one of these treaties imposes the additional requirement that a corresponding adjustment can only be made "subject to domestic tax laws".

41. With respect to the first bullet point above, Bulgaria has expressed its position on Article 9 of the OECD Model Tax Convention by stating that it reserves "the right to replace 'shall' by 'may' in the first sentence of paragraph 2 in their conventions."

42. In addition, Bulgaria is a signatory to the EU Arbitration Convention, which provides for a mutual agreement procedure supplemented with an arbitration procedure for settling transfer pricing disputes and disputes on the attribution of profits to permanent establishments between EU Member States.

43. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Bulgaria's tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B3, as translated from the Action 14 Minimum Standard, Bulgaria indicated that it will always provide access to MAP for transfer pricing cases even in the absence of the equivalent of Article 9(2) of the OECD Model Tax Convention in the tax treaty if the relevant treaty contains a provision equivalent to Article 9(1) of the OECD Model Tax Convention. Bulgaria reported that for the nine remaining treaties, eight do not contain a provision equivalent to Article 9(1) of the OECD Model Tax Convention but it would still grant access to MAP in transfer pricing cases under another legal instrument that provides for a mutual agreement procedure in transfer pricing cases. Bulgaria, however, noted that it would not do so with the remaining treaty partner with which no such instrument applies and clarified that it has never had any tax treaty related issues with this particular jurisdiction.

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

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

45. Peers indicated not being aware of a denial of access to MAP by Bulgaria on the basis that the case concerned was a transfer pricing case.

### *Anticipated modifications*

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

47. Bulgaria has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument for those treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention. In regard of the 29 treaties identified in paragraph 40 above that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention, Bulgaria listed 13 as a covered tax agreement under the Multilateral Instrument and included five of them in the list of treaties for which Bulgaria has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument. For the remaining treaties, Bulgaria did not make, pursuant to Article 17(4), a notification that treaties do contain such equivalent.

48. Of the relevant 29 treaty partners, four are not a signatory to the Multilateral Instrument and one has not listed its treaty with Bulgaria under that instrument. Of the remaining 24 treaty partners, four have, on the basis of Article 17(3), reserved the right not to apply Article 17(2) as it considered that its treaty with Bulgaria already contains the equivalent of Article 9(2). Therefore, at this stage, 13 of the 29 tax treaties identified above will be superseded by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 9(2) of the OECD Model Tax Convention, but only to the extent that the provisions contained in those treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).

49. Bulgaria reported that guidance explaining the relationship between access to MAP and transfer pricing will be found in its MAP guidance. Bulgaria's MAP guidance will state that the mutual agreement procedure applies to cases of double taxation resulting from transfer pricing adjustments made to profits of an enterprise in cases covered by the provisions of tax treaties concluded by Bulgaria.

### **Conclusion**

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

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

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

50. 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**

51. None of Bulgaria's 69 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, Bulgaria reported that its domestic law and/or administrative processes do not contain a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

### **Practical application**

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



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

### *Anticipated modifications*

54. Bulgaria indicated that it does not anticipate any modifications in relation to element B.4.

### *Conclusion*

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

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

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

55. 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*

56. Bulgaria reported that under its domestic law it is not possible for taxpayers and the tax administration to enter into an audit settlement.

#### *Administrative or statutory dispute settlement/resolution process*

57. Bulgaria reported that it has an administrative or statutory dispute settlement/resolution process in place that is independent from the audit and examination functions and that can only be accessed through a request by the taxpayer. Bulgaria explained that the appeal of tax assessment notices and other administrative acts has two phases in Bulgaria. In the first instance, a taxpayer in Bulgaria can file an appeal before an independent administrative appeal directorate, which is part of Bulgaria's National Revenue Agency. Bulgaria reported that this appeal directorate examines the merits of the complaint and may confirm, change or repeal in whole or partially the act that has been appealed. Bulgaria noted that this administrative appeal is a precondition before the case can be referred for a judicial appeal before a court.

58. Bulgaria made clear that this administrative appeal does not preclude the taxpayer's rights to initiate a MAP. Bulgaria noted that a decision of the appeal directorate is not considered final and binding in the same manner as court decisions and therefore Bulgaria's competent authority is not bound by any decision rendered by the administrative appeal directorate, even if such a decision has already entered into force. This is further clarified in Bulgaria's MAP profile in question 12.

### ***Practical application***

59. Bulgaria reported that since 1 January 2016 it has not received or denied access to MAP for cases where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration, which can be explained by the fact that audit settlements are not available in Bulgaria.

60. All peers that provided input indicated not being aware of a denial of access to MAP in Bulgaria since 1 January 2016 where the issue presented by the taxpayer has already been dealt with in an audit settlement between the taxpayer and the tax authorities.

### ***Anticipated modifications***

61. Bulgaria 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.

62. 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***

63. The information and documentation Bulgaria requires taxpayers to include in a request for MAP assistance is not publicly available, which is discussed under element B.8. However, it should be noted that Bulgaria published a handbook on transfer pricing in Bulgarian that contains information on MAP in this respect but does not enumerate what exactly taxpayers need to include in a request for MAP.<sup>5</sup>

64. Bulgaria reported that if a submitted MAP request does not contain all the necessary information or documents that Bulgaria requests from taxpayers, Bulgaria will follow up with the taxpayer to request that he provides such missing information. Bulgaria further



reported that the taxpayer is generally granted 14 calendar days for all MAP cases unless another time period is prescribed by the revenue authorities. This 14-day period starts on the day immediately following the date of request and is stipulated under Article 22 of Bulgaria's Tax and Social Security Procedure Code ("TSSPC"). Bulgaria also indicated that its competent authority may provide for a longer time period if the case presented is determined to be especially complex. Furthermore, Bulgaria stated that a taxpayer's failure to submit the requested information does not automatically lead Bulgaria to deny access to MAP as this 14-day term is not considered to be preclusive. In such cases, Bulgaria reported that it would generally notify the taxpayer that this term has expired and would give the taxpayer additional time to submit the requested information. If the taxpayer fails to submit such requested information after this reminder, Bulgaria explained that it would close the case and notify the other competent authority of its decision to do so.

### ***Practical application***

65. Bulgaria reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements. It further reported that since 1 January 2016 it has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

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

### ***Anticipated modifications***

67. Bulgaria reported that after the EU Dispute Resolution goes into effect on 1 July 2019 it will begin providing a three-month timeframe for taxpayers to reply and that this timeframe will be adopted in Bulgaria's domestic legislation and practice. Furthermore, Bulgaria reported that its MAP guidance will clearly state what information or documentation is required to be provided by a taxpayer when submitting a MAP request.

### ***Conclusion***

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

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

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

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

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

69. Out of Bulgaria's 69 tax treaties, 66 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties.<sup>6</sup> The remaining three treaties do not contain any such provision at all.

### *Anticipated modifications*

#### *Multilateral Instrument*

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

71. In regard of the three tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Bulgaria listed all of them as a covered tax agreement under the Multilateral Instrument and for all of them made, pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). All three of these treaty partners also made such notification. Therefore, at this stage, all three of the tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention.

#### *Bilateral modifications*

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

#### *Peer input*

73. Several peers indicated that their tax treaties with Bulgaria are in line with the Action 14 Minimum Standard for this element. For the three treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, one of the relevant peers provided input. This peer indicated that its tax treaty with Bulgaria will be modified via the Multilateral Instrument to be in line with element B.7, which is actually the case.

## Conclusion

	Areas for improvement	Recommendations
[B.7]	Three out of 69 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention.	<p>Bulgaria should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in those three treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>In addition, Bulgaria should maintain its stated intention to include the required provision in all future tax treaties.</p>

## [B.8] Publish clear and comprehensive MAP guidance

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

74. 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.

### *Bulgaria's MAP guidance*

75. Since Bulgaria has not yet published MAP guidance. Bulgaria reported that it does publish general information on MAP as part of its transfer pricing guidelines. However, the information that the FTA MAP Forum agreed should be included in such guidance is not available.<sup>7</sup> This information would concern: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request.

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

76. 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>8</sup> Bulgaria reported which items will need to be included in a request for MAP assistance and they are check 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.

77. This list, however, is not publicly available as Bulgaria has not yet published MAP guidance.

### *Anticipated modifications*

78. Bulgaria indicated that it is developing MAP guidance that it expects it to be published in March 2019. Bulgaria reported that its MAP guidance is expected to include information on:

- contact information of the competent authority or the office in charge of MAP cases
- the manner and form in which the taxpayer should submit its MAP request
- the specific information and documentation that should be included in a MAP request (see also below)
- how the MAP functions in terms of timing and the role of the competent authorities
- information on availability of arbitration (including the EU Arbitration Convention)
- relationship with domestic available remedies
- access to MAP in transfer pricing cases
- implementation of MAP agreements
- rights and role of taxpayers in the process.

79. Although the information to be included in Bulgaria's MAP guidance is detailed and comprehensive, various subjects will not be specifically discussed. This concerns information on:

- whether MAP is available in cases of: (i) the application of anti-abuse provisions, (ii) multilateral disputes and (iii) bona fide foreign-initiated self-adjustments
- whether taxpayers can request for the multi-year resolution of recurring issues through MAP
- the possibility of suspension of tax collection during the course of a MAP
- the consideration of interest and penalties in the MAP.

## Conclusion

	Areas for improvement	Recommendations
[B.8]	There is no published MAP guidance.	<p>Bulgaria should, without further delay, introduce and publish guidance on access to and use of the MAP and include the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation and information that should be included in such a request.</p> <p>Additionally, although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance Bulgaria could follow its stated intention to include the items identified above as well as information on:</p> <ul style="list-style-type: none"> <li>• whether MAP is available in cases of: (i) the application of anti-abuse provisions, (ii) multilateral disputes and (iii) bona fide foreign-initiated self-adjustments</li> <li>• whether taxpayers can request for the multi-year resolution of recurring issues through MAP</li> <li>• the possibility of suspension of tax collection during the course of a MAP</li> <li>• the consideration of interest and penalties in the MAP</li> <li>• the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).</li> </ul>

## [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.

80. 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>9</sup>

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

81. As discussed under element B.8, Bulgaria has not published MAP guidance.

### *MAP profile*

82. The MAP profile of Bulgaria is published on the website of the OECD. This MAP profile is complete and contains detailed information. It contains external links that provide extra information and guidance where appropriate.

### *Anticipated modifications*

83. Bulgaria indicated that it expects its MAP guidance to be publicly available by March 2019.

## Conclusion

	Areas for improvement	Recommendations
[B.9]	There is no MAP guidance publicly available.	Bulgaria should make its MAP guidance publicly available and easily accessible once it has been introduced, and should ensure that its MAP profile published on the shared public platform is updated accordingly.

## [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.

84. 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*

85. As previously discussed under B.5, it is under Bulgaria's domestic law not possible that taxpayers and the tax administration enter into audit settlements.

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

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

87. As previously mentioned under element B.5, Bulgaria has no 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 whereby Bulgaria would limit access to MAP for the cases concerned.

88. All peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in Bulgaria that would limit access to MAP.

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

89. As discussed in under element B.5, since the administrative or statutory dispute settlement/resolution process in Bulgaria does not preclude access to MAP, there is no need for Bulgaria to notify its treaty partners of this process.

90. Peers indicated no issues regarding element B.10 in relation to administrative or statutory dispute settlement or resolution processes.

### ***Anticipated modifications***

91. Bulgaria indicated that its forthcoming MAP guidance clarifies that taxpayers have access to MAP in case of an internal dispute settlement/resolution process.

### ***Conclusion***

	Areas for improvement	Recommendations
[B.10]	-	-

## **Notes**

1. These four treaties include the 1998 treaty with the former state of the Federal Republic of Yugoslavia that Bulgaria continues to apply to both Montenegro and Serbia.
2. These 63 treaties include the 1998 treaty with the former state of the Federal Republic of Yugoslavia that Bulgaria continues to apply to both Montenegro and Serbia.
3. These 22 treaties include the 1998 treaty with the former state of the Federal Republic of Yugoslavia that Bulgaria continues to apply to both Montenegro and Serbia.
4. These 40 treaties include the 1998 treaty with the former state of the Federal Republic of Yugoslavia that Bulgaria continues to apply to both Montenegro and Serbia.
5. Available at: <https://nap.bg/news?id=818>.
6. These 66 treaties include the 1998 treaty with the former state of the Federal Republic of Yugoslavia that Bulgaria continues to apply to both Montenegro and Serbia.
7. 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).
8. 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).
9. 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).

## *References*

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



## *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.

92. 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 Bulgaria's tax treaties***

93. Out of Bulgaria's 69 tax treaties, 68 contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.<sup>1</sup> The remaining treaty does not contain the language “if the objection appears to it to be justified” and also does not specify that the agreement reached must be a “mutual” agreement. Therefore, this provision is considered not to be the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention.

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

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

94. Bulgaria signed the Multilateral Instrument. Article 16(4)(b)(i) of that instrument stipulates that Article 16(2), first sentence – containing the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention. In other words, in the absence of this equivalent, Article 16(4)(b)(i) of the

Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(c)(i), the depositary that this treaty does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention.

95. In regard of the tax treaty identified above that is considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention, Bulgaria did not list it as a covered tax agreement. Therefore, at this stage, the treaty identified above will not be modified by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention.

### *Bilateral modifications*

96. Bulgaria further reported that as the tax treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention will not be modified by the Multilateral Instrument, it intends to update it via bilateral negotiations with a view to be compliant with element C.1. Bulgaria, however, reported not having in place a specific plan for such negotiations. In addition, Bulgaria reported it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention in all of its future tax treaties.

### *Peer input*

97. Several peers indicated that their tax treaties with Bulgaria are in line with the Action 14 Minimum Standard. For the treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention, the relevant peer did not provide input.

### *Conclusion*

	Areas for improvement	Recommendations
[C.1]	One out of 69 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention.	As the treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention will not be modified via the Multilateral Instrument, Bulgaria should request the inclusion of the required provision via bilateral negotiations.  To this end, Bulgaria should put a plan in place on how it envisages updating this treaty to include the required provision.  In addition, Bulgaria should maintain its stated intention to include the required provision in all future tax treaties.

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

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

98. 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*

99. Statistics regarding all tax treaty related disputes concerning Bulgaria are published on the website of the OECD as of 2016.<sup>2</sup> Bulgaria publishes MAP statistics regarding transfer pricing disputes with EU Member States also on the website of the EU Joint Transfer Pricing Forum.<sup>3</sup>

100. 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. Bulgaria provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Bulgaria and of which its competent authority was aware. The statistics discussed below include both pre-2016 and post-2015 cases and the full statistics are attached to this report as Annex B and Annex C respectively<sup>4</sup> and should be considered jointly to understand the MAP caseload of Bulgaria. With respect to post-2015 cases, Bulgaria reported having reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, Bulgaria reported that it could match its post-2015 MAP statistics with all of its MAP partners. In that regard, based on the information provided by Bulgaria’s MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.

### *Monitoring of MAP statistics*

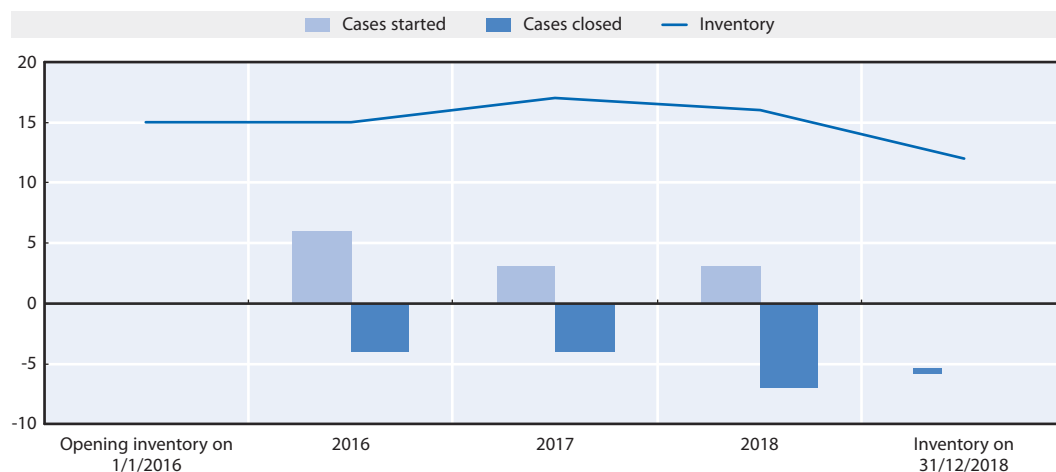
101. Bulgaria reported that it has introduced a file registering system where each MAP case is registered. Bulgaria further reported that this system helps it track the timeliness of handling each MAP case.

### *Analysis of Bulgaria’s MAP caseload*

#### *Global overview*

102. The following graph shows the evolution of Bulgaria’s MAP caseload over the Statistics Reporting Period.

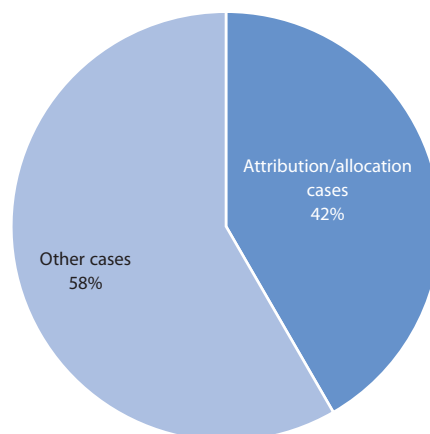
Figure C.1. **Evolution of Bulgaria’s MAP caseload**



103. At the beginning of the Statistics Reporting Period, Bulgaria had 15 pending MAP cases, eight of which were attribution/allocation cases and seven other MAP cases.<sup>5</sup> At the end of the Statistics Reporting Period, Bulgaria had 12 MAP cases in its inventory, of which five are attribution/allocation cases and seven are other MAP cases. Bulgaria's MAP caseload was reduced by 20% during the Statistics Reporting Period, with attribution/allocation cases dropping by 38% while other cases remained the same.

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

Figure C.2. End inventory on 31 December 2018 (12 cases)



#### *Pre-2016 cases*

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

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



106. At the beginning of the Statistics Reporting Period, Bulgaria's MAP inventory of pre-2016 MAP cases consisted of 15 cases, eight of which were attribution/allocation cases and seven other cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases had decreased to six cases, consisting of three attribution/allocation cases

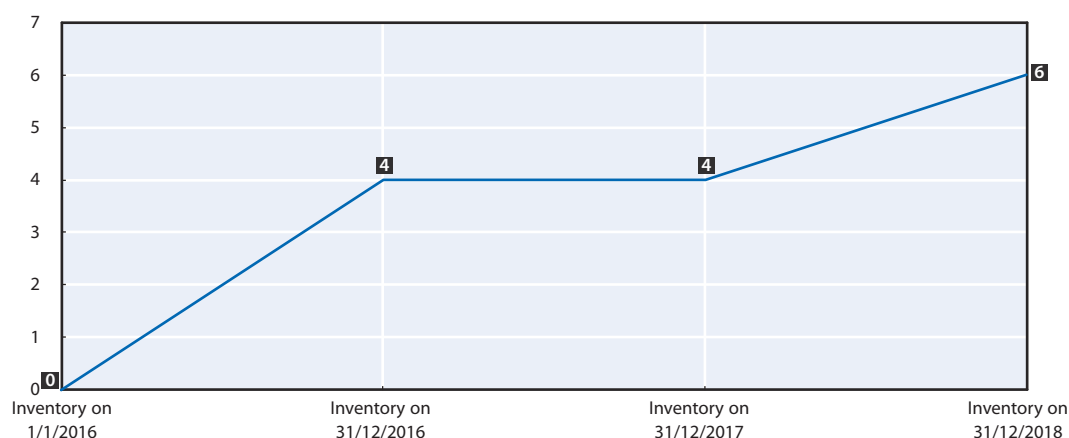
and three other cases. The decrease in the number of pre-2016 MAP cases is shown in the table below.

Pre-2016 cases	Evolution of total MAP caseload in 2016	Evolution of total MAP caseload in 2017	Evolution of total MAP caseload in 2018	Cumulative evolution of total MAP caseload over the three years (2016-18)
Attribution/allocation cases	-25%	(no case closed)	-50%	-63%
Other cases	(no case closed)	-14%	-50%	-57%

### Post-2015 cases

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

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



108. In total, 12 MAP cases started during the Statistics Reporting Period, five of which concerned attribution/allocation cases and seven other cases. At the end of the Statistics Reporting Period the total number of post-2015 cases in the inventory was six cases, consisting of three attribution/allocation cases and three other cases. Conclusively, Bulgaria closed six post-2015 cases during the Statistics Reporting Period, three of them being attribution/allocation cases and three of them being other cases. The total number of closed cases represents 50% of the total number of post-2015 cases that started during the Statistics Reporting Period.

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

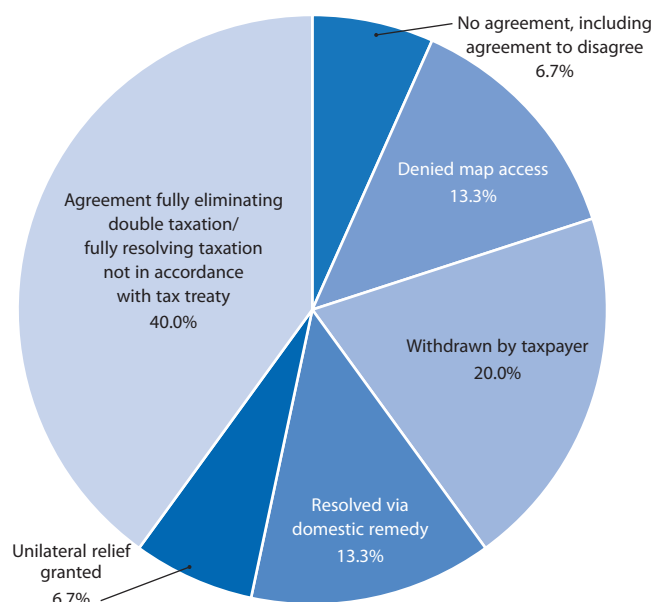
Post-2015 cases	% of cases closed compared to cases started in 2016	% of cases closed compared to cases started in 2017	% of cases closed compared to cases started in 2018	Cumulative percentage of cases closed compared to cases started over the three years (2016-18)
Attribution/allocation cases	33%	(no cases started)	(no cases closed)	60%
Other cases	33%	33%	100%	43%

### *Overview of cases closed during the Statistics Reporting Period*

#### *Reported outcomes*

110. During the Statistics Reporting Period, Bulgaria in total closed 15 MAP cases for which the following outcomes were reported:

Figure C.5. Cases closed in 2016, 2017 or 2018 (15 cases)



111. This chart shows that six out of 15 cases were closed during the Statistics Reporting Period through an agreement that fully eliminated double taxation or fully resolved taxation not in accordance with the tax treaty and three were withdrawn by the taxpayer.

#### *Reported outcomes for attribution/allocation cases*

112. In total, eight attribution/allocation cases were closed during the Statistics Reporting Period. The main reported outcome for these cases are three cases which were resolved with an agreement fully eliminating double taxation/fully resolving taxation not in accordance with the tax treaty.

#### *Reported outcomes for other cases*

113. In total, seven other cases were closed during the Statistics Reporting Period. The main reported outcomes for these cases are three cases which were resolved with an agreement fully eliminating double taxation/fully resolving taxation not in accordance with the tax treaty.

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

#### *All cases closed during the Statistics Reporting Period*

114. The average time needed to close MAP cases during the Statistics Reporting Period was 24.63 months. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	8	16.33
Other cases	7	37.01
All cases	15	24.63

#### *Pre-2016 cases*

115. For pre-2016 cases Bulgaria reported that on average it needed 24.60 months to close attribution/allocation cases and 58.25 months to close other cases. This resulted in an average time needed of 36.65 months to close nine pre-2016 cases. For the purpose of computing the average time needed to resolve pre-2016 cases, Bulgaria reported that it uses the following dates:

- *Start date:* The date of receipt of the MAP case by the competent authority
- *End date:* The date of notification by the competent authority to the taxpayer of the outcome of the MAP request.

#### *Post-2015 cases*

116. For post-2015 cases, Bulgaria reported that on average it needed 2.54 months to close attribution/allocation cases and 8.70 months to close other cases. This resulted in an average time needed of 6.61 months to close six post-2015 cases.

### *Peer input*

117. Most of the peers that provided input indicated that its feedback was limited due to lack of experience of dealing with Bulgaria's competent authority. One peer remarked that cases either were closed with agreement or are still pending. Another peer noted that two MAP cases are still pending and that it was still awaiting a reaction from Bulgaria's competent authority regarding a position paper it sent in March 2018. Furthermore, this peer mentioned that further use of communication via email and telephone calls would help accelerate the timeframes needed to resolve MAP cases.

### *Anticipated modifications*

118. Bulgaria indicated that it does not anticipate any modifications in relation to element C.2.

## Conclusion

	Areas for improvement	Recommendations
[C.2]	<p>Bulgaria submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016, 2017 and 2018. Based on the information provided by Bulgaria's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.</p> <p>Bulgaria's MAP statistics show that during the Statistics Reporting Period it closed 50% (six out of 12 cases) of its post-2015 cases in 6.61 months on average. In that regard, Bulgaria is recommended to seek to resolve the remaining 50% of the post-2015 cases pending on 31 December 2018 (six cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.</p>	

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

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

119. 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 Bulgaria's competent authority*

120. Under Bulgaria's tax treaties, the competent authority function is delegated to the Minister of Finance or his authorised representative. Bulgaria reported that the competent authority function is delegated to the Tax Treaties Directorate as the Minister of Finance has issued an order to the director of the Tax Treaties Directorate to act as the competent authority.

121. Bulgaria reported that the MAP function is performed by 14 persons within the Tax Treaties Directorate, including one director and two technical assistants. Bulgaria noted that all of them work on tasks in addition to MAP. Bulgaria indicated that transfer pricing cases are typically handled by two or three employees who have expertise in such issues. Furthermore, Bulgaria reported that four of its personnel have significant experience in dealing with issues in international taxation such as tax treaties or transfer pricing issues.

122. Bulgaria further reported that these employees are responsible for a wide range of tasks in the field of international direct taxation and co-operation in addition to their role of performing the MAP function. Such additional tasks include (i) administrative co-operation and exchange of information (ii) transfer-pricing legislation and methodology (iii) methodological support of the local authorities (iv) drafting legislation concerning direct taxes and (v) tax treaties negotiation, application and interpretation.

123. Bulgaria reported that all such employees have a master's degree in either economics or legal studies and have participated in a number of trainings and seminars organised by the OECD, Intra-European Organisation of Tax Administrations and the European Union concerning tax treaties, transfer-pricing, exchange of information and MAP. Although no designated funding is currently allocated to the MAP function, Bulgaria reported that face-to-face meetings could be organised and funded, if necessary, from the general budget of the National Revenue Administration as part of the international activities of the Directorate.



### *Monitoring mechanism*

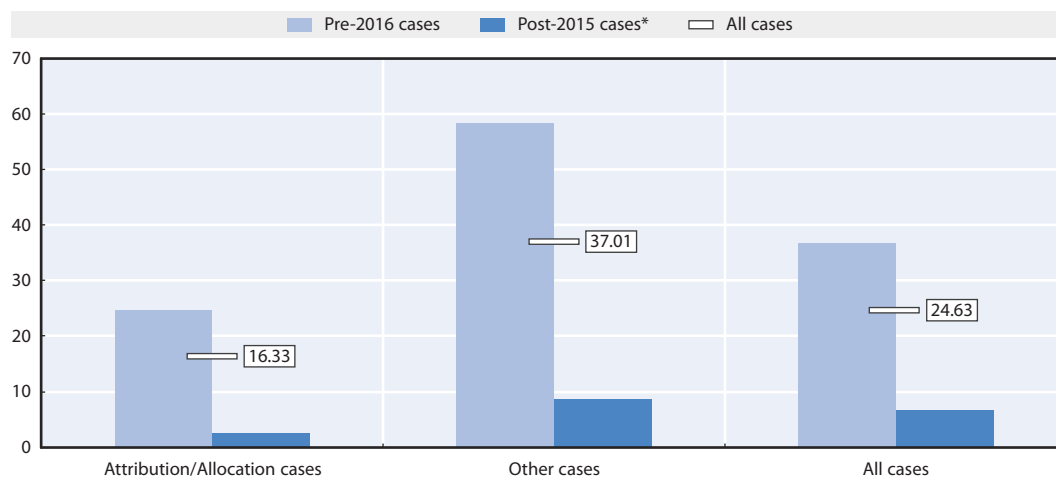
124. Bulgaria reported that as a result of its relatively low number of MAP cases each year it considers the resources currently devoted to MAP to be adequate. Bulgaria further reported that the Director of the Tax Treaties Directorate monitors and seeks to ensure that the available resources are sufficient and notifies the head management if any particular need is identified.

### *Practical application*

#### *MAP statistics*

125. As discussed under element C.2, Bulgaria did not close its MAP cases within the pursued 24-month average during the Statistics Reporting Period. In addition, the average time taken to close attribution/allocation cases is lower than the average time needed for other cases. This can be illustrated by the following graph:

Figure C.6. Average time (in months) to close cases in 2016-18



\*Note that post-2015 cases only concern cases started and closed during 2016-18.

126. Based on these figures, it follows that on average it took Bulgaria 24.63 months to close MAP cases during the Statistics Reporting Period, which might indicate that additional resources may be necessary to accelerate the resolution of MAP cases. However, Bulgaria reported that the total median time needed to close MAP cases during the Statistics Reporting Period was 17.5 months, whereby the median time needed to close attribution/allocation cases was 3.35 months and was 17.56 months for other cases. Furthermore, Bulgaria provided explanations regarding a few cases that impacted its average time. Bulgaria explained that it had one MAP case initiated in 2010 where both jurisdictions exchanged positions and shortly afterwards a Bulgarian court rendered a decision that eliminated the double taxation. Bulgaria reported that it did not communicate with the other competent authority regarding the case until 2018 when Bulgaria contacted the other jurisdiction in order to formally close the case.

127. Bulgaria also explained that in another instance its treaty partner notified Bulgaria of the existence of a MAP case one year after its initiation. Bulgaria noted that two years after

this a court in the other jurisdiction rendered a decision concerning the case, following which the treaty partner informed Bulgaria that it withdrew the tax adjustment it had made and that there was no longer any double taxation and the case should be closed. Lastly, Bulgaria explained that one case took more than one and a half years to finally receive a reply from its treaty partner acknowledging the receipt of the MAP case and that two years elapsed before a solution was found and the case was closed.

### *Peer input*

128. Most of the peers that provided input indicated that its feedback was limited due to lack of experience of dealing with Bulgaria's competent authority. Two peers specifically noted that they did not have any MAP cases with Bulgaria and therefore no input could be provided. One other peer noted that it is too early to comment on its relationship with Bulgaria in any detail but that so far Bulgaria's competent authority has acknowledged the application of MAP cases that are still in its very early stages.

129. In general, peers noted that it was easy to contact Bulgaria's competent authority and that communication was good. A peer remarked that such communication generally takes place via traditional letters and that personal meetings have not been considered necessary thus far for cases that have been very occasional and that do not relate to attribution/allocation issues. Another peer noted that its contacts with Bulgaria have been good and that it has not faced any technical or legal difficulties in its communication with Bulgaria's competent authority.

### *Anticipated modifications*

130. Bulgaria indicated that it expects to add three new employees by the end of June 2019 to reinforce the functions of the Tax Treaty Directorate. Bulgaria noted that these three new employees will deal many of the day-to-day tasks of the Directorate and will be responsible for a number of functions including the MAP function. Furthermore, Bulgaria reported that it intends to allocate additional funding to the MAP function for the year 2020 in its provisional budget for international activities.

### *Conclusion*

	Areas for improvement	Recommendations
[C.3]	-	<p>Bulgaria should continue to closely monitor whether it has adequate resources in place to ensure that future MAP cases are resolved in a timely, efficient and effective manner.</p> <p>Furthermore, as Bulgaria resolved other cases in 37.01 months on average during the period from 2016 to 2018, it could consider devoting additional resources to the competent authority for the resolution of these cases.</p>

#### **[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.

131. 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***

132. Bulgaria reported that when a MAP request is filed with the competent authority of Bulgaria, the Director of the Tax Treaties Directorate reviews the request for its eligibility under the relevant tax treaty or the EU Arbitration Convention as well as whether the information requirements are met. Bulgaria further reported that depending on the complexity and subject matter, the Director assigns the case to one or more employees within the Directorate.

133. Bulgaria stated that the designated employees will then analyse the case and Bulgaria's Competent Authority will notify the other competent authority accordingly. Bulgaria noted that these employees will also collect additional information or documents, as needed, and are responsible for drafting any position paper that might be required. Bulgaria reported that once the employees have prepared a position paper, it is reviewed by the Director and endorsed if no modifications are needed. Bulgaria reported that such position papers are based on the relevant provisions of domestic legislation, tax treaties and the facts and circumstances of the case and that no other policy considerations are taken into account.

134. Bulgaria explained that these employees are not required to consult or involve any other tax administration personnel outside the MAP office as the Tax Treaties Directorate has the authority and competence to handle and resolve cases autonomously.

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

#### ***Practical application***

136. Peers generally reported no impediments in Bulgaria 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. One peer specifically mentioned not being aware that staff in charge of the MAP in Bulgaria is dependent on the approval of MAP agreements by the personnel within the tax administration that made the adjustment under review.

*Anticipated modifications*

137. Bulgaria indicated that it does not anticipate any modifications in relation to element C.4.

*Conclusion*

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

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

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

138. 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 Bulgaria*

139. Bulgaria reported that the Director of the Tax Treaties Directorate periodically monitors the work of the employees who handle MAP cases and provides an annual report on the performance of such employees to the head management of the National Revenue Agency. Bulgaria explained that this report covers all the functions of the Directorate and also provides quantitative data used for evaluation. Bulgaria noted that the Director evaluates the performance of the employees of the Tax Treaties Directorate by taking into consideration whether deadlines are being met, whether the facts and circumstances of cases are interpreted in a fair and consistent manner and whether the employees acted in compliance with applicable legal provisions. Bulgaria further reported that timeliness for resolution of MAP cases is the key consideration by which the staff who work on MAP are evaluated and that the Director seeks to ensure that the positions taken are consistent.

140. The Action 14 Final Report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These indicators are shown below and presented in the form of a checklist:

- ☐ 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).

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

### *Practical application*

142. Peers generally provided no specific input relating to this element of the Action 14 Minimum Standard. One peer particularly noted that it is not aware of the use of performance indicators by Bulgaria that are based on the amount of sustained audit adjustments or maintaining a certain amount of tax revenue.

### *Anticipated modifications*

143. Bulgaria indicated that it does not anticipate any modifications in relation to element C.5.

### *Conclusion*

	Areas for improvement	Recommendations
[C.5]	-	As it has done thus far, Bulgaria should continue to use appropriate performance indicators.

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

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

144. 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*

145. Bulgaria reported that its policy is not to include an arbitration provision in its tax treaties. This position is also clarified in Bulgaria's MAP profile. However, Bulgaria is a signatory to the EU Arbitration Convention and has adopted the Council Directive on Tax Dispute Resolution Mechanisms (EU 2017/1852), which it has to transpose into its domestic law by 30 June 2019.

### *Practical application*

146. Up to date, Bulgaria has not incorporated an arbitration clause in any of its treaties as a final stage to the MAP. However, one of Bulgaria's tax treaties contains a most favoured nation clause stating that if Bulgaria agrees to an arbitration clause in a double taxation agreement with any third state then the text of Article 25(5), of the OECD Model Tax Convention would become effective under this treaty.

### *Anticipated modifications*

147. Bulgaria indicated that it does not anticipate any modifications in relation to element C.6.

### *Conclusion*

	Areas for improvement	Recommendations
[C.6]	-	-

## Notes

1. These 68 treaties include the 1998 treaty with the former state of the Federal Republic of Yugoslavia that Bulgaria continues to apply to both Montenegro and Serbia.
2. Available at: [www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm](http://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm). These statistics are up to and include fiscal year 2017.
3. Available at: [http://ec.europa.eu/taxation\\_customs/business/company-tax/transfer-pricing-eu-context/joint-transfer-pricing-forum\\_en](http://ec.europa.eu/taxation_customs/business/company-tax/transfer-pricing-eu-context/joint-transfer-pricing-forum_en). These statistics are up to and include fiscal year 2017.
4. For post-2015 cases, if the number of MAP cases in Bulgaria's inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five, Bulgaria reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
5. For pre-2016 and post-2015 Bulgaria follows the MAP Statistics Reporting Framework for determining whether a case is considered an attribution/allocation MAP case. Annex D of MAP Statistics Reporting Framework provides that "an attribution/allocation MAP case is a MAP case where the taxpayer's MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the OECD Model Tax Convention); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention), which is also known as a transfer pricing MAP case".

## References

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

## *Part D*

### **Implementation of MAP agreements**

#### **[D.1] Implement all MAP agreements**

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

148. 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***

149. Bulgaria reported that its domestic time limits would apply for MAP agreements that have been reached under its treaties that do not contain Article 25(2), second sentence of the OECD Model Tax Convention. Bulgaria noted that in such cases the implementation of MAP agreements is bound by the domestic statute of limitations of 5 years commencing from the 1<sup>st</sup> day of January of the year following the year during which a public claim became due, as provided for in Article 171 of the TSSPC. In this respect, Bulgaria reported that its practice is to inform other competent authorities of its time limits in order to mitigate the risk of non-implementation of a MAP agreement. Bulgaria clarified that this practice could help the relevant taxpayer to decide whether he should file a refund request. Bulgaria further reported that such procedure is regulated by Articles 128-132 of the TSSPC. Specifically, Article 129 states that with respect to downwards adjustments any offset or refund may be implemented upon initiative of the National Revenue Agency or upon written request of the taxpayer. The request for offset or refund shall be considered if it has been filed before the expiration of the five-year time limit following 1 January of the year that follows the year in which the grounds for refund occurs, unless provided otherwise by law. In the case of downwards adjustments, Bulgaria reported that it does not have any special rules in its domestic legislation concerning the implementation of MAP agreements but that it follows a number of practices. Bulgaria stated that once a MAP agreement has been reached, it typically sends a written notification to the relevant taxpayer about the outcome of the MAP within one month from the date an agreement was reached. Bulgaria explained that this notification letter usually contains instructions on steps to be taken by the taxpayer. Afterwards, a notification in writing containing clear instructions is sent to the competent local office of the National Revenue Agency that describes the outcome of the MAP and specifies the action(s) to be taken in order to implement the MAP agreement. Bulgaria reported that if no refund request has already been submitted, a taxpayer needs to submit such a request as described in the previous paragraph in order to effect implementation of the agreement.



150. In case of upwards adjustments, Bulgaria reported that its National Revenue Agency will send a notification to the taxpayer asking him to file a new tax return or it will decide to begin a tax audit or examination. Bulgaria further reported that if the taxpayer is ultimately asked to file a new tax return it is incumbent upon the taxpayer to do so and to pay the requested amount. Bulgaria noted that if a taxpayer refuses to do so, the local authorities could begin an audit, which would be carried out under the instructions of Bulgaria's competent authority.

151. Bulgaria also noted that it is standard practice for the competent authority to request feedback from the competent local office of the National Revenue Agency regarding the MAP implementation process. Bulgaria explained that such feedback typically consists of the status of adjustment procedures as well as how well the completion of implementation is progressing, which functions as an internal tracking system.

### *Practical application*

152. Bulgaria reported that all but one of the MAP agreements that were reached on or after 1 January 2016, once the conditions for implementation have been fulfilled by taxpayer were implemented. Bulgaria reported that for the one case that has not been implemented yet, it is awaiting action from the taxpayer who has not filed a request for refund regarding a downwards adjustment despite multiple reminders from Bulgaria to do so.

153. All peers that provided input reported that they were not aware of any MAP agreement reached on or after 1 January 2016 that was not implemented by Bulgaria.

### *Anticipated modifications*

154. Bulgaria indicated that once the EU Dispute Resolution Directive has gone into effect, it will begin requiring taxpayer consent to implement MAP agreements in accordance with the Directive.

### *Conclusion*

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



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

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

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

***Theoretical timeframe for implementing mutual agreements***

156. As discussed under element D.1, Bulgaria does not have any domestic legislation that stipulates a timeframe for the implementation of MAP agreements. However, Bulgaria reported that its practice is to implement MAP agreements without undue delay and that such implementation occurs within 30 days after a taxpayer submits his refund request in cases of downwards adjustments.

***Practical application***

157. Bulgaria reported that all but one of the MAP agreements that were reached on or after 1 January 2016, once the conditions for implementation have been fulfilled by taxpayer were implemented without undue delay. Bulgaria reported that for the one case that has not been implemented yet, it is awaiting action from the taxpayer who has not filed a request for refund regarding a downwards adjustment despite multiple reminders from Bulgaria to do so.

158. All peers that provided input have not indicated experiencing any problems with Bulgaria regarding the implementation of MAP agreements reached on a timely basis.

***Anticipated modifications***

159. Bulgaria indicated that it does not anticipate any modifications in relation to element D.2.

***Conclusion***

	Areas for improvement	Recommendations
[D.2]	-	As it has done thus far, Bulgaria should continue to implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.

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

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

160. 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 Bulgaria's tax treaties***

161. As discussed under element D.1, Bulgaria's domestic legislation contains a statute of limitations of 5 years for implementing MAP agreements, unless overridden by tax treaties or, if applicable, a MAP agreement is reached under the EU Arbitration Convention.

162. In this regard, Bulgaria has expressed its position on Article 25(2), second sentence of the OECD Model Tax Convention, which states that Bulgaria considers that the implementation of reliefs and refunds following a mutual agreement ought to remain linked to time limits prescribed by its domestic laws.

163. Out of Bulgaria's 69 tax treaties, 54 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law.<sup>1</sup>

164. Furthermore, one tax treaty contains such equivalent and also the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making adjustments. Additionally, 14 do not contain such equivalent or the alternative provisions. One of these 14 treaties contains additional wording stipulating that any agreement reached shall be implemented "within the time limits in accordance with the domestic laws of the Contracting States". As the aforementioned wording imposes a potential timing constraint on the implementation of MAP agreements, this treaty is considered not to contain the equivalent of Article 25(2), second sentence nor the alternative provisions in both Article 9(1) and Article 7(2) of the OECD Model Tax Convention.

***Anticipated modifications***

***Multilateral Instrument***

165. Bulgaria signed the Multilateral Instrument. Article 16(4)(b)(ii) of that instrument stipulates that Article 16(2), second sentence – containing the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention. In other words, in the absence of this equivalent, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have

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

166. In regard of the 14 tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or the alternative provisions for Articles 9(1) and 7(2), Bulgaria listed all of them as covered tax agreements under the Multilateral Instrument and for all of them made 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 14 treaty partners, two are not a signatory to the Multilateral Instrument and two did not list their treaty with Bulgaria as a covered tax agreement. All of the remaining ten treaty partners made such notification. Therefore, at this stage, ten of the 14 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention.

#### *Bilateral modifications*

167. Bulgaria further reported that where tax treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or both alternatives provided for in Articles 9(1) and 7(2) 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. Bulgaria, however, reported not having in place a specific plan for such negotiations. In addition, Bulgaria reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention or both alternatives in all of its future tax treaties.

#### *Peer input*

168. Several peers indicated that their tax treaties with Bulgaria are in line with the Action 14 Minimum Standard. For the 14 treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, or both alternatives, three peers provided input. Two of these peers acknowledged that their treaty with Bulgaria did not meet the Action 14 Minimum Standard but that their treaties would be modified by the Multilateral Instrument, which is actually the case. The third peer noted that that it is willing to accept the alternative provisions and has proposed an amendment of their treaty with Bulgaria in this regard.

## Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>14 out of 69 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2). Out of these 14:</p> <ul style="list-style-type: none"> <li>• Ten are expected to be modified by the Multilateral Instrument to include the required provision.</li> <li>• 4 will not be modified by that instrument to include the required provision.</li> </ul>	<p>Bulgaria should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention in those ten treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining four 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, Bulgaria should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>To this end, Bulgaria should put a plan in place on how it envisages updating these four treaties to include the required provision or its alternative.</p> <p>In addition, Bulgaria should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.</p>

## Note

1. These 54 treaties include the 1998 treaty with the former state of the Federal Republic of Yugoslavia that Bulgaria continues to apply to both Montenegro and Serbia.

## 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]	One out of 69 tax treaties does not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention.	Bulgaria should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.  In addition, Bulgaria should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	-	-
<b>Part B: Availability and access to MAP</b>		
[B.1]	One out of 69 tax treaties does not contain a provision that is equivalent to both sentences contained in Article 25(1), of the OECD Model Tax Convention. This treaty will be modified by the Multilateral Instrument to include a filing period of at least three years, but not as regards Article 25(1), first sentence.	As this treaty will not be modified by the Multilateral Instrument to include the full equivalent to Article 25(1) of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent, Bulgaria should follow its stated intention to request the inclusion of the required provision via bilateral negotiations, either a. as amended in the Action 14 final report; or b. as it read prior to the adoption of Action 14 final report, thereby including the full sentence of such provision.
	Two out of 69 tax treaties do not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention. These two treaties will not be modified by the Multilateral Instrument.	As these two treaties will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent, Bulgaria should follow its stated intention to request the inclusion of the required provision via bilateral negotiations, either a. as amended in the Action 14 final report; or b. as it read prior to the adoption of Action 14 final report, thereby including the full sentence of such provision.

	Areas for improvement	Recommendations
[B.1]	Two out of 69 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Of these two treaties: <ul style="list-style-type: none"> <li>One is expected to be modified by the Multilateral Instrument to include the required provision</li> <li>One will not be modified by that instrument to include the required provision.</li> </ul>	Bulgaria should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.  For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), second sentence of the OECD Model Tax Convention, Bulgaria should request the inclusion of a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.
	-	To this end, Bulgaria should put a plan in place on how it envisages updating this treaty to include the required provisions.
	-	In addition, Bulgaria should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as amended in the Action 14 final report in all future tax treaties.
[B.2]	67 of the 69 treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Bulgaria should without further delay document its notification 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, Bulgaria should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.
[B.3]	-	As Bulgaria has thus far granted access to MAP in eligible transfer pricing cases, it should continue granting access for these cases.
[B.4]	Bulgaria reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Bulgaria is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	-	-
[B.6]	-	As Bulgaria has thus far not limited access to MAP in eligible cases when taxpayers have complied with Bulgaria's information and documentation requirements for MAP requests, it should continue this practice.
[B.7]	Three out of 69 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention.	Bulgaria should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in those three treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.  In addition, Bulgaria should maintain its stated intention to include the required provision in all future tax treaties.

	Areas for improvement	Recommendations
[B.8]	There is no published MAP guidance.	<p>Bulgaria should, without further delay, introduce and publish guidance on access to and use of the MAP and include the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation and information that should be included in such a request.</p> <p>Additionally, although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance Bulgaria could follow its stated intention to include the items identified above as well as information on:</p> <ul style="list-style-type: none"> <li>• whether MAP is available in cases of: (i) the application of anti-abuse provisions, (ii) multilateral disputes and (iii) bona fide foreign-initiated self-adjustments</li> <li>• whether taxpayers can request for the multi-year resolution of recurring issues through MAP</li> <li>• the possibility of suspension of tax collection during the course of a MAP</li> <li>• the consideration of interest and penalties in the MAP</li> <li>• the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).</li> </ul>
[B.9]	There is no MAP guidance publicly available.	Bulgaria should make its MAP guidance publicly available and easily accessible once it has been introduced, and should ensure that its MAP profile published on the shared public platform is updated accordingly.
[B.10]	-	-
<b>Part C: Resolution of MAP cases</b>		
[C.1]	One out of 69 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention.	<p>As the treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention will not be modified via the Multilateral Instrument, Bulgaria should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Bulgaria should put a plan in place on how it envisages updating this treaty to include the required provision.</p> <p>In addition, Bulgaria should maintain its stated intention to include the required provision in all future tax treaties.</p>
[C.2]	<p>Bulgaria submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016, 2017 and 2018. Based on the information provided by Bulgaria's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.</p> <p>Bulgaria's MAP statistics show that during the Statistics Reporting Period it closed 50% (six out of 12 cases) of its post-2015 cases in 6.61 months on average. In that regard, Bulgaria is recommended to seek to resolve the remaining 50% of the post-2015 cases pending on 31 December 2018 (six cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.</p>	
[C.3]	-	<p>Bulgaria should continue to closely monitor whether it has adequate resources in place to ensure that future MAP cases are resolved in a timely, efficient and effective manner.</p> <p>Furthermore, as Bulgaria resolved other cases in 37.01 months on average during the period from 2016 to 2018, it could consider devoting additional resources to the competent authority for the resolution of these cases.</p>



	Areas for improvement	Recommendations
[C.4]	-	As it has done thus far, Bulgaria should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that Bulgaria would like to see reflected in future amendments to the treaty.
[C.5]	-	As it has done thus far, Bulgaria should continue to use appropriate performance indicators.
[C.6]	-	-
<b>Part D: Implementation of MAP agreements</b>		
[D.1]	-	As it has done thus far, Bulgaria should continue to implement all MAP agreements reached if the conditions for such implementation are fulfilled.
	As will be discussed under element D.3 not all of Bulgaria's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to the 5 year time limits in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention in an assessed jurisdiction's relevant tax treaty, prevent the implementation of a MAP agreement, Bulgaria should put appropriate procedures in place to ensure that such an agreement is implemented and follow its stated intention to inform taxpayers in order to mitigate the risk that an agreement cannot be implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Bulgaria should for clarity and transparency purposes continue to notify the treaty partner thereof without delay.
[D.2]	-	As it has done thus far, Bulgaria should continue to implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.
[D.3]	<p>14 out of 69 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2). Out of these 14:</p> <ul style="list-style-type: none"> <li>• Ten are expected to be modified by the Multilateral Instrument to include the required provision.</li> <li>• 4 will not be modified by that instrument to include the required provision.</li> </ul>	<p>Bulgaria should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention in those ten treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining four 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, Bulgaria should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>To this end, Bulgaria should put a plan in place on how it envisages updating these four treaties to include the required provision or its alternative.</p> <p>In addition, Bulgaria should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.</p>



## Annex A

### Tax treaty network of Bulgaria

Treaty partner	Column 1		Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Article 25(1) of the OECD Model Tax Convention ("MTC")				Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration									
	B.1	B.1	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6											
	Inclusion Art. 25(1) first sentence?		Inclusion Art. 25(1) second sentence? (Note 1)		Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?		Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?		Inclusion Art. 25(2) first sentence? (Note 3)		Inclusion Art. 25(3) first sentence? (Note 4)		Inclusion Art. 25(3) second sentence? (Note 5)		Inclusion Art. 25(3) second sentence? (Note 6)		Inclusion arbitration provision?					
	Y = yes N = signed pending ratification	If N, date of signing	E = yes, either CAs O = yes, only one CA N = No	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different iv = no, other reasons	if ii, specify period	Y = yes i = no, but access will be given to TP cases ii = no and access will not be given to TP cases	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9		
Albania	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	
Algeria	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N
Armenia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N

Article 25(1) of the OECD Model Tax Convention ("MTC")		Column 2		Column 3		Column 4		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration		
		B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6								
Column 1	Column 2	Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 11		
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?		Inclusion Art. 25(1) second sentence? (Note 1)		Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?		Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the abuse of the DTC or of the domestic tax law?		Inclusion Art. 25(2) first sentence? (Note 3)		Inclusion Art. 25(2) second sentence? (Note 4)		Inclusion Art. 25(3) first sentence? (Note 5)		Inclusion Art. 25(3) second sentence? (Note 6)		Inclusion arbitration provision?
		If yes, submission to either competent authority? (new Art. 25(1), first sentence)	If no, please state reasons															
Austria	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Azerbaijan	Y	N/A	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Bahrain	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Belarus	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Belgium	Y	N/A	O*	Y	N/A	i**	i	Y	Y	Y	Y	N*	Y	Y	N*	Y	N	
Canada	Y	N/A	O	ii*	2-years	Y	i	Y	Y	Y	Y	iii	Y	Y	Y	Y	N	
China (People's Republic of)	Y	N/A	O	Y	N/A	i**	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Croatia	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Cyprus*	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Czech Republic	Y	N/A	O*	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Denmark	Y	N/A	O*	Y	N/A	Y	i**	Y	i	Y	Y	N*	Y	Y	Y	Y	N	
Egypt	Y	N/A	O*	Y	N/A	Y	i	Y	i	Y	Y	N*	Y	Y	Y	Y	N	
Estonia	Y	N/A	O*	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	N	
Finland	Y	N/A	O	Y	N/A	Y	i	Y	i	Y	Y	Y	Y	Y	Y	Y	N	
France	Y	N/A	O*	Y	N/A	Y	i**	Y	i	Y	Y	Y	Y	N*	Y	Y	N	
Georgia	Y	N/A	O*	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	N	
Germany	Y	N/A	O	Y	N/A	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	N	

Article 25(1) of the OECD Model Tax Convention ("MTC")		Column 2		Column 3		Column 4		Column 5		Column 6		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration	
		B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6							
Column 1	Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?						
	Greece	Y	O*	Y	N/A	i	Y	Y	Y	Y	N						
	Hungary	Y	O	Y	N/A	i	Y	Y	Y	Y	N						
	India	Y	O	Y	N/A	i	Y	Y	Y	Y	N						
	Indonesia	Y	O	ii	2-years	i	Y	N	Y	Y	N						
	Iran	Y	O	Y	N/A	i	Y	Y	Y	Y	N						
	Ireland	Y	O*	Y	N/A	i	Y	Y	Y	N*	N						
	Israel	Y	O	Y	N/A	i	Y	Y	Y	Y	N						
	Italy	Y	N	ii*	2-years	i	Y	N*	Y	N*	N						
	Japan	Y	O*	Y	N/A	i	Y	Y	Y	Y	N						
	Jordan	Y	O	Y	N/A	i	Y	Y	Y	Y	N						
	Kazakhstan	Y	O	Y	N/A	i	Y	Y	Y	Y	N						
	Korea	Y	O*	Y	N/A	i	Y	Y	Y	Y	N						
	Korea (Democratic People's Republic of)	Y	O	Y	N/A	i	Y	Y	Y	Y	N						
	Kuwait	Y	O*	Y	N/A	i	Y	Y	Y	Y	N						
	Latvia	Y	O	Y	N/A	i	Y	Y	Y	Y	N						
	Lebanon	Y	O	Y	N/A	i	Y	Y	Y	Y	N						

	Column 1		Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Article 25(1) of the OECD Model Tax Convention ("MTC")				Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration									
	B.1	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6												
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law ?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)		Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?										
								If no, please state reasons	If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)													
Lithuania	Y	N/A	O*	Y	N/A	i**	Y	Y	Y	Y	Y	N										
Luxembourg	Y	N/A	O*	Y	N/A	Y	Y	Y	N*	Y	Y	N										
Malta	Y	N/A	N	i	N/A	i	Y	N	Y	Y	Y	N										
Moldova	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	N										
Mongolia	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	N										
Montenegro	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	N										
Morocco	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	N										
Netherlands	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	N										
North Macedonia	Y	N/A	O	Y	N/A	Y	Y	Y	N	Y	Y	N										
Norway	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	N										
Poland	Y	N/A	N	Y	N/A	Y	Y	Y	N*	Y	Y	N										
Portugal	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	N										
Qatar	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	N										
Romania	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	N										
Russia	Y	N/A	O*	Y	N/A	Y	Y	Y	N*	Y	Y	N										
Saudi Arabia	N	29/11/2017	E	Y	N/A	Y	Y	Y	Y	Y	Y	N										
Serbia	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	N										

	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC	Arbitration							
	B.1		B.3	B.4	C.1	D.3									
	B.1		B.3	B.4	C.1	D.3									
Column 1	Column 2	Column 3		Column 4		Column 5	Column 6		Column 7	Column 8		Column 9	Column 10	Column 11	
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) (Note 2) if no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion Art. 25(3) third sentence? (Note 7)	Inclusion Art. 25(3) fourth sentence? (Note 8)	Inclusion Art. 25(3) fifth sentence? (Note 9)	Inclusion Art. 25(3) sixth sentence? (Note 10)	Inclusion Art. 25(3) seventh sentence? (Note 11)	
															If yes, submission to either competent authority? (new Art. 25(1), first sentence)
Singapore	Y	N/A	O	Y	N/A	i	i	i	Y	N*	Y	Y	Y	Y	N
Slovak Republic	Y	N/A	O	Y	N/A	Y	Y	i	Y	Y	Y	Y	Y	Y	N
Slovenia	Y	N/A	O	Y	N/A	i**	i**	i	Y	Y	Y	Y	Y	Y	N
South Africa	Y	N/A	O	Y	N/A	i**	i**	i	Y	Y	Y	Y	Y	Y	N
Spain	Y	N/A	O	Y	N/A	i**	i**	i	Y	N*	Y	Y	Y	Y	N
Sweden	Y	N/A	O*	Y	N/A	i**	i**	i	Y	Y	Y	Y	Y	Y	N
Switzerland	Y	N/A	O	Y	N/A	Y	Y	i	Y	N	Y	Y	Y	Y	N
Syrian Arab Republic	Y	N/A	O	Y	N/A	i	i	i	Y	Y	Y	Y	Y	Y	N
Thailand	Y	N/A	O	Y	N/A	Y	Y	i	Y	N	Y	Y	Y	Y	N
Turkey	Y	N/A	O*	i	N/A	Y	Y	i	Y	N*	Y	Y	Y	Y	N
Ukraine	Y	N/A	O*	Y	N/A	Y	Y	i	Y	Y	Y	Y	Y	Y	N
United Arab Emirates	Y	N/A	O*	Y	N/A	Y	Y	i	Y	Y	Y	Y	Y	Y	N
United Kingdom	Y	N/A	O*	Y	N/A	Y	Y	i	Y	Y	Y	Y	Y	Y	N
United States	Y	N/A	E	i	N/A	Y	Y	i	Y	Y	Y	Y	Y	Y	N
Uzbekistan	Y	N/A	O	Y	N/A	Y	Y	i	Y	Y	Y	Y	Y	Y	N
Viet Nam	Y	N/A	O	Y	N/A	i	Y	i	Y	Y	Y	Y	Y	Y	N
Zimbabwe	Y	N/A	O	Y	N/A	N/A	Y	i	Y	Y	Y	Y	Y	Y	N

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

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

### *Legend*

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

## Annex B

## MAP Statistics Reporting for pre-2016 cases

2016 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2016	Number of pre-2016 cases closed during the reporting period by outcome								No. of pre-2016 cases remaining in MAP inventory on 31 December 2016	Average time taken (in months) for closing pre-2016 cases during the reporting period		
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	8	0	0	0	0	0	2	0	0	0	0	6	29.00
Others	7	0	0	0	0	0	0	0	0	0	0	7	n.a
Total	15	0	0	0	0	0	2	0	0	0	0	13	29.00

2017 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2017	Number of pre-2016 cases closed during the reporting period by outcome								No. of pre-2016 cases remaining in MAP inventory on 31 December 2017	Average time taken (in months) for closing pre-2016 cases during the reporting period		
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	6	0	0	0	0	0	0	0	0	0	0	6	0.00
Others	7	0	0	0	0	0	0	0	0	1	0	6	61.00
Total	13	0	0	0	0	0	0	0	0	1	0	12	34.86

2018 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2018	Number of pre-2016 cases closed during the reporting period by outcome								No. of pre-2016 cases remaining in MAP inventory on 31 December 2018		Average time taken (in months) for closing pre-2016 cases during the reporting period	
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 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	6	0	0	1	0	1	1	0	0	0	0	3	21.66
Others	6	0	0	0	0	1	2	0	0	0	0	3	57.33
Total	12	0	0	1	0	2	3	0	0	0	0	6	39.50



## Annex C

## MAP Statistics Reporting for post-2015 cases

2016 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome								No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing post-2015 cases during the reporting period		
			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	3	1	0	0	0	0	0	0	0	0	0	2	1.67
Others	0	3	0	0	1	0	0	0	0	0	0	0	2	8.55
Total	0	6	1	0	1	0	0	0	0	0	0	0	4	5.11

Notes: Bulgaria was notified on 2017 of one attribution/allocation case that started in 2016. Bulgaria has corrected its inventory as of 1 January 2017, which explains the mismatch with the published version of its 2016 statistics.

2017 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										No. of post-2015 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2015 cases during the reporting period
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/Allocation	2	2	1	0	0	1	0	0	0	0	0	0	2	2.98
Others	2	1	0	0	1	0	0	0	0	0	0	0	2	17.56
Total	4	3	1	0	1	1	0	0	0	0	0	0	4	7.84

Notes: Bulgaria clarified that in 2017 it had incorrectly classified two cases that started in 2017 as other cases when in fact they were attribution/allocation cases, which explains the mismatch with the published version of its 2017 statistics.

2018 MAP Statistics																
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2018	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										No. of post-2015 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2015 cases during the reporting period		
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome				
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15		
Attribution/Allocation	2	0	0	0	0	0	0	0	0	0	0	0	2	0.00		
Others	2	2	0	0	0	0	0	1	0	0	0	0	3	5.95		
Total	4	2	0	0	0	0	0	1	0	0	0	0	5	5.95		

## *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 Guidance</b>	Guidance on the application of the mutual agreement procedure under the double taxation conventions and the convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises 90/436/EEC
<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-2016 cases</b>	MAP cases in a competent authority's inventory that are pending resolution on 31 December 2015
<b>Post-2015 cases</b>	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2016
<b>Review Period</b>	Period for the peer review process that started on 1 January 2016 and ended on 31 December 2018
<b>Statistics Reporting Period</b>	Period for reporting MAP statistics that started on 1 January 2016 and that ended on 31 December 2018
<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

# Making Dispute Resolution More Effective – MAP Peer Review Report, Bulgaria (Stage 1)

## INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

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

The peer review process is conducted in two stages. Stage 1 assesses countries against the terms of reference of the minimum standard according to an agreed schedule of review. Stage 2 focuses on monitoring the follow-up of any recommendations resulting from jurisdictions' stage 1 peer review report. This report reflects the outcome of the stage 1 peer review of the implementation of the Action 14 Minimum Standard by Bulgaria.

Consult this publication on line at <https://doi.org/10.1787/30ffa4a6-en>.

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