

# Expediting Tax Dispute Resolution

Wuzhen Action Plan ( 2019–2021 ) Final Report

Expediting Tax Dispute Task Force



September 2021

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# Abbreviations

<b>APA</b>	<b>Advance Pricing Agreement</b>
<b>BEPS</b>	<b>Base Erosion and Profit Shifting</b>
<b>BRI</b>	<b>Belt and Road Initiative</b>
<b>BRITACOF</b>	<b>Belt and Road Initiative Tax Administration Cooperation Forum</b>
<b>BRITACOM</b>	<b>Belt and Road Initiative Tax Administration Cooperation Mechanism</b>
<b>DGT</b>	<b>Directorate General of Taxes</b>
<b>MAP</b>	<b>Mutual Agreement Procedure</b>
<b>OECD</b>	<b>Organisation for Economic Co-operation and Development</b>
<b>PE</b>	<b>Permanent Establishment</b>
<b>STA</b>	<b>State Taxation Administration</b>
<b>TAT</b>	<b>Nigerian Tax Appeal Tribunal</b>
<b>WHT</b>	<b>Withholding Tax</b>

# Introduction

## 1.1 Background

The Belt and Road Initiative (BRI), first initiated by China to seek connection among Asia, Africa and Europe via land and maritime networks, is a development framework that focuses on connectivity and cooperation of jurisdictions all over the world, of which principles are open for cooperation, harmonious and inclusive, and seeks mutual benefits. It also advocates mutual dialogues among jurisdictions while shelving differences and drawing on each others' strengths, accommodates the interests and concerns of all parties involved, and seeks a conjunction of interests and the "greatest common denominator" for cooperation.<sup>1</sup>

The Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM) was founded in the first conference of Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF) in April 2019, and is a non-profit official mechanism for tax administration cooperation amongst the jurisdictions that subscribe to the BRI, whose vision is to facilitate trade and investment, foster economic growth of the BRI jurisdictions and contribute to the inclusive and sustainable development as set out in the UN 2030 Agenda for Sustainable Development.<sup>2</sup>

Under the theme of contributing to a growth-friendly tax environment through cooperation on tax administration, the BRITACOM Council

Members formulate and adopt by consensus Wuzhen Action Plan (2019-2021) which stipulates actions recommended in following rule of law and raising tax certainty, expediting tax dispute resolution, enhancing tax administration capacity, streamlining tax compliance, and digitalizing tax administration.

The measures and plans set out in Wuzhen Action Plan (2019-2021) related to expediting tax dispute resolution include: establishing clear internal tax administrative procedures to ensure that there are clear and consistent interpretations of laws and regulations (domestic remedy); strengthening mutual agreement procedure (MAP) functions with dedicated personnel, adapting MAP and improving relevant procedures to the situations found in the BRI jurisdictions and ensuring taxpayers' accessibility to MAP; drawing up a list of MAP contact points in the BRITACOM tax administrations and publishing it on the BRITACOM website; extending tax treaty networks; holding workshops to facilitate the negotiation and interpretation of tax treaties; and endorsing the minimum standards proposed under the Base Erosion and Profit Shifting (BEPS) Action 14. The aforementioned actions and a 2-year plan that have been agreed upon demonstrate commitments by BRITACOM Council Members to provide effective

<sup>1</sup> <https://www.yidaiyilu.gov.cn/>

<sup>2</sup> <http://www.britacom.org/jzgk/britacom/>

tax dispute settlement methods for taxpayers and to build a growth-friendly tax environment.

To implement Wuzhen Action Plan (2019-2021), the Expediting Tax Dispute Resolution Task Force was established in the first BRITACOF, chaired by Indonesia and joined by 10 BRITACOM Council Members including Algeria, Cambodia, China, Democratic Republic of the Congo, Djibouti,

Hong Kong China, Kuwait, Mongolia, Rwanda and Senegal, and 5 observers including New Zealand, Qatar, Singapore, Saudi Arabia and OECD Business and Industry Advisory Committee (BIAC). The Task Force is responsible for drafting Interim and Final Reports assessing the implementation of Wuzhen Action Plan (2019-2021), of which the Final Report will be submitted to the second BRITACOF in 2021.

## 1.2 Why is Expediting Tax Dispute Resolution Important in BRI Context?

International tax disputes inevitably occurred as the frequency of international transactions increases.

In 1924, the Permanent Court of International Justice defined dispute as “disagreement on a point of law or fact, a conflict of legal views or of interests between two persons”<sup>3</sup>. While in international taxation context, tax disputes take place when there is a disagreement between the taxpayer and the tax authority in respect of the taxpayer’s tax liabilities or entitlements and related issues.<sup>4</sup>

Resolving dispute in a timely manner is indeed an essential spectrum of international taxation to which tax authorities should pay their serious concern, due to its impact to national economy as a whole. For the purpose of maintaining national revenue function, an excessive backlog of tax dispute is a serious threat for jurisdictions’ attempt to collect revenue.<sup>5</sup>

Effective dispute resolution and prevention could save compliance cost borne by taxpayers and administrative cost borne by tax authorities, which helps build a more efficient mechanism within a tax system. Given the high costs of litigation and a lengthy time of dispute settlement, which may act as a barrier to the effective accessibility of the external tax dispute resolution system<sup>6</sup>, an enhancement of dispute prevention function is considerably significant for BRI jurisdictions’ tax system.

Moreover, dispute resolution is a significant factor in the decision-making process undertaken by business in general. From taxpayers’ perspective, tax disputes resolution could be seen as an indicator of certainty. The aspect of certainty is of obvious concern to businesses, as they seek adequate and reliable guidance for the investment, employment, organizational and other decisions they need to

<sup>3</sup> Riza, Limor (2014), Taxpayers’ Lack of Standing in International Tax Dispute Resolutions: An Analysis Based on the Hybrid Norms in International Taxation, Vol 3, 24, p.1

<sup>4</sup> Jone, Melinda (2016), Tax Dispute System Design: International Comparisons and the Development of Guidance from New Zealand Perspective, University of Canterbury.

<sup>5</sup> Thuronyi, Victor. Espejo, Isabel (2013), How Can an Excessive Volume of Tax Disputes Be Dealt With?, International Monetary Fund, p.1

<sup>6</sup> Tran-Nam, Bin. Walpole, Michael (2016), Tax Disputes, Litigation Costs, and Access to Justice, UNSW e-Journal of Tax Research, Vol 14, no.2, p.319

take.<sup>7</sup>

Therefore, the vision raised amidst the endeavor of tax authorities to facilitate a supportive environment to boost the economy should be not only on designing effective and workable policies to prevent and resolve dispute, but also, importantly, on expediting the process of tax dispute resolution.

In the case of BRI jurisdictions, the aforementioned importance of expediting tax dispute resolution becomes more salient. According to Discussion Paper on Improving Dispute Settlement among BRI jurisdictions on Dispute Settlement for Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF) 2019, higher percentage of disputes occurred between taxpayers and tax

authorities in Asia Pacific and Africa, which are likely caused by the fact that the major investment destinations, over 50% of the BRI jurisdictions, are in Asia Pacific and Africa. Other than that, the impact of developmental stage of an economy on their tax administrations is predicted to be a factor of high tax disputes frequency in Asia and Africa.

Considering the wide range of geographic regions of BRI jurisdictions, with divergent domestic tax laws, administrative systems, tax treaty networks and cultural backgrounds, an in-depth analysis on tax disputes which occur therein and relevant recommendations on expediting tax dispute resolution are of great value for taxpayers and tax authorities.

### 1.3 Scope

The endeavor of expediting tax dispute resolution put forward by Wuzhen Action Plan (2019-2021) has been extensively pursued by BRI jurisdictions, which begins with an attempt to implement the recommendations of Wuzhen Action Plan (2019-2021), combining with BRI jurisdictions' specific characters and practices relating to tax dispute resolution.

An Interim Report assessing the first-year implementation of Wuzhen Action Plan was completed in 2020 and made by incorporating feedback of questionnaires designed both by BRITACOM Secretariat and the Expediting Tax Dispute Resolution Task Force to seek for preliminary understanding of BRI jurisdictions'

practice and jurisdiction-specific circumstances.

The Final Report, aiming at describing and measuring the efforts in implementing Wuzhen Action Plan(2019-2021), is based on a comprehensive study of BRITACOM Council Members in relation to tax dispute resolution, especially during COVID-19 pandemic. This report is made to provide BRITACOM members with adequate information, comprises of facts, analysis and recommendations, hence they will be able to consider feasible actions to implement in order to reduce, prevent and resolve tax dispute in a timely manner.

This report consists of 4 parts, which begins with a brief introduction in Part 1 of BRITACOM and

<sup>7</sup> International Monetary Fund, OECD (2017), Tax Certainty, IMF-OECD Report for the G20 Finance Ministers, p.9

Wuzhen Action Plan (2019-2021). Following the introduction, part 2 is embedded with findings of the Interim Report, which illustrates the types and causes of tax disputes occurred in, and current dispute prevention and resolution mechanisms applied in BRITACOM Council Members, based on the results of questionnaires to relevant tax authorities and taxpayers. Part 3 outlines the efforts of implementing Wuzhen Action Plan (2019-2021) regarding tax dispute resolution by BRITACOM Council Members, in the aspects of domestic remedy, MAP, extending tax treaty network, endorsing the minimum standards proposed under BEPS Action 14, measures in response to COVID-19, as well as building BRITACOM Website and hosting training workshops. Part 4 recommends immediate and long term measures for expediting tax dispute resolution.

The underlying dispute resolution mechanism to refer is that proposed by G20/OECD Guidelines for its widely implementation within jurisdictions' international taxation practice through their double taxation agreement, despite the absence of abovementioned mechanisms operation in some BRI jurisdictions. Consequently, the work plan on expediting tax dispute resolution is designed for income tax and other similar direct tax which are covered in tax treaty. Then, since generally value-added tax (VAT) is not included within tax treaty coverage, it is not covered in Task Force's work plan.



# Tax Dispute in BRITACOM Council Members

## 2.1 Summary of Findings

Primary data attained from the questionnaires coming from both tax administrations of BRITACOM Council Members and taxpayers revealed key findings. In terms of the types of tax disputes, as described in 2.2 below, transfer pricing and withholding taxes are two major causes of disputes. In practice, some jurisdictions have already set up specific units in charge of resolving cross-border disputes according to types of disputes, namely transfer pricing-caused disputes and others.

As jurisdictions aim for the accelerated cross-border tax dispute resolution mechanisms, which also encompasses dispute prevention, one of the prerequisite strides taken is examining the causes of disputes and the existing factors which cause the delay in resolving disputes.

The causes of tax disputes, as reported in 2.3, are inconsistent tax policy application, insufficient understanding of local tax laws, lack of clarity in tax policies and tax rules, and frequent or sudden changes of tax rules. Referred to such, certain actions could be taken by the tax administrations to prevent, or alleviate, the possibility of disputes before it happened.

Section 2.4 introduces current dispute prevention and resolution mechanisms of BRITACOM Council Members. Possible issues to be concerned are complex procedures, long-time span of processing, lack of professional and experienced judges in the courts, and partiality issue on domestic remedy mechanism.

## 2.2 Types of Disputes

According to the jurisdictions' responses to the Task Force Questionnaire for BRITACOM Council Members circulated in February 2020, transfer pricing, permanent establishment (PE),

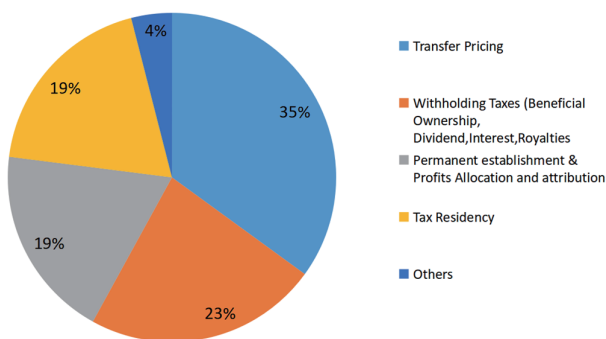
tax residency, and withholding tax (WHT) (e.g. beneficial ownership, dividends, interests, royalties) are the most frequently observed subjects of cross-border tax disputes (corporate income tax), which



are presented below.

Transfer pricing is the most frequent cause of cross-border disputes in respondents as it is reported 35% of observed cases, followed by WHT with 23%, PE and Tax Residency with 19% each. However, some BRI jurisdictions reported they have not encountered cross-border dispute cases yet.

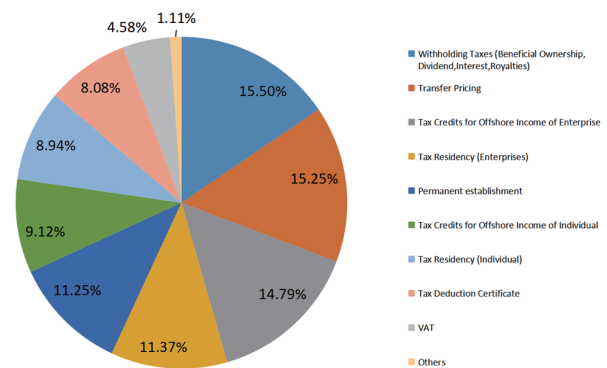
Figure 1: Types of Disputes in BRITACOM Council Members



Source: Questionnaire for BRITACOM Council Members, February 2020

In the Task Force Questionnaire circulated to taxpayers in April 2020, the types of tax disputes reported by taxpayers are basically aligned with the result reported by tax authorities, with a large proportion of tax disputes on WHT, transfer pricing and PE. And tax disputes related to tax credits for offshore income and tax residency reported significant percentages of observed cases.

Figure 2: Types of Disputes from Taxpayers' perspective



Source: Questionnaire for Taxpayers, April 2020

## 2.3 Causes of Disputes

International tax disputes have been increasing since cross-border transactions undertaken by multinational businesses arose. Specifically in BRI jurisdictions, which are located mostly in Asia Pacific and Africa regions, the high frequency of disputes occurred as the level of investment by multinationals in those regions increased.

Several factors are raised as the trigger of tax disputes. The lack of clarity in tax policies and tax rules is one of such. In a case of tax policy implemented without sufficient level of clarity in the interpretation, as well as with the lack of platform provided by tax authorities to guide taxpayers in the application, such as through representatives

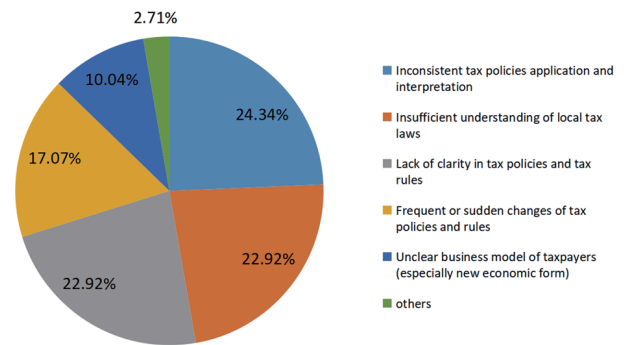
in tax office or official media that is accessible by taxpayers, the possibility of dispute occurrence in a jurisdiction could be higher than it would be if clarity had been more properly provided.

Another major cause of tax disputes in BRI jurisdictions is insufficient understanding on international tax laws, which may lead to inconsistent interpretation or application of tax policies, and the possible tax audit triggered by which would be more cumbersome for taxpayers, which would, in turn, have a negative impact on taxpayers' compliance and undermine the fairness of a jurisdiction's tax system.

According to the Task Force Questionnaire

circulated to taxpayers in April 2020, “inconsistent application or interpretation of tax policies” is the most common cause of tax disputes, accounting for 24.34% of the reported cases, followed by “insufficient understanding of local tax laws” and “lack of clarity in tax policies and tax rules” which accounted for 22.92% of the total results. Some other frequently observed causes may include “frequent or sudden changes of tax policies and rules”, and “unclear business model of taxpayers”.

Figure 3: Causes of Disputes from Taxpayers’ Perspective



Source: Questionnaire for Taxpayers, April 2020

## 2.4 Current Mechanisms of Dispute Prevention and Resolution

### 2.4.1 Domestic Remedies

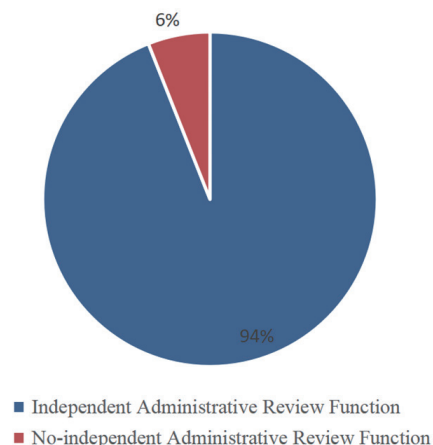
The purpose of administrative review procedure is to provide taxpayers that disagree with certain actions of the tax administration the ability to request a review of the action at the root of the dispute<sup>8</sup>. Resolution through administrative review (and not litigation) is less costly from both financial and human resource perspectives, and it is generally more efficient for both the administrations and the taxpayers.

One of the most crucial aspects of a successful administrative review mechanism is the independent operation apart from exam, audit and collection functions of the administration. The body whose duty is reviewing the taxpayer’s appeal should seek to resolve tax disputes in a fair and impartial manner. The effectiveness of administrative review function is impactful for the entire domestic remedy system. Deficient functioning of the administrative review process, as well as other factors such as application of rules concerning deferral of payment

and interest could lead to excessive backlogs of judicial appeals on court<sup>9</sup>.

According to the questionnaire circulated to BRITACOM Council Members in 2020 April, 94% of the respondents have independent administrative review within their tax systems of which function is separated from tax collection and audit.

Figure 4: Administrative Review Function in BRITACOM Council Members



Source: Questionnaire for BRITACOM Council Members, February 2020

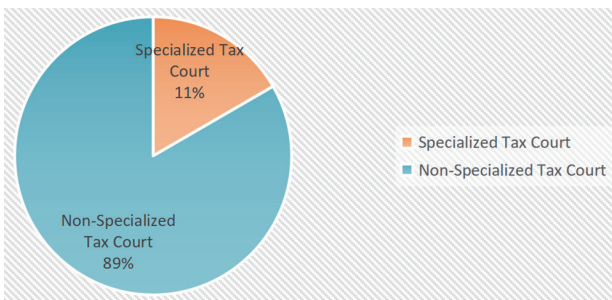
<sup>8</sup> Committee of Experts in International Cooperation in Tax Matters (2019), Preliminary Draft of the Chapter on Domestic Dispute Resolution Mechanisms, United Nations, p.12

<sup>9</sup> Thuronyi, Victor. Espejo, Isabel (2013), How Can an Excessive Volume of Tax Disputes Be Dealt With?, International Monetary Fund, p.26

Other than administrative review, domestic remedies are also provided in court through judicial litigation. There are three types of judicial litigation to which the appeal in respect of tax dispute could be escalated, which are general courts, general courts with specialized chambers in charge of reviewing tax cases, and courts specialized in taxation<sup>10</sup>. Among the three aforementioned types, most experts suggested that the last design tends to be the best for tax dispute resolution proceedings.<sup>11</sup>

Based on the data obtained from the survey for tax authorities, there are 11% of respondents of which system separates the court of tax litigation case from that of other matters, while the rest of the respondents' court system do otherwise. The chart is as follow:

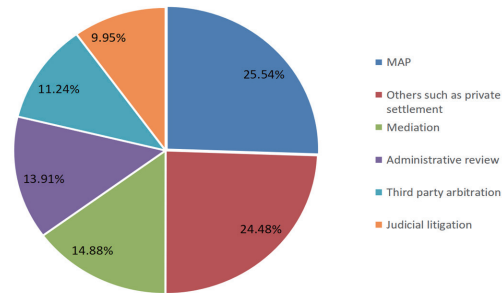
Figure 5: The Existence of Specialized Tax Court in BRITACOM Council Members



Source: Task Force's Questionnaire for BRITACOM Council Members, February 2020

As per the feedback from taxpayers, weaker preference for domestic remedy is observed when encountering tax disputes in BRITACOM context. Only 13.91% and 9.5% of respondents prefer to “administrative review” and “judicial litigation” respectively while 25.54% to “MAP” and 24.48% to “others such as private settlement”.

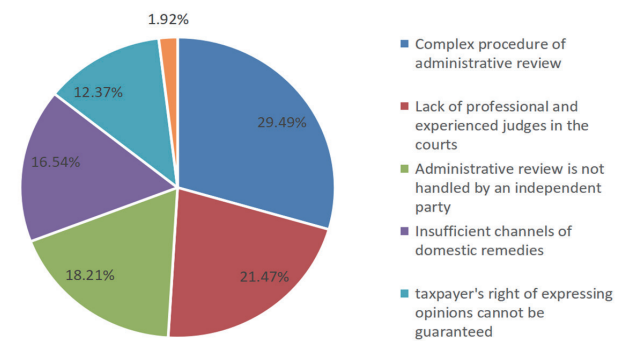
Figure 6: Resolution Mechanisms Preferred by Taxpayers



Source: Questionnaire for Taxpayers, April 2020

Such reluctance may root in the respondents' concerns about the possible drawbacks of domestic dispute resolution in BRI jurisdictions, which includes “complex procedures and long-time span of judicial litigation”, “lack of professional and experienced judges in the courts”, “tax administrative review not being handled by an independent party”, etc.

Figure 7: Drawbacks of Domestic Dispute Resolution from Taxpayers' Perspective



Source: Questionnaire for Taxpayers, April 2020

### 2.4.2 Dispute Prevention through APA

APA is an agreement between an enterprise and its tax administration that determines, generally in advance of controlled transactions, an appropriate transfer pricing methodology for the determination of the arm's length result of those transactions over a fixed period of time.<sup>12</sup>

APA benefits both of taxpayer and tax authority

10 Thuronyi, Victor. Espejo, Isabel (2013), How Can an Excessive Volume of Tax Disputes Be Dealt With?, International Monetary Fund, p.27

11 ibid.

12 European Commission (2005), Secretariat Discussion Paper on Alternative Dispute Avoidance and Resolution Procedures, EU Joint Transfer Pricing Forum, p.4

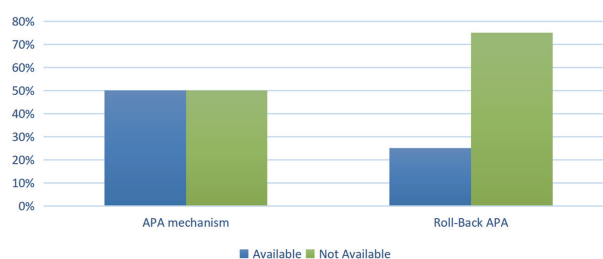
as to overcome uncertainty of transfer pricing, as well as to reduce the likelihood of lengthy dispute resolution procedures and the considerable cost thereof. Consequently, because of the certainty granted, an enterprise may be in a better position to predict its tax liabilities and the government could provide a supportive environment for investment<sup>13</sup>.

APA mechanism in BRITACOM Council Members begins to secure its place within the tax system, as 50% of the respondents of Task Force's Questionnaire convey that tax authorities may seek APA mechanism to prevent cross-border tax dispute. However, only 25% of them adopt roll-back provision for APA.

It is indicated that the prospect of a roll-back provision in an APA to resolve past open tax years is an incentive for taxpayers to request APA, as the roll-back may provide a cost-effective way to resolve an ongoing transfer pricing dispute.

However, it is noteworthy to allow roll-back in appropriate cases only, which is subject to the applicable time limits (such as statutes of limitation for assessment), where the relevant facts and circumstances in the earlier tax years are the same and subject to the verification of these facts and circumstances on audit<sup>14</sup>.

Figure 8: APA Mechanism in BRITACOM Members



Source: Questionnaire for BRITACOM Council Members, February 2020

### 2.4.3 MAP

MAP is a mechanism which is independent from the ordinary legal remedies available under domestic law, through which the competent authorities of the Contracting States may resolve differences or difficulties regarding the interpretation or application of their tax treaties on a mutually-agreed basis<sup>15</sup>.

Although tax treaties directly resolve the possibility of international double taxation, the issue of double taxation may remain where two tax authorities disagree on the interpretation or application of a treaty provision. This is where MAP article of a tax treaty promisingly and extensively functions as a resolving mechanism of cross-border tax disputes.

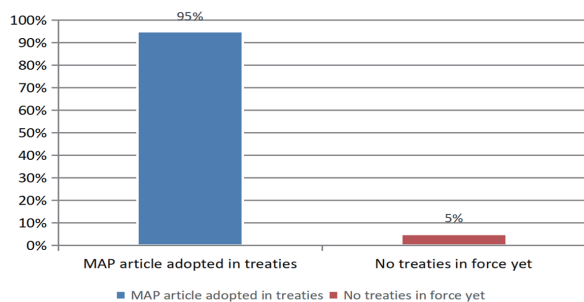
Pursuant to respondents of Task Force's Questionnaire for Council Members, 95% of which have adopted article to undertake MAP within their treaties, in the event of disputes occurred on tax treatment that is not in accordance with provisions of the treaty. The rest of Council Members, counted as much as 5%, conveyed that they currently do not have any tax treaty in force yet, whereby the tax treaty development is in progress.

<sup>13</sup> *ibid*

<sup>14</sup> OECD (2018), Making Dispute Resolution More Effective – MAP Peer Review Report, Israel (Stage 1): Inclusive Framework on BEPS Action 14, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, p.19

<sup>15</sup> OECD (2019), BEPS Action 14: Mutual Agreement Procedure, OECD/G20 Base Erosion and Profit Shifting Project, <http://www.oecd.org/tax/beps/beps-actions/action14/>

Figure 9: MAP article adopted in treaties of BRITACOM Council Members



Source: Questionnaire for BRITACOM Council Members, February 2020

One of the most essential concerns in terms of MAP is on how to resolve MAP cases within a reasonable timeframe as early as possible.

Recent OECD statistics show that tax administrations are closing more cases than previous years. Yet, new MAP cases as from 2016 are increasing significantly, thus putting upward pressure on jurisdictions' MAP inventories. While anecdotal evidence suggests that the increase in new MAP cases is due to various kinds of factors, it is clear that facilitating the effectiveness and efficiency of MAP between jurisdictions is necessary to resolve such cases in a timely manner.

Practically, resolving MAP cases within average time of 24 months is a considerable challenge for tax authority of BRI jurisdictions. Not only BRI jurisdictions are in their endeavor to overcome several constrains, such as resources, structural, and legislative ones, but also because many BRI jurisdictions are less experienced in handling such cases. In fact, 53% of respondents conveyed zero MAP filing by taxpayers in their jurisdictions in so far.

# Implementation of Wuzhen Action Plan (2019-2021)

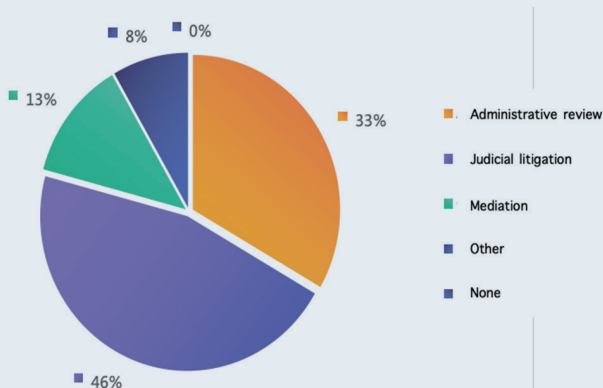
To prevent tax disputes to the largest extent and expedite tax dispute resolution, the measures proposed in the Wuzhen Action Plan (2019-2021) are recommended for the BRITACOM Council Members to implement. An extensive research on the implementation of Wuzhen Action Plan (2019-2021), by BRITACOM Council Members in particular, has been presented below, demonstrating

that tremendous efforts have been made in this regard. Such efforts refer to jurisdictional practices of domestic remedies, MAP, extending treaty network, endorsing minimum standards of BEPS Action 14, tax measures in response to COVID-19 pandemic, and BRITACOM's endeavors to establish website and holding training workshops.

## 3.1 Domestic Remedies

Effective and impartial domestic remedies are very important to both taxpayers and tax authorities. According to the Questionnaire circulated to BRITACOM Council Members in May 2021, judicial litigation is the most commonly used domestic remedy as reported by 46% of respondents, followed by administrative review by 33%, mediation by 13%, and other mechanisms by 8%.

Figure 10: Types of Domestic Remedies



Source: Questionnaire for BRITACOM Council Members, May 2021

### 3.1.1 Administrative Review

Those taxpayers who operate business and disagree with the tax authorities' assessments or decisions, should be entitled to the access of administrative review within the tax administration. It would be quite long and costly for the taxpayers if they have no option but to file a lawsuit for judicial litigation with court or tribunal. The administrative review provides a means to protect taxpayers' rights in a more economical, speedier and simpler way than the judicial procedure, and may also serve as a quasi internal control where misjudgements made by tax officials can be rectified within the tax authority. Therefore, the access to administrative review within the tax administration could be deemed as an efficient dispute resolution mechanism that will benefit taxpayer as well as tax authorities.

The actions proposed in the Wuzhen Action Plan (2019-2021) call for endeavors from BRITACOM



Council Members to provide taxpayers with good access to dispute resolution mechanisms including administrative review. In some of the BRITACOM Council Members, such review is conducted by a tax department per se which makes decisions on tax imposition, while in other jurisdictions, there is a tribunal-type administrative institution which reviews disputed cases independently from the decision-making department. The competent authorities of Hong Kong China, Kuwait and Sierra Leone have provided taxpayers with access to administrative review.

- **In Hong Kong, China**, any taxpayer aggrieved by an assessment can exercise his or her right of objection by giving a written notice of objection to the Commissioner of Inland Revenue within one month after the notice of assessment. An acknowledgement letter will be issued upon receipt of the objection. After examining the objection, the Assessing Officer will issue a “notice of settlement of objection” or a “notice of decision by Assessing Officer”. The “notice of settlement of objection” refers to a notice of revised assessment, a notification of refund, or a letter notifying the settlement of objection. If the objection cannot be settled right away, a “notice of decision by Assessing Officer” will be issued to the taxpayer to seek further information, propose a basis of settlement of the objection, invite the taxpayer to withdraw the objection, or notify the taxpayer that the case has been referred to the Commissioner for determination.<sup>17</sup>

- **In Kuwait**, if the tax assessment is not acceptable to the taxpayer, the taxpayer has the option to file an

objection to the tax authority within 60 days upon the issued tax assessment. If such dispute could not be resolved within 90 days upon the objection is raised, the taxpayer has the right to have the case heard by the Tax Appeal Committee. The tax appeal has to be filed within 30 days from the date of the tax authorities’ letter in response to the tax objection or, in the case of no response from the tax authority, the tax appeal has to be filed within 30 days after the end of the 90-days period from the date the objection letter is filed. If the taxpayer is not satisfied with the Appeal Committee’s decision, the case can then be submitted to civil courts within 60 days of the date that the Tax Appeal Committee rejected their appeals.<sup>18</sup>

- **In Sierra Leone**, the taxpayer who is dissatisfied with an assessment made by the tax authority may file an objection to the Commissioner of tax authority within 30 days of the receipt of assessment. The objection shall be in written form and specify the grounds upon which it is made, the facts, point of law at issue and the amount of tax which the taxpayer believes should be assessed on him. In considering the objection, the Commissioner may require any book or record and examine any person in accordance with tax law. The Commissioner may consent to the objection completely or partly and amend the assessment accordingly or veto the objection. The Commissioner shall serve the taxpayer with a copy of the objection decision. In a case where an objection decision has not been made by the Commissioner within 90 days after the taxpayer filed the objection, the taxpayer, upon sending a notice in written form to the Commissioner, is allowed to deem the objection

<sup>17</sup> <https://www.ird.gov.hk/eng/abo/>

<sup>18</sup> RSM Kuwait, Kuwait Tax Guide, p10.



as been consented. Where a taxpayer has filed an objection and the Commissioner consents to the objection, the latter shall amend the assessment in accordance with the objection decision.

A taxpayer who fails to file an objection within the period may, (i) on payment of the fee specified; and (ii) on production of an affidavit specifying the reasons for the delay, file with the Commissioner a late objection to an assessment no later than one year after the end of the year of assessment or three months after the notice of assessment.<sup>19</sup>

### 3.1.2 Judicial Litigation

Due to the complexity of tax law, a jurisdiction's legal system may have a specialized court or tribunal that is responsible solely for tax issues, to which the issues may be limited to a particular category of tax matters, such as international disputes, or may extend to a wide variety of direct and indirect tax matters<sup>20</sup>.

Specialized tax court or tribunal may benefit the whole dispute resolution system of a jurisdiction to some extent. First, the narrower scope of a tax court or tribunal could enable an establishment of streamlined and efficient process for hearing cases. Second, the narrower scope requires the court or tribunal to set the standard for more targeted members recruitment, such as those with prior expertise in taxation. This would facilitate a jurisdiction's ability to deliberate on tax dispute, which can often be highly technical in nature<sup>21</sup>.

Tax courts or tribunals are also useful to ease the

workload of a jurisdiction's traditional court system. Importantly, the specialized tax courts or tribunals encourage a faster and more efficient disposition of tax disputes than the traditional courts<sup>22</sup>. Examples of jurisdictions that have already provided judicial litigation or even established tax court or tribunal are **Indonesia, Nigeria and Uruguay**.

- **In Indonesia**, the Tax Court is part of the administrative court system under the judicial power of the Supreme Court and managed by the Supreme Court, while the Ministry of Finance has the authority to develop its organization, administration, and finance of the Tax Court.

The taxpayer can appeal to the Tax Court against the decision of Directorate General of Taxes (DGT) within 3 months after the receipt of the DGT's decision. The Tax Court will conduct hearings on the appeal and must conclude within twelve months after the appeal is filed. Based on Article 81 of the Tax Court Law, the Tax Court is required to issue a decision on an appeal within 12 months, while in the case of extraordinary procedure, the decision must be pronounced within 15 months (12 months plus a three-month extension). In terms of a lawsuit, the Tax Court is required to issue a decision within 6 months, yet in the case of extraordinary procedure, this could be extended until 9 months (6 months plus a 3-month extension). If the Tax Court decision is considered unfavorable to either the taxpayer or DGT, both parties are entitled to request a judicial review application to the Supreme Court.<sup>23</sup>

- **In Nigeria**, the Fifth Schedule to Federal Inland

19 <https://www.nra.gov.sl/sites/default/files/Income%20Tax%20Act%202000%20as%20amended%20%28Revised%20to%20FA%202015%29.pdf>, p96.

20 Committee of Experts in International Cooperation in Tax Matters (2019), Preliminary Draft of the Chapter on Domestic Dispute Resolution Mechanisms, United Nations, p.28

21 *ibid*

22 *ibid*

23 <https://adcolaw.com/indonesian-tax-disputes-and-litigation/>

Revenue Service (FIRS) (Establishment) Act provides for the establishment of Tax Appeal Tribunal (TAT) for each of the six geopolitical zones of Nigeria. If a valid objection is lodged by a taxpayer, and FIRS issues a notice of a refusal to amend or the taxpayer is still aggrieved by the revised amount as notified by FIRS, the taxpayer has the right to submit an appeal to TAT. And TAT is empowered to adjudicate on disputes and controversies arising from all the tax laws applicable in Nigeria and any other laws that may be made from time to time by the National Assembly in Nigeria. An appeal to TAT begins by filing a written notice within 30 days of receipt of a copy of the assessment, demand notice, order or notice of refusal to amend from FIRS. The notice must be in the prescribed form and be accompanied by the specified fee. The secretary to TAT is required to give a seven-day notice of the place and date of the hearing except in respect of an adjourned hearing for which the date was fixed in the previous hearing. After the hearings, TAT may confirm, reduce, increase or annul the assessment or make any of such orders which is deemed to be legitimate.

Every decision of TAT must be recorded in writing and signed by the chairman. A certified copy of the decision of TAT is made available to the taxpayer and to FIRS upon request within 30 days of such decision.<sup>24</sup>

**-In Uruguay**, once the determination is performed by General Directorate of Taxation (DGI) of Uruguay, the taxpayer can appeal within 10 days

after the date the respective notification is served. The recourses available to the taxpayer are an appeal for reversal submitted to DGI, and an appeal to executive authority submitted to the executive power (to which DGI reports). If the executive power definitively confirms the acts appealed, or if it fails to issue a pronouncement within a term of 200 days after the date the appeal is presented, the taxpayer may bring an action for annulment at the Court on Administration Matters within 60 days after the confirmation (either tacit or expressed). The Court, which serves as an independent judicial body instituted by the Constitution of Uruguay and is competent to rule on the legality of all the acts of the administration, will proceed to confirm or annul the act impugned by means of verdict, which is definitive in nature. Filing, proceedings, administrative recourses submitted to the executive authority and the action for annulment are not subject to any prior payment of taxes or related punitive charges.<sup>25</sup>

### 3.1.3 Efforts and Constraints on Domestic Remedy Improvement

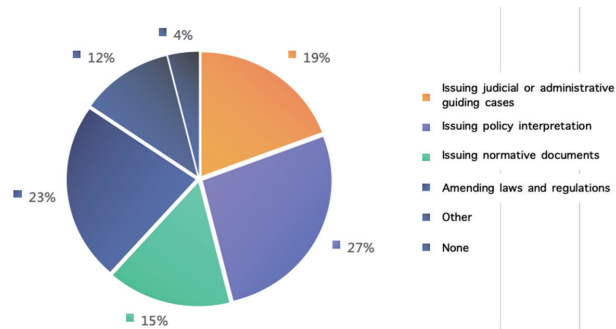
As set out in Wuzhen Action Plan (2019-2021), BRITACOM Council Members are encouraged to improve their domestic laws and regulations on dispute resolution, including establishing internal tax administrative procedures to ensure a clear and consistent interpretation on laws and regulations, and ameliorating domestic remedy mechanisms. Such practices have been extensively observed in many jurisdictions.

24 O. Adeniji & M. Okwusogu(2019), *Litigation and Its Importance in Strengthening Nigeria's Tax Administration*, Journals Tax Analysts

25 Mar í a Jos é Santos(2021), *Transfer Pricing – Country Tax Guides of Uruguay*, IBFD

According to the survey in May 2021 (see Figure 11), the regular instruments applied by BRITACOM Council Members to seek for a clear and consistent interpretation on laws and regulations include issuing judicial or administrative guiding cases (19%), policy interpretation (27%), and normative documents (15%). Other than that, 23% of respondents have amended their laws and regulations when necessary, and 12% of which have issued other public guidance, for example Departmental Interpretation and Practice Notes, expert opinions on the application of tax regulations which are provided and published by the Ministry of Finance, or instructions for tax proceedings.

Figure 11: Efforts to Ensure the Clarity and Consistency of Law and Regulations



Source: Questionnaire for BRITACOM Council Members, May 2021

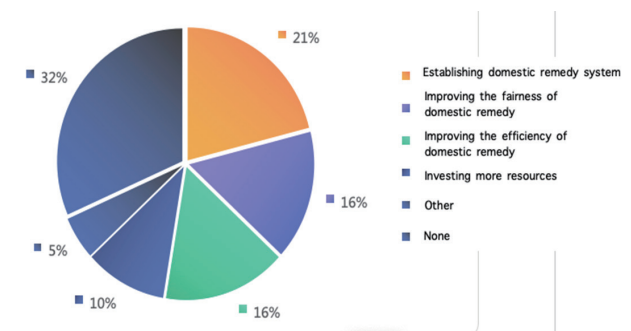
Among all the practices adopted, it worths special notice that China’s Supreme People’s Court and the Supreme People’s Procuratorate issue judicial and administrative cases regularly for the reference of both taxpayers and tax authorities; Serbia’s Ministry of Finance released an Opinion to clarify the procedures of obtaining tax administration’s professional interpretation on tax laws and regulations.

Furthermore, several BRITACOM Council Members have taken measures to ameliorate their domestic remedy mechanism (see Figure 12). Since

one of the impediments which hampers the effective domestic remedy is lack of the resources referred to in the Task Force Interim Report in June 2020, the survey shows that 32% of respondents have invested more resources on their existing domestic remedy mechanism to address the issue.

Besides, inefficiency and lack of impartiality are also bottlenecks in improving domestic remedy mechanism, with 16% of respondents have taken actions to enhance fairness and efficiency of domestic remedy respectively.

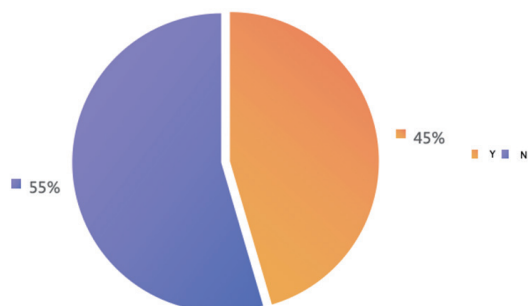
Figure 12: Efforts on Domestic Remedy Improvement



Source: Questionnaire for BRITACOM Council Members, May 2021

In addition to that, a consolidated legal base is an inseparable part of domestic remedy and dispute resolution endeavor. Among all the respondents in the survey in May 2021, (see Figure 13), 45% conveyed their plans on enacting laws and regulations to provide taxpayers with easier access to domestic remedy in their jurisdiction, while the rest 55% have not yet made such a plan.

Figure 13: Plan of Issuing Laws and Regulations for More Accessible Domestic Remedies



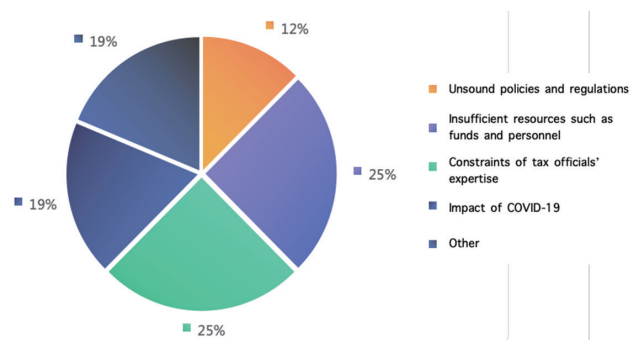
Source: Questionnaire for BRITACOM Council Members, May 2021

However, the absence of future plan on enacting laws and regulations to facilitate easier access to domestic remedies does not necessarily mean a lack of vision to reach a well-accessed remedy. Each jurisdiction faces specific constraints in the application of domestic remedy, which may differ from those of others and do need to be identified before carrying out a targeted strategy for a better tax dispute resolution mechanism.

According to the Questionnaire circulated to BRITACOM Council Members in May 2021, insufficient resources, such as funds and personnel,

and a lack of expertise are constraints encountered by most of the respondents, taking up 25% respectively among all the constraints listed in the questionnaire. In particular, disruptive impact of COVID-19 pandemic has obviously become an immense challenge globally, as 19% respondents opted it as another major constraint. And then, 12% of the respondents checked the box of unsound policies and regulations as a constraint they have been trying to overcome, while the rest 19% of respondents have found no constraints.

Figure 14: Constraints of Domestic Remedies



Source: Questionnaire for BRITACOM Council Members, May 2021

### 3.2 MAP

The provision generally included in the tax treaties dealing with cross-border dispute resolution is usually modeled along the lines of Article 25 of the OECD and UN Models, and allows taxpayers for a remedy when they have not been taxed in accordance with the provisions of the tax treaty could seek for the competent authorities to start MAP.

With the increasing amount of cross-border

tax disputes, MAP has become one of the most commonly used remedy over the years. However, MAP has often been criticized as being ineffective because of, inter alia, the lack of obligation placed on the competent authorities to resolve double taxation, lack of time limits for dispute resolution, lack of transparency and access for taxpayers, lack of synchronization with domestic procedures including lack of protection from tax collection

during pending MAP cases and lack of adequate framework for proper implementation of MAP in developing countries.

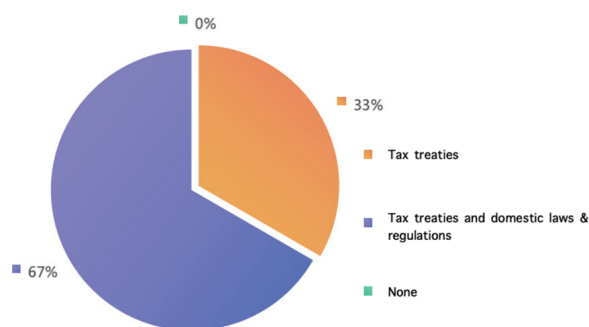
Hence, it is essential to focus on assessing whether the key elements of MAP which would constitute an effective MAP mechanism for resolving disputes have been properly implemented, and, sequentially, identifying the improvements made on such during 2019-2021 in BRITACOM context.

### 3.2.1 Legal Basis of MAP

According to the Questionnaire circulated to BRITACOM Council Members in May 2021, 67% of the respondents have built up legal basis for MAP in tax treaties and their domestic laws and regulations, while the rest 33% set out the legal basis for MAP only in tax treaties.

The enactment of provisions concerning MAP in domestic laws and regulations are serving the purpose of implementing provisions and detail guidance of MAP.

Figure 15: Legal Basis of MAP



Source: Questionnaire for BRITACOM Council Members, May 2021

### 3.2.2 Constraints on Conducting MAP Effectively

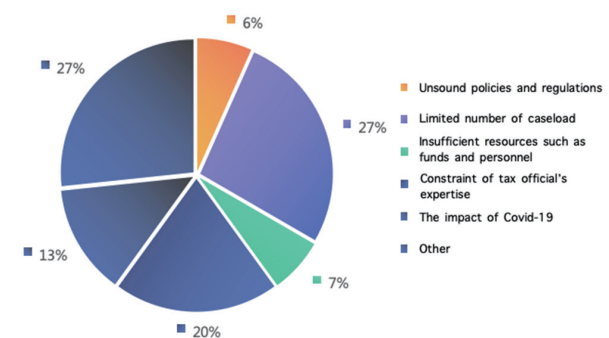
According to the Questionnaire circulated to BRITACOM Council Members in May 2021, jurisdictions perceive several constraints attached

to the effective application of MAP mechanism. 27% of the respondents state that the constraint for the MAP application is the limited number of caseloads. Tax officials' expertise is also found to be one of the most common constraints, say 20% of the respondents.

Another constraint in the application of MAP is the global pandemic which has been an immense challenge since 2020. COVID-19 brings multi-dimension negative impacts for tax authorities, one of which is in the effort of establishing an effective MAP for resolving dispute, as stated by 13% of the respondents.

In terms of the provisions concerning the MAP mechanism, 6% of BRI jurisdictions found the unsound policies and regulations as constraints for MAP application. The rest of the respondents, as much as 27% of the total, specify several constraints in their way of effective application of MAP, including a lack of communication and commitment from their treaty partners and a lack of restrictions, as well as the multiplicity, of the process of investigation, review, and taxpayers' objections.

Figure 16: Constraints on Effective MAP Mechanism



Source: Questionnaire for BRITACOM Council Members, May 2021



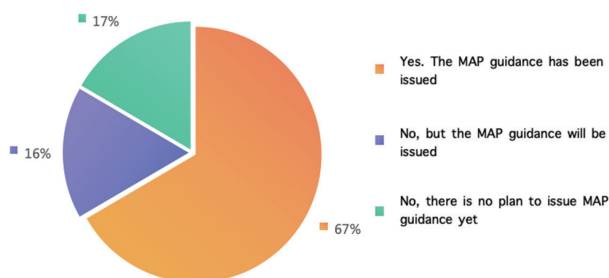
### 3.2.3 Adapting MAP and Improving Relevant Procedures

Other than the legal basis for MAP as a cross-border tax dispute resolution mechanism, official guidance on MAP, which clarifies concrete implementation procedures and administrative requirements, would be a necessary instrument.

According to the Questionnaire circulated to BRITACOM Council Members in May 2021, 67% of the respondents provide taxpayers with official guidance on MAP; 16% of them provide clear procedures of MAP though official guidance is still on its way.

And it is expressed by 17% of respondents that clear procedures of MAP have been provided in their jurisdictions, and there is temporarily no such a plan to issue official guidance on MAP.

Figure 17: Providing Clear Guidance of [ ]



Source: Questionnaire for BRITACOM Council Members, May 2021

Realizing the significance in providing and facilitating an effective and efficient cross-border tax dispute resolution mechanism, BRITACOM Council Members are making extensive efforts to improve MAP settlement process, and to ensure that MAP requests are received and reviewed in a timely manner. Hong Kong China, Mongolia and Pakistan are among those jurisdictions which give access

to MAP and publish MAP guidance to explain the procedures of MAP clearly and comprehensively.

-**In Hong Kong, China**, the Guidance on Mutual Agreement Procedure was published in 2019, with two stages concerning to MAP. The first stage involves the taxpayer and the competent authority of the treaty jurisdiction to which the MAP request is made. The MAP case presented by the taxpayer to the competent authority of either treaty jurisdiction will be considered by the competent authority whether the case is justified or not and whether it is able to arrive at a satisfactory solution itself. If the case cannot be resolved at the first stage, the competent authority has an obligation to endeavour to resolve the case and proceed to stage two. Stage two commences with the competent authority that has been presented with the case approaching the other competent authority. In stage two, both competent authorities have the duty to negotiate and to use their best endeavors to resolve the case. However, this does not mean that the competent authorities will resolve every case or necessarily relieve all taxation not in line with the treaty. If the competent authorities are unable to reach an agreement or the taxpayer does not accept such an agreement, subject to any referral of the issue for arbitration under the treaty, the competent authority of Hong Kong, China will close the case without implementing any agreement. The taxpayer may continue to seek other remedies under the Inland Revenue Ordinance or the domestic laws of the other treaty jurisdiction if still applicable.<sup>26</sup>

-**In Mongolia**, MAP was approved in 2013, and later renewed in 2019 in accordance with Article 17.3 of General law on Taxation. Taxpayer or competent

<sup>26</sup> Inland Revenue Department, Hong Kong, China, GUIDANCE ON MUTUAL AGREEMENT PROCEDURE (2019), p11.

authority may request in case when the taxation is not in accordance with the treaty.

According to the newly approved procedure, the following changes have been made to improve the whole MAP procedure: if the taxation indicated in the taxpayer's request is result of measures undertaken by Mongolia, either partially or wholly, the settlement period shall be 60 days; the taxpayer shall submit its pre-meeting request in written form and the dispute over the course of implementation of treaty shall be clarified in the request; pre-meeting shall be established in 10 days upon the receipt of the taxpayer's request; unless the term of submitting request is determined in the treaty, it shall be within 3 years since the first day that the taxpayer finds out about the circumstance that the taxation is not in accordance with the agreement or when such action is possible to result; the taxpayer shall deliver any additional information and documents which are required by the competent authority within 30 days (it has not been regulated by the previous procedure); in the event that the taxpayer has filed a claim related to the request to the tax dispute resolution council, the court or any other law enforcement agency, or that the claim is under review, MAP shall not be commenced until such claim is settled; in the event that the competent authority is available to reach an agreement with the contracting jurisdiction about the request, it shall be notified to the taxpayer in written form; the taxpayer shall submit her/his acceptance or refusal in writing within 30 days upon the receipt of the notification. The competent authority shall conclude MAP with

the contracting jurisdiction upon the acceptance of the agreement of the taxpayer.<sup>27</sup>

- **In Pakistan**, MAP procedure is provided in detail in the Rule 19D of Income Tax Rules 2002. Where a resident taxpayer, or a Pakistani national residing abroad, is aggrieved by any action of the tax authorities of any treaty partner of Pakistan, he may make a MAP application to the competent authority in Pakistan. Rule 19E(2) provides that the competent authority of Pakistan shall entertain all requests from the competent authority of a treaty partner. In the case the competent authority of Pakistan cannot resolve the matter on a unilateral basis, it would generate communication with the competent authority of the other jurisdiction, and both authorities would endeavour to resolve the matter through a consultative process, and arrive at a mutually agreed resolution. Wherever required, the Competent Authority of Pakistan shall give an opportunity of being heard to the applicant taxpayer in person, through an authorized representative or a counsel. The resolution arrived at under MAP, in consultation with the competent authority of the jurisdiction outside Pakistan, shall be communicated to the Commissioner concerned in writing. The competent authority of Pakistan shall endeavour to resolve or close the case within a period of one year from the date on which it receives the MAP application. The effect to the resolution arrived at under MAP shall be given by the Commissioner, notwithstanding any time limitations contained in domestic law.<sup>28</sup>

### 3.2.4 Ensuring Taxpayer's Accessibility to MAP

<sup>27</sup> <https://gratanet.com/news/mutual-agreement-procedure>

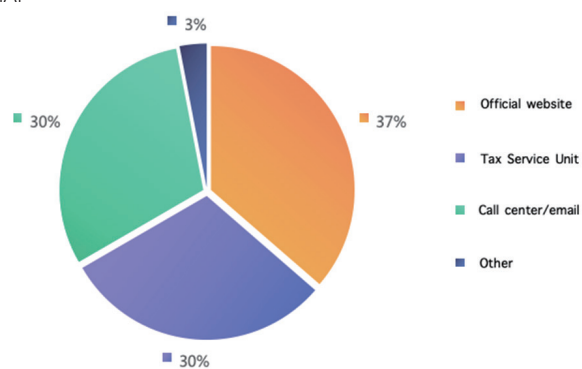
<sup>28</sup> Dr Ikramul Haq, LL.D, MA, LL.B, Pakistan – Transfer Pricing – Country Tax Guides (Last Reviewed: 1 February 2021), IBFD.



According to a survey conducted among BRITACOM Council Members, almost all respondents claimed that they do provide access of MAP to taxpayers properly, although some of them have not introduced specific MAP provisions into their domestic law yet. Also, they ensure important information related to MAP mechanism is widely available for the public, in the form of published tax regulations, call center, and government representatives in tax offices.

Questionnaire of the Task Force circulated in May 2021 revealed that official website is the most common media available for maintaining the awareness of the taxpayers regarding their access to MAP, followed by the Tax Service Unit itself and call center or email service, as presented below.

Figure 18: Instruments Used to Ensure Taxpayer' s Accessibility to MAP



Source: Questionnaire for BRITACOM Council Members, May 2021

The tax authorities of **Macau China, Serbia** and **Slovak Republic** have conducted measures to ensure taxpayers' accessibility to MAP.

-**Macau**, China's rules, guidelines and procedures of MAP are included in its Mutual Agreement Procedure Guidelines, and contains information of the following: contact information of the competent

authority or the office in charge of MAP cases; the manner and form in which the taxpayer should submit its MAP request; the specific information and documentation that should be included in a MAP request; MAP functions in terms of timing and the role of the competent authorities; relationship with available domestic remedies; access to MAP in transfer pricing cases, anti-abuse provisions and foreign initiated self-adjustments; implementation of MAP agreements (including the steps of the process and the timing of such steps for the implementation of MAP agreements, and any actions to be taken by taxpayers); rights and role of taxpayers in the process. As regards its accessibility, the above-described MAP guidance of Macau, China includes detailed information on the availability and the use of MAP and how its competent authority conducts the procedure in practice, and was lastly updated in May 2019, which can easily be found on the official website of the Financial Services Bureau of Macau, China ([www.dsf.gov.mo/download/tax/E\\_MAPGuidelines.pdf](http://www.dsf.gov.mo/download/tax/E_MAPGuidelines.pdf)).<sup>29</sup>

-**Serbia** has published its MAP Guidance Explanation on the Mutual Agreement Procedure under International Treaties for the Avoidance of Double Taxation in 2019, which guarantees the accessibility of taxpayers to the MAP in Serbia. The guidance specifies who are eligible to initiate the MAP and where and when taxpayers can submit their MAP requests in Serbia: taxpayers, who consider the taxation they bear is inconsistent with the provisions of tax treaties for avoidance of double taxation, could write requests through MAP directly

29 OECD (2020), Making Dispute Resolution More Effective – MAP Peer Review Report, Macau, China (Stage 1): Inclusive Framework on BEPS: Action 14, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/c5d34f2c-en>.

to the Ministry of Finance of Serbia. The guidance also contains a description of the MAP process and how Serbia conducts that process in practice and presents examples of cases for which a MAP request can be submitted, such as transfer pricing cases or dual residency. The detailed information contained in the above-described MAP guidance of Serbia provides the availability and the use of MAP and how its competent authority conducts the procedure in practice.<sup>30</sup>

- The **Slovak Republic** has issued detailed procedural rules on MAP arising from tax treaties, with which has taken into effect since July 1, 2019. As regards its accessibility, the Slovak Republic's MAP Guidance can easily be found on the website of the Slovak Ministry of Finance under the section financial regulations. This guidance applies to tax treaties and contains a general outline of the legal basis of MAP, scope of application as well as an outline of the MAP process. The Slovak Republic has also updated its MAP profile to remove certain sentences and stating that it would give access to MAP for cases concerning the application of treaty anti-abuse provisions.<sup>31</sup>

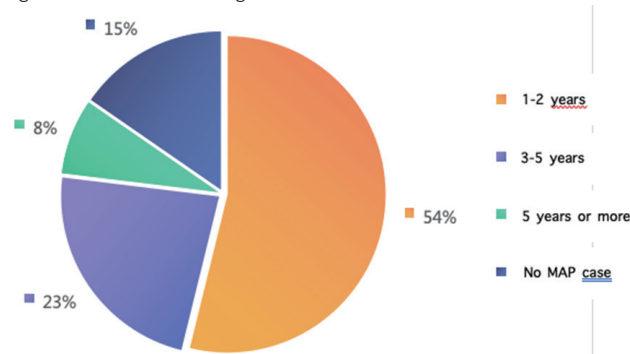
### 3.2.5 Expediting MAP Processing Time

MAP processing time is a crucial component of a well-established cross-border tax dispute prevention and resolution mechanism. One of the elements of OECD/G20 BEPS Action 14 minimum standard requires jurisdictions to seek to resolve MAP cases within an average time frame of 24 months.

Although the accomplishment to resolve MAP cases in 24-month time-frame is not merely depends

on one Competent Authority, due to its substance which involves two sovereign jurisdictions, BRI jurisdictions should put their good faith to resolve disputes in a timely manner. As per from the response of the Task Force Questionnaire in May 2021, 54% of the respondents have managed to frame the average MAP processing time within 1-2 years. 23% of the respondents have concluded the MAP cases within 3-5 years in average, while 8% of which require more than 5 years in average to conclude the MAP cases. 15% of the respondents do not have records on average MAP settlement time due to no incoming cases.

Figure 19: MAP Processing Time



Source: Questionnaire for BRITACOM Council Members, May 2021

### 3.2.6 Deploying Dedicated Unit or Personnel Responsible for MAP

The establishment of a dedicated MAP unit enables tax authority to handle the caseload in an efficient and professional manner. The competent authorities of Afghanistan, **China, Indonesia, Senegal** and **Slovak Republic** have made attempts to deploy dedicated personnel or unit responsible for MAP.

-In Afghanistan, the Tax Dispute Resolution Board has been established in accordance with Article

30 OECD (2020), Making Dispute Resolution More Effective - MAP Peer Review Report, Serbia (Stage 1): Inclusive Framework on BEPS: Action 14, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/c65f36fb-en>.

31 OECD (2021), Making Dispute Resolution More Effective - MAP Peer Review Report, The Slovak Republic (Stage 2): Inclusive Framework on BEPS: Action 14, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/df4ca02e-en>.

55 of the Tax Administration Law, Official Gazette No. 1198, dated 27/8/1394, in order to address the objections of taxpayers within the framework of the Ministry of Finance of the Islamic Republic of Afghanistan. It is independent and impartial, consisting of five expert members and a secretariat. Each member (one chairperson and four members) has expertise in the areas of Board Member in Economic Affairs, Board Member in Tax Affairs, Board Member in Private Sector Affairs, and Board Member in Accounting. The chairperson of the Tax Dispute Resolution Board shall be one of the Board members appointed by the President and the members shall be appointed for a term of five years and it can be extended for subsequent terms if they are eligible. The Tax Dispute Resolution Board shall have the duties of making a written decision as soon as practicable after the hearing has been completed and notifying the parties of the decision within 7 days of issuing the Decision.<sup>32</sup>

**-In China**, there are two divisions under the State Tax Administration with Competent Authority functions. The Anti-tax Avoidance Division II focuses on MAP cases and bilateral APA cases pursuant to transfer pricing. The other one is the Tax Treaty Division, which is responsible for non-transfer pricing MAP cases. The two divisions' functions are not merely on resolving cross-border tax disputes. Instead, besides MAP function, the Anti-Tax Avoidance Division II is also responsible for CbCR, while the Tax Treaty Division is for tax treaty negotiation and implementation.

Once the MAP team receive a MAP request, it will discuss the request with both taxpayers and

local auditors. Where the case is accepted into the MAP process, the staff in charge of the MAP case will inform the Provincial Tax Authorities in charge of the taxpayer on the initiation of the MAP process and ask for relevant information on the case. Upon examining the facts and circumstances of each case, the official in charge of the MAP case will independently prepare a position on the case. Where China's competent authority reaches a tentative agreement with the other competent authority concerned, it is sent for an approval to the Commissioner or the Deputy Commissioner of the State Tax Administration. Upon the approval to the tentative agreement, the competent authority will formally enter into a MAP agreement, which then will be implemented.<sup>33</sup>

**-In Indonesia**, it is clarified that in April 2016, the Director General of Taxes of Indonesia has established a specialised unit for dispute resolution under the Directorate of International Taxation, which is the sub-directorate of International Tax Dispute Prevention and Resolution. This unit started with 19 staff, one of whom is the head of the unit and is authorised to exercise the competent authority function. The number of the staff has increased to 31 by the end of 2018. Apart from the head of unit, all staff members are involved in handling MAP cases.

Upon receipt of a MAP request, it is being assigned to staff within the competent authority, which further handles the case. MAP analysts may hold discussions and receive recommendations from related units within the Directorate General of Tax, if necessary. For example, Indonesia has a Quality

32 <https://mof.gov.af/en/tax-disputes-resolution-board>

33 OECD (2019), Making Dispute Resolution More Effective – MAP Peer Review Report, China (Stage 1): Inclusive Framework on BEPS: Action 14, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/85e69082-en>.

Assurance Team, which provides consultation and assures the quality of position papers exchanged during MAP. Furthermore, once its MAP team enters into face-to-face meetings with other competent authorities, it has full authority to make decisions related to MAP. Staffs in charge of MAP in practice operates independently and has the authority to resolve MAP cases without being dependent on the approval and/or direction by the auditor who made the adjustment at issue or other external sources.<sup>34</sup>

**-In Senegal**, the Office of Litigation and the Office of Community and International Taxation under Department of Legislation, Studies and Litigation, are responsible for dealing with tax disputes. Its duty includes preparing international conventions, representing the Director General of Taxes and Domains in jurisdictional disputes relating to the tax base, tax control and collection, assisting the Director General of Taxes and Domains in the management of administrative litigation, and ensuring the correct application of international and community taxation.<sup>35</sup>

**-In Slovak Republic**, within the Ministry of Finance the competent authority is delegated to the Department of Direct Taxes within the Tax and Customs Sections, which handles both attribution/ allocation as well as other MAP cases under the tax treaty and the EU Arbitration Convention. Four of these nine employees are thereby dedicated to attribution/ allocation cases and five employees to other MAP cases. Staff in charge of MAP in

general has several years of experience in the area of international taxation and that the case handlers for attribution/allocation cases are transfer pricing experts. Several members of the MAP team regularly participate in meetings of international fora like OECD's working parties 1 and 6 or the EU Joint Transfer Pricing Forum and receive regularly specialised training on tax treaty application and transfer pricing. When a MAP request is received by its competent authority, the managing officer will designate a responsible case handler. All the position papers are prepared by the responsible case handler within its competent authority, which subsequently will be approved by supervisors and ultimately by the Director General of the Taxes and Customs section within the Ministry of Finance. The process and the role of the competent authority and the Financial Directorate are further described in paragraphs 3.1.8-3.1.10 of the Slovak Republic's MAP Guidance. The same applies when it concerns the decision to enter into a MAP agreement. In relation hereto, the Slovak Republic noted that members of the Financial Directorate might be invited to attend competent authority meetings to provide factual clarifications for the case under review, but only if the treaty partner agrees to this.<sup>36</sup>

<sup>34</sup> OECD (2019), Making Dispute Resolution More Effective – MAP Peer Review Report, Indonesia (Stage 1): Inclusive Framework on BEPS: Action 14, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/deb42398-en>.

<sup>35</sup> <http://www.impotsetdomaines.gouv.sn/fr/organigramme>

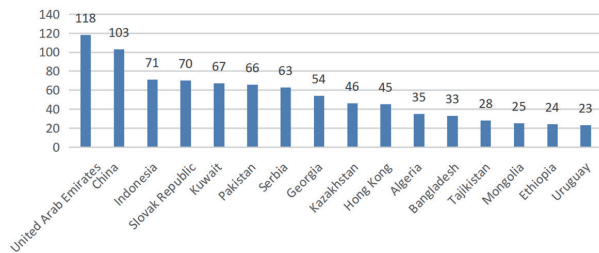
<sup>36</sup> OECD (2021), Making Dispute Resolution More Effective – MAP Peer Review Report, The Slovak Republic (Stage 2): Inclusive Framework on BEPS: Action 14, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/df4ca02e-en>.

### 3.3 Extending Tax Treaty Network

Tax treaty is the legal basis for conducting MAP and resolving tax disputes in a timely manner. The expansion of treaty network, therefore, is deemed as one of the most important actions to settle tax disputes.

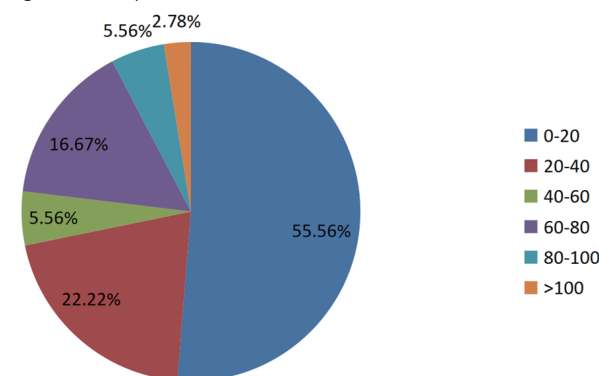
For the time being, 36 BRITACOM Council Members have tax treaties with MAP provisions for tax dispute resolution in force, but more than half of the Council Members have less than 20 treaties in force. The following charts describe BRITACOM Council Members' tax treaty network.

Figure 20: BRITACOM Members with more than 20 Treaties in force



Source: IBFD

Figure 21: Proportion of Treaties in force of BRITACOM members

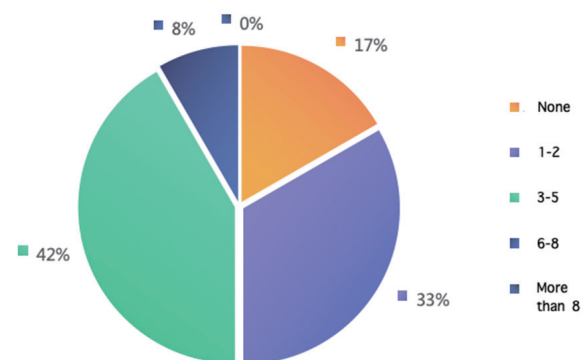


Source: IBFD

To expand tax treaty network, BRI Council Members have put their best effort to do which for a more enhanced dispute prevention and resolution. Most of the respondents of the 2021 Questionnaire, at 45% record, stated their plan of treaty network

expansion by the involvement of 6 to 8 treaty partners, followed by the involvement of 1 to 2 treaty partners according to 33% respondents, and 6-8 treaty partners for 8% respondents. However, 17% of the respondents conveyed that no treaty expansion plan is applicable in their jurisdictions.

Figure 22: Treaty Network Expansion Plan



Source: Questionnaire for BRITACOM Council Members, May 2021

Nevertheless, in the endeavor for expanding jurisdictions' treaty network, a wide range of challenges are identified. According to the 2021 Questionnaire, 7% of respondents perceive insufficient resources, such as funds and personnel, is a challenge for their plan to expand tax treaty network, while constraint of tax official's expertise is the issue thereto, according to 13% of the members.

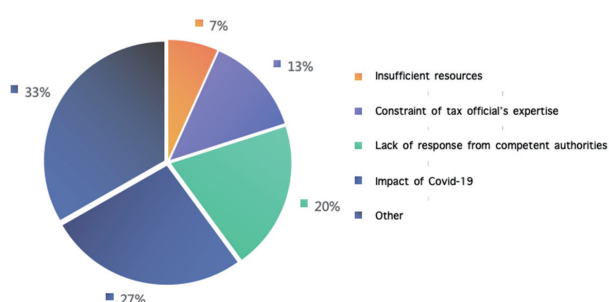
Notably, communication between competent authorities is a key factor in the expansion of tax treaty network. The development of treaty finalisation could not be accomplished as expected otherwise. In practical, 20% of respondents found this as a challenging issue.

Further, COVID-19 outbreak inevitably creates obstruction for tax treaty development, including in the negotiation process between competent



authorities, as depicted by the diagram below, by 27%. The pandemic is on the top constraints embraced by jurisdiction insofar, since the biggest percentage comes from the respondents is on “other constraints” by 33%. Hence the most common constraint on treaty network expansion is the negative impacts of COVID-19 of the respondents.

Figure 23: Constraints on Treaty Network Expansion Plan



Source: Questionnaire for BRITACOM Council Members, May 2021

An overview of BRITACOM Council Members' efforts in extending treaty network, such as **China, Hong Kong, China** and **United Arab Emirates**, are presented as follows.

- **China's** first tax treaty was concluded in 1983 and then China had extended its treaty network to 111 jurisdictions, along with its rapid economic development during the past decades. Tax treaties are useful for encouraging foreign investments into China and for Chinese enterprises going abroad as well, as they typically offer advantages for the taxation of corporate income tax, individual income tax, withholding taxes and dividend taxes, and provide tax certainty for bilateral investments and cross-border trading activities.

- **Hong Kong, China** has signed tax treaties with

45 jurisdictions to date<sup>37</sup>. It holds the view that developing a comprehensive tax treaty network to enhance Hong Kong, China's competitive advantage as a financial gateway to the world for both inbound and outbound investments is of great importance. Hong Kong, China passed the Inland Revenue (Amendment) (No.3) Bill 2009 and the Inland Revenue (Disclosures of Information) Rules on 6 January 2010 and 3 March 2010 respectively, so as to align its Exchange of Information arrangements with the international standard prescribed by the OECD.<sup>38</sup>

- **The United Arab Emirates** has concluded 135 tax treaties and arrangements with other jurisdictions, which includes most of the UAE trade partners and aims to reduce the tax burden on the sovereign-wealth funds, private investments and international airlines and to attract foreign direct investments and friendly investment environment. For expatriates, the treaties come into play when they have a second residency outside the UAE. For companies, treaties can result in exemptions and reduced withholding tax rates on dividends, interest and royalties.<sup>39</sup>

37 [https://www.ird.gov.hk/eng/tax/dta\\_inc.htm](https://www.ird.gov.hk/eng/tax/dta_inc.htm).

38 Lillian Poon, Shirley Lo, Hong Kong, China – An Overview of the Tax Treaty Network, [https://research.IBFD.org/#/doc?url=/collections/aptb/html/aptb\\_2011\\_06\\_hk\\_1.html](https://research.IBFD.org/#/doc?url=/collections/aptb/html/aptb_2011_06_hk_1.html).

39 Hull, H.R., United Arab Emirates: tax treaty relief on international investment, <https://research.IBFD.org/#/doc?url=/collections/bit/html/bifd020903.html>.

### 3.4 Endorsing the Minimum Standards Proposed under BEPS Action 14

In October, 2015, the final report on improving the effectiveness of dispute resolution mechanisms under BEPS Action 14 - Make dispute resolution mechanisms more effective - was released, which presents a commitment by G20 and OECD countries to implement a series of Minimum Standards on dispute resolution. The measures developed under BEPS Action 14 aim to strengthen the effectiveness and efficiency of the MAP process and to minimise the risks of uncertainty and unintended double taxation by ensuring the consistent and proper implementation of tax treaties, including the effective and timely resolution of disputes regarding their interpretation or application through MAP. The minimum standards are, ensuring that treaty obligations related to MAP are fully implemented in good faith and that MAP cases are resolved in a timely manner; ensuring the implementation of administrative processes that promote the prevention and timely resolution of treaty-related disputes; and ensuring that taxpayers can access the MAP when eligible.<sup>40</sup>

22 BRITACOM Council Members have joined the OECD Inclusive Framework, and committed to the implementation of BEPS Action 14 minimum standards. China, Hong Kong China, Kazakhstan, Indonesia, Macau China, Mongolia, Serbia, Slovak Republic and United Arab Emirates are also members of OECD MAP Forum, and have participated in the MAP peer review, which monitor the process of BEPS Action 14. The peer review and monitoring process are conducted by the Forum on Tax Administration MAP Forum in accordance with the Terms of Reference and Assessment Methodology, with all members participating on an equal footing. The peer review process is conducted in two stages. Stage 1 assessing jurisdictions against the terms of reference of the minimum standard according to an agreed schedule of review, and stage 2 focusing on monitoring the follow-up of any recommendations resulting from jurisdictions' stage 1 peer review report, have been or are being conducted as scheduled in the MAP Forum.<sup>41</sup>

### 3.5 Tax Measures in Response to COVID-19

The global spread of COVID-19 is causing an unprecedented health crisis and a sharp drop in economic activity. Containing the spread of the virus and mitigating the economic shock have rightly become the priority of public authorities, to reduce the incidence of the disease, limit the

pressure on healthcare systems and boost for a stronger economic rebound as more measures are released.

The containment and mitigation measures have already had sudden and profound economic

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

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



impacts on all taxpayers and administrations. OECD estimates that the containment measures could lead to an initial decline in output between one fifth and one quarter in many economies, with consumer spending falling initially by about one third - these are rough indications that only capture the direct effects of containment in a context of very large uncertainty.<sup>42</sup> Forceful actions have been undertaken by BRI jurisdictions to cushion the economic hardship caused by COVID-19 and direct effects of containment measures. Tax measures that BRITACOM Council Members have adopted to assist taxpayers in response to COVID-19 focus on the aspects of providing liquidity support to enterprises, to vulnerable individuals, and to social investment and consumption to help them stay afloat.

### 3.5.1 Survey Result of Measures in Response to COVID-19

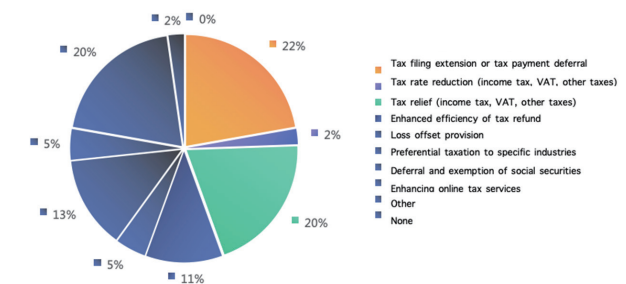
Widely-targeted measures have been undertaken by BRITACOM Council Members, which are intended to cover the downhill of income generated by the taxpayers and the difficulties to fulfil their tax obligation through a secure protocol. According to the result of the Questionnaire in May 2021, it is known that tax filing extension or tax payment deferral, tax relief on income tax, value-added tax, and other taxes, and enhancement of online tax services, are the most adopted measures taken by 22%, 20%, and 20% of respondents, respectively.

Other than that, in terms of facilitating taxpayers to cope with economic hindrance and cash flow issues, tax authorities assisted the taxpayers with an enhanced efficiency of tax refund in 11% of

respondents. Also, 5% of the respondents applied loss offset provision, 5% of them allowed the deferral and exemption of social securities, and the other 2% applied tax rate reduction of income tax, value-added tax, and other taxes.

Certain industries under some criteria, for example those tremendously affected by disruptive impact of the pandemic while absorbing a large number of workforces, are also entitled to tax incentives through preferential taxation regimes. This policy is implemented by 13% of the respondents.

Figure 24: Measures Adopted in Response to COVID-19



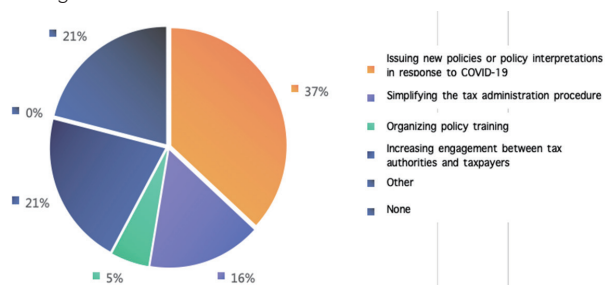
Source: Questionnaire for BRITACOM Council Members, May 2021

### 3.5.2 Measures To Prevent or Resolve Tax Disputes During COVID-19

COVID-19 pandemic and the adoption pertaining to tax treaties may induce tax disputes, including those stem from different interpretation of policies regarding to losses during the pandemic. The Questionnaire circulated in May 2021 is also intended to gain information on whether BRITACOM Members have implemented certain measures to prevent or resolve tax disputes arising from COVID-19.

42 OECD (2020), Evaluating the initial impact of COVID containment measures on economic activity, [https://read.oecd-ilibrary.org/view/?ref=126\\_126448-kcrc0cs6ia&title=EVALUATING\\_THE\\_INITIAL\\_IMPACT\\_OF\\_COVID\\_CONTAINMENT\\_MEASURES\\_ON\\_ECONOMIC\\_ACTIVITY](https://read.oecd-ilibrary.org/view/?ref=126_126448-kcrc0cs6ia&title=EVALUATING_THE_INITIAL_IMPACT_OF_COVID_CONTAINMENT_MEASURES_ON_ECONOMIC_ACTIVITY).

Figure 25: Measures Adopted to Prevent and Resolve Disputes Arising from COVID-19



Source: Questionnaire for BRITACOM Council Members, May 2021

The most applied strategy, accounting for 37% of the respondents, is preventing tax disputes by issuing new policies or policy interpretations in response to COVID-19, followed by increasing engagement between tax authorities and taxpayers, in the form of consultation during the conduct of tax compliance, taking up 21%. Simplifying tax administration is an adopted measures in 16% of the respondents and organizing policy training is implemented by the other 5%. 21% of the respondents, however, have not yet adopted measures in preventing and resolving tax disputes arising from COVID-19.

A noteworthy information revealed from the Questionnaire is that most of the respondents, of the 56% result, stated their immediate-term plan to introduce new tax policies to support taxpayers in response to COVID-19.

### 3.5.3 BRIATCOM Council Member Practice: Tax Measures for Enterprises

Supporting measures for enterprises are mainly focused on alleviating enterprises from cash flow difficulties which hinder their ability to pay for wages, rents, intermediate goods, interest on debt, and taxes because of the COVID-19. Tax measures

have been issued in Cambodia, Cameroon, China, Kazakhstan and Serbia to help enterprises, within which the most frequently adopted tax measure in this regard is the deferral of tax payments.

**-In Cambodia,** the Prime Minister has issued various Decisions relating to the policies and measures that will provide incentives to support Cambodian economy, in particular on the garment and tourism and hospitality sector. In response to COVID-19, from February to May 2020, hotels and guesthouses operating in Siem Reap are exempted from their monthly tax payment including VAT. Garment manufacturers are exempted from annual tax on income for a period from six months to one year depending on the actual impact. Deadline of monthly tax payments are extended for registered hotels, guesthouses, restaurants and travel agents in selected areas and taxpayers in the hotel and guesthouse business in Siam Reap temporarily exempt from all monthly tax payments.<sup>43</sup>

**-In Cameroon,** Government introduced economic measures in response to the COVID-19 pandemic: suspension of general accounting checks for the second quarter of 2020, except in the event of suspicious tax behavior; temporary suspension for a period of three months, of the payment of parking and demurrage fees in the ports of Douala and Kribi for basic necessities; taxpayers may postpone the deadline for the filing of Annual Statistical and Fiscal Statements without penalties, in the event of payment of the corresponding balance (no specific postponement deadline is provided. In practice, taxpayers can freely request for an extension of deadline).<sup>44</sup>

43 IBFD, COVID-19 Pandemic: Additional Measures Announced by Cambodian Government.

44 <https://www.spm.gov.cm/site/?q=fr/content/strategie-gouvernementale-de-riposte-face-la-pandemie-de-coronavirus-COVID-19-3>.

**-In China**, in response to COVID-19 pandemic, 28 preferential policies on taxes and fees had been carried out in 7 rounds to support taxpayers and the economic, with more than RMB 2.6 trillion (approximately US\$400 billion) of taxes or fees cuts throughout the year of 2020. And STA has introduced measures of promoting non-contact or online tax services to provide more efficient and convenient filing portal to taxpayers during the difficult time. With the aid of information system, about 90% of tax related matters could be processed online and 99% of tax filings could be handled through internet, call center or app.<sup>45</sup>

Moreover, STA has issued a guidance to address the concerns on whether changes in work practices prompted by the COVID-19 pandemic can result in the creation of a PE, or changes in residence status. STA echoes what has been included in the relevant analysis report by OECD Secretariat and provides greater certainty to taxpayers.

**-Kazakhstan** has announced that small and medium-sized businesses and micro-enterprises are entitled to payment deferral in relation to all taxes, mandatory contributions to the budget and social payments, deferral of recovery of outstanding taxes, customs duties and social payments (with the exception of high-risk taxpayers) and deferral of tax audits for the duration of the state of emergency. Deferral of VAT payment for non-residents involved in maintenance and legal support of aircraft leasing transactions will be allowed. Both the deadline for filling tax returns for financial year and the deadlines to present the certificates of tax residence

for non-residents for 2019 was extended. There is also additional tax amnesty for individuals to write off the amount of late interest on the personal account of the taxpayer as of 1 April 2020, provided that the arrears are paid by 31 December 2020.<sup>46</sup>

**-In Serbia**, deferral of payments of corporate income tax, salary tax and personal income tax for independent activities of entrepreneurs and farmers are given to allow taxpayers to submit their tax returns within the legal deadlines. The agreement that the taxpayers have reached with the tax authorities to pay outstanding taxes in installments will not suspend during the state of alarm without any interest. When it comes to paying tax on wages, social contributions and corporate profit tax, no late payment interest will be calculated during deferral of tax payments.<sup>47</sup>

### 3.5.4 BRIATCOM Council Members' Practices: Measures for Individuals

For individuals, the priority has been to provide personal income tax deductions to the most directly affected taxpayers, and tax incentives to basic necessities for households. Democratic Republic of Congo, Indonesia, Mongolia, Rwanda and Senegal have issued tax incentives for individuals.

**- In Democratic Republic of Congo**, in response to the COVID-19 pandemic, products of first necessity, such as meat, fish, milk, fruits, cereals, non-alcoholic beverages and soap are exempt from VAT for a period of 3 months (extendable). In order to comply with the medical protocols for the COVID-19 pandemic, the Congolese Tax Authority (Direction Générale des impôts) issued instructions

45 <http://www.chinatax.gov.cn/chinatax/n810219/n810744/n4016641/index.html>.

46 <https://covid19policy.adb.org/index.php/policy-measures/KAZ>

47 <https://www.mfin.gov.rs/propisi/uredbe>

to allow submission of tax returns by email.<sup>48</sup>

- In Indonesia, the measures have been taken to support households' well-being as individuals' take home pay will be in its full amount without liability to individual tax. The "borne-by the Government" employees income tax is applicable to employee who meets certain criteria, such as those whose annual income is no more than 200 million rupiahs. In the event the employer bears the employee tax, such amount must be distributed to the employees' take-home pay.<sup>49</sup>

- **In Mongolia**, a comprehensive set of fiscal measures for consideration has been proposed by the Mongolian cabinet to protect vulnerable households and businesses and to support the economy. These include: tax exemptions on several imported food and medical items; increase of child allowance and unemployment benefits; exemptions on corporate tax, individual tax, and social security contributions; and an increase in credit guarantees to SMEs and soft loans from the development bank to cashmere producers.<sup>50</sup>

- **Rwanda** has announced that computation of quarterly personal income tax prepayments based on business transactions of the current tax period instead of the previous tax period could be allowed. Individuals or entities that pay employees in cash or benefits in kind and entities that pay pensions (excluding statutory state pensions), are obliged to withhold and remit pay-as-you-earn (PAYE) no later than the 15th day following the end of each month. However, taxpayers whose annual turnover is equal to or less than RWF 200 million can declare

and remit the PAYE on behalf of their employees on a quarterly basis within 15 days after the end of the quarter to which the withheld employment income relates. An individual is also entitled to a refund of overpaid tax upon submission of the annual tax returns.

- **Senegal** announced that payroll tax and social security contributions for taxpayers who keep their employees active, or will pay more than 70% of the wages to furloughed employees could be rebated or exempted.

### 3.5.5 BRIATCOM Council Members' Practices: Measures to Support Investment and Consumption

Given the restrictions on economic activities and the requirement on keeping social distances, fiscal and tax stimulus packages are in need to boost tourism, catering, transportation and other sectors which are severely suffering from the pandemic. Therefore, investment and consumption supportive measures have also been introduced in Cambodia, Nepal, Tajikistan and Uruguay to boost social economic recovery.

- **In Cambodia**, all operating airline entities are exempt from minimum tax up to June 2021, where income tax holiday is granted to registered hotels, restaurants and other entities of tourism sectors in Phnom Penh, Siem Reap, Preah Sihanouk, Kep, Kempot, Bavet and Poipet up to June 2021. Entities in tourism sector can defer their monthly contribution to the National Social Security Fund. Deadline of monthly tax payments has been extended for registered hotels, guesthouses,

48 [https://research.ibfd.org/#/doc?url=/collections/vatst/html/vatst\\_cd.html%23vatst\\_cd\\_exemptions](https://research.ibfd.org/#/doc?url=/collections/vatst/html/vatst_cd.html%23vatst_cd_exemptions)

49 <https://home.kpmg/us/en/home/insights/2020/04/tnf-indonesia-tax-customs-relief-measures.html>

50 <https://home.kpmg/xx/en/home/insights/2020/04/mongolia-tax-developments-in-response-to-COVID-19.html>

restaurants and travel agents in selected areas. Besides, taxpayers in hotel and guesthouse business in Siam Reap are temporarily exempt from all monthly tax payments.<sup>51</sup>

- **In Nepal**, cottages, small businesses and other businesses are granted with an income tax relief from 25% to 75% depending on turnover (tax holiday for cottage industries has been extended). 20% tax relief has been granted to airlines, transportation, travel, trekking and hotel businesses for fiscal year 2019 and 2020. Income tax rebate of 25% for specific industries in industrial districts or villages is valid for 5 years. Full income tax exemption or reduced tax rates for local cooperatives has also been implemented. Furthermore, income tax has been exempted for consumer associations in the field of drinking water and sanitation. Taxpayer in airlines, transportation, travel and hotel businesses have been allowed to file VAT tax returns quarterly.<sup>52</sup>

- **In Tajikistan**, tax exemption is granted to tourism, hotels, public catering, health and sports centres, resorts, international road and air transportation. Exemption from taxation for

individual entrepreneurs conducting business activities based on a patent in markets, shopping centres, hairdressing salons, beauty salons and fashion ateliers has been carried out. No interest for late payment of taxes related to previous periods for tourism, hotels, resorts, international road and air transportation will be imposed.

- **In Uruguay**, new incentive regime has been established for certain investments in the buildings construction and urbanization development projects that are qualified as large economic projects. Tax benefits (income tax exemption) granted under the investment promotion regime have been increased. Income derived from temporary lease of immovable property for tourism purposes could be temporarily exempted from income tax. Provision of hotel services to residents in Uruguay are temporarily deemed as export of services for VAT purposes which is applicable to zero tax rate. Certain touristic transactions could enjoy a temporary reduced rate of VAT. Certain air travel companies and companies operating cinemas and distributing cinematographic products could temporarily be free from paying employers' retirement pension contributions.<sup>53</sup>

### 3.6 Hosting Training Workshops

To fulfill the international commitment of helping developing and low-income jurisdictions improve tax collection and administration capacity, BRITACOM has played a leading role in holding dispute resolution and tax treaty workshops and training programs for BRI jurisdictions and other

countries, thus to strengthen global tax cooperation on dispute prevention and resolution.

In 2019, 13 sessions of training programs on tax treaties, dispute resolution and tax administration were successfully held, participated by 340 tax

51 IBFD, COVID-19 Pandemic: Additional Measures Announced by Cambodian Government.

52 IBFD

53 IBFD, COVID-19 Pandemic: Executive Branch Broadens Scope of Application of Incentive Regime for Investments in Large Dimension Constructions.

officials from 62 jurisdictions in Asia, Europe, Africa, North America, South America, and Oceania.

In 2020, the BRI Taxation Institute providing online programs was established. 7 sessions of online training on capacity building were held, with the participation of 352 tax officials from 31 jurisdictions.

From January to June, 2021, in collaboration with other international organizations, 4 sessions of online training on tax dispute prevention and resolution, taxpayer service and tax treaty were held, with the participation of 326 tax officials from 32 jurisdictions.



# Recommendations on Expediting Tax Dispute Resolution

This Final Report has presented current practices of tax dispute resolution in some BRI jurisdictions, which can be a reference for other jurisdictions. And the actions on expediting tax dispute resolution proposed in the Wuzhen Action Plan (2019-2021) have called for efforts in providing taxpayers with good access to dispute resolution

mechanisms and reflect a staged approach for minimizing and resolving tax disputes, some of which could be brought forward into the road map for next phase and streamlined into more specific recommendations for immediate term and longer one.

## 4.1 Immediate Term Measures (2022-2024)

1. Increasing the frequency of bilateral discussions or regular exchanges of positions between Competent Authorities. Tax authorities are encouraged to exchange views more frequently via online communications when face-to-face meetings are not feasible under certain circumstances.
2. Ensuring taxpayer's accessibility to MAP. Tax authorities are encouraged to issue explicit regulations with clear guidelines to facilitate taxpayers to file the MAP requests when encountering tax disputes.
3. Strengthening MAP functions with dedicated personnel. To improve the efficiency of MAP, Tax authorities are encouraged to deploy more resources and professionals to deal with MAP cases, and ensure them to be settled in a timely manner.
4. Enhancing capacity building. Tax authorities are encouraged to upgrade the capacity of tax officials to deal with the complex international tax issues via the knowledge-sharing network of the Belt and Road Initiative Tax Capacity Enhancement Group (BRITACEG, the capacity building unit under BRITACOM).
5. Holding workshops to facilitate the negotiation and interpretation of tax treaties. Tax authorities are encouraged to have in-depth discussions or mutual learning on interpretation and implementation of tax treaties with regular workshops and consultations via BRITACOM platform.
6. Endorsing the minimum standards of BEPS Action 14.



## 4.2 Long Term Measures (2025 and beyond)

1. Ensuring clear and consistent interpretations of tax laws and regulations.
2. Improving the procedure of administrative review and judicial litigation mechanism for tax dispute resolution.
3. Establishing dedicated and specialized MAP unit within tax authority.
4. Extending tax treaty network.
5. Introducing APA (especially bilateral APA) to prevent potential tax disputes in advance and, if retroactivity is allowed, to resolve prior years' issues.

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