



## OECD releases MAP statistics and presents MAP Awards. India-Japan bag MAP award for highest agreement ratio in TP cases

Dispute resolution mechanisms, including Mutual Agreement Procedures (MAP), are the cornerstone of a well-functioning tax treaty network. The BEPS Action plan 14 (Making dispute resolution mechanisms more effective) adopted in 2015 by the members of the OECD seeks to improve the resolution of tax-related disputes between jurisdictions and includes a peer review mechanism to monitor the compliance of member jurisdictions with this minimum standard.

On 18 November 2020, OECD has released the latest MAP statistics covering 105 jurisdictions and almost all MAP cases worldwide. The MAP statistics is a part of the BEPS Action plan 14 and it was released for the wider G20/OECD tax certainty agenda to improve the effectiveness and timeliness of tax-related dispute resolution mechanisms. MAP statistics play an important role in the monitoring of BEPS Action plan 14, providing an objective and global frame of reference, as well as a country specific view, which together allow measurement of progress but also show where further work is needed. Further OECD has also presented 2019 MAP awards. The 2019 MAP statistics shows the following trends:

### ***An increase in the number of MAP cases initiated***

Approximately 7 MAP cases were started every day in 2019 (3 Transfer Pricing cases and 4 other cases). This amounts to almost 2700 new cases in 2019 alone. This is more than in 2018 (+ 20 per cent for Transfer Pricing cases and +10 per cent for other cases). The number has nearly doubled since 2016. This trend is likely to continue with no significant reduction in MAP activity expected despite the COVID-2019 crisis. It is driven by a number of factors, including increased globalisation as well as growing confidence in and knowledge of the MAP process.

### ***An increase in the number of MAP cases closed***

Competent authorities were able to close more cases in 2019 than in 2018, but this increase cannot keep up with the increase in new cases. As a result, the inventories are increasing in the majority of jurisdictions, despite the fact that competent authorities have increased their capacity and closed approximately 50 per cent more transfer pricing cases and 70 per cent more other cases in 2019 than in 2016.

### ***Conclusion of MAP cases***

Around 85 per cent of the MAP concluded for Transfer Pricing cases in 2019 fully resolved the issue (compared to 80 per cent in 2018), which reflects an improvement in the collaborative approach taken by competent authorities. For other cases, more than 70 per cent were fully resolved (versus 75 per cent in 2018). Like in 2018, only 2 per cent of the MAP cases were closed without finding a mutual agreement.

### ***Time to conclude MAP cases***

On an average, MAP cases closed in 2019 lasted for 25 months (31 months for transfer pricing cases, 22 months for other cases). Also, while it is not possible to estimate the time that will be necessary to close still pending cases, the data shows that more than one-fifth of the 2019 end inventory has been pending for more than 4 years. For some jurisdictions, the cases that were already pending before the introduction of the minimum standard represent more than 40 per cent of their 2019 end inventory.

This year's MAP Awards, given in recognition of particular efforts by competent authorities, have the following winners:

- Japan for the shortest time in closing transfer pricing cases and the United Kingdom for other cases.

- Belgium for the smallest proportion of pre-2016 cases in end inventory and Belgium and Norway for the most effective caseload management.
- The collaborative award for the pairs of jurisdictions that dealt the most effectively with their joint caseload were **India-Japan for transfer pricing cases** and Norway-United States for other cases.

## Our comments

It is interesting to note that countries have, on an average, closed more cases than the earlier year. Tax authorities in many countries have attempted to improve the understanding of the workings of MAP by providing detailed guidance on procedures, and many have increased their resources to handle MAP cases. Further an initiative by OECD to provide awards for best performances in handling and resolving MAP cases is appreciative.

As can be observed, there is an increase in transfer pricing cases referred to Competent Authorities under the MAP process. In respect of transfer pricing cases, Japan and UK lead other jurisdictions, by achieving a resolution within the shortest timeframe of approximately 21 months. Further, the pair of India-Japan bagging the award for co-operation by achieving the highest agreement ratio (64%) for closure of TP cases under MAP demonstrates an amicable and forward-looking approach and mindset of Competent Authorities of both the countries.

Further, the statistics also demonstrate that the transfer pricing cases take longer to resolve (average of 30.5 months as against 22 months in other cases). However, in 75 percent of TP cases, jurisdictions were able to achieve full elimination of double taxation, as against only 46 percent in other cases. Such real-time statistics will give confidence to the taxpayers who will now be encouraged to come forward and adopt MAP as an alternate and most effective dispute resolution mechanism especially in transfer pricing cases. Moreover, this will also enable tax administrations to focus and improvise on the areas which need corrective actions.

In the above backdrop, it is important to understand the measures taken by the Indian government i.e. Amendment of Income Tax Rules with the intent to achieve speedy resolution of MAP cases (within 24 months), release of detailed MAP guidelines in August 2020 providing clarifications on technical issues and implementation processes and laying down procedure for easy access to MAP mechanism.



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