

# **Guidelines for Requesting Mutual Agreement Procedure Assistance in Pakistan**

**[December 2024]**

## 1. Introduction

1.1. The world has become ever more inter-connected and inter-dependent witnessing exponential increase in cross border trade and transactions. Cross border transactions encompass transfer of goods, services, capital, and technology. As such transactions transcend more than one country, they give rise to multiple taxation claims on income for the purposes of taxation. As a consequence, same income may be taxed twice. In order to avoid double taxation and to provide for a dispute settlement mechanism in case it occurs, jurisdictions enter into Avoidance of Double Taxation Agreements/Conventions/Treaties. The terms Agreements/Treaties & Conventions are and will be used interchangeably in these guidelines. The Avoidance of Double Taxation Agreements provide for dispute settlement procedure known as *Mutual Agreement Procedure* (MAP). Pakistan has an extensive network of tax treaties.

1.2. The purpose of this document is to set out the process through which taxpayers can request MAP assistance from the Competent Authority in Pakistan to resolve disputes arising from taxation not in accordance with the provisions of the relevant Avoidance of Double Taxation Agreement (ADTA). In Pakistan, Director General, International Taxes Operations is the Competent Authority for the purposes of MAP requests. Taxpayers may request MAP assistance under the terms of the relevant ADTA and in conjunction with the relevant article of the Multilateral Instrument to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS MLI), wherever applicable. MAP assistance, position paper and other relevant documents and updates are facilitated/provided by Tax Treaties & Conventions Wing of the Directorate General of International Taxes Operations, Federal Board of Revenue. Contact details for submitting a request for MAP assistance to the competent authority are attached as **Appendix-I** of this document. This document does not deal with application(s) for Advance Pricing Agreements (APAs) and is only meant for providing necessary MAP guidelines. This document may be revised from time to time as deemed necessary. Errors and omissions are excepted.

## 2. Legal basis for a MAP request

2.1. The ADTAs between Pakistan and other jurisdictions/contracting states provide a mechanism to resolve difficulties arising from the actions of one or both of the tax authorities of the Jurisdictions/Contracting States that result or may result in taxation not in accordance with the provisions of the applicable ADTA. In such case(s), the aggrieved taxpayer may request assistance from the Competent Authority to resolve the issue in question under the relevant MAP provisions of the ADTA. The competent authority of Pakistan will endeavor to resolve such cases by mutual agreement with the Competent Authority of the other Contracting State/Partner Jurisdiction. The list of the tax treaty partner jurisdictions and relevant Article on MAP in the relevant ADTA is attached as **Appendix-II**.

2.2. Pakistan has also issued MAP rules in the Income Tax Rules, 2002. Rule 19D through G of the Income Tax Rules, 2002 provide a detailed procedure for invoking MAP request both for resident taxpayer and a non-residents taxpayer.

2.3. Under the relevant rule [Rule 19D(1)], where a resident taxpayer, or a Pakistani national residing abroad is aggrieved by any action of the tax authorities of any country outside Pakistan with which Pakistan has signed an Agreement for the Avoidance of Double Taxation for the reason that according to him, such action is not in accordance with the terms of the agreement with such other country outside Pakistan, he may make an application to the Competent Authority in Pakistan seeking to invoke the provision of the Mutual Agreement Procedure, if any, provided therein, in the Form prescribed in Rule 19F.

2.4. Pakistan has signed the BEPS MLI which has entered into force for Pakistan. Article 16 of the BEPS MLI (MAP) which Pakistan has opted, allows taxpayers to approach the Competent Authority of either jurisdiction to request MAP assistance under an ADTA. The new rule will only apply, however, in treaties where Pakistan's treaty partner has also adopted the same provision and ratified the MLI. Where both countries have elected to apply the new rule, taxpayers will be able to approach the Competent Authority of either treaty partner jurisdiction in order to request MAP assistance. Taxpayers should consult the relevant ADTA and the relevant MLI provisions (following ratification by both treaty partners) when making a MAP request. However, in the recent ADTAs signed by Pakistan such as with Bulgaria, Latvia and Estonia, this provision already exists.

### **3. Time limit for making a MAP request**

3.1. The time limit for submitting a request for MAP assistance under an ADTA is determined by the relevant provisions of that particular ADTA. Generally, Pakistan's ADTAs follow Article 25 of the OECD /UN Model Tax Conventions which stipulate that a request for MAP assistance must be submitted within 3 years from the first notification of the action resulting in taxation not in accordance with any ADTA/Convention. However, some ADTAs of Pakistan provide for a different time period. Therefore, taxpayers should always consult the relevant MAP provisions of the ADTA and the relevant MLI provisions adopted by their respective jurisdictions (following ratification by both treaty partners) at the outset to ensure that they submit a request for MAP assistance within the specified time limit. **Where the time limit specified in an ADTA, the relevant Income Tax Rules 2002 and these guidelines whichever is applicable has not been met, a request for MAP assistance will not be accepted and would be declined accordingly.**

### **4. Minimum information required to be a valid MAP request**

4.1. In order for a MAP request to be considered a valid request, the MAP request submitted to the Competent Authority should specify, at a minimum:

- 4.1.1 the tax period(s) concerned;
- 4.1.2 the nature of the action giving rise, or expected to give rise, to taxation not in accordance with the ADTA;
- 4.1.3 the full names and addresses of the parties to which the MAP request relates;
- 4.1.4 the identification of the taxpayer to which the MAP relates and the other parties to the relevant transactions;
- 4.1.5 details of the relevant facts and circumstances of the case;
- 4.1.6 copies of any tax assessment notices, assessment orders/tax audit reports or equivalent documents leading to the alleged double taxation or taxation not in accordance with the provisions of an ADTA;
- 4.1.7 details of any appeals and litigations initiated by the taxpayer or other parties to the relevant transactions; and
- 4.1.8 an explanation by the taxpayer of why it considers that the principles of the ADTA have not been observed or the taxation done is not in accordance with the provisions of an ADTA.

4.2. It is the responsibility of the taxpayers to respond as completely and quickly as possible to requests by (any relevant) Competent Authority for further information or documentation. Where the MAP request, either under the ADTA or these guidelines, does not contain minimum amount of information as contained in Paragraph 5.1, it will not be regarded as a valid MAP request by FBR and will not be regarded as submitted for the purpose of satisfying the time limit requirements as prescribed in the relevant ADTA, the Income Tax Rules, 2002 and these guidelines wherever applicable. Where a complaint under the ADTA or relevant rules/guidelines does not contain all of the requisite information, it may be rejected by the Competent Authority of Pakistan.

## **5. Making a MAP request by a resident taxpayer or Pakistani national**

5.1. In order to request MAP assistance, a resident taxpayer is required to submit MAP request in writing to the Competent Authority in Pakistan, providing the required information in respect of the action that has resulted or will result in taxation not in accordance with the relevant ADTA. The MAP request must be submitted within the time limit specified in the applicable ADTA between Pakistan and the other treaty partner. The Competent Authority of Pakistan will take appropriate action only on that MAP request which is a valid MAP request. It is essential that taxpayers may discuss the case with the Competent Authority concerned prior to making a written MAP request.

5.2. Where a resident taxpayer, or a Pakistani national residing abroad or a non- resident taxpayer (wherever allowed) with which Pakistan has signed an ADTA

(subject to the relevant provisions of the ADTA) is aggrieved by any action of the tax authorities of any country outside Pakistan with which Pakistan has signed an ADTA for the reason that, according to him, such action is not in accordance with the terms of the agreement with such other country outside Pakistan, he may make an application to the Competent Authority in Pakistan seeking to invoke the provision of the Mutual Agreement Procedure, if any, provided therein, in the Form prescribed in rule 19F of the Income Tax Rules, 2002. The prescribed Form is attached as **Appendix-III**.

5.3. The Competent Authority of Pakistan upon satisfaction that, -

- 5.3.1 the taxpayer has reasonable grounds to justify Competent Authority assistance;
- 5.3.2 the application has been made within three years from the date of notification of the cause of grievance or any other time limit prescribed in the relevant ADTA, and
- 5.3.3 the double taxation or other impending grievance is more than a mere possibility;

shall cause to take up the matter with the Competent Authority of the country concerned and endeavor to resolve the matter through consultative measures.

5.4. It is important to note that in ADTAs where no time limit for making the application has been prescribed, the application should be made within two years from the date of notification of the cause of grievance as prescribed in Rule 19 (2) (b) of the Income Tax Rules, 2002.

5.5. In case the Competent Authority in Pakistan deems it appropriate not to intervene in the matter, it will inform the applicant taxpayer within thirty days of the receipt of the application, of its decision and grounds thereof in writing.

5.6. If during the course of MAP, the Competent Authority of the other competent authority requires any clarification, verification of facts, or guarantees that shall be communicated to the applicant taxpayer and after the receipt of the same shall be passed on to the Competent Authority concerned.

5.7. At any time, if the terms and conditions of the impending resolution are not satisfactory to the taxpayer, he may withdraw from the MAP proceedings and pursue any right of appeal under the normal course available. The Competent Authority of Pakistan would communicate the outcome of the Mutual Agreement Proceedings taken up with the other jurisdiction to the applicant taxpayer in writing.

## **6. MAP request received through the Competent Authority of ADTA Partner**

6.1. Where a request for MAP is received from the Competent Authority of a jurisdiction/country with which Pakistan has an ADTA with regard to any action taken by any income tax authority in Pakistan (reportedly) not in accordance with the provisions

of that ADTA, the Competent Authority in Pakistan shall call for a report from the Commissioner concerned and, if required, examine the relevant records, and shall endeavour to arrive at a resolution of the case on a unilateral basis in terms of the liberal interpretation of the legal provisions applicable.

6.2 For time limitation purposes, a MAP request will be regarded as presented where the information set out in Para 4.1 above has been provided. The Competent Authority of Pakistan will not commence the MAP process until a complete request for MAP assistance is received. In order for a MAP request to be considered complete, taxpayers must provide the information outlined in Para 4.1 of these guidelines.

6.3 The Competent Authority of Pakistan shall entertain all such requests from the Competent Authority of an ADTA partner jurisdiction/country that are about but not limited to:

- 6.3.1 tax demands that have arisen or are likely to arise as a result of a tax audit, assessment or re-assessment proceedings, or a tax appeal, or a review by a Commissioner of Income Tax of an assessment or re-assessment proceedings on the grounds that it is prejudicial to the interest of the revenue;
- 6.3.2 Withholding tax on income or other similar advance taxes that are levied under the Ordinance; and.
- 6.3.3 interpretation and application of any provision of the laws governing the taxes covered in the relevant treaty as applicable to the non-resident person.

The beginning of the 3-year time limitation period or any other period as prescribed in the relevant ADTA, Income Tax Rules, 2002 or these guidelines whichever is applicable will run from the service of the relevant assessment, re-assessment or any other equivalent or relevant order against which MAP request is invoked.

## **7. Start date/initiation of a MAP request**

7.1. The receipt of the information outlined in Para 4.1 will determine the start date for a MAP request under an ADTA. This start date is relevant for the purposes of computing the time taken to resolve a MAP request. For the purpose of determining the starting point of the two-year period under BEPS Action 14 (on MAP), a MAP request will not be regarded as initiated until all of the relevant information requested has been provided.

## **8. Analysis of a MAP request and role of the taxpayer/Competent Authority**

8.1. As the Competent Authority of Pakistan begins the detailed analysis of the MAP request, it is likely that there will be further information requests to the taxpayer or the Competent Authority concerned. Taxpayers as well as the Competent Authorities of the partner jurisdictions are expected to cooperate fully with Competent Authority of

Pakistan by providing complete and accurate information without delay when so requested. Without proper information and documentation, Competent Authority of Pakistan may be unable to resolve disputes through MAP.

8.2. MAP discussions between the Competent Authority of Pakistan and the other Competent Authority are a government-to-government process. Taxpayers' involvement in the MAP is generally limited to presenting its views to both Competent Authorities and providing the relevant information. Taxpayers are not involved in the actual discussions between the Competent Authorities. However, wherever required the Competent Authority of Pakistan shall give an opportunity of being heard to the applicant taxpayer in person or through an authorized representative or a counsel. Throughout the MAP process, the taxpayer should ensure that each tax administration is provided with the same information at the same time. This applies to any information submitted by the taxpayer to either Competent Authority as part of the MAP process. The Competent Authority of Pakistan will keep the taxpayer informed of the status of their MAP request on an on-going basis if the taxpayer so desires.

## **9. MAP Process to be Confidential**

9.1. The exchange of information between the two Competent Authorities in relation to a MAP request shall be carried out in accordance with the provisions of the relevant ADTA. Information exchanged under Pakistan's ADTAs is confidential and may only be used and disclosed in accordance with the provisions of the relevant ADTA/treaty. The information submitted to the Competent Authority of Pakistan in connection with a MAP request will be treated as confidential in accordance with the relevant provisions of the Income Tax Ordinance, 2001.

## **10. Factors to be considered for accepting a MAP request**

10.1. The factors which the Competent Authority will consider in determining whether to accept requests for MAP assistance include that:

- 10.1.1 there is an ADTA in place between Pakistan and the foreign jurisdiction which contains the appropriate enabling provision with respect to MAP;
- 10.1.2 the actions of one or both countries result or may result in taxation not in accordance with the provisions of the ADTA;
- 10.1.3 the Competent Authority receives a valid MAP request within the time limit specified in the applicable ADTA; and
- 10.1.4 the issue or objection raised by the taxpayer appears to be justified/well founded.

## **11. Stages of the MAP Process**

11.1 First stage – Unilateral Resolution of MAP Case

11.1.1 For MAP requests made to the Competent Authority of Pakistan under the relevant MAP article of an ADTA, the Competent Authority of Pakistan will first, if the request appears to be justified/well founded and after examining the relevant record and documents, attempt to resolve the matter on a unilateral basis. The Competent Authority in Pakistan shall call for a report from the Commissioner concerned and, if required, examine the relevant records, and shall endeavour to arrive at a resolution of the case on unilateral basis in terms of the liberal interpretation of the legal provisions applicable. If the Pakistan Competent Authority is not itself able to arrive at a satisfactory solution, it will contact the Competent Authority of the other jurisdiction to set in motion the second, bilateral, stage of the MAP process.

## 11.2 Second Stage — Bilateral Consultations

11.2.1. In case the Competent Authority of Pakistan cannot resolve the matter on unilateral basis, it would cause to communicate with the Competent Authority of the partner jurisdiction concerned. Both the authorities would endeavor to resolve the matter through a consultative process, and arrive at a mutually agreed settlement. It is possible that the Competent Authority may reach an agreement for full or partial elimination of double taxation, or no Competent Authority agreement is reached, including agreement to disagree; or MAP request is withdrawn.

11.2.2. If during the course of mutual agreement proceedings, the Competent Authority of Pakistan requires any clarification, verification of facts, further documentation or guarantees, that shall be communicated to the applicant taxpayer/Competent Authority from which the request for MAP was received. At any time, if the terms and conditions of the impending resolution of the MAP case are not satisfactory to the taxpayer, he may withdraw from the MAP proceedings and pursue any right of appeal or other domestic remedies available under the normal course.

11.2.3. During the pendency of the Mutual Agreement proceedings, the Competent Authority of Pakistan may, on the request of taxpayer or the Competent Authority concerned depending on the merits of each case, direct the Commissioner concerned to put on hold the recovery proceedings of any amount of tax, additional tax or penalty that may be outstanding against such taxpayer, subject to the condition that the taxpayer furnishes, as security, an irrevocable Bank Guarantee issued by any scheduled bank, or a Pakistani branch of a foreign bank approved by the State Bank of Pakistan as prescribed in **Appendix IV**.

11.2.4. The amount of the irrevocable Bank Guarantee shall be equal to –

11.2.4.1 the amount of tax, additional tax or penalty as has been imposed through the order or notice that is the subject matter of MAP proceedings; or

11.2.4.2 if no amount has yet been imposed through an order or notice, the amount determined by the Commissioner concerned.

11.2.5. The Competent Authority of Pakistan shall endeavor to resolve or close the case within a period of two years from the date on which it receives the reference under the Mutual Agreement Procedure provisions as contained in the ADTA between Pakistan and that other jurisdiction. However, this is dependent on a number of factors such as the complexity of the case, the co-operation of the taxpayer and the number of rounds of negotiations required. The resolution arrived whether full or partial elimination of double taxation in consultation with the competent authority of the Partner Jurisdiction, or no Competent Authority agreement is reached at under mutual agreement procedure, shall be communicated, wherever necessary, to the Competent Authority, taxpayer and the Chief Commissioner/ Commissioner concerned, in writing as soon as possible.

11.2.6. The necessary effect to the resolution arrived at under Mutual Agreement Procedure shall be given by the Commissioner concerned, notwithstanding any time limitations contained in the Income Tax Ordinance, 2001, within thirty days of receipt of the same, if the taxpayer:

(a) gives his acceptance to the resolution delivered under the Mutual Agreement Procedure; and

(b) withdraws his appeal, if any, pending on the issue which was the subject matter for adjudication under Mutual Agreement Procedure.

11.2.7. The amount of tax, additional tax or penalty already determined shall be recomputed in accordance with the resolution arrived at under the Mutual Agreement Procedure rules in such a way that it does not contravene or negate the resolution arrived at. The Commissioner concerned shall draw-down upon the Bank Guarantee as specified in Para 11.2.3 above in writing within ten days from the notice of acceptance of MAP resolution or closure of the MAP proceedings by the Competent Authority of Pakistan.

## **12. Interaction with domestic remedies**

12.1. A taxpayer or Competent Authority wherever applicable, may request MAP assistance irrespective of the remedies provided by Pakistan's domestic law. A request for MAP assistance under the relevant ADTA can be made to the Competent Authority of Pakistan in situations where an appeal has been filed against the treatment meted out to the taxpayer. A taxpayer may submit a request for MAP assistance while judicial or administrative proceedings are ongoing. If the appeal of the taxpayer is pending with the High Court or Supreme Court, the Competent Authority will delay the MAP process pending the outcome of these judicial proceedings. If the Competent Authorities cannot reach agreement through the MAP process or if the taxpayer rejects the resolution of the MAP request between the Competent Authorities, the taxpayer is at

liberty to pursue any available domestic administrative or judicial remedies available in Pakistan.

### **13. Anti-abuse provisions in ADTAs and Domestic Law**

13.1. Where issues arise relating to the application of anti-abuse provisions in the ADTA or the application of domestic anti-abuse provisions, Pakistan will engage in consultations with the Competent Authority of the other Contracting State. The consultations may be carried out especially when the Competent Authority of Pakistan believes that the taxpayer has received benefit under an ADTA in inappropriate circumstances. However, taxpayers should be aware that while the Competent Authority of Pakistan will engage with the tax authority of the other relevant jurisdiction in relation to MAP requests which concern the application of treaty and/or domestic anti-abuse provisions, any claim of taxation not in accordance with the provisions of the ADTA may not necessarily be resolved until the consultations are concluded and an outcome is achieved.

### **14. Agreed Assessments or Audit Settlements**

14.1. Agreed assessments or audit settlements or any other agreements between tax authorities in Pakistan and taxpayers do not preclude access to MAP.

### **15. Multiple years**

15.1. Taxpayers may submit MAP requests that span multiple years, subject to the time limit in the relevant ADTA, the relevant Income Tax Rules or these guidelines whichever is applicable.

### **16. Multilateral MAPs**

16.1. Where a request for MAP involves more than two tax jurisdictions, the Competent Authority of Pakistan will consider entering into a series of bilateral MAPs as a way of dealing with such multilateral situations. The Competent Authority of Pakistan will also consider requests by the taxpayer to conduct multilateral meetings with the other tax administrations subject to the approval of the Government wherever practicable, the provisions of the relevant ADTAs and concurrence of the other tax administrations concerned.

### **17. Absence of Article 9(2) or its equivalent in an ADTA**

17.1. Economic double taxation can arise consequent to the inclusion in the profits of an enterprise of one Contracting State to an ADTA, profits on which an enterprise of the other Contracting State has been charged to tax in that other State as contained in Article 9(1) of the UN/OECD Model Tax Convention. Article 9(2) of the UN/OECD Model Tax Convention provides for a correlative adjustment to be made to relieve the economic double taxation that could otherwise arise. Where an ADTA (in conjunction with the BEPS MLI wherever applicable) does not include the equivalent of Article 9(2), the Competent Authority of Pakistan regards such economic double

taxation as being implicitly within the scope of the ADTA by virtue of the inclusion of Article 9(1) and, accordingly, is willing to consider a request in such cases for MAP or correlative adjustment.

## **18. Arbitration**

18.1. The Competent Authorities will endeavour to resolve MAP cases with the objective of eliminating double taxation. However, it may not always be possible for the Competent Authorities to reach agreement, in which case the option of limited arbitration is available only in few of Pakistan's ADTAs. It is important to note that Pakistan has not opted for Mandatory Arbitration in the BEPS MLI. The detailed analysis of MAP Provisions in each treaty is at **Appendix V**.

## **19. MAP request withdrawn by the taxpayer**

19.1. Where a taxpayer wishes to withdraw a MAP request the taxpayer is required to provide the Competent Authority (to which it submitted the MAP request) with a notification, in writing, of the withdrawal of its MAP request, without delay. This notification should include the reason for the withdrawal (for example resolution of the issue through remedies provided by the domestic law of a Contracting State). Where a complaint has been submitted by a taxpayer under the ADTA, notice of the withdrawal of the complaint should be provided to each of the Competent Authorities at the same time.

**Appendix I: Contact details for submitting a MAP request under an ADTA**

- i. Name: Mr. Zafar Iqbal Khan  
Designation: DG (International Taxes)/Competent Authority  
Telephone No: +92 51 9202771  
Email: [dq.ittaxes@fbr.gov.pk](mailto:dq.ittaxes@fbr.gov.pk)
  
- ii. Name: Fida Muhammad  
Designation: Chief (International Taxes)  
Telephone No: +92 51 9201677  
Email: [ittaxes@fbr.gov.pk](mailto:ittaxes@fbr.gov.pk)
  
- iii. Name: Muhammad Siddique  
Designation: Second Secretary (Tax Treaties & Conventions)  
Telephone No: +92 51 9206265  
Email: [ittaxes@fbr.gov.pk](mailto:ittaxes@fbr.gov.pk)

**Appendix II: Relevant Article on MAP in the relevant ADTA**

<b>Sr. No</b>	<b>Treaty Partner</b>	<b>Relevant Article on Mutual Agreement Procedure</b>
1	Austria	Article 26
2	Azerbaijan	Article 25
3	Bahrain	Article 24
4	Bangladesh	Article 25
5	Belgium	Article 25
6	Belarus	Article 24
7	Bosnia and Herzegovina	Article 25
8	Brunei Darussalam	Article 25
9	Bulgaria	Article 26
10	Canada	Article 24
11	China	Article 26
12	Czech Republic	Article 24
13	Denmark	Article 26
14	Egypt	Article 25
15	Estonia	Article 24
16	Finland	Article 24
17	France	Article 26
18	Germany	Article 24
19	Hong Kong	Article 25
20	Hungary	Article 26
21	Indonesia	Article 26
22	Iran	Article 24
23	Ireland	Article 25
24	Italy	Article 25
25	Japan	Article 25
26	Jordan	Article 24
27	Kazakhstan	Article 25
28	Korea	Article 25
29	Kuwait	Article 25
30	Kyrgyz Republic	Article 24
31	Latvia	Article 24
32	Libya	Article 22
33	Lebanon	Article 24
34	Malaysia	Article 26
35	Malta	Article 24
36	Mauritius	Article 25
37	Morocco	Article 25
38	Nepal	Article 24

<b>Sr. No</b>	<b>Treaty Partner</b>	<b>Relevant Article on Mutual Agreement Procedure</b>
39	Netherlands	Article 24
40	Nigeria	Article 25
41	Norway	Article 26
42	Oman	Article 26
43	Philippines	Article 25
44	Poland	Article 24
45	Portugal	Article 25
46	Qatar	Article 24
47	Romania	Article 26
48	Saudi Arabia	Article 25
49	Serbia	Article 25
50	Singapore	Article 25
51	South Africa	Article 24
52	Spain	Article 24
53	Sri Lanka	Article 25
54	Sweden	Article 25
55	Switzerland	Article 24
56	Syria	Article 24
57	Tajikistan	Article 24
58	Thailand	Article 24
59	Tunisia	Article 24
60	Turkey	Article 25
61	Turkmenistan	Article 25
62	Ukraine	Article 24
63	United Arab Emirates	Article 26
64	United Kingdom.	Article 25
65	United States of America	Article 16
66	Uzbekistan	Article 24
67	Vietnam	Article 26
68	Yemen	Article 26

**Appendix III: Form of application for initiation of MAP Proceedings**

Application under rule 19A shall be submitted on the form prescribed as under:

To

The Competent Authority of Pakistan,  
Federal Board of Revenue,  
Constitution Avenue, Islamabad.  
Sir,

Whereas the applicant is aggrieved by the action of the tax authority of \_\_\_\_\_ (name of the country) in respect of the tax year ending on \_\_\_\_\_ for the reasons given hereunder, the matter may kindly be taken up with the competent authority of \_\_\_\_\_ (name of the country) under Article \_\_\_\_\_ the (specify the agreement) between Pakistan and country). The relevant details in this regard are as under: -

Name of the applicant	
Present and permanent address in Pakistan	
Residential status or nationality	
CNIC and NTN	
Entitlement to invoke MAP Proceedings (Residence or Nationality)	
Telephone No.	
Name and designation of Tax Authority in the foreign country (Treaty Partner)	
Date of the notice or order giving rise to the action	
Is the order or action of the income-tax authority of the country outside Pakistan not in accordance with the agreement? If so, the reasons thereof (attach separate sheet if required).	
Have you filed any appeal in the foreign country against the order or notice giving rise to the cause of grievance?	

Copies of the following documents in support of our claim are enclosed, namely:-

- (1) Order or Notice giving rise to the cause of grievance
- (2) Computerized National Identity Card
- (3).....

**Verification**

- 1. \_\_\_\_\_ son/ daughter/ wife of Mr. \_\_\_\_\_ solemnly declare that to the best of my knowledge and belief, the information given in this application and the annexures and statements accompanying it is correct.
- 2. I also declare that to the best of my knowledge, I have not concealed any fact or information which could be relevant for deciding my application.
- 3. I further declare that I am making this application in my capacity as (designation) and that I am competent to make this application and verify it.

Date \_\_\_\_\_

Signatures: \_\_\_\_\_

Place \_\_\_\_\_

Name: \_\_\_\_\_

**Appendix IV: Form of Irrevocable Bank Guarantee**

To,

The President of Pakistan  
acting through and represented  
by the Commissioner ["Inland Revenue"],  
[INSERT: LTU/RTO] Government of Pakistan  
[INSERT: City]

**Bank Guarantee**

Bank Guarantee as security for keeping the recovery of Tax Demand in abeyance during the pendency of the proceedings of Mutual Agreement Procedure (MAP) under the Agreement for Avoidance of Double Taxation.

This Deed of Bank Guarantee made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by [INSERT: Name and Address of Guaranteeing Bank] (hereinafter called "the Bank", which expression shall, unless excluded by or repugnant to the context, include its successors and assignees) to the President of Pakistan acting through and represented by the Commissioner [ ] [INSERT: LTU/RTO], Government of Pakistan, [INSERT: City], (hereinafter called "the Government")

WHEREAS the Government has agreed that [INSERT: Name, Address, and National Tax Number of the Taxpayer] (hereinafter called "the Taxpayer", which expression shall, unless excluded by or repugnant to the context, include its successors and assignees) shall furnish a Bank Guarantee in respect of a demand of Rs.[INSERT: Amount of Tax in dispute] for the tax year(s)..., in lieu of which the recovery of any part of such demand shall not be enforced until thirty days after the Commissioner receives written notice of the MAP Agreement arrived at between the Competent Authorities of the Governments of Pakistan and the [INSERT: Name of the Country]

AND WHEREAS THE Bank has, at the request of the Taxpayer, agreed to execute these presents:

NOW THEREFORE THIS DEED WITNESSES AS FOLLOWS:

In consideration of the Government agreeing to treat the Taxpayer as not in default for Rs. [INSERT: Amount of Tax in dispute, plus interest specified in paragraph 1 below] for the tax year(s)....,

1. The Bank irrevocably guarantees and undertakes, for the term provided in paragraph 2 that the Bank shall indemnify and keep indemnified the Government to the extent of the said sum of Rs.[INSERT: Amount of Tax in dispute] (Rupees [written text] and the recurring additional tax accruing at the rate specified in the

Ordinance. The Bank further guarantees and undertakes that on advice from the Government that the Taxpayer has failed and neglected to observe any of its obligations to the Government with regard to the terms and conditions of any agreements between the Taxpayer and the Government or between the Competent Authority of Pakistan and that of the country on whose request MAP proceedings were initiated that may underlie or subsequently cover and encompass this Bank Guarantee, the decision of the Government as to whether any amount should be paid out by the Bank to the Government hereunder shall be final and binding.

2. The Bank further agrees that the guarantee herein contained shall remain in full force and effect for a period of one year from the date hereof or till [INSERT: date]; and if the Government, in case the MAP proceedings are not finalized till the aforementioned date, does not receive a renewal of this Bank Guarantee or a substitute Bank Guarantee for the amounts of tax and interest in dispute prior to thirty days before the expiration date of this Bank Guarantee, the Government may instruct the Bank to pay the guaranteed amounts prior to expiration of the Bank Guarantee.

Provided that, notwithstanding any other thing contained herein, the liabilities of the Bank shall be limited to the maximum of the guaranteed amount of Rs.[INSERT: Amount of tax in dispute] (Rupees [INSERT: written text] ), as increased by interest pursuant to paragraph 1 during the term of this Bank Guarantee; and unless a claim in writing is lodged with the Bank, or action to enforce the claim under the guarantee is filed or initiated against the Bank, within six months from the date of expiry of the guarantee period fixed hereunder or where such period is extended under the terms of this guarantee from the date of such extended period as the case may be, all the rights of the Government under this guarantee shall be forfeited and the Bank shall be relieved and discharged from liabilities hereunder.

3. The obligations of the Bank to the Government under this Bank Guarantee will terminate on issuance of the Notification by the Commissioner drawing down upon the bank guarantee upon the occurrence of any of the following; namely: -
  - (i) the payment by the Bank or the Taxpayer to the Government of the guaranteed amounts;
  - (ii) the payment by the taxpayer to the government of all amounts owed, as agreed to by the Competent Authorities in a MAP Agreement;
  - (iii) a MAP Agreement by the Competent Authorities proclaiming that the government will not seek to recover any part of the previously-demanded amount; or
  - (iv) the taxpayer furnishes to the Government afresh security from the Bank, or a similar security from another Bank.

4. The guarantee herein contained shall not be discharged or affected by any change in the constitution either of the taxpayer or of the Bank.
5. The Government shall have the fullest liberty without affecting the guarantee to postpone for any time, or from time to time, any of the powers exercisable by it against the taxpayer, or to either enforce or forbear any of the terms and conditions under this guarantee or under the Ordinance and the rules, and the Bank shall not be released from its liabilities under this guarantee by any exercise by the government of the liberty with reference to the matter aforesaid or by reasons of time being given to the taxpayer, or by any other act of forbearance or enforcement on the part of the Government, or by any indulgence by the Government to the taxpayer, or by any other matter or thing whatsoever which under the law relating to sureties would but for these provision have the effect of so releasing the Bank from its such liability.
6. The Bank hereby agrees and undertakes that any claim which the Bank may have against the taxpayer shall be subject and subordinate to the prior payment and performance in full of all the obligations of the Bank hereunder and the Bank will not without prior written consent of the Government exercise any legal rights or remedies of any kind in respect of any such payment or performance so long as the obligations of the Bank hereunder remain owing and outstanding, regardless of the insolvency, liquidation or bankruptcy of the taxpayer or otherwise howsoever. The Bank will not counter claim or set off against its liabilities to the Government hereunder any sum outstanding to the credit of the Government with it.
7. This Bank Guarantee shall be governed by and construed in accordance with the laws of the Islamic Republic of Pakistan (without regard to its principles of conflict of laws).
8. The Bank undertakes not to revoke this guarantee during its currency except with the prior consent of the Government in writing.
9. Notwithstanding anything hereinbefore contained liability of the Bank under this guarantee is restricted to Rs.[INSERT: Amount of Tax in dispute, plus interest specified in paragraph 1 above] (Rupees [written text]) and is valid for the period(s) described in paragraph 2 above. Unless a demand or claim under this guarantee is lodged with the Bank on or before [INSERT: date, as established in paragraph 2 above], all rights of the Government under the said guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities there under whether or not this document shall have been returned to the Bank.

IN WITNESS WHEREOF, the Bank, through its duly authorized representative, has set its hand stamp on this \_\_\_\_\_day of \_\_\_\_\_ at \_\_\_\_\_.

i. Witness

For and on behalf of the Bank

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

Designation \_\_\_\_\_

[Attorney per power of Attorney No. \_\_\_\_\_]

ii. Witness

Signature \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

**Appendix V: Detailed Analysis of MAP Provisions in ADTAs**

		Action 25(1) of the OECD Model Tax Convention ("MTC")		Article 25(2) of the OECD MTC				Article 25(3) of the OECD MTC		Arbitration
		B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11

<p>Treaty Partner</p>	<p>Is the DTC in force?</p>	<p>Does the DTC contain a provision which provides that where a person considers that the actions of one or both of the Contracting Parties result or will result for that person in taxation not in accordance with the provisions of the DTC, that person may irrespective of the remedies provided by domestic law of those Contracting Parties, present the case to the CA(s) for resolution under the MAP Article?</p> <p>If yes, does the DTC provision provides that the taxpayer can present his case to the CA of either (including to both CAs) Contracting Parties or only to one of the CAs?</p>	<p>Does the DTC contain the second sentence of Article 25(1) of the OECD MTC?</p> <p>If no, please state the reasons.</p>	<p>Does the DTC contain paragraph 2 of Article 9 (Associated Enterprise) of the OECD MTC or an equivalent provision?</p> <p>If no, will your CA provide access to MAP in transfer pricing cases?</p>	<p>Does the DTC contain a specific provision stating that the MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?</p> <p>If no, will your CA accept a taxpayer's request for MAP in relation to such cases?</p>	<p>Does the DTC contain the first sentence of paragraph 2 of Article 25 of the OECD Model or an equivalent provision?</p>	<p>Does the DTC contain the second sentence of paragraph 2 of Article 25 of the OECD Model or an equivalent provision?</p> <p>If no, does the treaty include a provision equivalent to the provision in (i) paragraph 62 of the OECD MTC Commentary on Article 7; and (ii) paragraph 10 of the OECD MTC Commentary on Article 9.</p>	<p>Does the DTC contain the first sentence of paragraph 3 of Article 25 of the OECD MTC?</p>	<p>Does the DTC contain the second sentence of paragraph 3 of Article 25 of the OECD MTC?</p>	<p>Does the DTC contain an arbitration provision?</p>
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MAP Guidelines

Directorate General of International Taxes FBR

	Y = yes N = signed pending ratification	E = yes, either CAs O = yes, only one CA N = No	Y = yes i = no, no such provision ii = no, period is not 3 years iii = no, starting point for computing the 3 year period is different iv = no, others reasons (to specify)	Y = yes i = no, but access will be given to transfer pricing cases ii = no and access will not be given to transfer pricing cases	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes N = no	Y = yes i = no, but have Art 7 equivalent ii = no, but have Art 9 equivalent iii = no, but have both Art 7 & 9 equivalent N = no and no equivalent of Art 7 and 9	Y = yes N = no	Y = yes N = no	Y = yes N = no
Austria	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Azerbaijan	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Bahrain	Y	O	ii	Y	N. Accepted	Y	Y	Y	Y	N
Bangladesh	Y	O	Y	i	N. Accepted	Y	Y	Y	Y	N
Belarus	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Belgium	Y	O	Y	i	N. Accepted	Y	N	Y	N	N
Bosnia and Herzegovina	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Brunei Darussalam	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Bulgaria	Y	E	Y	Y	N. Accepted	Y	Y	Y	Y	N
Canada	Y	O	ii	i	N. Accepted	Y	N	Y	N	N
China	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Czech Republic	Y	O	Y	i	N. Accepted	Y	Y	Y	Y	N
Denmark	Y	O	Y	Y	N. Accepted	Y	N	Y	Y	N

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Egypt	Y	O	ii	Y	N. Accepted	Y	Y	Y	Y	N
Estonia	Y	E	Y	Y	N. Accepted	Y	Y	Y	Y	Y
Finland	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
France	Y	O	ii	i	N. Accepted	Y	Y	Y	Y	N
Germany	Y	O	ii	i	N. Accepted	Y	Y	Y	Y	N
Hong Kong	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	Y
Hungary	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Indonesia	Y	O	ii	Y	N. Accepted	Y	Y	Y	Y	N
Iran	Y	O	ii	Y	N. Accepted	Y	Y	Y	Y	N
Ireland	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Italy	Y	O	Y	i	N. Accepted	Y	N	Y	N	N
Japan	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Jordan	Y	O	ii	Y	N. Accepted	Y	Y	Y	Y	N
Kazakhstan	Y	O	Y	Y	N. Accepted	Y	Y	N	N	Y
Kuwait	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Kyrgyz Republic	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Latvia	Y	E	Y	Y	N. Accepted	Y	Y	Y	Y	Y
Lebanon	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Libya	Y	O	i	i	N. Accepted	Y	N	Y	Y	N
Malaysia	Y	O	ii	i	N. Accepted	Y	N	Y	N	N
Malta	Y	O	i	i	N. Accepted	Y	N	Y	N	N
Mauritius	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N

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Morocco	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Nepal	Y	O	ii	Y	N. Accepted	Y	Y	Y	Y	N
Netherlands	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Nigeria	Y	O	i	Y	N. Accepted	Y	N	Y	N	N
Norway	Y	O	Y	i	N. Accepted	Y	Y	Y	Y	N
Oman	Y	O	ii	Y	N. Accepted	Y	Y	Y	N	N
Philippines	Y	O	ii	Y	N. Accepted	Y	N	Y	Y	N
Poland	Y	O	i	i	N. Accepted	Y	N	Y	Y	N
Portuguese Republic	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Qatar	Y	O	ii	Y	N. Accepted	Y	Y	Y	Y	N
Republic of Korea	Y	O	Y	i	N. Accepted	Y	Y	Y	Y	N
Romania	Y	O	li	Y	N. Accepted	Y	Y	Y	Y	N
Saudi Arabia	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Serbia	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Singapore	Y	O	Y	i	N. Accepted	Y	N	Y	Y	N
South Africa	Y	O	li	Y	N. Accepted	Y	Y	Y	Y	N
Spain	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Sri Lanka	Y	O	Y	Y	N. Accepted	Y	N	Y	Y	N
Sweden	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Switzerland	Y	E	Y	i	N. Accepted	Y	Y (for Arbitration)	Y	Y	Y
Syria	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Tajikistan	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N

**MAP Guidelines**

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Thailand	Y	O	ii	Y	N. Accepted	Y	Y	Y	Y	N
Tunisia	Y	O	Y	Y	N. Accepted	Y	N	Y	Y	N
Turkey	Y	O	i	Y	N. Accepted	Y	N	Y	N	N
Turkmenistan	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
UAE	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
UK	Y	O		Y	N. Accepted	Y	N	Y	N	N
Ukraine	Y	O	Y	Y	N. Accepted	Y	Y	Y	N	N
USA	Y	E	i	i	N. Accepted	Y	N	Y	N	N
Uzbekistan	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Vietnam	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N
Yemen	Y	O	Y	Y	N. Accepted	Y	Y	Y	Y	N