



# Raising Tax Certainty Task Force Study Report

Nur-Sultan Action Plan (2022-2024)



September 2024

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# Part 1

# Introduction

## 1.1 Background

In September 2021, the *Wuzhen Action Plan (2019-2021)* final reports were released, and the *Nur-Sultan Action Plan (2022-2024)* was published in the Second Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF). The *Nur-Sultan Action Plan (2022-2024)* recommended the Belt and Road Initiative (BRI) jurisdictions to continue taking action in the following areas to raise tax certainty: (i) Committing to establishing explicit domestic tax laws and administration procedures to ensure predictable and consistent law interpretation and standard, and unified tax administration; (ii) Resolving to establish tax dispute prevention mechanisms including Advance Pricing Arrangements (APAs) to prevent and reduce tax disputes to the maximum extent possible; (iii) Stressing the need to institute and improve dispute resolution measures including administrative review, legal remedy, and Mutual Agreement Procedure (MAP) under tax treaties; and (iv) Devoting to enhancing international cooperation and exchanges in formulating and enforcing coherent and consistent international tax rules and guidelines.

Since 2021, the Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM) has conducted online and physical meetings, seminars, and training programs for the BRI jurisdictions. Meanwhile, measures of raising tax certainty have also been taken in the BRI jurisdictions. To further enhance tax certainty in the BRI jurisdictions and create a fair, transparent, and predictable tax environment, a Raising Tax Certainty Working Group was established in accordance with the implementation of the *Nur-Sultan Action Plan (2022-2024)* to comprehend the tax certainty measures and efforts in the BRI jurisdictions.

The Raising Tax Certainty Working Group is co-chaired by Indonesia and Macao, China, and joined by Angola, Algeria, Armenia, Bangladesh, Cambodia, China, Hong Kong, China, Hungary, Italy, New Zealand, Singapore, and Uruguay. Fully recognizing the importance of tax certainty in safeguarding taxpayers' rights and enhancing economic development, the working group devoted to comprehending the efforts and progress proposed by the *Nur-Sultan Action Plan (2022-2024)* among the BRI jurisdictions, sharing tax practices and experiences of raising tax certainty and creating a favorable tax environment for taxpayers.

## 1.2 Significance of Raising Tax Certainty

Tax certainty is a cornerstone principle that underpins the necessity for legal prescriptions in the domain of taxation to be unambiguous and specific, thereby ensuring that the circumstances and legal dynamics that fall under the purview of tax legislation are anticipated with a reasonable degree of certainty. The assurance of tax certainty is indispensable in safeguarding the taxpayers' rights, augmenting voluntary compliance with tax obligations, stimulating economic expansions, and streamlining tax administrative processes. Consequently, it is axiomatic that due diligence should be exercised in contemplating the tenets



of tax certainty to ensure transparency, uniformity, and integrity of tax policy formulation and enforcement. Tax certainty guarantees taxpayers with a precise comprehension of their tax liabilities and entitlements, empowering them to engage in commercial decisions, anticipate the tax payments, and strategize their financial dealings appropriately. This foresightedness helps protect taxpayers' rights and prevent them from unfair treatment stemming from a volatile tax landscape.

Transparent tax systems would bolster tax compliance and mitigate the instances of tax evasion. When taxpayers possess a clear grasp of the tax framework, they are more inclined to adhere to tax regulations and remit taxes promptly, which supports the sustainability of a fair tax system and ensures fiscal revenue of the BRI jurisdictions.

Tax certainty enhances the efficacy of tax administration. Transparent tax systems enable tax authorities to administer tasks with greater effectiveness, while a stable tax environment cultivates taxpayers' awareness and integrity, thereby reducing tax administration expenses.

Tax certainty fosters a stable tax environment that is conducive to economic development. Transparent tax systems alleviate operational risks for enterprises and bolster investor confidence, thereby attracting greater capital inflows. Moreover, a stable tax environment facilitates businesses to undertake long-term investment strategies, thereby propelling sustainable economic growth.

Overall, as raising tax certainty brings benefits to both taxpayers and tax administrations, it should be a priority for both of them.

### 1.3 Outline of the Report

The outline of the report follows the proposals of raising tax certainty in the *Nur-Sultan Action Plan (2022-2024)* and consists of 4 parts.

Part 1 introduces the background, the significance of raising tax certainty, and the scope of the report.

Part 2 focuses on the efforts of raising tax certainty among the BRI jurisdictions, based on the findings of the questionnaire survey, official websites, and database research.

Part 3 introduces the tax certainty practices and measures adopted by the BRI jurisdictions, from the aspects of establishing explicit domestic tax laws and administration procedures, establishing tax dispute prevention mechanisms including APAs and advance tax rulings, improving dispute resolution measures including administrative review, legal remedy, MAP, and enhancing international cooperation and exchanges.

With the findings, Part 4 proposes recommendations aimed at raising tax certainty within the BRI tax administration environment, thus to create a more predictable and conducive tax environment while ensuring fair treatment for taxpayers.

# Part 2

## Tax Certainty Among the BRI Jurisdictions

### 2.1 Summary of Findings

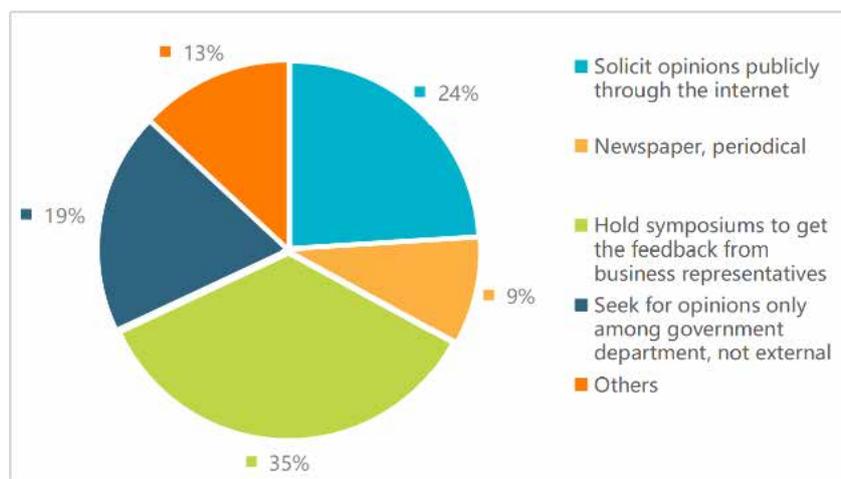
Primary data on tax certainty were collected from the questionnaires circulated to the BRI tax administrations, and extracting and compiling information from authoritative sources, such as the BRITACOM, official websites and databases. The findings were presented in a structured format from the aspects of explicit domestic tax laws and administration procedures, tax dispute prevention mechanisms, dispute resolution measures, and international cooperation and exchanges. A comparative analysis was conducted to compare the implementation status with the previous *Wuzhen Action Plan (2019-2021)*, thereby reflecting the latest achievements, progress, and trends in the respective countries and regions.

### 2.2 Explicit Domestic Tax Laws and Administration Procedures

#### 2.2.1 Soliciting Opinions When Making Policies

According to the survey, consistency and certainty of tax policy was prioritized by nearly all respondents.

**Figure 1: Methods of Soliciting Opinions when Making Tax Policies**

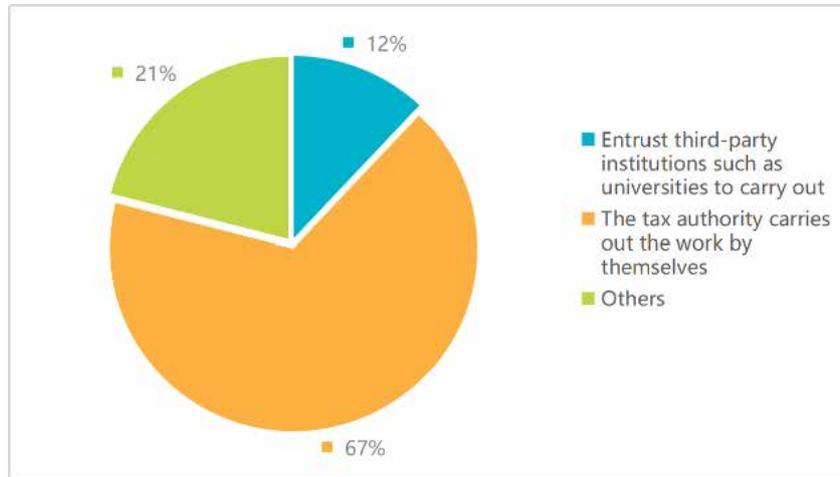


Source: Questionnaire for the BRI jurisdictions, March 2024

35% of the respondents resorted to holding symposiums to get feedback from business representatives; 24% of the respondents opted to solicit opinions publicly through the internet; 19% of the respondents sought opinions among government departments; 9% of the respondents obtained information from newspaper or periodical, and 13% of the respondents chose other ways to communicate with stakeholders.

### 2.2.2 Policy Implementation Evaluation

**Figure 2: Methods of Policy Evaluation**



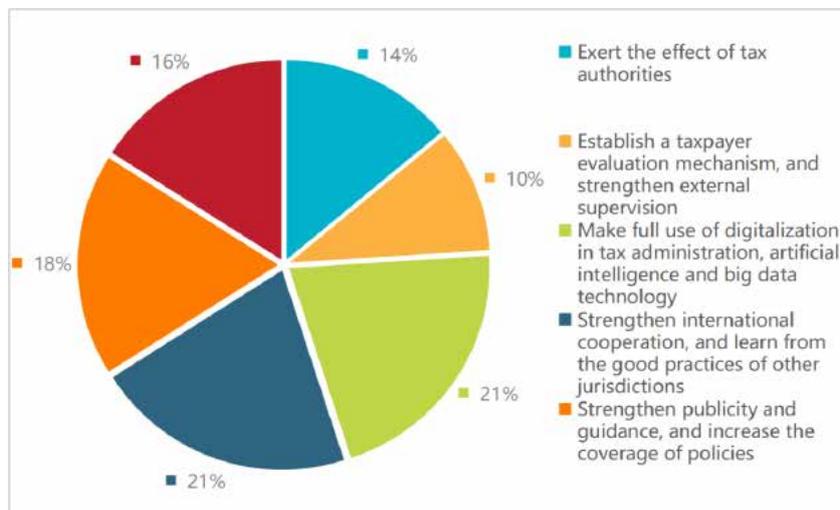
Source: Questionnaire for the BRI jurisdictions, March 2024

To improve the quality and effectiveness of tax policy implementation, 67% of the respondents carried out the evaluation by themselves. In comparison, 12% of the respondents entrusted third-party institutions, such as universities, to evaluate the policy.

### 2.2.3 Mechanisms for Implementing Preferential Tax Policies

The efficient implementation of preferential tax policies is pivotal in fostering compliance among taxpayers and promoting tax certainty. By diligently enforcing these policies, tax authorities can ensure that eligible taxpayers receive the intended tax relief, thereby incentivizing investment, innovation, and entrepreneurship. Moreover, robust enforcement mechanisms help safeguard taxpayers’ legitimate rights and interests by preventing abuse or exploitation of tax incentives and maintaining fairness in the tax system. Through transparent and equitable administration, tax authorities can cultivate trust and confidence among taxpayers, fostering a conducive tax environment for sustainable economic development.

**Figure 3: Mechanisms for Implementing Preferential Tax Policies**



Source: Questionnaire for the BRI jurisdictions, March 2024

21% of the respondents chose to make full use of digitalization in tax administration, promote policy implementation through artificial intelligence and big data technology, and strengthen international cooperation through learning the good practices of other jurisdictions; 18% of the respondents opted for strengthening publicity and guidance, and increasing the coverage of policies; 16% of the respondents would strengthen the administration of tax collection and crack down on tax violations and crimes; 14% of the respondents exerted the effect of tax authorities, improved the policy implementation mechanism, and motivated the initiative of tax authorities, while 10% of respondents chose to establish a taxpayer evaluation mechanism, and strengthen external supervision.

### 2.2.4 Brief Summary

Compared to the period from 2019 to 2021 during which the *Wuzhen Action Plan (2019-2021)* is recommended, progresses have been witnessed among the BRI jurisdictions.

There is a discernible trend towards embracing a more diverse array of methodologies to solicit public input when formulating tax policies. This inclusive approach underscores a growing recognition among policymakers of the importance of incorporating diverse stakeholder perspectives to enhance the effectiveness and legitimacy of tax measures.

A rising number of the BRI jurisdictions are prioritizing the conduct of rigorous assessments to evaluate the efficacy and impact of their tax policies. Moreover, there is a noticeable uptick in the propensity of jurisdictions to entrust these evaluation tasks to independent third-party entities. This practice reflects a commitment to enhancing transparency, accountability, and evidence-based decision-making in tax policy formulation and implementation processes.

## 2.3 Tax Dispute Prevention Mechanism

APAs and advance tax rulings are critical components of tax certainty and dispute prevention, particularly for multinational enterprises (MNEs). These mechanisms play a pivotal role in determining appropriate transfer prices and profits allocations in cross-border transactions, preventing double taxation, and mitigating potential tax risks and disputes.

By engaging in proactive discussions and reaching agreements with tax authorities beforehand, enterprises can strategically plan their tax arrangements within a compliant framework, ensuring regulatory adherence while minimizing tax exposure. APAs and advance tax rulings typically require comprehensive documentation and scrutiny of commercial rationales to substantiate their legality and compliance. These mechanisms contribute to tax certainty, facilitating international trade and investment activities.

### 2.3.1 APA

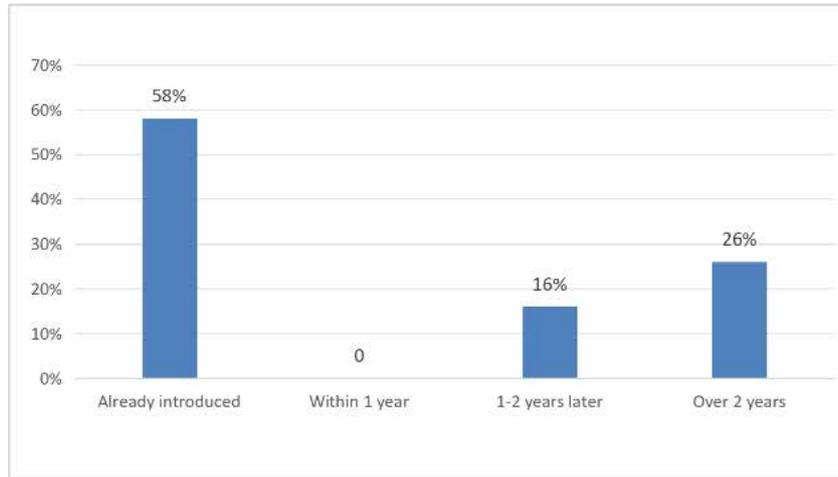
#### 2.3.1.1 Domestic APA laws and regulations

APA is an agreement, usually for multiple years, between a taxpayer and one or more tax authorities specifying the pricing method that the taxpayer will apply to its related-company transactions. APA programmes are designed to help taxpayers avoid any transfer pricing disputes in a proactive and

cooperative manner, as an alternative to the traditional examination process.

More than half of the respondents have enacted laws and regulations related to the APA, including Singapore, Hong Kong, China, Indonesia, Saudi Arabia, Greece, and Georgia, among others. In addition to that, 16% of the respondents have already planned to introduce laws and regulations within 1-2 years, while 26% of the respondents plan to do so after 2 years.

**Figure 4: BRI Jurisdictions with APA Laws and Regulations**

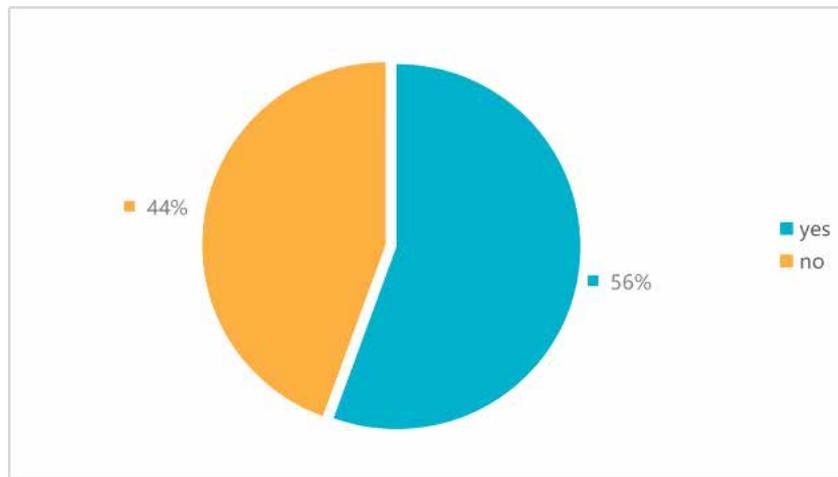


Source: Questionnaire for the BRI jurisdictions, March 2024

### 2.3.1.2 Explicit APA Procedure

The procedural regulations of APA mainly focus on whether it explicitly specifies the procedures and required documents for taxpayers applying for APA, and whether it clearly establishes internal procedures and regulations before and after accepting the APA applications. According to the survey, more than 50% of the respondents stated that they have clear procedures and requirements for the APA applications.

**Figure 5: BRI Respondents with Explicit APA Procedure**

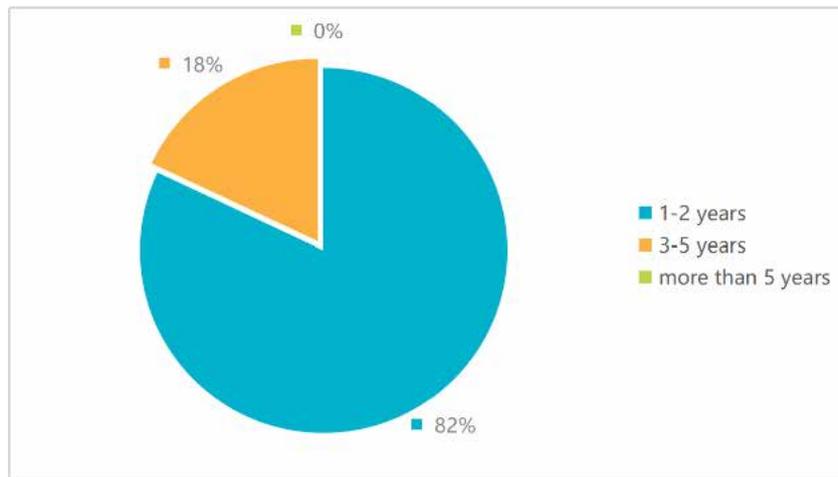


Source: Questionnaire for the BRI jurisdictions, March 2024

### 2.3.1.3 Average Time from Application to Sign an APA

Compared to 3 years ago, there has been a slight improvement in the average time taken by the BRI jurisdictions to complete an APA. 82% of respondents reported an average completion time of 1-2 years, while 18% of respondents took longer completion time of 3-5 years. This indicates that the majority of APAs were being finalized within a relatively short timeframe, and there may be challenges or complexities in certain cases that prolonged the APA negotiations and approval process.

**Figure 6: Average Time from Application to Sign an APA**

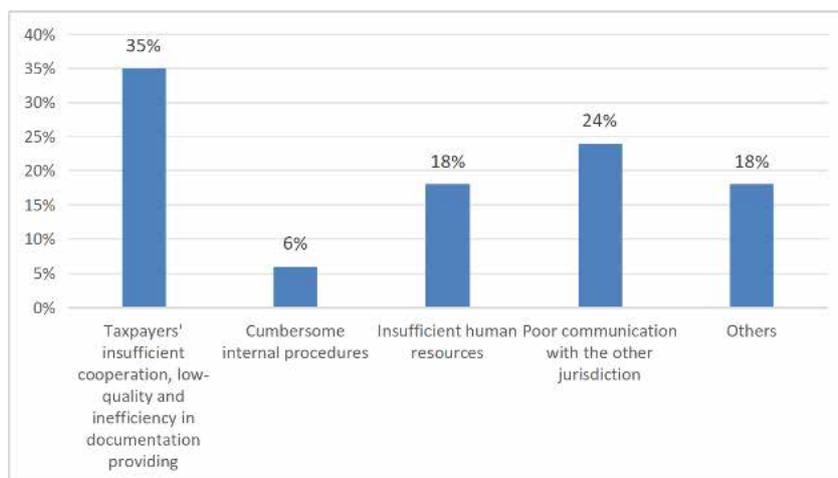


Source: Questionnaire for the BRI jurisdictions, March 2024

### 2.3.1.4 Reasons Prolonging the APA and Suggestions

The main reasons for prolonging the progress of APA were primarily due to taxpayers’ lack of cooperation and efficiency in providing documentations as well as the low quality of the documentation. Other reasons included poor communication with other jurisdictions and insufficient human resources.

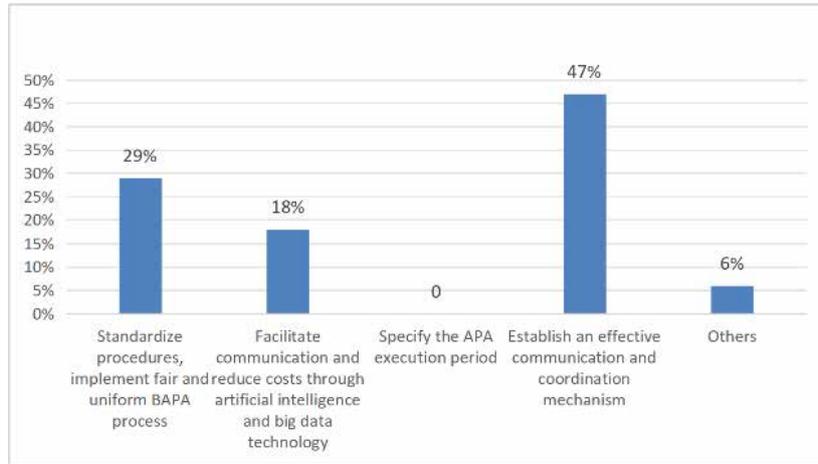
**Figure 7: Reasons Prolonging the Progress of APA**



Source: Questionnaire for the BRI jurisdictions, March 2024

The survey also explored and solicited suggestions to improve the efficiency of APAs.

**Figure 8: Suggestions to Improve or Simplify APA**



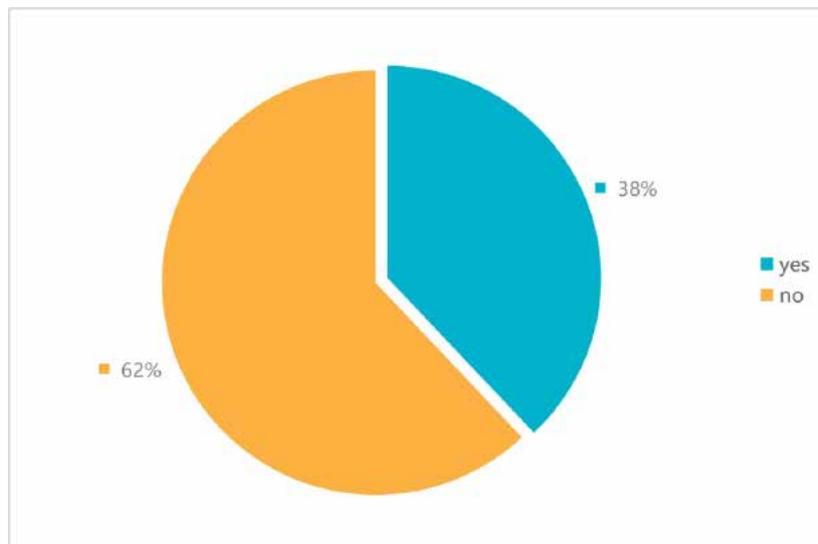
Source: Questionnaire for the BRI jurisdictions, March 2024

To improve or streamline the APA process, 47% of the respondents suggested establishing effective communication and coordination mechanisms. Additionally, 29% of the respondents called for standardizing the APA process and 18% of the respondents called for leveraging artificial intelligence and big data technologies to facilitate communication.

### 2.3.2 Advance Tax Ruling

An advance tax ruling is a tool for taxpayers to clarify and conform particular taxation arrangements. A written interpretation of tax laws is issued by tax authorities to corporations and individuals who request clarification of taxation arrangements. An advance tax ruling binds tax authorities to comply with the tax arrangements set out in the ruling. By seeking advance rulings, taxpayers can proactively manage their tax affairs, thereby promoting a more predictable and stable tax environment.

**Figure 9: Advance Tax Ruling in the BRI Respondents**



Source: Questionnaire for the BRI jurisdictions, March 2024

According to the questionnaire survey, 38% of the respondents have adopted the advance ruling mechanism as part of their tax administration framework, while 62% of the respondents did not.

### 2.3.3 Brief Summary

There has been a decrease in the average time to complete an APA. This decline points towards a collective effort among tax authorities to streamline processes and enhance efficiency in resolving transfer pricing issues. This suggests that processes may have become more streamlined and efficient, leading to quicker resolution of transfer pricing issues.

Alongside the reduction in APA completion time, nearly 40% of the BRI respondents adopted the advance tax ruling measure. This strategic move reflects a proactive approach by tax authorities to enhance tax certainty for businesses. By offering pre-determined rulings on complex tax issues, tax authorities aim to provide clarity and predictability, thereby minimizing disputes and facilitating smoother compliance procedures.

## 2.4 Dispute Resolution Mechanism

### 2.4.1 Domestic Remedy

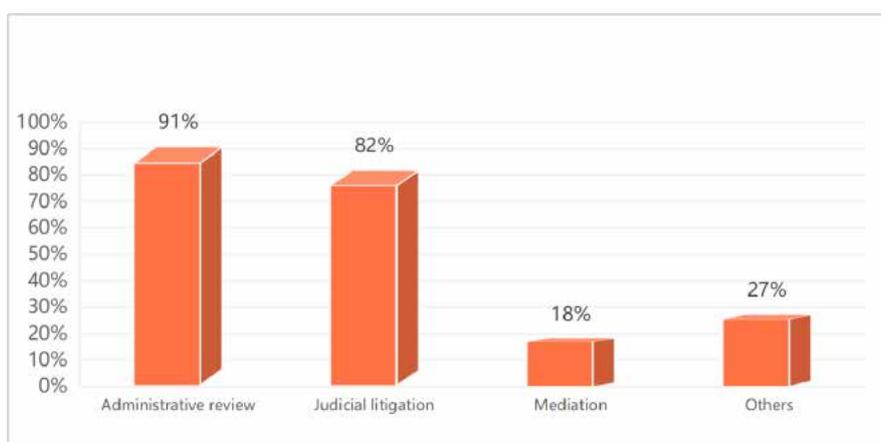
#### 2.4.1.1 Domestic Remedy Measures

Domestic remedy measures usually refer to the internal legal or administrative processes that are in place to settle the tax-related dispute.

Based on the data obtained from the questionnaire of the BRI jurisdictions, administrative review and judicial litigation were the most important measures of domestic remedies.

Administrative review commands the highest percentage, standing at 91%, indicating its significant role in resolving disputes within these jurisdictions. Following closely behind is judicial litigation, which garners 82% of the responses, underscoring its importance as another key recourse for addressing legal issues.

**Figure 10: Domestic Remedy Measures of the BRI Respondents**



Source: Questionnaire for the BRI jurisdictions, March 2024

These findings underscore the reliance placed on administrative and judicial mechanisms within the BRI jurisdictions for resolving disputes and ensuring legal redress. Administrative review processes likely offer

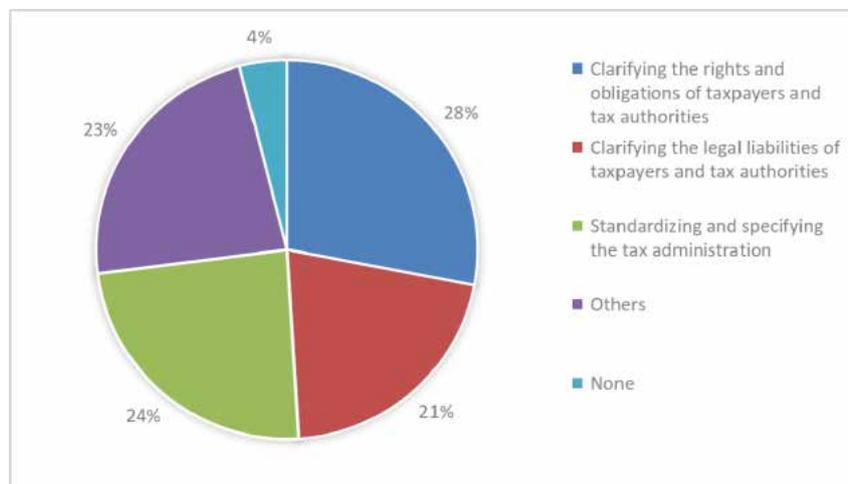
a more expedient and accessible route for parties seeking resolution, while judicial litigation serves as a formal recourse for addressing complex or contentious matters within the legal framework.

#### 2.4.1.2 Development of Domestic Tax Administration

Efficient tax administration ensures compliance with tax laws, promotes fairness, and fosters trust in the tax system. By standardizing tax collection procedures and enforcement regulations, tax authorities can effectively reduce tax evasion and avoidance, thereby improving the predictability of tax revenue.

Domestic tax administration improvements have been made by the BRI jurisdictions since 2022. As indicated by the respondents, the top three improvements of domestic tax administration included: clarifying the rights and obligations of taxpayers and tax authorities (28%), standardizing and specifying the tax administration (24%), and clarifying the legal liabilities of taxpayers and tax authorities (21%).

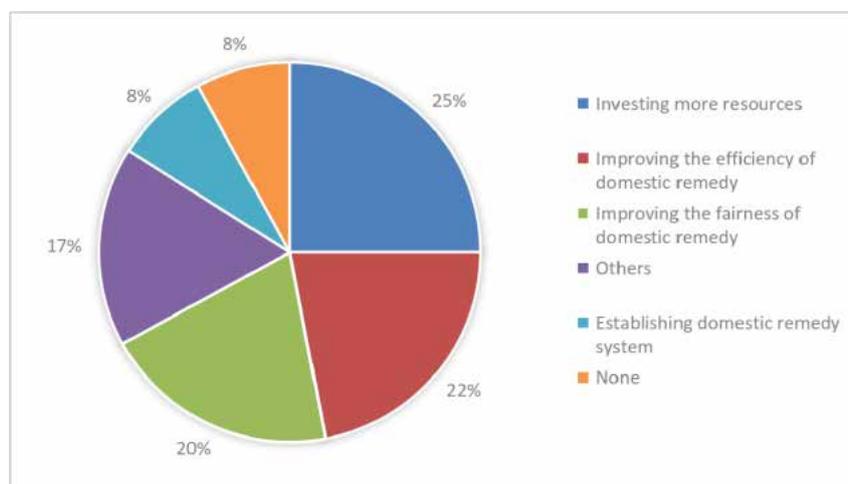
**Figure 11: Improvement of Domestic Tax Administration since 2022**



Source: Questionnaire for the BRI jurisdictions, March 2024

#### 2.4.1.3 Development of Domestic Remedies

**Figure 12: Improvement of Domestic Remedy since 2022**



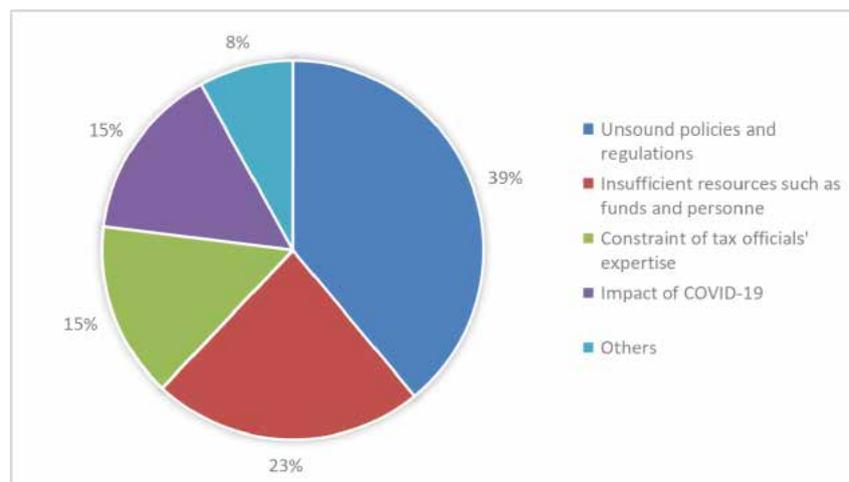
Source: Questionnaire for the BRI jurisdictions, March 2024

Substantive improvements of domestic remedies have been undertaken since 2022. According to the survey, 25% of the respondents have invested more resources, including hiring more staff, implementing advanced technology, or expanding infrastructure to handle a greater volume of cases efficiently, which may lead to shorter processing times, improved services, and ultimately, better outcomes for taxpayers seeking resolution. 22% of the respondents improved the efficiency of domestic remedies by simplifying application procedures, implementing electronic filing systems, or establishing clear timelines for dispute resolution. 20% of the respondents improved the fairness of domestic remedies by promoting transparency in decision-making, providing opportunities for representation or appeal by taxpayers, and avoiding conflicts of interest.

#### 2.4.1.4 Constraints of Domestic Remedies

Limitations and challenges also arise when tax authorities try to address issues in the context of legal or judicial proceedings. As shown in the chart, the major challenge encountered by the respondents when applying domestic remedies was the “insufficient resources such as funds and personnel”, standing at 39%. Following closely was the “constraints of tax officials’”, which accounted for 23%. In addition, “impact of COVID-19” and “unsound policies and regulations” took up 15% and 8% respectively.

**Figure 13: The Constraints of Domestic Remedies**

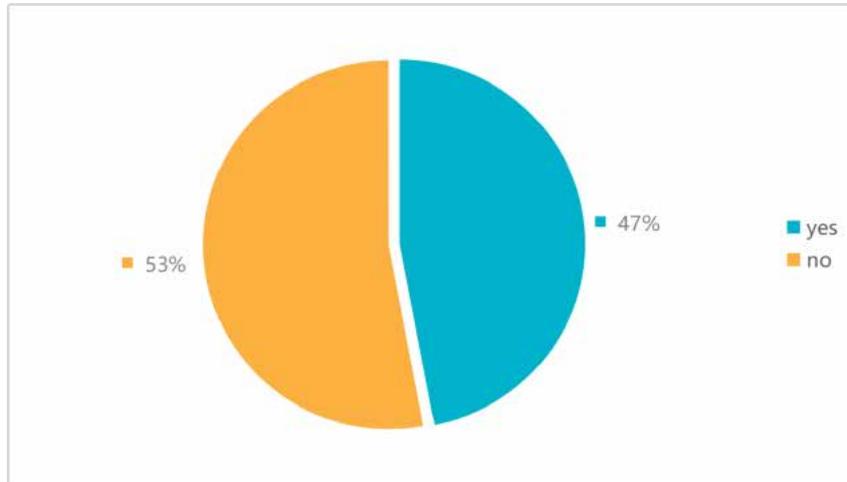


Source: Questionnaire for the BRI jurisdictions, March 2024

#### 2.4.1.5 The Plan to Facilitate Domestic Remedy

Nearly half of the respondents, comprising 47%, expressed intentions to enhance accessibility to domestic remedy mechanisms. For example, Macao, China is promoting the legislation of the Tax Code, which will enhance the efficiency and flexibility of domestic remedies; Nepal is amending its tax laws and regulations and implementing its transfer pricing regulations; Serbia provides for regular and extraordinary legal remedies in the administrative procedure through domestic law, providing strict terms and reasons for the application of domestic remedies.

**Figure 14: Percentage of the BRI Respondents to Facilitate Domestic Remedies**



Source: Questionnaire for the BRI jurisdictions, March 2024

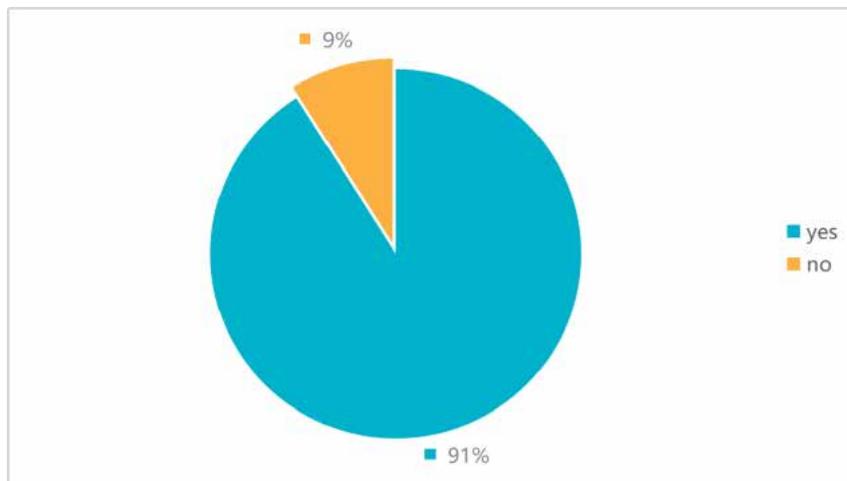
## 2.4.2 MAP

### 2.4.2.1 The Application of MAP

MAP is a process through which competent authorities of the tax authorities consult to resolve disputes regarding the application of the double taxation agreements. The MAP article in the double taxation agreement allows the competent authorities to interact with each other to resolve international tax disputes.

According to the survey, 91% of the BRI respondents have adopted MAP as a measure to settle tax disputes. This high adoption rate underscores the recognition among tax authorities of the importance of resolving cross-border tax issues through international cooperation and negotiation. By embracing MAP, the BRI jurisdictions demonstrate their commitment to facilitating the resolution of disputes in a cooperative and mutually beneficial manner while providing alternative means for dispute resolution other than domestic remedies.

**Figure 15: Application of MAP of the BRI Respondents**

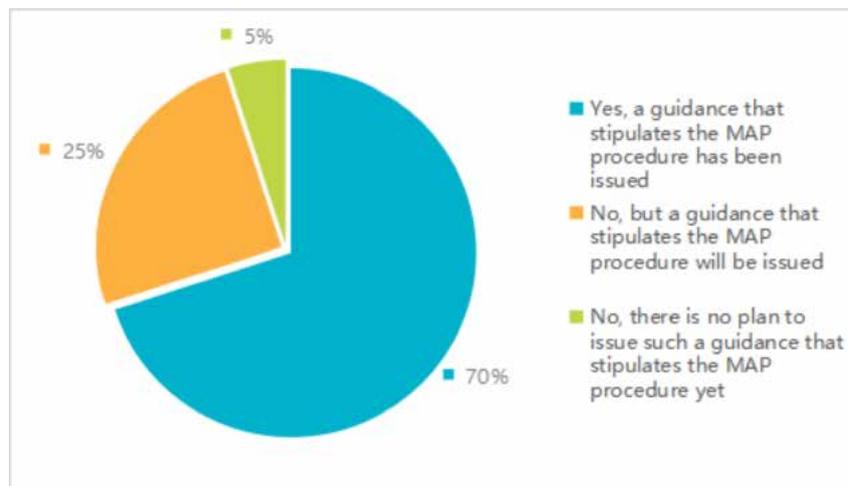


Source: Questionnaire for the BRI jurisdictions, March 2024

### 2.4.2.2 MAP Guideline

MAP guideline facilitates taxpayers’ understanding of the application process, including the procedures and requirements, and necessary documents for applications. As depicted in the chart, a vast majority (70%) of the respondents have issued guidance that stipulates the MAP procedure. This probably comes as an outcome of the implementation of the minimum standard under the Base Erosion and Profit Shifting (BEPS) Action 14. 25% of the respondents will issue guidance while no such guidance has been released yet, and 5% of the respondents have no plans to issue guidance on the MAP procedure.

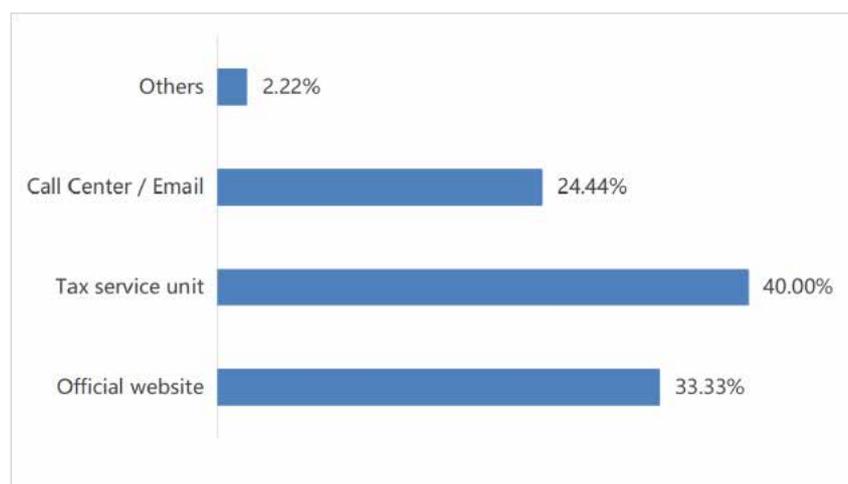
**Figure 16: The Clarification of MAP Procedure**



Source: Questionnaire for the BRI jurisdictions, March 2024

The MAP guideline also illustrates the ways for taxpayers to have access to MAP and provides detailed information on the fundamental requirements for submitting a MAP case. The tax service unit (40%) constitutes the primary access to obtain MAP information, while the taxpayers could also access to MAP information from official website (33.33%) and call centers / email (24.44%).

**Figure 17: Access to MAP**



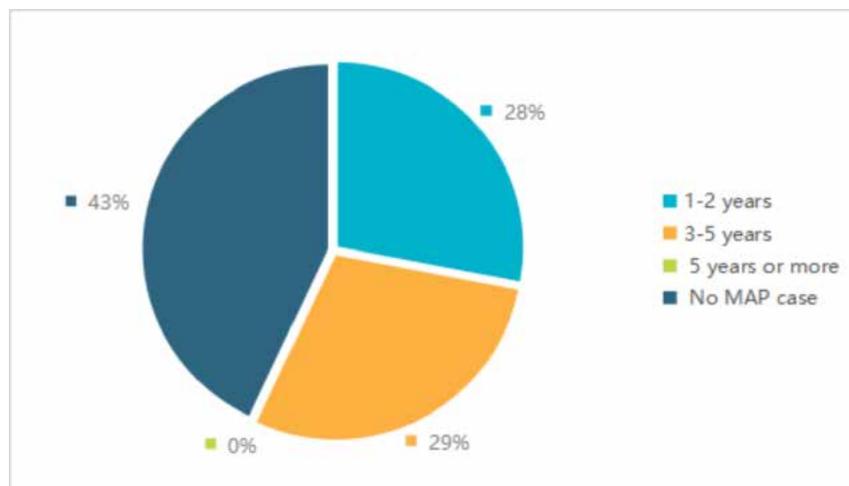
Source: Questionnaire for the BRI jurisdictions, March 2024

### 2.4.2.3 Average Time to Settle a MAP Case

Timely resolution of MAP cases could safeguard taxpayers’ rights and enhance certainty and reduce the financial burden of taxpayers, as well as the administrative burden of tax authorities. The BEPS Action 14 minimum standard requires the member jurisdictions of the Inclusive Framework to seek to resolve all MAP cases within an average timeframe of 24 months.

According to the survey, 28% of the respondents could settle a MAP case within 1-2 years, and 29% of the respondents could settle a MAP case within 3-5 years on average. However, a relevant number of respondents did not have experience with MAP cases, with notably 43% of the respondents stating that they did not have any MAP case yet.

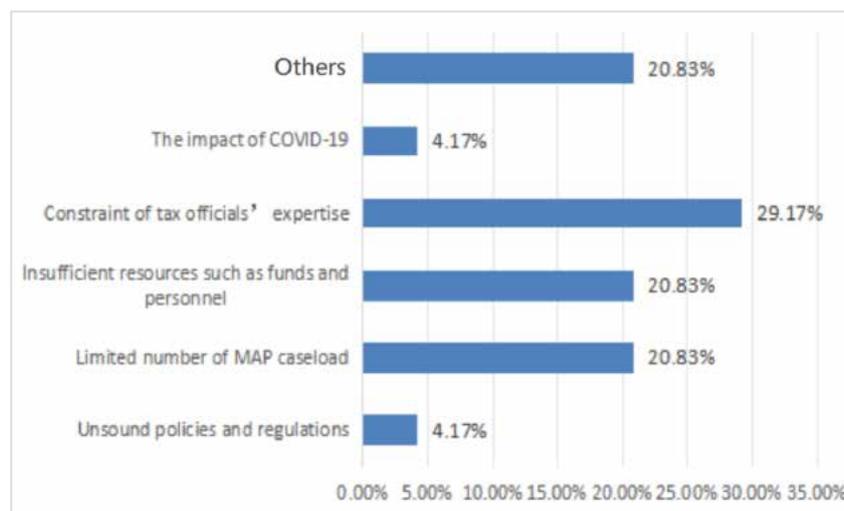
**Figure 18: Average Time to Settle a MAP Case**



Source: Questionnaire for the BRI jurisdictions, March 2024

### 2.4.2.4 Constraints of MAP Application

**Figure 19: Constraints of MAP Application**



Source: Questionnaire for the BRI jurisdictions, March 2024

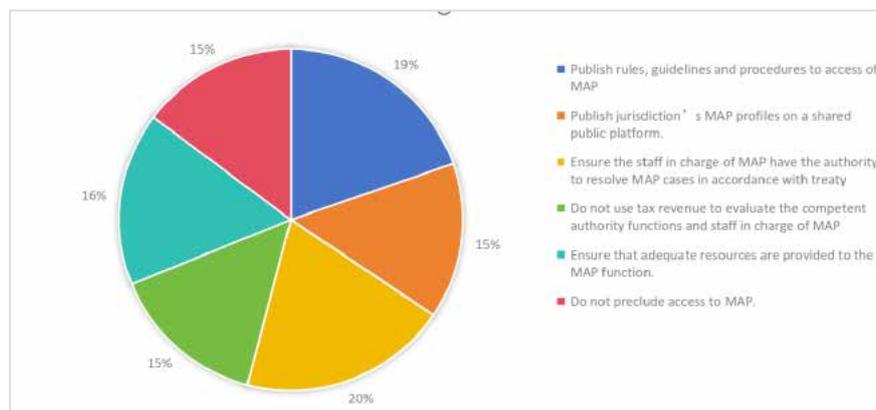
Specific challenges were encountered in the application of MAP, with the constraint of tax officials’ expertise

(29.17%), insufficient resources such as funds and personnel (20.83%), and a limited number of MAP caseload (20.83%) accounting for the three major constraints. Unsound policies and regulations (4.17%) and the impact of COVID-19 (4.17%) were found to be influencing factors as well. In addition, some jurisdictions indicate that the negotiating parties may have a different understanding of the cases, and the process of negotiations and consultation is rather arduous, which also brings challenges to the application of MAP.

#### 2.4.2.5 Improvement of MAP

As depicted in the table below, measures such as publishing rules, guidelines, and procedures of MAP, providing adequate resources and others, were commonly adopted to promote the application of MAP as a mechanism for dispute prevention and resolution.

**Figure 20: Improvement of MAP**



Source: Questionnaire for the BRI jurisdictions, March 2024

#### 2.4.3 Brief Summary

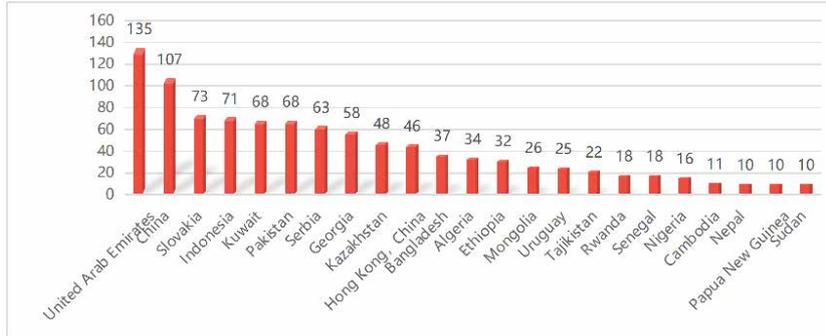
A growing maturity and refinement of administrative review, litigation, and MAP has been witnessed among the BRI jurisdictions. By providing taxpayers with access to challenge tax assessments or decisions, administrative review and litigation mechanisms ensure fairness and accountability within the tax system. The adoption of MAP has gained prominence as a mechanism for resolving cross-border tax disputes, which signifies a positive trend towards enhancing tax certainty and protecting taxpayers' rights globally while relying on an international tax cooperation mechanism.

## 2.5 Tax Treaty Network

### 2.5.1 Tax Treaty Network of the BRITACOM

Tax treaty is an international public law agreement negotiated by two or more than two countries or regions to coordinate the exercise of taxing rights between jurisdictions and resolve tax issues, aiming to avoid double taxation while preventing tax evasion so as to promote cross-border international trade. A comprehensive tax treaty network could contribute to the protection of taxpayers' rights and interests as tax treaties are based on the model tax conventions of the Organisation for Economic Cooperation and Development (OECD) and the United Nations, which are widely followed worldwide and commonly understood by investors.

**Figure 21: BRITACOM Members with More than 10 Tax Treaties in Force as of March 2024**



Source: IBFD

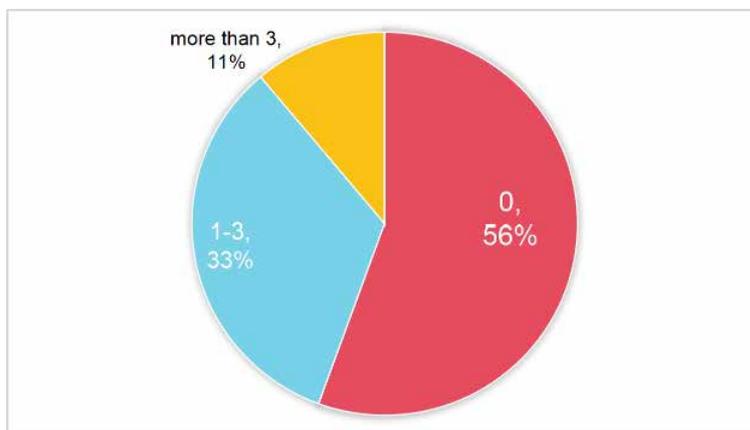
Efforts have been made to extend the tax treaty network. Among the 36 BRITACOM members, 23 members have a tax treaty network with more than 10 treaties in force. By establishing a comprehensive tax treaty network, the BRITACOM members have made great efforts to eliminate double taxation while tackling unintended cases of double non-taxation. Furthermore, the expanded tax treaty network provides effective mechanisms to promote commercial investment, which contributes to the building of a growth-friendly tax environment.

**2.5.2 Treaties Signed or in Force since 2022**

Since 2022, the BRITACOM members have actively expanded their tax treaty networks. 11% of the members have signed or implemented more than 3 new tax treaties, demonstrating a higher level of engagement and a proactive approach towards expanding tax treaty networks. 33% of the members have signed or implemented 1 to 3 new tax treaties, indicating a moderate level of engagement in expanding their tax treaty networks.

However, noteworthy information revealed from the survey is that 56% of the members have not signed or implemented any tax treaties yet, suggesting that these members may face challenges in expanding their tax treaty networks, highlighting the need for further efforts and engagement in reducing double taxation, resolving tax disputes and building a more comprehensive tax environment.

**Figure 22: Treaties Signed or in Force of the BRITACOM Members since 2022**



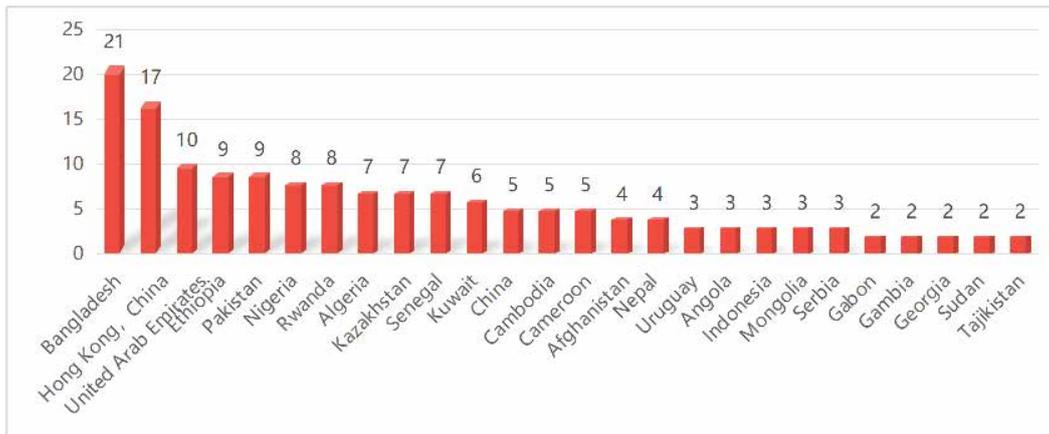
Source: Questionnaire for the BRI jurisdictions, March 2024



### 2.5.3 BRITACOM Members with Treaties under Negotiation

The BRITACOM members are actively engaging in tax treaty negotiations, with 26 members being involved in negotiations for 2 or more tax treaties. As shown in the chart below, the BRITACOM members are having treaties under negotiation, with Bangladesh negotiating 21 tax treaties, Hong Kong, China negotiating 17 tax treaties, and the United Arab Emirates negotiating 10 tax treaties.

**Figure 23: The BRITACOM Members with 2 or More Tax Treaties under Negotiation**

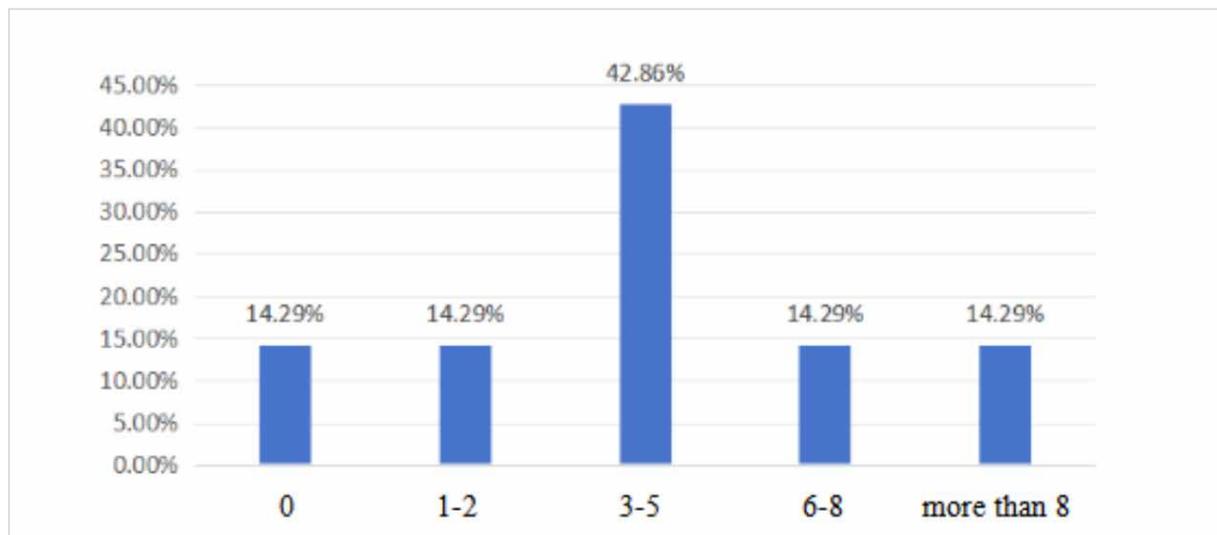


Source: Questionnaire for the BRI jurisdictions, March 2024

### 2.5.4 Treaty Network Expansion Plan for the Next 3 Years

Most of the BRITACOM members have plans to increase the number of tax treaties concluded. According to the questionnaire, 14.29% of the respondents have plans to conclude more than 8 treaties in the next 3 years, 42.86% of the respondents have plans to conclude 3-5 tax treaties over the next 3 years, 14.29% of the respondents have plans to conclude 1-2 or 6-8 treaties respectively in the next 3 years. Meanwhile, the remaining respondents did not have plans to conclude any tax treaties yet.

**Figure 24: Treaty Network Expansion Plan for the Next 3 Years**



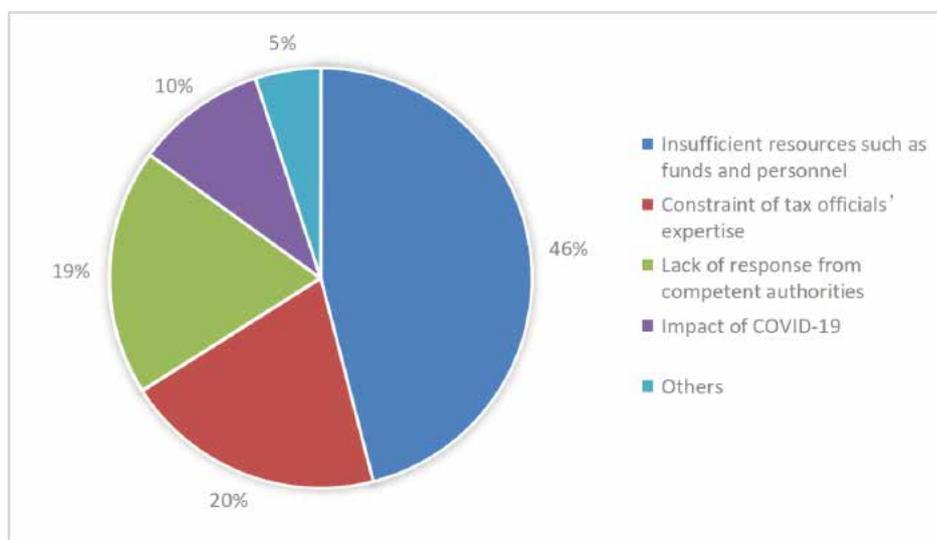
Source: Questionnaire for the BRI jurisdictions, March 2024

### 2.5.5 Constraints of Tax Treaty Network Expansion

The expansion of a jurisdiction's tax treaty network can be challenging. The constraints of tax treaty network expansion include insufficient resources such as funds and personnel, constraints of tax official's expertise, the lack of response from competent authorities and the impact of COVID-19 during past years.

Based on the questionnaires, the biggest challenge was the lack of response from competent authorities, with 46% of the respondents indicating that insufficient resources such as funds and personnel could have a significant impact on the negotiations of tax treaties. Constraint of tax officials' expertise (20%) and lack of response from competent authorities (19%) were found to be the common constraints.

**Figure 25: Constraints of Tax Treaty Network Expansion**



Source: Questionnaire for the BRI jurisdictions, March 2024

### 2.5.6 Brief Summary

Despite challenges such as the COVID-19 pandemic, the BRI jurisdictions have shown resilience in expanding their tax treaty network with a notable uptick in the signing of bilateral tax treaties. The BRI jurisdictions have recognized the importance of expanding their tax treaty network to mitigate risks such as double taxation and to promote tax certainty for businesses and investors.

Moreover, the BRI jurisdictions have proactively formulated plans to further expand their tax treaty network in the coming years. These strategic initiatives often align with broader economic development goals and seek to capitalize on emerging opportunities in international trade and investment. By actively pursuing the expansion of tax treaty networks, these jurisdictions aim to promote international trade by creating a more conducive environment for cross-border transactions, spur investment inflows, and foster sustainable economic growth.

Despite facing various challenges and constraints, the BRITACOM members have demonstrated a commitment to strengthening their tax treaty network as a means to promote international cooperation, mitigate tax-related uncertainties, and stimulate economic prosperity in an increasingly interconnected global economy.

## 2.6 Enhancing International Cooperation and Exchange

### 2.6.1 The Third BRITACOF

From 19 to 21 September 2022, the Third BRITACOF themed “Enhancing Tax Administration Capacity Building in the Post-pandemic Era” was held both onsite in Algiers, Algeria and online, attracting the heads and representatives of tax authorities from 40 jurisdictions including Algeria, Kazakhstan, the United Arab Emirates, Uruguay, Iran, Italy, Korea, New Zealand, Singapore, and heads of 12 international organizations, such as the Inter-American Center of Tax Administrations, the International Monetary Fund, the International Chamber of Commerce, as well as nearly 300 industry representatives, among which nearly 200 attending online and nearly 100 onsite. In the three-day forum, the delegates held in-depth discussions on five topics, namely Strategic Planning of Capacity Building, Information Technology and Capacity Building, Life-long Learning of Tax Officials, Training the Trainer and Experience Sharing by International Organizations. Participating parties reached a broad consensus on strengthening tax administration capacity building amongst the BRI jurisdictions and jointly released the Joint Statement of the Third BRITACOF.

In the post-pandemic era, the Third BRITACOF was held both online and offline to provide a significant communication platform for the participating parties to strengthen tax administration capacity building, which promoted the global economic recovery and received international attention as well as wide praise.

### 2.6.2 The Fourth BRITACOF

From 11 to 13 September 2023, the Fourth BRITACOF themed “Improving Tax Environment” was convened in Tbilisi, Georgia. More than 300 delegates, including 25 heads and deputy heads of tax authorities from 32 jurisdictions and representatives and experts from 10 international organizations and world-famous enterprises attended this event onsite and online. The Fourth BRITACOF aimed to pool wisdom and share insights in terms of improving tax environment, enhancing tax administration capacity, promoting tax administration in the BRI jurisdictions, and facilitating global economic recovery. During the three-day forum, the delegates conducted in-depth discussions on six topics, including Overall Planning of Improving Tax Environment, Transparency of Tax Regulations and Tax Administration, Reducing Tax Burden, Streamlining Tax Compliance, Information Technology and Tax Environment Improvement, and Dispute Resolution Mechanism and Tax Environment Improvement. All parties reached an important consensus on improving tax environment along the Belt and Road, and issued the *Joint Statement of the Fourth BRITACOF and Improving Tax Environment Action Plan (2023-2025)*.

The BRITACOM will continue to play its role as a bridge to strengthen the cooperation among parties of the BRITACOM, and make unremitting efforts to contribute to the building of a growth-friendly tax environment, with an aim to benefit the BRI jurisdictions and other developing economies.

### 2.6.3 High-Level Roundtable Meeting

The BRITACOM Virtual Roundtable Meeting was convened on 16 March 2023, hosted by Mr. Wang Daoshu, Executive Secretary of the Secretariat of the BRITACOM and Deputy Commissioner of the State Taxation Administration (STA) of China, and attended by representatives of the BRITACOM Council Members, Observers, members of the Expert Advisory Board and members of the Belt and Road Initiative Tax Journal



(BRITJ) Editorial Advisory Board. At the meeting, participants advised on and exchanged insights about the Belt and Road Initiative Tax Administration Capacity Enhancement Group (BRITACEG) Curriculum System Version 1.0, the BRITJ and the Fourth BRITACOF.

### 2.6.4 Theme Day Events

In the post-pandemic era, international tax cooperation faces new trends, new opportunities and new challenges. To respond to the requirements of the *Nur-Sultan Action Plan (2022-2024)*, optimize the tax business environment, and promote economic recovery after the COVID-19 pandemic, since 2022, the BRITACOM has innovatively launched seven events for tax administrations with the theme of “Better Connection for a Better Future”.

The theme-day events were organized by the Secretariat of the BRITACOM, covering tax jurisdictions in six regions and a jurisdiction around the world and mainly including the “1+1” main events i.e. holding a themed online symposium, and launching an online special display page, undertaking other related activities such as interactions and Questions and Answers (Q&A).

The events are committed to playing the role of the BRITACOM in facilitating the communication between tax administrations and enterprises and pursuing win-win development for both sides so as to provide rewarding practical experience for the optimization of the tax business environment for different jurisdictions.

The theme-day event for the Chinese tax administrations focused on the tax systems in the Chinese mainland, Hong Kong, China and Macao, China, their tax incentives for investment, featured tax payment services and optimized tax formalities, international tax administration and services, and other practical tax issues of general concern.

The theme-day event for the Southeast Asian tax administrations presented the tax systems of the Southeast Asian countries as well as their experience and practices in tax payment services and tax incentives.

The theme-day event for the African tax administrations involved the presentations of participating tax administrations on their tax policies, administration systems, and investment incentives, etc., with the comprehensive summary of taxation in the West African countries provided by the West African Tax Administration Forum.

The theme-day event for the Middle East tax administrations highlighted their developments of tax reforms, specific tax policies and management, etc. with comments from the experts of the International Tax and Investment Center.

The theme-day event for the Eurasian tax administrations centered around their respective national and local tax policies, tax collection and management practices, tax payment services and tax incentives for attracting foreign investment, etc. with experience shared in Russian.

The theme-day event for the Latin America tax administrations shared their tax regimes, cooperative compliance, international taxation, and digital technology in tax administration.

The theme-day event for Tajikistan was co-hosted by the Tax Committee under the Government of the Republic of Tajikistan and the BRITACOM Secretariat, showcasing Tajikistan’s tax policies, tax administration,

taxpayer services, and tax incentives for attracting investment and optimizing business through virtual seminar and dedicated page, providing participants with a profound insight into the local tax landscape.

The symposium session attracted relevant parties of the BRITACOM, embassy officials and industry representatives. Tax administrations engaged in face-to-face and in-depth exchanges with enterprise representatives to share views about the new stage of win-win cooperation between tax administrations and enterprises.

### **2.6.5 Virtual Seminar**

The Virtual Seminar on Resolution of Tax Disputes was held on 15 October 2021. Representatives from the BRITACOM Council Member Tax Administrations, Observers, the Advisory Board, and businesses attended the meeting. All participants and speakers contributed to this informative and engaging event. Participants were attentive at the seminar and had extensive exchanges with speakers on key topics and issues.

The Virtual Seminar on Advance Tax Ruling of Large Businesses was held on 31 March 2022. Representatives from the BRITACOM Council Member Tax Administrations, Observers, the Advisory Board, and businesses attended the meeting. All participants and speakers contributed to this informative and engaging event. Participants were attentive at the seminar, actively participated in the online polls and had extensive exchanges with speakers on key topics and issues.

The Virtual Seminar on Raising Tax Certainty was held on 12 December 2023. More than 160 representatives from the BRITACOM Council Member Tax Administrations, Observers, the Advisory Board, and businesses attended the meeting. All participants and speakers contributed to this informative and engaging event. The virtual seminar aims to promote the research on the topic of raising tax certainty and to provide experiences that may constitute a reference for the BRI jurisdictions.

Another Virtual Seminar on Raising Tax Certainty was held on 28 March 2024. More than 260 representatives from the BRITACOM Member Tax Administrations, Observers, the Advisory Board, and businesses from over 20 jurisdictions attended the meeting. Participants were attentive at the seminar, actively participated in the online polls and had extensive exchanges with speakers on key topics and issues during the Q&A session.

The Task Force Meeting and the Virtual Seminar on Raising Tax Certainty facilitate the sharing of best practices among the BRITACOM parties, help to improve the outcome of the Raising Tax Certainty task force, which will be released at the Fifth BRITACOF, and contribute to the building of a growth-friendly tax environment.

### **2.6.6 Capacity Building**

During the past years, the BRITACEG has held over 150 training activities of various types, and tax officials from more than 120 countries and regions have participated in the training and obtained training certificates, which has helped to promote the improvement of tax collection and management capabilities and deepen the tax cooperation and friendship among countries and regions. Especially since 2022, the influence of the BRITACEG training in the field of international taxation has been increasing, and the brand of the BRITACEG has gradually been established with professionalism and high-quality training results. During the implementation of the *Nur-Sultan Action Plan (2022-2024)*, 120 training activities were carried out for the BRITACOM members.



# Part 3

## BRI Jurisdictions' Practices of Raising Tax Certainty

This section primarily introduces the measures adopted by the BRI jurisdictions to raise tax certainty, with the aim of revealing the BRI jurisdictions' practices and providing practical case studies that can be learned from by sharing practices and practical experiences. Certain cases with more details are presented in a box.

Tax certainty practices of the United States, Canada, Germany, Italy, the Netherlands, Belgium, Ireland, and the United Kingdom are also demonstrated below, which share some common principles and approaches, and we believe that they may be enlightening and provide a reference for the BRI jurisdictions who are seeking to improve their tax certainty frameworks.

### 3.1 Explicit Domestic Tax Laws and Administration Procedures

#### 3.1.1 Tajikistan

In the Republic of Tajikistan, the necessary efforts are being made in the gradual digitalization of all sectors of the economy, public administration and business. In the Tax Committee, within the framework of the practical implementation of the Concept of the Digital Economy in the Republic of Tajikistan and the Tax Administration Development Program for 2020-2025, most public services to taxpayers and citizens are carried out using modern information technologies in electronic format.

The purpose of the Tax Administration Development Program is to simplify and improve services to citizens and taxpayers, increase their discipline in compliance with tax legislation, improve tax administration, improve tax relations and feedback with taxpayers and expand the digitalization of tax authorities.

Digitalization of tax authorities, first of all, makes it possible to provide tax services to taxpayers and the population without a physical visit to the tax authorities, bypassing contacts with tax authorities, and will also ensure prompt and modern exchange of information between government agencies. Today, about 97.7% of legal entities and 66.2% of individuals, including dehkan farms, submit their tax returns electronically.

Currently, the Tax Management Information System of the Tax Committee allows business entities to register their business activities as an individual entrepreneur or legal entity electronically within 24 hours.

Taxpayer services in the Republic of Tajikistan are based on feedback from taxpayers.

### 3.1.2 Georgia<sup>1</sup>

Since 2021, the Revenue Service of the Ministry of Finance of Georgia has been undertaking a project to establish a unified approach foundation and an information search platform. In 2023, they launched the Information and Methodological Center, also known as Infohub, to meet digitalization needs and provide tax-related documents and information.

The Infohub serves as a unified electronic information management system that combines different types of data. Through Infohub, all users can conveniently access information, and the process of receiving information is significantly simplified. The platform offers information and documents related to taxation and customs, including legislative acts, international agreements, normative acts, methodological explanations, as well as decisions from tax and customs dispute resolution bodies and courts within the Georgian Ministry of Finance system. The Infohub is being continuously updated, and taxpayers can download documents and conduct searches on the platform.

### 3.1.3 China

The State Taxation Administration (STA) of China monitors and evaluates policy implementation. Communication and coordination with relevant departments such as the Ministry of Finance are conducted promptly to drive policy improvement measures.

The STA conducts in-depth investigations and research during the process of policy-making, including seeking opinions and suggestions from representatives of taxpayers, industry associations, chambers of commerce, and the general public through various channels, to thoroughly assess potential uncertainties and risks.

Policy interpretation is conducted simultaneously with drafting, approval, and publication of tax policies, providing detailed explanations of policy background and key points for better understanding and implementation. Additionally, measures such as Q&A tools, online “Tax Seminars,” and compiling guides for tax and fee preferential policies are employed to further strengthen policy certainty.

The Tax Seminars launched by the STA is one of the important ways to clarify tax policies and implement tax and fee reduction policies. Since 2020, China has successively deployed and introduced a series of tax and fee preferential policies. In addition to providing policy guidelines, online interviews or Q&A, the STA has also conducted a series of Tax Seminars, to help tax and non-tax payers accurately grasp and timely apply various tax and fee preferential policies.

The Tax Seminars include a total of 34 sessions and cover topics like value-added tax, income tax, property behavior tax, social security, and other policies. Each session focuses on one tax preferential policy and relevant management and service measures topic, with the detailed explanations on the background of policy formulation, policy substance, procedures for enjoying preferential policies. These seminars are conducted online and pushed through the STA’s official websites and WeChat account, to provide an easy access to learn and understand the preferential policies, which are highly applauded by the tax and non-tax payers.

<sup>1</sup> [infohub.rs.ge/](http://infohub.rs.ge/)



### 3.1.4 Serbia

When assessing the effectiveness of tax policy implementation, Serbia not only relies on assessments conducted internally by tax authorities but also engages external independent research organizations to conduct surveys. These surveys aimed at measuring the effectiveness of policy implementation and taxpayers' satisfaction with the work of the tax administration.

### 3.1.5 Indonesia

Digitalization in Indonesia tax administration brings impact to the enhancement of tax certainty. Since August 2020, the Directorate General of Taxes (DGT) has launched e-Objection, an application platform that enables taxpayer to submit Objection Letters electronically. Objection is a domestic administrative procedure pursued by taxpayer in the event a taxpayer disagrees with an assessment issued by DGT. E-Objection serves a role as electronic tax services to increase effectiveness and efficiency in submitting Objection Letters which have previously been provided offline. The essence of e-Objection is to create a flexible, quick, safe and practical procedure for submitting Objection Letters.

Indonesian tax court as well puts forward modernization and digitalization effort in resolving tax disputes. Recent development in Indonesia suggests that Indonesian tax court introduces e-Tax Court, an information system for administering tax disputes and trials electronically. The judicial process with e-Tax Court is simpler because taxpayers can register, submit appeals or lawsuits, and even attend trials electronically. Electronic decisions on the results of the trial can also be made on the e-Tax Court. Thus, tax court can carry out justice simply and quickly with low costs in handling tax disputes.

DGT equips Tax Objection and Appeal officers with a set standard and case guidance in preparing legal argument for the court proceeding. In addition to that, DGT promotes domestic dispute remedy through various action of education to public. For instance, in 2021, a DGT regional tax office held tax education via Instagram live broadcast with themes related to Tax Objection to educate the public about procedural matters in filing tax objections.

Concerning legal instrument, DGT is currently formulating Minister of Finance Regulation that codified a holistic process of domestic legal remedy. This regulation aims to enhance tax certainty and provides a simplification in interpreting the whole regulation.

## 3.2 Tax Dispute Prevention Mechanism

### 3.2.1 APA

#### 3.2.1.1 Indonesia

Indonesia has introduced an APA programme in 2010, under which it is allowed to enter into unilateral and bilateral APAs. In case of a bilateral APA, the maximum term is five taxable years since the taxable year when the APA application is submitted, subject to possible extension. Indonesia reported that its APA programme allows for the roll-back of bilateral APAs. Indonesia noted that the legal basis for this is derived from its

APA regulations read with the concerned tax treaty.<sup>2</sup> In the newly enacted regulation, Indonesia introduces multilateral APA in addition to unilateral and bilateral mechanism. This regulation also provides provisions concerning the APA implementation including: renewal, review, evaluation, and cancellation of APAs.

### 3.2.1.2 New Zealand

New Zealand implements unilateral, bilateral, and multilateral APA. Each APA is tailored with bespoke handling methods, and there is no established standardized formal procedure. Typically, the duration of bilateral APA in New Zealand ranges from 3 to 5 years.

The New Zealand tax authority has outlined the steps commonly applied in practice for APAs:

Taxpayers submit a brief written proposal stating their business background, related-party transactions, and proposed transfer pricing methods.

A pre-application meeting is held with a key transfer pricing advisor in New Zealand to informally discuss the submitted proposal.

The formal application for the APA is submitted. New Zealand allows for retrospective application if specified in tax treaties without any time limitation. In other cases, retrospective application can be granted for up to 4 fiscal years.

### 3.2.1.3 Hungary

The Hungarian Ministry of Finance is required to issue an APA within 120 days of the taxpayer's submission of the APA request. This deadline can be extended twice, each time by 60 days. The time for further communication of information needs with foreign tax authorities (in the case of bilateral or multilateral APAs) and for confirmation of the relevant information with foreign institutions or taxpayers is not subject to the above deadline. However, in the case of a bilateral or multilateral APA, negotiations with the foreign authority must be completed within 2 years of the submission of the APA request. The deadline can be extended by one year.

Depending on the prior regulations, the APA is valid for 3 to 5 years. This deadline can be extended once for three years if the taxpayer requests.

Before submitting a formal request, the taxpayer can also initiate a non-binding consultation procedure with the tax authorities on the treatment of transfer pricing for connected transactions in the APA, which costs approximately 500,000 Hungarian forints.

Hungary reported that roll-backs of bilateral APAs have been possible since 1 January 2018. The conditions necessary for the roll-back of bilateral APAs are provided in Section 181(2) of the Hungary's Act on the Rules of Taxation as well as in the Government Decree 465/2017. Hungary further reported that any period prior to the submission of the bilateral APA request may be considered in a roll-back request, provided that the prior fiscal year is not closed by an audit and has not been subject to an audit resulting in a period closed by an audit in progress. In addition, Hungary reported that the fiscal years covered should not be time-barred at

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<sup>2</sup> OECD, Making Dispute Resolution More Effective-MAP Peer Review Report, Indonesia (Stage 2).

the time of the conclusion of the agreement of the competent authorities. In this respect, Hungary reported that its domestic time limit expires five years after the last day of the calendar year in which the taxes should have been declared or reported (usually the year following the fiscal year concerned).<sup>3</sup>

#### 3.2.1.4 Greece

The Greek tax administration proposes filing an application for preliminary consultation before the APA official application. At this stage, there is an opportunity to discuss the benefits that may be derived from the conclusion of an APA, the information needed to analyze the intra-company business pricing policy, to make a timetable for the works and to discuss in general all issues relating to procedure for examining the application.

The APA application is filed by the taxpayer with the relevant department of the Directorate for Audit Business Planning of the Independent Authority for Public Revenue. At the same time, in case of bilateral or multilateral agreements, an application shall be made to the other jurisdiction/s concerned and a copy of said application shall be filed, at the latest within one month from submission, to the competent department. The taxpayer must provide all information required to support its application. The relevant documents must be submitted in a mutually agreed format and in any case also in the Greek language.

#### 3.2.1.5 Saudi Arabia

On 7 April 2023, the Board of Directors of Zakat, Tax, and Customs Authority (ZATCA) in Saudi Arabia introduced APA provisions for taxpayers and Zakat payers. The provisions of the APA shall come into effect for tax/zakat years beginning on or after 1 January 2024.

Taxpayers (and Zakat payers) may apply for an APA, provided that the value of transactions covered under the APA application is not less than SAR 100 million (approximately USD 26.66 million) and the APA application is submitted at least 12 months before the beginning of the first financial year covered under the APA.

Under the Transfer Pricing Bylaws (TP Bylaws), ZATCA may allow certain complex transactions to be covered under the APA, even if the value does not exceed the prescribed threshold of SAR 100 million.

Additionally, the TP Bylaws also provide for the following: ZATCA will hold a pre-filing meeting to evaluate the APA application before accepting the request to proceed with the APA application.

#### 3.2.1.6 Kazakhstan

The Transfer Pricing Law of the Republic of Kazakhstan was promulgated and implemented in 2009, providing regulations for APA. The APA is valid for three years from the date of signing.

From the perspective of regulation, there is sufficient legal basis for the implementation of APA in Kazakhstan. However, the actual use of APA by Kazakh taxpayers is not yet substantial and there are only a few APAs in practice.

#### 3.2.1.7 Korea

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<sup>3</sup> OECD, MAP Peer Review Report Hungary\_2021, stage2.

Korea provides for both bilateral and unilateral APAs, and therefore a taxpayer may apply for an APA for cross-border related party transactions.

The application for the unilateral APA must be made to the National Tax Service of Korea (NTS) by the end of the first taxable year for which the unilateral APA is being sought. Once the arm's length pricing method is agreed, it is binding on both the NTS and the taxpayer. A unilateral APA can be rolled back up to three years.

The taxpayer has the right to withdraw or modify the request for an APA at any time prior to obtaining the final approval of the NTS. APA requests are completely confidential, and the data submitted to the NTS may only be used for reviewing APA requests. In the event that the application is rejected or withdrawn, all submitted data is returned to the taxpayer without further consequence to protect privacy. Once the APA is approved, taxpayers should file an annual compliance report, which demonstrates related party pricing is set based on the transfer pricing method determined by the APA. The report is required to be completed within six months after the tax filing due date.

Taxpayers can also apply for bilateral APAs by requesting the NTS to initiate a MAP with the counterparty's competent tax authority. In any case, the NTS also allows APA without completing the MAP.

#### 3.2.1.8 Germany<sup>4</sup>

The German Ministry of Finance published, on 6 June 2023, updated *Administrative Principles on Transfer Pricing* clarifying the German transfer pricing rules (AP TP 2023).

The updated guidance replaces the previous version of the Administrative Principles on Transfer Pricing published on 30 September 2021 and is intended to align the administrative guidance to the current legislative transfer pricing framework in Germany.

One change of Germany's procedural transfer pricing law introduces the concept of the qualified cooperation request, an instrument that enforces the sharing of information with tax authorities before the tax audit. Within six months of the commencement of an audit, a taxpayer may be asked to cooperate with the tax authorities. In such a case, the taxpayer must respond to the qualified request within one month, and financial penalties may be imposed if no response is provided.

The 30-day deadline for submission of transfer pricing documentation and one month for providing the tax information are the indicators of a new level of efficiency assumed by the tax authorities. It is expected that tax compliance is made with due diligence within statutory deadlines and German tax authorities introduced instruments to ensure taxpayers' compliance.

The provisions of the AP TP 2023 apply to all open tax cases effective immediately, with the exception of cross-border transfer of functions realized before 1 January 2022, for which the existing *Administrative Principles on Transfer of Business Functions* as of 13 October 2010 still apply.

#### 3.2.1.9 Canada

A taxpayer may request either a unilateral, bilateral or multilateral APA. A unilateral APA is only effective for

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<sup>4</sup> [https://www.ey.com/en\\_gl/tax-alerts/german-ministry-of-finance-issues-updated-administrative-princip](https://www.ey.com/en_gl/tax-alerts/german-ministry-of-finance-issues-updated-administrative-princip)



Canadian income tax purposes.

The process for applying an APA and issues related to the process are set out in Information Circular IC-94-4R. An APA request is initiated by the taxpayer. While an audit by the Canada Revenue Agency (CRA) may in some circumstances suggest consideration of an APA, the program is voluntary and there is no legal requirement to enter an APA. The program is open to cases involving transfer pricing issues arising from current transactions and specified future transactions that are not hypothetical. An APA request can also be made for issues similar to or related to transfer pricing, such as the attribution of income to a permanent establishment. An APA is not available for transfer pricing or valuation issues arising in connection with business restructurings or reorganizations.

The CRA will also generally review the ongoing status and validity of the APA, including whether it should be amended, cancelled or revoked. The circumstances in which an APA may be amended, cancelled or revoked are set out in the APA. In general, an APA may be amended if it is established that there has been a failure of a critical assumption, applicable law or circumstances or the APA in the foreign jurisdiction is not consistent with the Canadian APA or has been revised, cancelled or revoked.

### **3.2.2 Advance Tax Ruling**

#### **3.2.2.1 Algeria**

Taxpayers administered by the Large Taxpayers Office may obtain an advance ruling in respect of the interpretation or application of any provision of the *Income Tax Code*.

The advance ruling allows a taxpayer to request a ruling that sets out the formal position of the tax administration on the taxpayer's particular situation. Under the Algerian advance ruling process, if the tax administration responds to a ruling request within 4 months of receipt, it is regarded as having taken a formal position; if it fails to respond within 4 months, it is regarded as having taken a position in favor of the taxpayer.<sup>5</sup>

#### **3.2.2.2 Pakistan**

There is a system of advance ruling by a committee on tax matters for non-residents, including non-residents with a permanent establishment in Pakistan (*Section 206A of the Income Tax Ordinance 2001*). The taxpayer may apply in writing for an advance ruling on a proposed transaction. The taxpayer does not have to pay to apply for an advance ruling.

The ruling is binding on the Commissioner Inland Revenue if the taxpayer carries out, in all material respects, the proposed transactions that are fully disclosed in the application. However, the ruling is not binding on the taxpayer. The ruling will remain valid as long as there is no change in the relevant legislation.

#### **3.2.2.3 Georgia**

Georgia has implemented the advance ruling. Taxpayers may request an advance ruling from the tax authorities (*Article 47 of the Tax Code of Georgia*). A ruling provides an interpretation on the application

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<sup>5</sup> Algeria Decree 12-333.

of the law in a real transaction that the taxpayer intends to perform. Advance rulings are approved by the Minister of Finance, and must be issued no later than 90 days after the taxpayer's request. The rulings are binding on the tax authorities, but only with respect to the taxpayer requesting such rulings. The tax authorities charge fees for the issuance of the rulings.

#### 3.2.2.4 Kazakhstan

The taxpayer in Kazakhstan can request the tax authorities to issue clarifications or letters on the applicable tax provisions. The clarifications or letters serve as interpretative guidance and are not binding for the tax authorities.

Letters of the Tax Committee of the Ministry of Finance serve as interpretative guidance and are not binding. Based on *Article 19(2)(3) of the Tax Code*, the tax authorities are obliged to present to a taxpayer (tax agent) information on current taxes and other obligatory payments to the tax authorities, to present information on modifications in the tax legislation and to explain the procedure for completion of tax forms.

These kinds of explanations are not recognized as legally binding and are subject to review by the court. At the same time, according to *Article 8 of the Tax Code*, a principle of "taxpayer's trustworthiness" states that a taxpayer is exempt from fines/penalties for a particular tax treatment regarded as incorrect if such treatment was executed by the taxpayer in accordance with a previously received individual written explanation letter from the tax authorities, even if it is subsequently withdrawn or found to be inaccurate.

#### 3.2.2.5 Cameroon

An advance tax ruling (ATR) system was introduced in Cameroon by the *Finance Law 2008*.

Taxpayers may seek the opinion of the tax authorities on the applicable tax, prior to concluding a transaction. Where the information provided by the taxpayer is complete, the advice given by the tax authorities is binding.

The ATR is to be distinguished from a simple request for clarification or information. The first only occurs in respect of future transactions and seeks a formal position from the tax authorities. The second may occur at any time and is intended to ensure a good understanding of a tax provision.

The legislative division is urged to process applications for ATR within 3 months from the date of receipt of the complete request. As from 1 January 2023, a failure to respond by the tax administration within this deadline leads to tacit deferral and therefore it is considered as acceptance of the taxpayer's position set out in the ATR, and the ATR becomes binding on the tax administration (*Article M33 1(2) of the General Tax Code as modified by Finance Law 2023*).

Taxpayers applying for an ATR are required to (i) provide a clear, complete and truthful statement concerning the proposed transaction; (ii) identify the parties and their relationships; and (iii) provide copies of documents necessary to assess the scope of the transaction.

The scope of the guarantee offered by the tax authorities' ruling is restricted to the parties to the proposed transaction and the legal provisions in force at the time of referral to the tax authorities.

#### 3.2.2.6 Rwanda

The new *Tax Procedure Code*, adopted by Rwanda's parliament on 1 August 2019, entered into force by way of law n° 020/2023 of 31 March 2023, repealing law n° 25/2005 of 4 December 2005 on tax procedures and its subsequent amendments.

The new law clearly provides for ATRs. The Commissioner General shall issue ATRs on request or by his own initiative. Taxpayers will now be able to secure a binding position from the Rwanda Revenue Authority (RRA) regarding the tax treatment of specific transactions. In terms of the new *Tax Procedure Code*, the Commissioner General of the RRA will issue rules determining modalities for securing ATRs.

### 3.2.2.7 Mongolia

Advance rulings have been introduced in Mongolia since 1 January 2020 under a regulation issued by the Ministry of Finance.

According to the advance ruling regulation, the Mongolian Tax Authority should issue a guidance or recommendation for the implementation of tax laws voluntarily or upon a taxpayer's request. The guidance/recommendations will be placed on an open data source, unless it relates to the secret information of a taxpayer, the state, or a third party. These recommendations will be enforced as the official binding rules.

If a request for recommendation relates to an investment agreement, a product sharing agreement, or transfer pricing reports, etc., the tax authorities have the right to reject such request.

### 3.2.2.8 Slovakia

The amendment to the *Tax Procedures Code* introduced a binding ruling into Slovak tax legislation as of 1 September 2014. These rulings are subject to special fees. They provide an opportunity for taxpayers to apply to the Financial Directorate for a binding ruling on the application of tax provisions.

Slovak tax authority is obliged to issue a private ruling following a taxpayer's request. In such cases, the issuing period is to be defined 60 days from the day of the written request delivery (max. 6 calendar months – after consultation with the taxpayer). Required fee is 1% (at minimum EUR 4 000), 2% (at minimum EUR 5 000) or 3% (at minimum EUR 6 000) of the assumed business case value. These binding statements are binding for the revenue body and the second-instance (appellate) authority. Although there is no general advance ruling system, the tax authorities may issue binding advance rulings on the taxpayer's request regarding (i) the determination of the taxable income of a Slovak permanent establishment of a non-resident (section 17 of the ITA), (ii) transfer pricing (section 18 of the ITA) and (iii) advance payments (section 42 of the ITA).

A taxpayer is entitled to apply to the Financial Directorate to obtain rulings, which will be binding for the tax authorities. A fee of EUR 2,000 to 30,000, depending on the value of the transaction, is charged for a single ruling. The scope of binding tax rulings is limited to the application of the following taxation rules: (i) rules on what is considered to be Slovak-sourced income of non-residents; (ii) selected rules on the sale and purchase of a company or a part; (iii) rules on the taxable base adjustments due to unpaid liabilities; (iv) rules on the tax deductibility of expenses; (v) rules on the utilization of tax losses; and (vi) selected rules on the withholding tax.

### 3.2.2.9 Angola

Angola tax authorities are entitled to issue rulings (the so-called “binding information”) which are binding for the tax administration. The scope of the rulings, issued by the tax administration refers to information on the taxpayer’s specific tax situation, including the conditions for tax benefits. A ruling request should be submitted by the taxpayer in writing either by itself or through a legal representative. The ruling does not cover facts that have already been established at the time of submission of the application to the tax administration.

The response to the ruling request shall be given within 30 days, extendable for an equal period by the competent tax administration whenever there are reasons that justify it.

Once provided, the ruling may not be revoked until one year after its notification to the taxpayer, and the revocation shall take effect only for the future.

### 3.2.2.10 Italy<sup>6</sup>

Enterprises with international activities wishing to reach a prior settlement and a shared evaluation with the Italian Revenue Agency, may request an advance tax agreement in order to:

- define the most appropriate transfer pricing methods and criteria applicable to the transactions carried out with related parties, according to Article 9 of OECD Model tax convention as provided for by the domestic transfer pricing rules;
- determine the entry or exit value of assets when the entity transfers its residence in or out of Italy;
- in case a non-resident company starts a new business in Italy, verify through prior assessment whether the conditions for permanent establishment to exist in Italy are met, before the business starts;
- define the tax law provisions, including double taxation treaties provisions applicable to cross-border items, among which the tax treatment of income (such as dividends, interests, royalties or other income items) paid to/received from non-resident companies;
- determine the attribution of profits to a permanent establishment in Italy of a non-resident company or to a permanent establishment in another State of a resident company, according to the international standard recommended.

The agreement signed by the taxpayer and the Italian Revenue Agency remains in force for five years starting from the fiscal year in which it is signed, provided that the circumstances – specifically, the critical assumptions - under which the agreement was signed remain unchanged.

In case of bi/multilateral APAs, the validity period can start from the date of the application filing, consistently with the mutual agreement concluded with the treaty partner(s) under Article 25 of the Model tax convention.

Eligible resident and non-resident (having a permanent establishment in Italy) enterprises may also apply

<sup>6</sup> <https://www.agenziaentrate.gov.it/portale/web/english/nse/invest-in-italy/advance-tax-agreements>



for the cooperative compliance program, which is aimed at promoting an enhanced cooperation between the Italian Tax Administration and taxpayers in order to increase the level of certainty on relevant tax issues and, consequently, to prevent tax litigations. Admission to the cooperative compliance program allows taxpayers to benefit from several advantages:

- fast track ruling (no more than 45 days since the receipt of request or the integration of documents) regarding the application of tax provisions;
- tax penalties reduced by 50% and, in any case, applied to an amount not exceeding the minimum provided by law;
- no guarantees required to obtain refunds of direct and indirect taxes.

### 3.2.2.11 The Netherlands<sup>7</sup>

The Netherlands offers ATR for taxpayers with certainty in advance on the tax implications of a planned transaction or combination of transactions in an international context. It concerns the application of Dutch tax laws and regulations in a specific situation for a specific organization or company. Example: the applicability or inapplicability of the subsidiary's exemption. Substantive discussions can be held with the tax administration on the effect of the laws and regulations on the facts and circumstances presented.

A ruling provides certainty in advance and does not derogate from the law. The interpretation of tax laws and regulations is always the same for taxpayers. The importance of a ruling is certainty in advance. Whether taxpayers give their opinion on a matter in advance or afterwards, the tax administration always acts in accordance with the law and never makes non-statutory agreements on rates or exemptions, for example.

### 3.2.3 China

The TaxExpress, a service brand which was launched by the STA of China last October, answered the call of international taxpayers. Its initiation was not only for providing dispute prevention, but also for offering tax certainty.

The idea behind Tax Express is based on the following considerations:

The multinationals are major economic players, who make greater contribution to the economy, and merit additional attention.

The multinationals operate in a complex legal environment, with domestic laws and international laws mingled together, and may use some extra help.

For Smooth communication, STA makes sure that taxpayers have direct access to STA resources, either physically or virtually. Multiple channels of communication are offered to taxpayers, including service halls, the service hotline 12366, the WeChat social media, etc. For large taxpayers, local STA offices set up programs such as Chief Liaison Officer or Concierge Tax Services, so the taxpayers can have a dedicated point of contact to discuss complex issues with tax authority.

<sup>7</sup> [https://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/standaard\\_functies/individuals/contact/your\\_rights\\_and\\_obligations/prior\\_consultation\\_ruling/](https://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/standaard_functies/individuals/contact/your_rights_and_obligations/prior_consultation_ruling/)

For Integrated services, experts from different Departments of STA now work more closely as a team to serve the needs of the multinationals. For example ad hoc groups are set up to address special and complex tax issues. STA makes it a point that taxpayers are kept abreast of recent policy updates and incentive measures, which are now being delivered to taxpayers' email inboxes or mobile devices, utilizing big data and Artificial Intelligence technology.

STA produces knowledge products and makes them freely available on the STA website as well as its social media. They include Country tax profile for 105 jurisdictions, with a view to help taxpayers do their due diligence homework when doing business abroad. We select, translate and publish international case laws, with a view to educate taxpayers the operation of tax laws in international settings, as well as the means for legal remedy. FAQs for the multinationals are high frequency questions captured by the hotline service, we publish answers to them to maximize taxpayer awareness.

## 3.3 Dispute Resolution Measures

### 3.3.1 Domestic Remedy

#### 3.3.1.1 Algeria

Algeria has renewed its domestic remedies. The provisions of Articles 44 and 45 of the Finance Law of Algeria aim to provide increased tax certainty for taxpayers who are undergoing accounting audits, selective audits, or in-depth audits of the overall tax situation (VASFE). The key points are:

**Extended Preparation Time:** Accounting audits and selective audits: Minimum preparation time increased from 10 to 20 days. Minimum preparation time extended from 15 to 30 days.

**Access to Taxpayer's Charter:** The audited taxpayer for each type of audit now has the ability to consult their charter on the website of the Directorate General of Taxes of Algeria.

**Audit Notice Requirements:** Full disclosure on the audit notice, including names and ranks of auditors, the audit period, and relevant taxes.

**Mandatory written notification to the audited taxpayer regarding any changes in auditors during the VASFE audit.**

#### 3.3.1.2 Saudi Arabia

In Saudi Arabia, there are two domestic recourses to solve tax disputes between taxpayers and the tax administration. The two domestic recourses are the Settlement Committee and the General Secretariat of Tax Violations and Disputes Resolution Committees, the latter being the judicial recourse. In order for the Settlement Committee to process a taxpayer's request, the taxpayer has to suspend or freeze the process of the case at any other recourse, e.g. the judicial recourse. The Settlement Committee's decision is not binding. If the taxpayer does not accept the proposed resolution, he may resume any other available recourse.

The Tax Violations and Disputes Resolution Committees are the competent judicial authorities to which the



Taxpayers may file a grievance (appeal) against the decisions of the Zakat, Tax and Customs authority of Saudi Arabia.

### 3.3.1.3 Malaysia

Taxpayers in Malaysia are allowed to file an income tax appeal if they are not satisfied with the income tax assessment, personal reliefs have not been appropriately given, forgotten to claim certain expenses / reliefs or an error made during the assessment issued by the Inland Revenue Board of Malaysia (IRBM) office.

If taxpayers receive a notice of assessment and disagree with it, they are allowed to make an appeal. The appeal must be made within 30 days from the date of the notice. Taxpayers have to write the appeal to the IRBM branch which issued the assessment.

Taxpayers are then required to fill in Q Form, and the appeal will be forwarded to the Special Commissioners of Income Tax.

If taxpayers have a valid reason and require more than 30 days to file an appeal, taxpayers are required to apply for an extension of time by using N Form. The form is to be forwarded for decision by the Special Commissioners of Income Tax.

In order to make a proper income tax appeal, taxpayers must write a letter stating the type of mistakes and clearly specify whether the mistake is either in expenses claimed, deductions, exemptions or other things.

To support the appeal, taxpayers must submit supporting documents such as expenses claimed, deductions, reliefs, etc. The supporting documents are to be attached to the letter.

Taxpayers still have to pay the tax liabilities even though an appeal has been made.

An appeal may be settled either by agreement between the taxpayer and the IRBM, or by a decision of the Special Commissioners of Income Tax / the High Court / the Court of Appeal.

If taxpayers are not satisfied with the decision made by the IRBM regarding the appeal, it will be forwarded to the Special Commissioners of Income Tax. In the case taxpayers are still not satisfied with the Special Commissioners' decision, taxpayers can appeal further to the High Court and the Court of Appeal.

The Special Commissioner of Income Tax is an independent tribunal which consists of panel members appointed by the Yang Di-Pertuan Agong to handle tax appeals.

### 3.3.1.4 Macao, China

The Financial Services Bureau of Macao, China is responsible for tax administration. It comprises departments such as the Department of Taxation, the Coercive Collection Bureau, and the Department of Public Auditing, Tax Investigation and Appeals, which are responsible for assessing, collecting, and managing taxes payable by taxpayers. Taxpayers who disagree with tax assessments, collections, or penalties can raise objections to the Financial Services Bureau. If objections are wholly or partially rejected, appeals can be made to the Chief Executive. Decisions made by the Chief Executive can be further challenged in court.

The judicial system of Macao, China includes the Court of First Instance, the Court of Second Instance, and

the Court of Final Appeal. The Court of First Instance comprises the Court of First Instance (Civil Court, Criminal Prosecution Chamber, Minor Civil Court, Criminal Court, Labor Court, and Family and Juvenile Court) and the Administrative Court. The Administrative Court has jurisdiction over disputes related to administration, taxation, and customs. Parties dissatisfied with the rulings of the Administrative Court can appeal to the Court of Second Instance. Further appeals can be made to the Court of Final Appeal if the rulings of the Court of Second Instance are contested.

Currently, Macao, China is in the process of legislating a new *Tax Code*, which comprehensively consolidates the provisions of existing single-line laws. It stipulates procedures for taxpayers to raise objections, lodge appeals, and engage in tax litigation, clarifying the relationships between different avenues of relief and providing clear guidance for taxpayers to exercise their rights of relief, thus safeguarding their legitimate interests. The new *Tax Code* also codifies fundamental principles of the tax system therefore contributing to increasing tax certainty for both taxpayers and the tax administration.

#### 3.3.1.5 Tajikistan

In the Republic of Tajikistan, the Tax Code in a new version was put into effect on 1 January 2022. The purpose of adopting the Tax Code is to ensure sustainable economic development of the country by creating a favorable business and investment environment, primarily for entrepreneurship in industrial production, further implementation of digital technologies and increasing revenues to the state budget.

The Tax Code was developed in accordance with the best international practice and taking into account the principle of tax certainty, which provides all business entities with equal opportunities to understand its provisions, eliminating contradictions and disputes.

The Tax Code provides for new chapters on transfer pricing and tax monitoring. At the same time, certain provisions of the Tax Code have been specified, streamlined and improved taking into account the principle of tax certainty and a number of new provisions are provided, such as:

- commissions on tax avoidance;
- attracting experts to conduct tax control;
- creation of a council for pre-trial resolution of tax disputes;
- criteria for assessing the risk level.

Based on the provisions of Article 35 and Article 160 of the Tax Code, the Regulations on the Commission on Tax Evasion of the Tax Committee and on the Council for Pre-Trial Dispute Resolution of the Tax Committee dated 31 May 2022 were developed and approved.

The Council for Pre-Trial Dispute Resolution is an interdepartmental advisory body for pre-trial consideration of tax disputes under an authorized state body, the composition of which is formed from representatives of bodies in the field of finance, justice, support of entrepreneurship, taxes, industry bodies, experts and independent consultants.

The procedure for using methods for determining the level of taxpayer satisfaction with the activities of tax authorities, including taxpayer satisfaction with the quality of oral and written responses of tax authority



employees, is defined in the Unified Standard of Taxpayer Service, approved by the order of the Chairman of the Tax Committee under the Government of the Republic of Tajikistan dated 28 March 2022, No. 170. According to the requirements of the above-mentioned standard, the assessment of the activities of tax authorities is carried out on an annual basis by indicators of the quality of services. The assessment of the results of the provision of public services to taxpayers and their access to services is determined by monitoring the quality of services indicators.

The official website of the Tax Committee has a separate module “Assessment of the quality of service of tax authorities”. Citizens and taxpayers can evaluate the quality of the service provided on a 5-point scale at any time convenient for them and write their suggestions and comments. In order to improve the system of communications with individuals and organizations, the Tax Committee will continue to improve feedback and services to taxpayers by improving software products and introducing new digital technologies and solutions.

From 2020 to the present, the Tax Committee staff has been actively participating in virtual seminars and trainings of the BRITACOM. It is important to note the significant contribution of the BRITACEG.

With support of the BRITACOM the Tax Committee held a virtual seminar on the tax system of the Republic of Tajikistan, tax policy and administration on 29 May 2024, as part of the Seventh Thematic Day of Tax Administration “Better Connection for a Better Future”. The seminar was attended by representatives of over 160 tax authorities from BRITACOM member countries, other BRITACOM observer countries, international and financial organizations, and the private sector, including from China, Serbia, Nigeria, Thailand, Italy, Senegal, the United States, Pakistan, Algeria, Macao China, East Timor, the United Arab Emirates, Georgia, Gambia, Nepal, Singapore, Panama, the Philippines, Guinea, Armenia, Sierra Leone and Indonesia.

The Tax Committee under the Government of the Republic of Tajikistan was represented at the Seminar by the First Deputy Chairman of the Tax Committee - Solehzoda Ayubjon Maruf, Deputy Chairman of the Tax Committee - Malikzoda Narzullo and other employees of the Tax Committee. The speakers familiarized the participants with the measures taken on the topics of “Digitalization of tax authorities in the Republic of Tajikistan”, “Digital transformation of tax and customs administration”, “Development of the tax system of the Republic of Tajikistan” and “Improvement of the risk management system in the Republic of Tajikistan”.<sup>8</sup>

### 3.3.1.6 Georgia

The Georgian Tax Authority employs internet-based hearings to facilitate tax dispute resolution. This approach also helps to save taxpayers’ time and economic costs. The Georgian Tax Authority has developed a media conference platform, providing taxpayers with detailed instructions on its usage and delivering hearing notices to them through the platform. This hearing method has been incorporated into the *Georgian Tax Code*.<sup>9</sup>

### 3.3.1.7 Hong Kong, China

<sup>8</sup> Recent Developments of Tax Administration in the Republic of Tajikistan, Solehzoda Ayubon Maruf, p36, Belt and Road Initiative Tax Journal, Vol3, NO.1 2022.

<sup>9</sup> Tax Reforms for Better Tax Administration: Georgian experience, pages 44-45, Belt and Road Initiative Tax Journal, VOL.2 No.1 2021.

Where an assessment is issued, the taxpayer will have the right to object to the assessment within one month after the date of the notice of assessment. This requires the filing of a written notice to the commissioner setting out the grounds on which the taxpayer objects to the assessment. Any objection will be considered by the assessor in the first instance. If the assessor is of the view that no changes should be made but agreement cannot be reached with the taxpayer, the assessor will refer the objection to the Inland Revenue Department's (IRD) Appeals Section (a separate unit within the IRD), which will review the matter and prepare a statement of facts and draft reasons for consideration by the commissioner / deputy commissioner. The commissioner / deputy commissioner will issue a written determination (Determination) together with reasons and a statement of facts to the taxpayer.

If the taxpayer wishes to appeal against the Determination, the taxpayer may appeal to the Board of Review, an independent tribunal that acts as a trial court, within one month after the transmission to him of the Determination (the taxpayer and the IRD may agree that the case be heard directly by the Court of First Instance). Appeals against the Board of Review's decision can be made to the Court of First Instance and subsequently to the Court of Appeal and Court of Final Appeal on questions of law.<sup>10</sup>

#### 3.3.1.8 Belgium<sup>11</sup>

The Belgian judicial system operates within the civil law tradition characterized by a structured set of codified laws that are applied and interpreted by the courts. Belgium is a member of the European Union and a signatory of the European Convention on Human Rights, therefore its judges regularly apply European legislation and are greatly influenced by the case law of the European courts.

Alternative Dispute Resolution (ADR). The Belgian legal and judicial systems favor ADR, including conciliation, mediation, expert determination, and arbitration. Recently, the legislature has introduced in all courts specialized chambers for the amicable resolution of disputes, composed of judges who assist the parties in their confidential discussions (the same judges may not subsequently hear the dispute if no settlement is reached). Belgian judges are also increasingly using their powers to compel parties, or at the request of one of them, to use ADR.

Arbitration is also regularly used in Belgium. Judicial courts are generally mindful to avoid interference during and after the arbitration process.

#### 3.3.1.9 Ireland<sup>12</sup>

The Tax Appeals Commission (TAC) was established on 21 March 2016 in accordance with the provisions of the Finance (Tax Appeals) Act 2015.

The main role of the TAC is to adjudicate, hear and determine appeals against decisions and determinations of the Revenue Commissioners concerning taxes and duties.

The role and responsibilities of the TAC are to fulfil the requirements established under the Finance (Tax Appeals) Act 2015 and the Finance (Tax Appeals and Prospectus Regulation) Act 2019. With some exceptions,

<sup>10</sup> <https://www.gov.hk/>

<sup>11</sup> IBFD

<sup>12</sup> <https://www.taxappeals.ie/en/about-us/about-us>



the TAC examines complaints from people who feel they have been unfairly treated by assessments raised by the Revenue Commissioners in a fair, impartial and expeditious manner.

A taxpayer who wishes to make an appeal against a decision or assessment made by the Tax Revenue Commissioners (“Revenue”), must submit a notice of appeal to the Tax Appeals Commission (“the Commission”). This can be submitted electronically or in writing using email or post. The taxpayer must include in the notice of appeal all of the information.

As soon as practicable after receipt of the notice of appeal, the Commission will send a copy of the notice of appeal, and any documentation appended thereto, to the Revenue Commissioners. The Revenue Commissioners will be advised that any objection to the acceptance of the appeal must be communicated to the Commission by notice in writing, stating their reason for the objection, no later than 30 days after the date on which the copy of the notice of appeal has been sent to them.

When making an appeal, the Commission is likely to ask if the taxpayer could settle the appeal by agreement with Revenue. If the taxpayer believe such agreement can be reached, he should continue to discuss the disputed matter with Revenue.

The Commission may proceed if it believes the appeal is unlikely to be settled by agreement or within a reasonable time period.

Most appeals are decided by an Appeal Commissioner after an oral hearing. The Appeal Commissioner will listen to arguments and evidence presented by the taxpayer and a Revenue official. Whatever way the appeal is decided, the taxpayer will receive a detailed written decision that explains why the Appeal Commissioner made the decision. All decisions are published on the Commission’s website.

### **3.3.1.10 China**

In China, the taxpayer could apply for administrative review to the higher-level tax authority after a tax dispute arises between a taxpayer and a tax authority for tax treatment decisions (e.g. imposition of taxes, imposition of late payment penalties and, withholding of taxes). The taxpayer should pay taxes first and then it has 60 days to file an application for an administrative review. If the reviewing authority upholds the tax decision, the taxpayer can file a tax administrative litigation within 15 days.

Disputes involving tax treatment decisions must first be brought to the tax authorities for an administrative review before the taxpayer can instigate judicial litigation. However, disputes involving other tax administrative decisions (e.g. punishment decision, compulsory enforcement measures, or tax preservation measures) are not subject to this restriction and a taxpayer may choose to pursue either an administrative review or a judicial litigation of the dispute.

### **3.3.2 MAP**

#### **3.3.2.1 Hungary**

The MAP procedure in Hungary allows for the resolution of international tax disputes, particularly those involving transfer pricing or the interpretation and application of double taxation treaties.

In Hungary, the MAP procedure typically involves the following steps:

- (1)Initiation of the MAP: The taxpayer or the tax authority initiates the MAP process by submitting a request for assistance to the competent authority of Hungary.
- (2)Evaluation and Acceptance: The competent authority evaluates the request and determines whether it meets the requirements for MAP under the relevant tax treaty. If the request is accepted, Hungary and the other jurisdiction(s) involved in the dispute begin the process of resolving the issue.
- (3)Negotiations and Resolution: Negotiations take place between the competent authorities of the respective jurisdictions to reach an agreement on the appropriate resolution of the tax dispute. This may involve discussions on transfer pricing methodologies, allocation of profits, or other relevant issues.
- (4)Agreement and Implementation: Once an agreement is reached, it is formalized in writing, and the necessary adjustments to the taxpayer's tax liabilities are made. The competent authorities ensure the implementation of the agreed-upon resolution within the framework of domestic laws and procedures.

### 3.3.2.2 Cambodia

Cambodia's General Department of Taxation issued Prakas No. 318MEF. Brk on 12 May 2021, setting out the mechanism for applying MAP under Cambodia's tax treaties, which provides a dispute resolution process to resolve tax treaty-related disputes.

A taxpayer who is resident in either of the contracting jurisdictions to a tax treaty may file an objection letter based on the MAP with the relevant competent authorities where the taxpayer considers that actions of one or both of the contracting jurisdictions have resulted or will result in taxation that is not in accordance with the provisions of the treaty.

The taxpayer must file the objection letter within three years from the date of the first notice of tax reassessment or decisions that are not in accordance with the provisions of the treaty.

### 3.3.2.3 Kazakhstan

*Article 221 of the Tax Code* of Kazakhstan regulates the procedure for applying a MAP request, and provides the list of information that is required from the taxpayer while filing a MAP request. Kazakhstan's competent authority is allowed under Article 221 to request for additional information or documents from the taxpayer and there are no prescribed timeframes to be followed.

Where the taxpayer does not provide such additional information, Article 221 states that the MAP request may be denied and the taxpayer is invited to resubmit the application including such requested information or documentation. In other words, the request and submission of such additional information may affect the timely resolution of the MAP case, but would not lead to a limitation of taxpayer's access to MAP.<sup>13</sup>

### 3.3.2.4 Macao, China

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<sup>13</sup> OECD (2022), Making Dispute Resolution More Effective – MAP Peer Review Report, Kazakhstan (Stage 2): Inclusive Framework on BEPS: Action 14, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/34c25884-en>



Macao, China has publicly available MAP guidelines. The purpose of these guidelines is to provide practical information regarding the submission of a MAP request to the Financial Services Bureau. The request for initiating a MAP may be submitted to the Financial Services Bureau under a tax treaty irrespective of the remedies provided by the internal law of Macao, China or of the other party concerned.

The guidelines aim at providing simple, clear and easily accessible information to taxpayers on the scope of MAP, who may request to initiate a MAP, how to initiate the MAP and the documentation required and the processing of a MAP.

### 3.3.2.5 Greece

According to the Governor's Decision A.1226/2020<sup>14</sup>, all persons (natural or legal) that are residents of Greece or of its contracting jurisdictions under the provisions of the applicable tax treaty and consider that they have been subject to taxation not in accordance with the provisions of the treaty as a result of the actions of one or both the contracting jurisdictions can submit a MAP request. The taxpayer may present his case to the competent authority of the contracting jurisdiction of which he is a resident, in case that the applicable DTC does not provide for a right to submit a MAP request to both Contracting States. In case the taxpayer has subsequently transferred his tax residence to another state, the request must be submitted to the state of which he was a resident in the year when tax was imposed in violation of the DTC provisions. Where the MAP request concerns the application of non-discrimination provisions, the taxpayer may present his case to the competent authority of the contracting jurisdiction of which he is a national.

The competent authority confirms the receipt of the taxpayer's request within (30) days of receipt by a registered letter sent to the taxpayer's postal address or by e-mail sent to the taxpayer's e-mail address. The competent authority first considers whether the minimum information required is submitted as well as the admissibility of the request (that is the submission within the two-year or three-year time limit provided for in the applicable DTC from the notification of the action resulting in taxation not in accordance with the provisions of the applicable DTC). Then the competent authority considers whether the request is justified, namely whether there is or will be taxation which is not in accordance with the provisions of the double taxation agreement. In case the request is not admissible or the required information is not provided by the applicant, the competent authority rejects the request, informs the taxpayer and the foreign competent authority in writing, and the procedure is terminated.<sup>15</sup>

### 3.3.2.6 United Arab Emirates

In July 2021, the United Arab Emirates officially issued the MAP guidance through the Ministry of Finance.

The MAP guidance sets out the process through which taxpayers can request assistance from the Ministry of Finance in its capacity as a competent authority to resolve disputes arising from taxation not in accordance with the provisions of the relevant double tax treaty, as well as to provide relevant information before requesting MAP.

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<sup>14</sup> Regulation of issues regarding the Mutual Agreement Procedure in accordance with the bilateral Conventions for the Avoidance of Double Taxation on Income

<sup>15</sup> [https://www.aade.gr/sites/default/files/2022-03/a\\_1226\\_2020.pdf](https://www.aade.gr/sites/default/files/2022-03/a_1226_2020.pdf)

The guidance discusses various topics, including MAP as an alternate tax resolution mechanism, MAP application procedures, the MAP process, timelines for MAP requests, legal basis, and the timeframe for resolving and implementing MAP cases. It also includes a list of the relevant United Arab Emirates double tax treaties.

The Ministry of Finance shall determine the eligibility of the request and notify the taxpayer if the MAP case is accepted or rejected. If a MAP case is rejected, a notification will be sent to the corresponding competent authority (if applicable) stating the reasons why the MAP case was rejected. Similarly, if a MAP case is accepted and if the case cannot be resolved unilaterally, the corresponding competent authority will be engaged to begin MAP proceedings.

The Ministry of Finance shall regularly update the taxpayer at significant milestone intervals. The Ministry of Finance aims to resolve MAP requests within 24 months after receiving the request. Upon receiving a mutual agreement, the Ministry of Finance will write to the taxpayer within 60 days from reaching the agreement and advise the taxpayer on the next action. Taxpayers will then need to respond outlining their acceptance or rejection of the mutual agreement position reached.

### 3.3.2.7 United States (US)<sup>16</sup>

The US tax treaties allow a taxpayer to request a MAP if the taxpayer believes that it is, or will be, subject to taxation inconsistent with the treaty. This situation typically arises as a result of the US or foreign-initiated adjustment, which normally would cause double taxation (taxation of the same income twice). The taxpayer may file a MAP request with the US competent authority. That request asks the US and foreign competent authorities to agree to “relieve” (remove) taxation inconsistent with the treaty, which normally would mean to relieve double taxation.

On receiving a MAP request, the US competent authority normally will accept the request for consideration. If the US competent authority cannot unilaterally provide full relief, it will negotiate with the foreign competent authority.

After the competent authorities tentatively agree on one of these outcomes, the US competent authority presents that outcome to the taxpayer. If the taxpayer accepts the outcome, the US competent authority normally will then formalize that outcome, direct the relevant offices within the Internal Revenue Service (IRS) to implement its terms, and close the case. If the taxpayer does not accept an outcome tentatively agreed by the competent authorities, the case is closed and jurisdiction over the relevant issue(s) is returned to the relevant offices within the IRS.

## 3.4 Tax Treaty Network

### 3.4.1 Angola

Angola has started to expand its tax treaty network acknowledging that tax treaties can contribute to promoting international trade and tax cooperation by relieving double taxation, preventing tax disputes and

<sup>16</sup> <https://www.irs.gov/businesses/overview-of-the-map-process>



inappropriate double non-taxation.

In this context, Angola has signed tax treaties with Portugal, the United Arab Emirates (UAE) and China which are already in force. Furthermore, it has also concluded tax treaty negotiations with Cabo Verde, Mauritius, Rwanda and Switzerland.

### **3.4.2 Saudi Arabia**

Saudi Arabia has signed 62 double tax treaties, with most already in force and others in various stages of finalization or awaiting ratification. The government aims to expand its treaty network further to attract foreign investment and strengthen economic ties. Notable trading partners with whom Saudi Arabia has entered into tax treaties include Austria, China, France, India, Italy, Malaysia, Pakistan, South Africa, South Korea, Turkey, and the United Kingdom. These treaties offer tax relief such as withholding tax reductions on service fees, dividends, royalties, and interest.

### **3.4.3 Rwanda**

To better position Rwanda as a financial hub, a broader tax treaty network is a prerequisite. In addition to attracting foreign investors in Rwanda, the move will play an invaluable role in encouraging the outflow of investment by ensuring the protection from discriminatory tax measures, providing an attractive withholding tax rate and a robust framework for dispute resolution.

Currently, more than 15 tax treaties have been signed and several others are under negotiations. The Rwanda Government's target is to conclude around 10 tax treaties in a bid to widen its tax treaty network.

The existing tax treaties already in place have shown a big impact in terms of boosting the inflow of investment and trade from treaty partners. Good examples include, but are not limited to, large numbers of investors coming from Turkey, Qatar, the UAE, Mauritius, Morocco, South Africa, Singapore and Jersey.

Rwanda has been negotiating, and will continue to negotiate, with jurisdictions that have a sound tax system to avoid the treaty shopping practice. This practice is commonly used by MNEs as a profit-shifting window for foreign investors routing investments through a conduit entity in the low-tax jurisdiction hub, or by domestic investors "round-tripping" their investments through the low-tax jurisdiction hub.

### **3.4.4 Bangladesh**

Bangladesh signed a comprehensive avoidance of double taxation agreement with Hong Kong, China on 30 August 2023. The Hong Kong, China-Bangladesh tax treaty removes double taxation without creating loopholes for nontaxation or lower taxation through tax avoidance or evasion. The agreement applies to taxes on income, such as income tax in the case of Bangladesh, and profits tax, salaries tax and property tax in the case of Hong Kong, China. This new treaty will also apply to any identical or similar taxes implemented in the future.

As of now, Bangladesh has entered into double taxation treaties with more than 34 jurisdictions such as: Belarus, Belgium, Canada, China, Denmark, France, Germany, India, Indonesia, Italy, Japan, Kuwait, Malaysia, Mauritius, Myanmar, Netherlands, Norway, Oman, Pakistan, Philippines, Poland, Republic of Korea, Romania, Saudi Arabia, Singapore, Sri Lanka, Sweden, Switzerland, Thailand, Turkey, the UAE, the United

Kingdom, the U.S., Vietnam, etc. To avail themselves of the tax treaties, investors need to register their investments with the Bangladesh Investment Development Authority and then apply to the National Board of Revenue for the double taxation relief.

### **3.4.5 Kuwait**

In 2022, the Kuwait Ministry of Finance announced that Kuwait and the UAE signed a treaty for the avoidance of double taxation.

The objectives of the tax treaty are to strengthen the cooperation frameworks in tax matters and to unite the financial, economic, and investment partnerships between the two countries.

This is in line with the efforts of both countries in growing investment opportunities, encouraging commercial trading, and enhancing the development goals of both countries through diversifying the sources of national income and providing full protection of goods and services.

### **3.4.6 New Zealand**

New Zealand continues to work with treaty partners to ensure its international agreements are modern and robust. New Zealand has double tax agreements with 40 jurisdictions and negotiates updates to those agreements and concludes new DTAs as needs or circumstances arise. The most recent updates have been a new double tax agreement signed with the Slovak Republic, and a protocol that modernises New Zealand's double taxation agreement with Austria.

New Zealand is currently negotiating double tax agreements or protocols with Australia, Croatia, Germany, Hungary, Iceland, Slovenia, South Korea and the United Kingdom.

### **3.4.7 Peru**

Peru entered into a tax treaty with Japan, which became effective on 1 January 2022.

Peru has entered into treaties with Brazil, Canada, Chile, Japan, Korea, Mexico, Portugal, and Switzerland regarding double taxation on income tax under the OECD Model. Peru, as a member of the Andean community, which includes Bolivia, Colombia and Ecuador, is subject to a double-taxation standard based on source income and not on the OECD Model.

### **3.4.8 Iran**

The tax treaty between Finland and Iran was signed on 7 February 2022. The treaty provides certainty for business and trade activity and strengthens economic ties with the rest of the world as the country uses increased trade revenues to offset the impacts of the US sanctions on its crude exports. The double taxation treaty signed with Finland was Iran's fifty-second tax treaty. Iran expects to conclude further tax treaties with the aim of boosting trade and business ties with other jurisdictions. Iran's growing trade relations with countries like Finland show that Iran will no longer limit itself to economic ties with the United Kingdom, France and Germany as the three major European powerhouses. It also shows that Iran is keen on expanding bilateral ties with other jurisdictions.



### 3.4.9 United Kingdom (UK)<sup>17</sup>

The UK has almost 130 tax treaties, the vast majority of which contain a MAP provision based on the provisions of Article 25 of the OECD Model. Tax treaties are a product of negotiations and therefore no two tax treaties are the same. Additionally, the OECD Model, including Article 25, has evolved over time and treaties signed in the past may not reflect the latest version. In all cases where the application of a treaty is being considered, it is therefore important to consult the text of the relevant treaty itself which is available through GOV.UK.

Tax treaties seek to protect taxpayers from double taxation; provide for the appropriate allocation of taxing rights including in relation to profits from cross-border economic activities; and prevent fiscal discrimination by their signatories. The UK seeks to encourage and maintain an international consensus on the tax treatment of cross-border activity, and plays an important role in this field through its membership of the OECD. Like almost all tax treaties internationally, the UK treaties follow the terms of the OECD Model in most respects and HM Revenue and Customs is guided in its interpretation of those tax treaties by the Commentaries on the Articles of the OECD Model.

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<sup>17</sup> <https://www.gov.uk/hmrc-internal-manuals/international-manual/intm423010>

# Part 4

## Recommendations

The following are key areas recommended for raising tax certainty.

### 4.1 Legislative Transparency and Clarity

The BRITACOM members are encouraged to ensure that their tax laws and regulations are clear, concise, and easily accessible, and provide guidance on the interpretation of tax laws to avoid ambiguity and misunderstanding. Tax authorities should also streamline tax filing and payment processes, and provide clear guidelines on taxpayer rights and obligations, which also include clear dispute resolution procedures.

### 4.2 Implementing APA and MAP

To preempt potential tax controversies and, where feasible, retroactively resolve past issues, the introduction of APA and MAP, particularly bilateral ones, is advocated. Clear guidelines and explicit regulations should be issued by tax authorities to streamline the process for taxpayers to initiate APA and MAP requests in the event of tax disputes.

### 4.3 Expanding the Tax Treaty Network

The BRITACOM members are encouraged to expand their treaty network. Expanding the treaty network for BRITACOM members is a strategic imperative that aligns with the evolving global tax landscape and the needs of multinational enterprises (MNEs) operating in a highly interconnected world, which will bring numerous benefits, including increased tax certainty, improved dispute resolution, and greater transparency in tax administration.

### 4.4 International Tax Cooperation

To facilitate in-depth understanding and consistent application of tax policy and administration, tax authorities are encouraged to take part in regular workshops and consultations organized by the BRITACOM and other international organizations, fostering mutual learning and discussion on policy interpretation and implementation.

Competent authorities are also encouraged to elevate the frequency of bilateral discussions and engage in more frequent viewpoint exchanges leveraging both online and in-person meetings.

### 4.5 Strengthening Capacity Building



To address the intricacies and ever-evolving nature of international taxation, tax authorities are encouraged to embark on comprehensive training programs for their officials and actively engage within the knowledge-sharing network of the BRITACEG, a dedicated capacity-building entity of BRITACOM. By upskilling professionals, tax authorities can contribute to the overall development of the tax system within their respective jurisdictions, which can in turn, lead to improved tax compliance, reduced tax evasion and avoidance, and increased revenue generation for governments.

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