

# OECD 2023 APA and MAP statistics: Insights from the perspectives of the Chinese Mainland and Hong Kong SAR

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## In brief

### What happened?

The OECD released the [2023 Advance Pricing Arrangement \(APA\) Statistics](#), marking the first global publication of APA statistics by the OECD. Following the “Bilateral Advance Pricing Arrangement Manual,” the OECD released the “Advance Pricing Arrangement Statistics Reporting Framework” in 2023. This framework showcases the efforts of the members of the Inclusive Framework on Base Erosion and Profit Shifting (BEPS) (the “IF Members”) to increase tax certainty through dispute prevention in addition to the work that has been done on the dispute resolution side.

Additionally, under the BEPS Inclusive Framework, the OECD also released the [2023 Mutual Agreement Procedure Statistics](#) on BEPS Action 14. These statistics cover all 144 members that joined the Inclusive Framework prior to 2024, including Chinese Mainland and Hong Kong SAR, and summarize the overall implementation of MAP as well as the resolution status of treaty-related disputes.

### Why is it relevant?

Under the new framework, all BEPS IF Member jurisdictions with bilateral or multilateral APA programs, or those that are able to enter into such agreements under their domestic laws or tax treaties, commit to reporting APA statistics based on agreed criteria. The IF Members retain the flexibility to use their own reporting cycles and definitions for “Start Date” and “End Date” when calculating the average time to close APA cases. The 2023 APA Statistics are the first set published under this framework and include data from all IF Members that joined the Inclusive Framework prior to 2024, which include Chinese Mainland and Hong Kong SAR.

## Action to consider

Taxpayers should consider whether the flexibility in applying MAP and APAs to resolve existing or future international double taxation issues would be effective in resolving these issues.

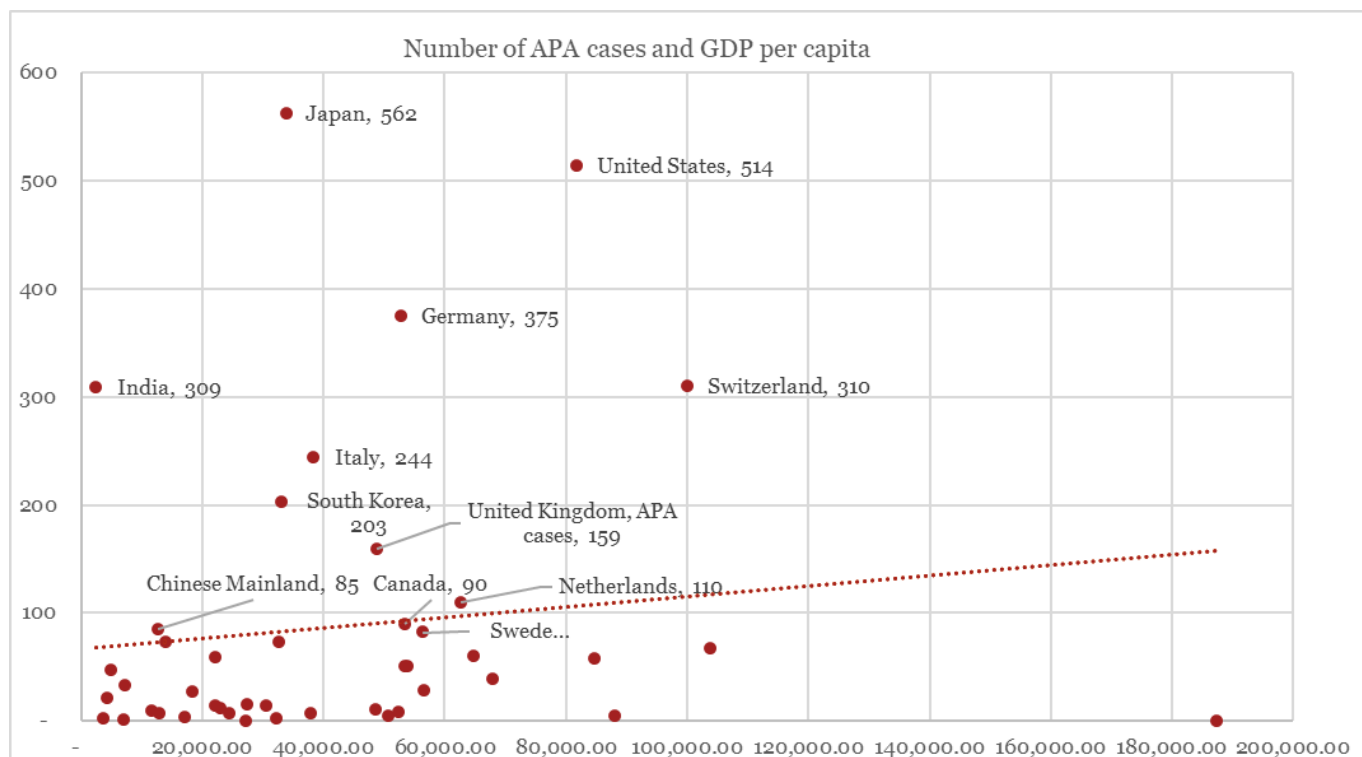
## In detail

### Global trends

#### *Advance Pricing Arrangement*

In accordance with the APA Statistics Reporting Framework issued by the OECD in 2023, a unified statistical reporting template has been set out. Each jurisdiction that already has bilateral/multilateral APA programmes or is able to enter into APAs under domestic law and/or tax treaties should report annual APA statistics for the reporting period from 2024 onwards. This data will be published on the OECD's official website in a common format to demonstrate the jurisdictions' efforts with respect to dispute prevention and resolution. The global statistics for 2023 indicate that:

- In 2023, there were 1,136 new APAs globally, with 860 cases granted. The number of cases granted represents approximately 21.9% of the starting inventory of APA cases at the beginning of the year, with an average time to grant of 36.79 months. In the APAC region, 431 new APAs were filed in 2023, with 383 cases granted, representing about 27.4% of the starting inventory of APA cases at the beginning of the year. **Observation:** The statistics published demonstrate that global IF Members regard APAs as an essential tool for resolving transfer pricing disputes and cross-border double taxation.
- In 2023, countries with more than 30 APAs granted throughout the year included: Japan (164 cases), United States (132 cases), South Korea (85 cases), Switzerland (75 cases), Germany (46 cases), Italy (39 cases), Chinese Mainland (35 cases), and India (32 cases). The APAs granted by these countries accounted for 72% of the total APAs granted in 2023.
- The statistics show a positive correlation between the number of APA cases (including those granted in 2023 and the end inventory of 2023) and the Gross Domestic Product (GDP) per capita of each jurisdiction, with the exception of Chinese Mainland and India. **Observation:** The increasing number of APA cases in Chinese Mainland and India indicates that multinational enterprises value tax certainty in transfer pricing arrangements in developing countries.



### Mutual Agreement Procedures

The 2023 MAP statistics make a distinction between "transfer pricing" cases and "other" cases. Transfer pricing cases refer to where the taxpayer's MAP request relates to either the attribution of profits to a permanent establishment, or the determination of profits between associated enterprises. MAP cases other than the above are considered as "other" MAP cases. The global MAP statistics indicate that:

- The majority of MAP cases were concentrated in 30 jurisdictions (including Chinese Mainland). New cases in these jurisdictions accounted for 95% of new cases worldwide.
- The end inventory of the MAP cases decreased for the first time, with the end inventory of 2023 being approximately 4% lower than that of 2022. Compared with 2022, the number of new transfer pricing related cases decreased by 16% in 2023, while the number of other cases increased by 3%.
- The number of cases closed in 2023 has increased compared to 2022 (reaching 2,601 in 2023), with the number of transfer pricing cases increasing by 7% and the number of other cases increasing by 16%, altogether these accounted for about 40% of the case inventory at the beginning of 2023.
- In 2023, approximately 74% of cases closed were able to fully eliminate double taxation issues.
- The average time to conclusion remained relatively long. The 2023 average time to conclusion for transfer pricing cases and other cases increased in comparison to 2022 (i.e., from 28.9 months to 32.01 months, and from 22.17 months to 23.36 months, respectively).

## Chinese Mainland

### Advance Pricing Arrangement

#### *Number of cases filed and granted*

According to the OECD statistics, there was an inventory of 94 APA cases at the start of 2023, 26 APA applications were filed, and 35 cases were granted. These figures indicate that as Chinese Mainland achieved a record high in the number of APAs concluded, an increasing number of enterprises sought tax certainty by applying for APAs.

#### *Average time to conclusion*

By the end of 2023, Chinese Mainland had 85 APA cases still under review, with an average time of 25 months required to conclude a case during the reporting period. **Note:** China's APA process is characterized by a preliminary analysis phase. To assess the quality of APA applications, the Chinese tax authorities conduct a thorough review and evaluation of proposed application plans during the pre-filing meeting and letter of intent stages before formally accepting an enterprise's APA application. Consequently, the method and efficiency of negotiations between the tax authorities and enterprises also influence the time required to complete APA cases.

### Mutual Agreement Procedures

#### *Number of cases started and closed*

According to the OECD statistics (covering new cases initiated since January 1, 2016), the MAP cases started in Chinese Mainland decreased compared to [2022](#), with a total of 22 MAP cases filed in 2023. These MAP cases included 10 transfer pricing-related cases. The main treaty partners of the case inventory included South Korea, United States, Switzerland, Japan, and Germany.

The STA has been actively working with treaty partners to promote the settlement of MAP cases. There were 24 MAP cases concluded in 2023, an increase from 20 in 2022, and of which, there were 22 transfer pricing cases, representing an increase from 11 cases in 2022. The treaty partners in the closed transfer pricing cases for 2023 were mainly South Korea (six cases) and United States (three cases).

#### *Average time to conclusion*

In 2023, the average time taken from receipt of the application to initiation for transfer pricing cases and other cases was 2.56 months and 1.15 months, respectively. There was an increase in the average time to initiation for transfer pricing cases as compared to 2022 (1.77months), while the average time to initiation for other cases decreased compared with the average time in 2022 (1.81 months).

On the other hand, the average time to conclusion needed to close transfer pricing MAP cases in 2023 decreased in comparison to 2022. The average time to conclusion for transfer pricing cases initiated since January 1, 2016, was 29.34 months. The average time for other cases was 45.51 months. In 2022, the averages were 33.44 months and 28.84 months, respectively. **Observation:** This decrease demonstrates the increasing emphasis placed on MAP cases by China tax authorities at all levels, resulting in a notable reduction in the average time needed to close transfer pricing MAP cases.

#### *Outcome of MAP cases*

Of the cases concluded in 2023, about 55% of the transfer pricing cases reached agreement on fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty or partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty. About 9% of transfer pricing cases were

concluded with unilateral relief granted and resolved via domestic remedies. **Observation:** This improvement from 2022 not only demonstrates Chinese Mainland's deep involvement in global tax cooperation but also reflects the government's continuous efforts to improve the business environment and enhance tax transparency and fairness.

By providing more flexible and efficient tax solutions, particularly through strengthening tax treaties and cooperation with other countries and regions, Chinese Mainland is committed to creating a more stable and transparent tax environment for multinational enterprises. This is aimed at fostering foreign investment inflow and enhancing international competitiveness. **Observation:** These measures could help reduce tax disputes, lower compliance costs for multinational enterprises, and bolster their investment confidence and long-term development potential in the Chinese market.

## Hong Kong SAR

### Advance Pricing Arrangement

#### *Number of APA cases initiated and closed*

According to the OECD's APA statistics, there were six APA cases under consideration in the Hong Kong SAR at the beginning of 2023. During the year, one APA case was successfully closed, but no new cases were initiated throughout 2023. This marks the first time that Hong Kong SAR has disclosed the status of APA case handling through public channels. **Observation:** Overall, the APA program in Hong Kong SAR is still in its initial stage, and we anticipate that the number of newly initiated cases and closed cases will gradually increase in the future.

#### *Average time taken to grant APAs*

As of the end of 2023, there were a total of five APA cases still under consideration in the Hong Kong SAR. During the reporting period, one APA was successfully closed, with a processing time of 53.5 months.

**Note:** On July 15, 2020, the Hong Kong Inland Revenue Department (HKIRD) issued the Departmental Interpretation and Practice Notes - No. 48 (Revised), with an aim to introduce revisions to the APA regime. The revised guidance implemented a series of measures, including streamlining the process from the original five stages to three stages, namely (1) Early Engagement, (2) APA Application, (3) and Monitoring and Compliance. These updates reflect the HKIRD's proactive attitude in continuously promoting APAs in the Hong Kong SAR.

**Observation:** As the HKIRD continues to accumulate experience in handling APA applications, its timeliness and efficiency in closing cases could improve over time. This would, in turn, provide greater tax certainty and support to enterprises operating in the Hong Kong SAR.

### Mutual Agreement Procedures

#### *Number of cases initiated and closed*

In the Hong Kong SAR, the number of transfer pricing MAP cases initiated and closed in 2023 decreased slightly compared to 2022. However, the average time required to close transfer pricing cases was significantly shortened. In 2023, a total of six new MAP cases were initiated according to the statistics published by the OECD, of which five were related to transfer pricing, accounting for nearly 84% of all cases initiated. Compared to 2022, the proportion of transfer pricing-related cases has increased. The inventory of pending cases includes 14 transfer pricing-related cases and 10 other cases. **Observation:** These statistics highlight the ongoing disputes in the transfer pricing area between tax authorities and multinational enterprises. They also reflect that multinational enterprises in the Hong Kong SAR are actively utilizing the MAP mechanism to resolve double taxation issues arising from tax disputes.

In 2023, there were a total of two MAP cases closed in the Hong Kong SAR, with one transfer pricing-related case successfully closed.

### *Average time taken to close MAP cases*

The average time from case acceptance to initiation for both transfer pricing-related cases and other cases in 2023 was 1.15 months, remaining consistent with the average time observed in 2022.

The time taken to close the transfer pricing-related case in 2023 was 9.44 months, which was nearly 53% shorter than the average time taken to close transfer pricing-related cases in 2022 (i.e., 19.96 months). However, for the other closed case in 2023 (i.e., non-transfer pricing related), the time taken was 32.98 months, which was longer than the average time of 8.98 months recorded in 2022 for similar cases.

### *Outcome of MAP cases*

Among the two MAP cases closed in 2023, the transfer pricing-related case resolved the double taxation issue through unilateral relief, while the other case resolved the double taxation issue through the Hong Kong SAR's domestic remedy measures. **Observation:** This result seems to demonstrate the efforts and effectiveness of the HKIRD in actively assisting multinational enterprises in resolving international double taxation issues.

## The takeaway

According to the latest update from the OECD in May 2024, 147 jurisdictions have joined the BEPS Inclusive Framework. These jurisdictions have committed to the four minimum standards, including one relating to MAP under Action 14.

**Observations:** In this context, the competent authorities in these jurisdictions are expected to increase their focus on MAP cases, and MAP could continue to be an effective measure for multinational corporations to resolve their international double taxation issues (including double taxation arising from unilateral transfer pricing adjustments).

Based on a recent [global survey](#) conducted by PwC, multinational enterprises expect that cross-border tax disputes will continue to increase over the next three to five years for the following reasons:

- Widespread fiscal pressures faced by governments globally,
- Changes in domestic tax laws and international tax regimes, including the changes around global minimum tax,
- Increasingly complex business models of multinational enterprises accompanied by operations spanning across more regions,
- More extensive fiscal incentives adopted by worldwide governments, and
- The development of tax technology that empowers the tax authorities' routine tax administration.

As the tax authorities of Chinese Mainland and Hong Kong SAR continue to gain experience in the MAP cases, more multinational corporations could benefit from MAP as an effective measure to resolve international double taxation caused by unilateral transfer pricing investigations and adjustments.

## Let's talk

For a deeper discussion of how your company can apply MAP and APAs to resolve existing or future international taxation issues effectively, please contact:

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