

## Frequently Asked Questions on the Mutual Agreement Procedure (MAP) Statistics

## Table of Contents

<b>1. Why are MAP Statistics reported annually? .....</b>	<b>3</b>
<b>2. How are MAP Statistics reported under the Reporting Framework? .....</b>	<b>3</b>
<b>3. How are Pre-Cases reported? .....</b>	<b>3</b>
<b>4. How are Post-Cases reported?.....</b>	<b>3</b>
<b>5. What is the common definition of a MAP case for Post-Cases?.....</b>	<b>4</b>
<b>6. How are ‘attribution/allocation cases’ and ‘other cases’ defined for Post-Cases? .....</b>	<b>4</b>
<b>7. How is the average time for MAP cases computed for Post-Cases? .....</b>	<b>4</b>
<b>8. How do jurisdictions ensure that they report common data for each Post- Case? .....</b>	<b>5</b>
<b>9. Are treaty partner names published for all Post-Cases? .....</b>	<b>5</b>
<b>10. How is double counting avoided for Post-Cases reported under the Reporting Framework?.....</b>	<b>5</b>
<b>11. What are the different outcomes possible when a MAP case is closed?.....</b>	<b>5</b>
<b>12. What information is published by the OECD as part of the MAP statistics annually? .....</b>	<b>6</b>
<b>13. Why is there a difference in the number of cases in the ‘MAP Statistics’ page and the numbers used in the ‘Evolution of MAP cases’ page? .....</b>	<b>6</b>
<b>14. What information is published as part of the annual statistics for each jurisdiction?.....</b>	<b>7</b>
<b>15. What information is contained in the interactive compare-your-country table? .....</b>	<b>7</b>
<b>16. Where can I get more information on the MAP Statistics? .....</b>	<b>7</b>

## 1. Why are MAP Statistics reported annually?

Dispute resolution mechanisms, including MAPs, are the cornerstone of a well-functioning tax treaty network. The [BEPS Action 14 Minimum Standard](#) adopted in 2015 by the members of the OECD/G20 Inclusive Framework on BEPS (“IF”) seeks to improve the resolution of tax-related disputes between jurisdictions and includes a peer review mechanism to review and monitor the compliance of member jurisdictions with this minimum standard.

The BEPS Action 14 minimum standard requires IF member jurisdictions to seek to resolve all MAP cases within an average timeframe of 24 months. The progress toward meeting such target is periodically reviewed on the basis of statistics prepared in accordance with the agreed reporting framework. Consequently, a [MAP Statistics Reporting Framework](#) (“Reporting Framework”) was developed based on which jurisdictions have been reporting annual MAP statistics since 2016.

## 2. How are MAP Statistics reported under the Reporting Framework?

The Reporting Framework requires jurisdictions to report all MAP cases in their inventory during the year, split up into two categories: attribution/allocation cases and other cases (defined as noted under question 6). The parameters that need reporting under each such category are:

- The number of MAP cases in the inventory at the start of the reporting year.
- The number of MAP cases started during the reporting year.
- The number of MAP cases closed during the reporting year, broken down per category of outcomes defined under the Reporting Framework (as elaborated under question 11).
- The number of MAP cases remaining in the inventory at the end of the reporting year.
- The average time taken to close MAP cases during the reporting year.

The measurement of these parameters differs based on whether the MAP case concerned was started prior to 1 January 2016, or 1 January of the year when the jurisdiction joined the IF for those who joined after 2016, (“Pre-Cases”) or cases started after such date (“Post-Cases”).

## 3. How are Pre-Cases reported?

Regarding Pre-Cases, jurisdictions use their own computation rules as regards the definition of: what is a MAP case; what cases are considered attribution/allocation cases and other cases; and how average time is to be computed (in terms of the start date and end date for measurement of the time taken to close a MAP case). Jurisdictions may use different computational rules for all of these aspects, and they are not required to report their Pre-Cases per treaty partner

Annex A of the Reporting Framework provides the format that is used for reporting Pre-Cases. Jurisdictions provide details of the definitions they have used for reporting in the ‘Notes’ column therein. Annex C of the Reporting Framework provides definitions for terms used in Annex A, mostly noting that jurisdictions are free to determine computational rules.

The aggregate data published by the OECD in respect of Pre-Cases is based on the sum of all cases reported by all jurisdictions, which includes in part double counting of each MAP case (as reported by each jurisdiction).

## 4. How are Post-Cases reported?

The Reporting Framework establishes common rules on how Post-Cases must be reported by jurisdictions, including a common definition of what constitutes a MAP case, what cases are considered attribution/allocation cases and other cases and how the average time is to be computed.

Annex B of the Reporting Framework provides the format that is used for reporting Post-Cases. Annex D of the Reporting Framework provides definitions for terms used in Annex B.

The aggregate data published by the OECD in respect of Post-Cases eliminates double counting of each Post- Case in the majority of cases.

#### **5. What is the common definition of a MAP case for Post-Cases?**

In general, a MAP case is a case that arises from requests submitted under a provision based upon Article 25(1) of the OECD Model Tax Convention. MAP cases arising from a request submitted under the EU Arbitration Convention are also counted for this purpose. MAP requests based on Article 25(3) are also counted, provided that the requests are taxpayer-specific and not one for a generic interpretation of the provision of a tax treaty. However, advanced pricing arrangement (“APA”) cases (including roll-back requests) and ‘protective’ MAP cases (filed to preserve time limits) are not counted under the Reporting Framework.

#### **6. How are ‘attribution/allocation cases’ and ‘other cases’ defined for Post-Cases?**

Any MAP case relating to the attribution of profits to a permanent establishment or the determination of profits between associated enterprises (transfer pricing cases) is considered an ‘attribution/allocation case’.

Any MAP case that is not an attribution/allocation case is considered an ‘other case’.

#### **7. How is the average time for MAP cases computed for Post-Cases?**

The published MAP Statistics for each category of Post-Cases (attribution/allocation case or other case) and for each jurisdiction shows four columns on the time taken for Post-Cases: the time taken from the ‘Start Date’ to the ‘End Date’ (relevant for measuring the average time taken for all Post-Cases), the time taken from the taxpayer’s MAP request to the ‘Start Date’, the time taken from the ‘Start Date’ to ‘Milestone 1’ and the time taken from ‘Milestone 1’ to the End Date. The rules for determining the dates of ‘Start Date’, ‘End Date’ and ‘Milestone 1’, are summarised below.

##### *Start Date*

Where the taxpayer provides all information required, the start date would be the earlier of:

- 1 week from the date of notification to the other competent authority by the competent authority that receives the MAP request from the taxpayer; or
- 5 weeks from the receipt of the taxpayer’s MAP request.

However, where the taxpayer does not provide all information required, the start date would be the later date of when such missing information is received or the date as calculated above. This extension is only applicable if the competent authority requests missing information within 3 months from the receipt of the MAP request and otherwise, the general computation rule above is applicable.

##### *End Date*

The end date is defined as the date of an official communication from the competent authority to inform the taxpayer of the outcome of its MAP request or where the MAP request is withdrawn, the date of notification of such withdrawal by the taxpayer.

##### *Milestone 1*

Where position papers are shared between the competent authorities in a MAP case, the date of the earliest position paper shared in the case is recorded as ‘Milestone 1’ in the statistics.

## **8. How do jurisdictions ensure that they report common data for each Post- Case?**

Jurisdictions are required to match their statistics for Post-Cases, meaning that prior to reporting, each jurisdiction contacts their treaty partner to make sure that common data is reported for each such case.

## **9. Are treaty partner names published for all Post-Cases?**

Treaty partner names are shared by each jurisdiction for Post-Cases where the jurisdictions share a MAP inventory of at least 5 attribution/allocation cases or other cases with each other during the reporting year (including cases at the start of the year and cases started during the year).

However, where two jurisdictions have less than 5 Post-Cases of each category in their shared inventory, such cases are reported on an aggregate basis under the category ‘Treaty partner (de minimis rule applies)’.

In addition, Post-Cases with treaty partners that are not members of the IF are reported under the category ‘Treaty Partner (Others)’.

## **10. How is double counting avoided for Post-Cases reported under the Reporting Framework?**

Jurisdictions are required to report most of their Post-Cases per treaty partner, unless an exception applies (see question 9 for more details). For such cases, it is possible to eliminate the double counting by removing the cases that were actually reported twice from the total number of cases. For cases falling under the ‘Treaty partner (de minimis rule applies)’ category, an estimate is used. For cases falling under the ‘Treaty partner (Other)’ category, no double counting can occur since jurisdictions that are not IF members do not report MAP statistics.

## **11. What are the different outcomes possible when a MAP case is closed?**

Each closed case must be reported as falling under one of 10 possible ‘outcomes’, for both Pre-Cases and Post-Cases. Limited definitions for these outcomes are provided in the Reporting Framework, but more details on the scope of these outcomes are provided below based on jurisdictions’ general practices:

- *Denied MAP access:* The MAP request is inadmissible under the treaty owing to various reasons, such as it not being submitted to the correct competent authority prescribed under the treaty, it not being submitted within the time-limit prescribed under the treaty, it not being submitted by an eligible taxpayer under the treaty or it not being submitted in respect of fiscal years covered by the treaty.
- *Objection is not justified:* The competent authority does not share the view of the taxpayer that the material scope of the MAP provision under the treaty (usually, where there is no “taxation not in accordance with” the concerned treaty) is met. This could also apply where the taxpayer did not submit enough information (in spite of follow-up requests) and thus, an accurate assessment of the MAP request cannot be made.
- *Withdrawn by taxpayer:* The MAP request is withdrawn by the taxpayer.
- *Unilateral relief granted:* The competent authority receiving the MAP request was able to provide a ‘satisfactory solution’ to the taxpayer in its own jurisdiction as allowed under the equivalent of Article 25(2), first sentence of the concerned treaty.
- *Resolved via domestic remedy:* The issue raised by the taxpayer in the MAP request was fully resolved through a domestic remedy while MAP remained pending. This outcome is also applicable

in a situation where the taxpayer withdraws its MAP request following the finalisation of such domestic remedies, where the issue raised was fully resolved through such remedies.<sup>1</sup>

- *Agreement that will fully eliminate double taxation or fully resolve taxation not in accordance with the tax treaty:* The competent authorities could arrive at a mutual agreement that fully resolves the issue raised by the taxpayer.
- *Agreement that will partially eliminate double taxation or partially resolve taxation not in accordance with the tax treaty:* The competent authorities could arrive at a mutual agreement that partially resolves the issue raised by the taxpayer.
- *Agreement that there is no taxation not in accordance with the tax treaty:* The competent authorities agree in the bilateral stage of MAP that there is no taxation not in accordance with the treaty.
- *No agreement including agreement to disagree:* The competent authorities could not arrive at an agreement in MAP after bilateral discussions.
- *Any other outcome:* Any other reason why it was not possible to resolve the case. This would include, for example, the bankruptcy, liquidation or dissolution of the taxpayer or cases where the application of domestic time limits would prevent a MAP agreement from being reached or causes that an agreement, once reached, cannot be implemented. Specific reasons for reporting cases under this outcome are also often specified by jurisdictions in the ‘Notes’ attached to their individual statistics.

## 12. What information is published by the OECD as part of the MAP statistics annually?

The [annual MAP statistics](#) package that is published by the OECD includes information on the following:

- The total MAP caseload in the reporting year comprising all Pre-Cases and Post-Cases including cases at the start of year, cases started, cases closed and remaining cases at the end of the year, for each category of cases.
- The average time taken for attribution/allocation cases and for other cases during the reporting year.
- The distribution of outcomes for all MAP cases closed during the reporting year, for each category of cases.
- Graphs showing the [evolution of the aggregate number of MAP cases for all jurisdictions](#), based on the sum of all cases.
- Graphs showing the [evolution of MAP inventory for each jurisdiction](#) with significant MAP inventory for all cases as well as divided into each category.
- An [interactive ‘compare-your-country’ table](#) allowing users to compare the MAP activity of each jurisdiction that has reported Statistics.
- The [individual statistics](#) reported by each jurisdiction.
- MAP Statistics from previous years: [2016](#), [2017](#), [2018](#), [2019](#), [2020](#), and [2021](#).

## 13. Why is there a difference in the number of cases in the ‘MAP Statistics’ page and the numbers used in the ‘Evolution of MAP cases’ page?

The ‘[Evolution of MAP cases](#)’ page is based on the sum of all cases reported by all jurisdictions for the purpose of comparing trends from year to year. It overestimates the total number of MAP cases as the majority of cases are counted twice. It is, however, relevant for purposes of showing trends over time. On the other hand, the statistics shown on the main [MAP Statistics page](#) reflect an attempt to avoid double counting by counting each case only once, where possible.

---

<sup>1</sup> Where the taxpayer withdraws its MAP request following the finalisation of domestic remedies, where the issue raised was not fully resolved through such remedies, the applicable outcome would be ‘withdrawn by taxpayer’.

**For some cases, there are no differences with the number of cases in the MAP Statistics page.** Pre-Cases and Post-Cases reported with treaty partners that are not members of the IF are not reported on a jurisdictional basis and are simply summed for purposes of assessing the total number of cases in the MAP Statistics page. The same number is therefore used for purposes of the main ‘MAP Statistics’ page and for purposes of the ‘Evolution of MAP cases’ page.

**For the majority of Post-Cases, the difference with the MAP Statistics page comes from the fact that double counting is not eliminated for purposes of the ‘Evolution of MAP cases’ page.** The statistics for Post-Cases shown on the ‘MAP Statistics’ page reflect an attempt to avoid double counting by counting each case only once where possible. These numbers represent an estimate of the total number of Post-Cases that are pending between reporting jurisdictions fairly accurately.

#### **14. What information is published as part of the [annual statistics for each jurisdiction](#)?**

For jurisdictions that have had any MAP cases pending or resolved during the reporting year, the individual files comprise:

- A summary page containing inventory details, average time, MAP partners (where applicable) and MAP outcomes concerning the reporting year for Pre-Cases and Post-Cases separately.
- Reporting for Pre-Cases, including outcomes and average time for the reporting year.
- Reporting for Post-Cases, including outcomes and average time for the reporting year.

The homepage containing the individual statistics links for each jurisdiction also notes the jurisdictions that failed to submit MAP statistics for the reporting year concerned.

#### **15. What information is contained in the interactive compare-your-country table?**

The [interactive ‘compare-your-country’ table](#) allows users to sort all jurisdictions by start inventory, cases started, cases closed, end inventory, average time, closing ratio and portion of Pre-Cases remaining in the end inventory during the reporting year. This table may also be used to look at either attribution/allocation cases or other cases alone and the same numbers from the immediate previous year.

The ‘closing ratio’ measures the number of MAP cases closed by each jurisdiction during the reporting year as compared its total MAP caseload. This is calculated using the following formula:

$$\frac{\text{Number of MAP cases closed during the year}}{\text{Number of MAP cases in the inventory at the start of the year} + \left(\frac{\text{Number of MAP cases started during the year}}{2}\right)}$$

The number of MAP cases started during the reporting year is divided by 2 as some of the MAP cases started may have started towards the end of the year, making it unreasonable to expect jurisdictions to have closed such cases. This adjustment also explains that the ‘closing ratio’ may be higher than 100% for some jurisdictions.

The portion of Pre-Cases remaining in the end inventory signifies the amount of MAP cases that were started prior to 2016 or the year the jurisdiction joined the IF that still remain unresolved at the end of the current reporting year.

#### **16. Where can I get more information on the MAP Statistics?**

More information is available on the [MAP Statistics page](#), as well as in the [MAP Statistics Reporting Framework](#). You can also visit the OECD BEPS Action 14 page at:

<https://www.oecd.org/tax/beps/beps-actions/action14/>.