



**Advance Pricing Agreement
(APA)
Programme of India**

**Annual Report
(2023-24)**

**Central Board of Direct Taxes
November, 2024**

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Foreword by the Chairman, CBDT

The Advance Pricing Agreement (APA) programme of the CBDT, is one of its leading programmes for fostering a tax regime in India that provides an investor conducive environment. 641 APAs have been entered into by the CBDT till March, 2024, which demonstrates the widespread acceptance of the programme by taxpayers and stakeholders alike. In continuation of the exemplary performance last year, FY 2023-24 witnessed the highest number of APA signings in any single year since the commencement of the APA programme.

Over more than a decade long period of its existence, the APA programme has contributed significantly to the Government of India's mission of promoting ease of doing business, especially for Multi-National Enterprises (MNEs), which have transactions spanning across borders, within their group entities. Each signed APA brings tax certainty for a taxpayer that spans multiple years. The number of APAs signed till date have cumulatively brought about certainty to taxpayers for more than 3,400 Assessment Years.

Apart from running the Unilateral leg of the APA programme successfully, the CBDT has also actively engaged with its various tax treaty partners to negotiate and enter into Bilateral APAs, which provide taxpayers an added benefit of relieving double taxation and providing tax certainty in both treaty partner jurisdictions. The year also saw a record number of bilateral agreements signed, which is also a testament to the strengthening of our relationship with taxpayers and treaty partners.

As we release this Report, I would like to place on record my appreciation of the hard work and dedication of the officers in the Foreign Tax & Tax Research Division of the CBDT and the officers in the APA teams under Principal CCIT (International Taxation). I would also like to thank the taxpayers for being equal and active partners in this programme. CBDT will continue to strive towards further increasing the efficacy of the APA programme and attain more expedient outcomes going forward. All feedback/suggestions on this Report are welcome, and will help us in further strengthening the APA programme.



Ravi Agrawal
Chairman, Central Board of Direct Taxes
Ministry of Finance, Government of India

Preface by Member (L), CBDT

The Advance Pricing Agreement (APA) programme was introduced in India through Finance Act, 2012 with a view to fulfil the objectives of tax certainty and double taxation avoidance - two key focus areas of the CBDT for several years now. Being founded on principles of mutual co-operation and trust between taxpayers and revenue authorities, the programme has strengthened the Indian tax administration's orientation of enabling and empowering, the growth of our taxpayers.

The programme has constantly strived for a meticulous, positive, fact-intensive and collaborative perspective on transfer pricing, aided by consultation and a desire on convergence and acceptability of outcomes. Thus, a more cooperative rather than adversarial approach, forms the cornerstone of the APA programme.

It gives me immense pleasure to present this sixth Annual Report (for FY 2023-24) of the Indian APA programme. This Annual Report presents abundant numerical data and detailed analysis that confirms the immense popularity and acceptability of the APA programme in India. The year FY 2023-24 in particular has been one of resounding success for the programme with several milestones in terms of number of signings surpassed in unilateral as well as bilateral agreements.

I would like to congratulate the officers in the Foreign Tax & Tax Research Division of the CBDT and the APA teams under Principal CCIT (International Taxation) for their successful work. This financial year has been a record-breaking year for the APA programme in many respects, with the highest number of signings in any year in the history of the programme, for which I would like to put on record my special appreciation for the dedication and hard work of the officers, as well as the positive support extended by taxpayers and tax consultants. I would specifically also like to thank our taxpayers for reposing their faith in the APA programme and extending their full-fledged cooperation in ensuring that the programme continues to be a success.



R. N. Parbat

**Member (Legislation), Central Board of Direct Taxes
Ministry of Finance, Government of India**

Chapter 1: APA Programme of India – Introduction

An Advance Pricing Agreement (APA) is an agreement between the tax administration and a person (taxpayer), which determines, in advance, the Arm's Length Price (ALP) or specifies the manner of the determination of ALP (or both), in relation to an international transaction¹. APA programmes are operational in a number of countries for a long time. The primary goal of such programmes is to provide certainty to taxpayers in respect of the pricing of cross-border transactions undertaken by taxpayers with their group entities.

Unprecedented growth in international trade involving cross-border transactions within group entities has given rise to numerous tax disputes on the issue of transfer pricing. An APA is a mechanism to resolve transfer pricing disputes in advance, i.e., before the cross-border related party transaction actually takes place or, at least, before a dispute arises in respect of such cross-border transaction. The transfer price of goods and services transacted between group entities is decided in advance by the tax authorities and the taxpayers, so as to prevent any dispute arising from such transfer pricing.

The APA programme is carried out in India with a legislative mandate under the Income-tax Act, 1961. It was launched in 2012 through the insertion of sections 92CC and 92CD in the Income-tax Act, 1961 by the Finance Act, 2012. These statutory provisions, effective from 1st July, 2012, lent the legal backing to the CBDT to enter into APAs with taxpayers for a maximum period of 5 years in respect of international transactions between Associated Enterprises (AEs) to determine the ALP or to specify the manner in which the ALP is to be determined.

Vide notification no. 36/2012 [F. No. 133/5/2012-SO(TPL)]/SO 2005 (E), dated 30th August, 2012, the APA Scheme [Rules 10F to 10T] was inserted in the Income-tax Rules, 1962 to operationalize the APA programme. Thus, the Indian APA programme, which commenced from 1st July, 2012, became fully functional and operational from 30th August, 2012 with the notification of the rules. The rules deal with the various procedural aspects of the APA process, including procedures for filing of pre-filing consultation application; pre-filing consultation; payments of fees; filing of APA application; processing of APA application; withdrawal of APA application; terms and conditions of APA; filing of Annual Compliance Report; Compliance Audit; revision, cancellation and renewal of APA; etc.

Rollback provisions allow the ALP or the methodology for determining the ALP as agreed to in the APA, to be rolled back to a period prior to the commencement of the APA. Roll-back of APAs was announced by the Government on 10th July, 2014. The necessary legislative changes in this regard were carried out through the Finance (No. 2) Act, 2014. The amendment to the Income-tax Rules, 1962 for implementing the Roll-back provisions were notified on 14th March, 2015 and the existing APA Scheme got amended accordingly. The Rollback provisions are applicable for a maximum of

¹Advance Pricing Agreement Guidance with FAQs released as part of Taxpayer Information Series No. 43

four years prior to the first year of the APA period. Thus, a taxpayer would be able to have certainty in matters of transfer pricing for a maximum period of 9 years at any one time by applying for an APA with Rollback provisions. Circular No. 10 of 2015 was issued by the CBDT on 10th June, 2015 to provide clarity on Rollback issues in the form of answers to FAQs.

Under the Indian APA programme, APAs can be unilateral, involving the CBDT only, or bilateral, involving CBDT and the tax authorities of another country. Bilateral APAs are based on Agreements entered into by the Competent Authority of India with the Competent Authority of the treaty partner jurisdiction, thereby extending tax certainty simultaneously in both the jurisdictions. Over the last 12 years, more than 1800 applications have been filed in India. About 75% of these are for unilateral APAs between the Indian taxpayer and the CBDT. Till 31st March, 2024, 641 Agreements have been entered into, of which 506 are unilateral and 135 are bilateral.

The APA applications are processed and analysed by dedicated APA teams working under the overall supervision of Pr. CCIT (International Taxation), New Delhi. Each APA team is headed by a Principal Commissioner/Commissioner of Income-tax. The team also comprises Addl./Joint Commissioners of Income-tax and Deputy/Asst. Commissioners of Income-tax. Presently, there are five APA teams. These teams are based in Delhi, Mumbai, Bengaluru and Gurgaon.

In respect of unilateral APAs (UAPAs), the position papers developed by the APA teams are approved by the Pr. CCIT (International Taxation), New Delhi and sent to the CBDT for approval. In the CBDT, officers of the Foreign Tax & Tax Research (FT & TR-I and II) Divisions examine and process the position papers/report received under Rule 10L. Joint Secretary, FT & TR-I and FT & TR-II review the examination done by the officers below and further process the position papers before sending it for final approval of the designated Member of the CBDT. The Member approves the final negotiating position to be adopted by the APA teams. Once the negotiation is complete, a draft Agreement is sent to the CBDT for approval. Thereafter, the Agreement is entered into between the CBDT and the taxpayer.

In respect of bilateral APAs (BAPAs), once the position papers are sent to the FT & TR-I & II Divisions by the Pr. CCIT (International Taxation), the Competent Authority of India (either Joint Secretary, FT & TR-I or Joint Secretary, FT & TR-II, depending upon the country with which the bilateral APA is to be negotiated) initiates discussions with their counterpart in the other country. The officers in the FT & TR Division of the CBDT working with the Competent Authority examine the position paper received from the Pr. CCIT (International Taxation) and prepare the position of the Indian Competent Authority. The same is shared with the Competent Authority of the other country. Once positions have been exchanged, the Competent Authorities of both countries discuss and negotiate the terms and conditions of the APA. If they reach an understanding, then a Mutual Agreement, containing the terms and conditions of the APA, is entered into by the Competent

Authorities of both countries. Thereafter, each country usually enters into an Agreement with its own taxpayer. On the Indian side, the terms and conditions of the Mutual Agreement are shared with the taxpayer and its concurrence is sought within 30 days. Once the taxpayer agrees to the resolution reached in the Mutual Agreement, a draft Agreement is prepared in consultation with the Indian taxpayer and the same is submitted for the approval of the designated Member in the CBDT.

For both UAPAs and BAPAs, the Agreements are entered into by either Joint Secretary, FT & TR-I or Joint Secretary, FT & TR-II (the two Competent Authorities of India) with the taxpayer, on behalf of the CBDT.

The sixth Annual Report on the APA programme highlights the progress made in financial year 2023-24. This has been another successful year for the APA programme. This year again, CBDT recorded the highest ever APA signings in any financial year since the launch of the APA programme, signing a total of 125 APAs. This year, CBDT also signed the maximum number of BAPAs in any financial year till date, with the signing of 39 BAPAs. The BAPAs were signed as a consequence of entering into Mutual Agreements with India's treaty partners namely Australia, Canada, Denmark, Japan, Singapore, the UK and the US. This was made possible by the efforts of the CBDT and its officers working in the Foreign Tax & Tax Research Division and the APA teams [under the Principal CCIT (International Taxation)]. The CBDT also acknowledges the cooperation and efforts of the taxpayers and their consultants in making the APA programme a success.

This Annual Report carries forward the CBDT's unique initiative to bring into the public domain various statistical and qualitative aspects of India's APA programme. The idea is to acknowledge that there is still a great scope for further improvements in this programme and encourage discussion and debate amongst taxpayers, policy makers, and economists, among others, on its strengths and weaknesses. This Annual Report also underlines the importance that the APA programme holds in the Government's endeavour to promote and preserve a non-adversarial tax regime by working with the stakeholders.

Chapter 2: Data and Qualitative Analyses

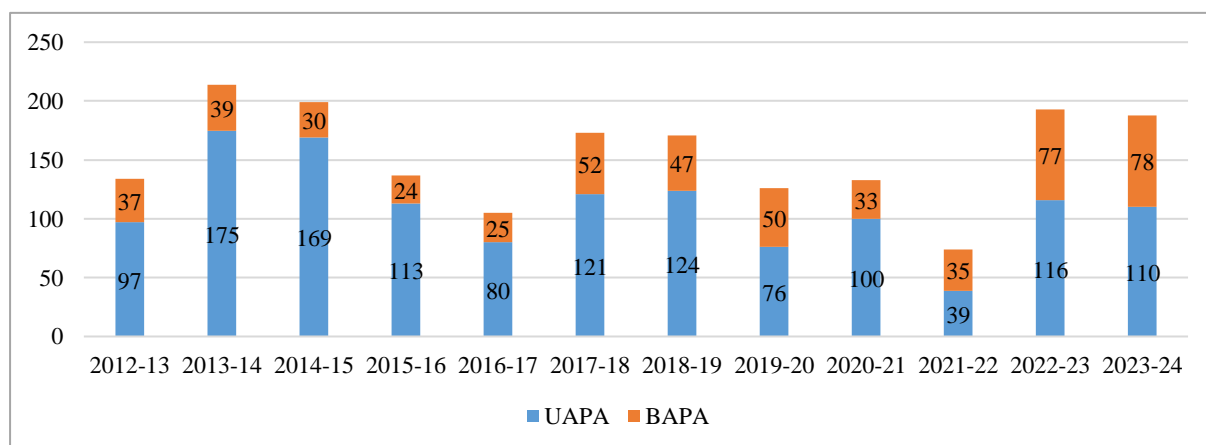
2.1 Applications filed

The total number of applications filed on an annual basis can be seen from Table 2-1 and Figure 2-1 below. The total number of BAPA filings in FY 2022-23 and FY 2023-24 has increased as seen from the rise in number of applications filed compared to previous years. Although premature to declare this as a trend based on one year, the shift towards BAPAs indicates confidence in the quick and efficient resolutions with many of our treaty partners.

Table 2-1 APA applications filed till 31.03.2024

Financial Year	UAPA applications	BAPA applications	Total
2012-13	97	37	135
2013-14	175	39	218
2014-15	169	30	203
2015-16	113	24	136
2016-17	80	25	106
2017-18	121	52	174
2018-19	124	47	170
2019-20	76	50	128
2020-21	100	33	134
2021-22	39	35	75
2022-23	116	77	195
2023-24	110	78	188
Total	1320	527	1847

Figure 2-1 APA applications filed



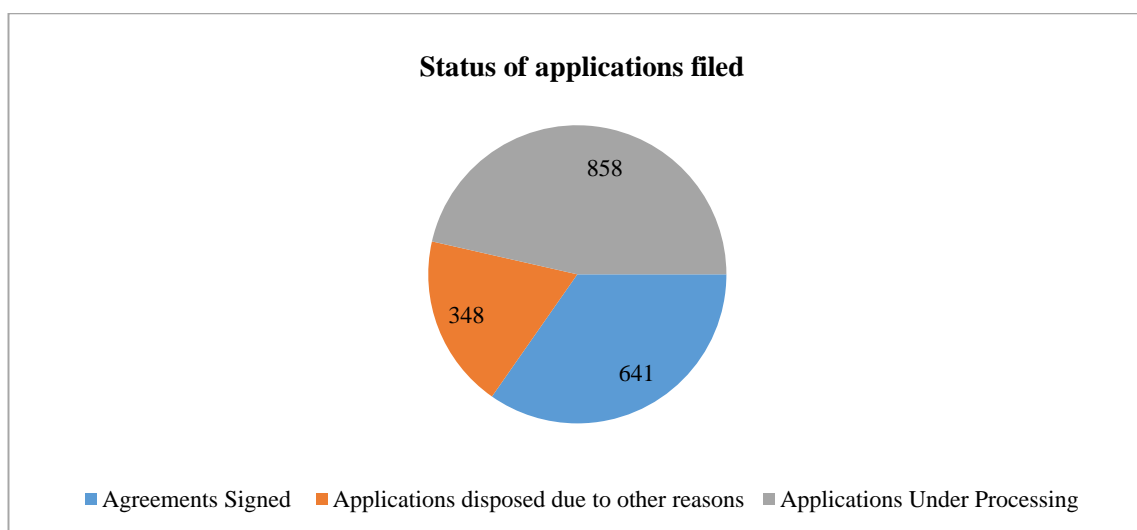
2.2 Status of applications filed

Table 2-2 shows the status of applications filed. Out of a total 1847 applications filed till 31st March 2024, a total of 989 applications have been disposed and 858 applications are under processing. A comparison of applications filed, disposed, and under processing, is presented in Figure 2-2.

Table 2-2 Status of applications filed

Sr. No.	FY	Applications Filed (Post Conversion)	Agreements Signed	Applications disposed off due to other reasons	Applications under processing
1	2012-13	134	107	23	4
2	2013-14	214	130	69	15
3	2014-15	199	98	74	27
4	2015-16	137	65	56	16
5	2016-17	105	37	39	29
6	2017-18	173	47	36	90
7	2018-19	171	58	28	85
8	2019-20	126	41	8	77
9	2020-21	133	38	10	85
10	2021-22	74	11	2	61
11	2022-23	193	5	1	187
12	2023-24	188	4	2	182
Total		1847	641	348	858

Figure 2-2 Status of applications filed from initiation of APA programme till 31.03.2024



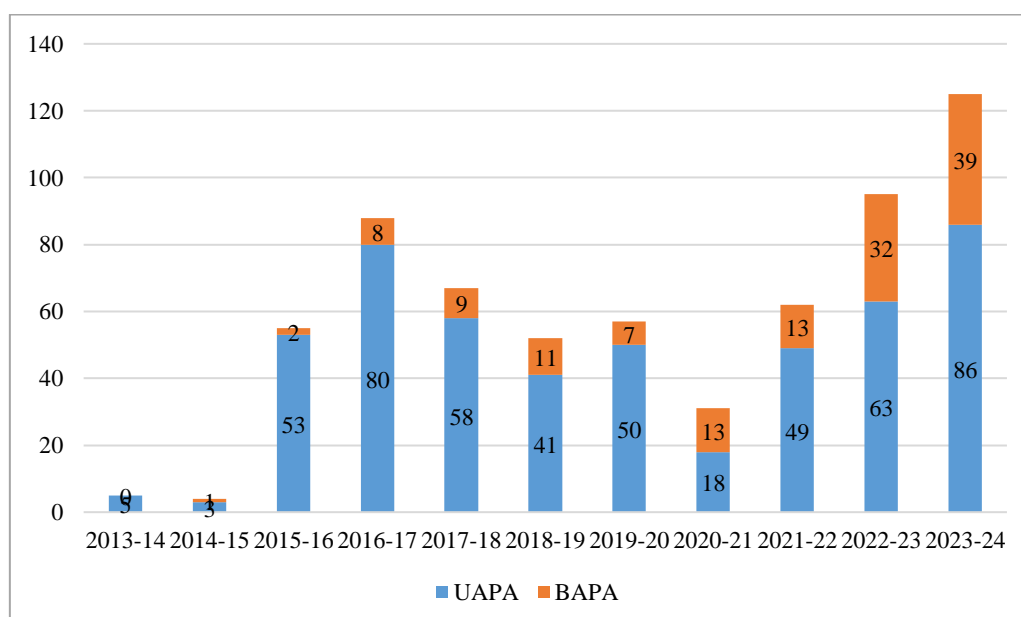
2.3 Agreements signed: Year-wise

The number of agreements signed in various years of the APA programme are detailed in Table 2-3 and Figure 2-3 below. The number of APAs signed has continued to rise since FY 2021-22. After the record high in FY 2022-23, FY 2023-24 also saw the highest number of APAs signed. This year has also seen highest number of BAPAs ever signed. Additionally, signing of more than 100 APAs was a milestone achieved in this year.

Table 2-3 Agreements signed year wise

FY	UAPAs	BAPAs	Total
2013-14	5	0	5
2014-15	3	1	4
2015-16	53	2	55
2016-17	80	8	88
2017-18	58	9	67
2018-19	41	11	52
2019-20	50	7	57
2020-21	18	13	31
2021-22	49	13	62
2022-23	63	32	95
2023-24	86	39	125
Total	506	135	641

Figure 2-3 UAPAs and BAPAs signed since initiation of APA programme



2.4 Total covered years in Agreements signed

The impact of the APA programme in increasing the ease of doing business is evident from the number of years for which it has brought certainty in transfer pricing matters and reduced litigation. In its short period of existence in India, the APA programme has cumulatively brought about certainty for over 3400 years.

Particulars	APA years	Rollback Years	Total Years
Agreements signed till 2022-23	2023 years	693 years	2716 years
Agreements signed in 2023-24	603 years	111 years	714 years
Total Agreements signed till 31st March 2024	2626 years	804 years	3430 years

The APA programme is also an important tool to decongest the tax tribunals and higher judiciary of transfer pricing litigation. Even if we assume that only about half of these assessment years would have ended up in litigation, the APA programme has managed to prevent or resolve this litigation for more than 1700 assessment years. In other words, more than 1700 transfer pricing matters were prevented from getting into litigation. During the last financial year itself, the **APA programme has provided tax certainty in respect of more than 700 assessment years.**

Chapter 3: Unilateral APAs

3.1 Applications Filed

Statistics pertaining to UAPA applications are presented in Table 3-1. The number of applications filed in past years remains dynamic because of conversion of UAPAs into BAPAs and vice versa, physical verification of pendencies, etc.

Table 3-1 Applications filed (original and post-conversion)

Sr.No	F.Y	Application UAPA (Original)	Application UAPA (Post Conversion)
1	2012-13	105	97
2	2013-14	188	175
3	2014-15	185	169
4	2015-16	120	113
5	2016-17	81	80
6	2017-18	120	121
7	2018-19	124	124
8	2019-20	73	76
9	2020-21	100	100
10	2021-22	39	39
11	2022-23	116	116
12	2023-24	110	110
Total		1361	1320

3.2 Status of Applications Filed

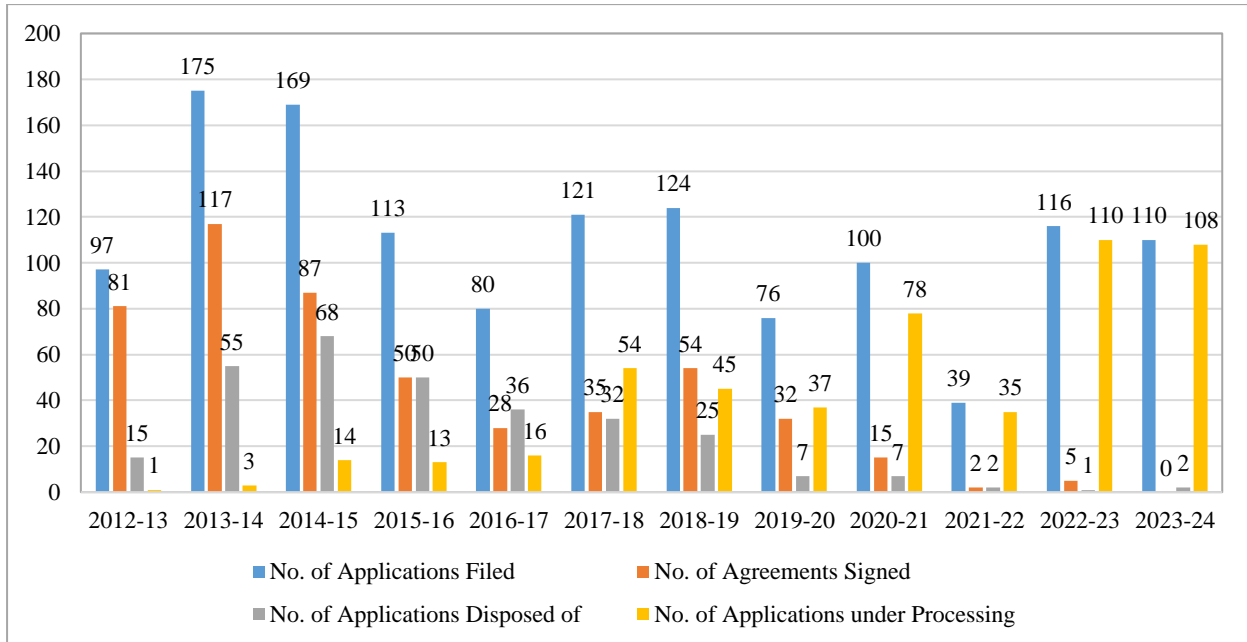
The number of UAPAs disposed off and number of UAPAs still under processing are detailed in Table 3-2 and Figure 3-2 below. The figures therein represent the gradual and ongoing evolution of the APA Programme, its increasing efficacy as well as the further progress that needs to be aspired in respect of it. The disposal of applications filed in earlier years is high while number of cases still under processing is low. For recent years, a large proportion of cases are still under processing. One reason for this is that the processing of APAs involves conducting site visits, various due diligence processes, and multiple rounds of negotiations, and the need for different stakeholders to come to an agreement. All of these take time.

The number of pending applications also include cases where the applicant has not been responsive to queries of the APA team or has not shown much interest in engaging in the APA process, but has also not withdrawn its application, leading to a lack of progress. Nevertheless, the absolute number of APAs concluded has steadily risen over the past few years, showing progress in the speed and efficacy of their resolution. Nearly 20% of the applications under processing pertain to applications filed in March 2024 and so the processing in these cases is at a preliminary stage.

Table 3-2 Status of UAPAs filed

		(A)	(B)	(C)	(D)
Sr.No	F.Y	No. of Applications Filed (Post-Conversion)	No. of Agreements Signed out of (A)	No. of Applications Disposed of out of (A) due to other reasons	No. of Applications under Processing out of (A)
1	2012-13	97	81	15	1
2	2013-14	175	117	55	3
3	2014-15	169	87	68	14
4	2015-16	113	50	50	13
5	2016-17	80	28	36	16
6	2017-18	121	35	32	54
7	2018-19	124	54	25	45
8	2019-20	76	32	7	37
9	2020-21	100	15	7	78
10	2021-22	39	2	2	35
11	2022-23	116	5	1	110
12	2023-24	110	0	2	108
Total		1320	506	300	514

Figure 3-2 Status of UAPAs



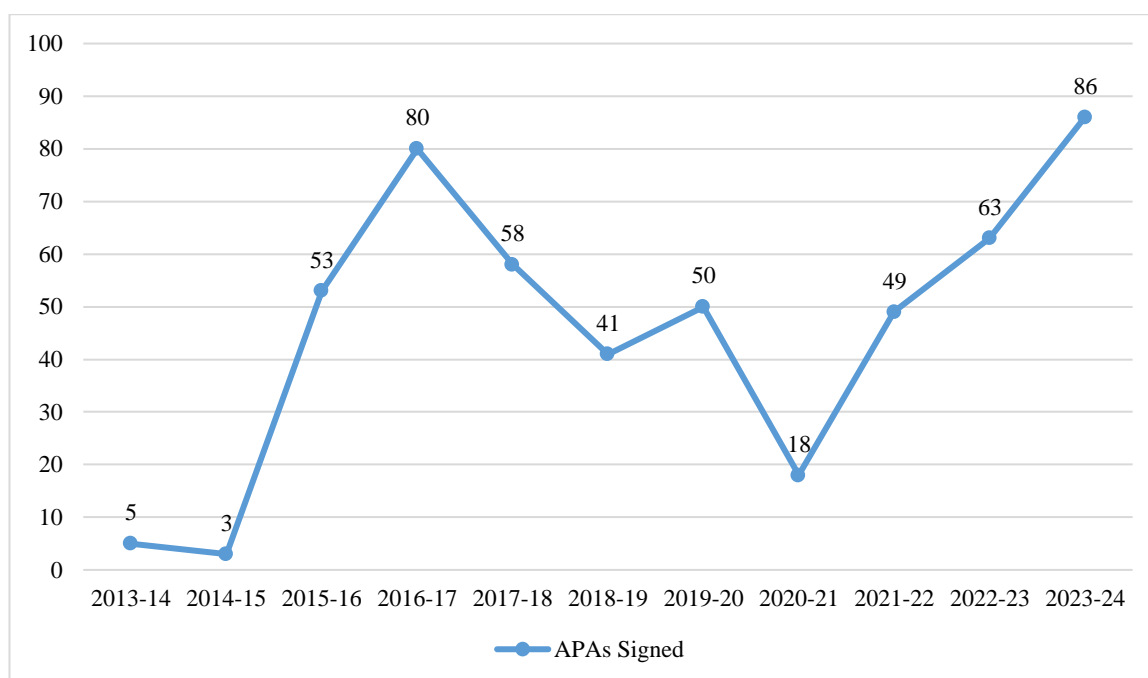
3.3 Agreements Signed – Year wise

The number of UAPA agreements signed in various years are detailed in Table 3-3 and Figure 3-3. In FY 2023-24, the 86 agreements entered into have provided tax certainty for 420 APA years and 56 rollback years. A total of 17 APAs out of the 86 signed, also had a rollback term.

Table 3-3 UAPAs signed

FY	Agreements Signed
2013-14	5
2014-15	3
2015-16	53
2016-17	80
2017-18	58
2018-19	41
2019-20	50
2020-21	18
2021-22	49
2022-23	63
2023-24	86
Total	506

Figure 3-3 UAPAs signed



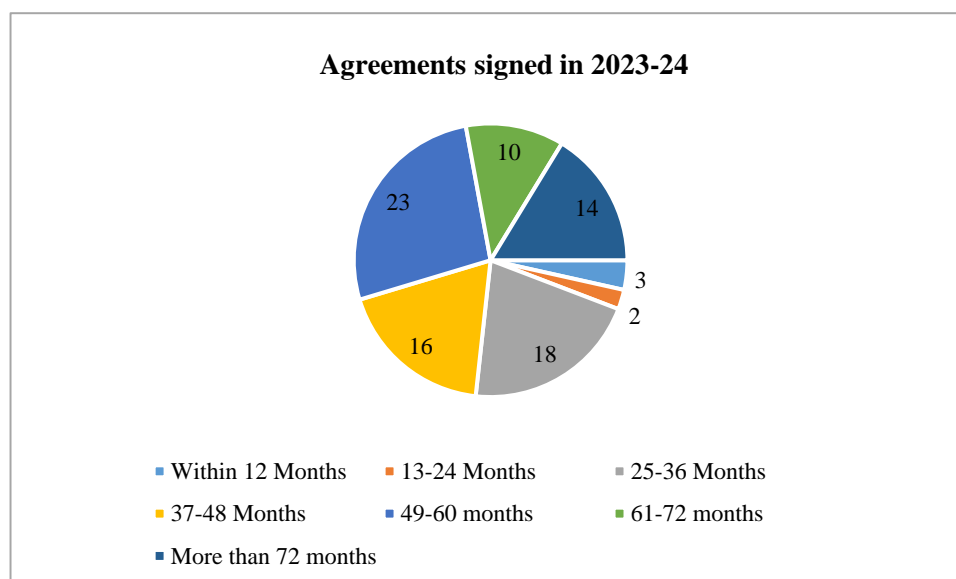
3.4 Duration of Processing

The number of UAPAs signed in FY 2023-24 segregated on the basis of duration taken from application to signing are mentioned in Table 3-4-1 below. It is seen that the average duration for closure of applications in FY 2023-24 is approximately 54.65 months. The average duration of processing on a cumulative basis is approximately 45.97 months. In the recent years, the focus of the APA programme has been on closure of backlog as well as more complex cases pending for a longer duration. The average duration of processing of cases in FY 2023-24, when compared to cumulative figure, highlights the impact of these factors.

Table 3-4-1 Duration of processing of UAPAs in FY 2023-24

Duration of processing	FY 2023-24
Within 12 Months	3
13-24 Months	2
25-36 Months	18
37-48 Months	16
49-60 months	23
61-72 months	10
More than 72 months	14
Total	86

Figure 3-4-1 The duration taken in processing and negotiation of UAPAs signed in FY 2023-24

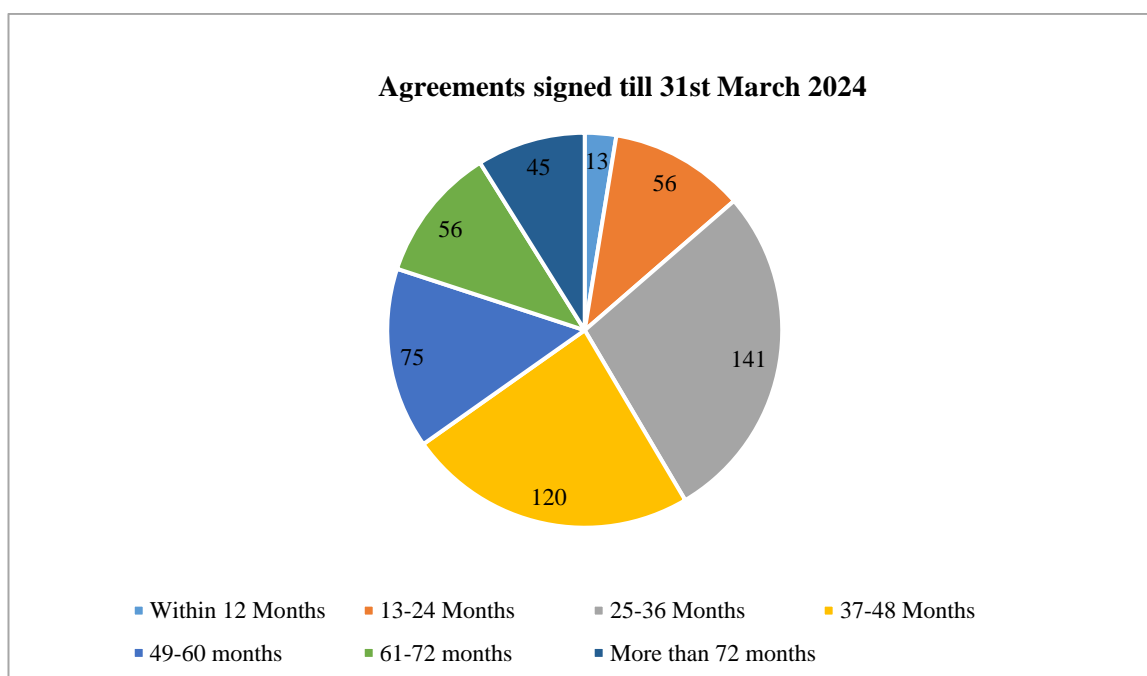


The cumulative data on period of processing of all UAPAs signed till 31st March, 2024, is presented in Table 3-4-2 and Figure 3-4-2 hereunder:

Table 3-4-2 Cumulative data on period of processing for UAPAs signed till March 2024

Duration of processing	Agreements signed till 31 st March 2024
Within 12 Months	13
13-24 Months	56
25-36 Months	141
37-48 Months	120
49-60 months	75
61-72 months	56
More than 72 months	45
Total	506

Figure 3-4-2 The duration taken in processing and negotiation of UAPAs signed till March 2024



3.5 Sectoral distribution of applicants

The primary economic activity of applicants in whose cases UAPAs were signed in FY 2023-24 are mentioned in Table 3-5 below. As can be seen, a majority of applications which culminated into agreement in FY 2023-24 pertain to the service sector. A majority of these, in turn, are captive companies involved in software development and IT enabled services. Some of these companies are also involved in engineering design services, contract R&D services, and Knowledge Process Outsourcing (KPO). It may be noted that 19 out of the 86 companies with which CBDT entered into agreements also have manufacturing activities. Further, 25 out of 86 companies are involved in trading activities. Hence, the entire spectrum of trading, manufacturing, and services, are covered under UAPAs signed.

Table 3-5 Number of UAPAs signed in FY 2023-24

Sr. No.	Economic Activity	Agreements signed
1	Service	55
2	Trading & Service	9
3	Manufacturing, Trading & Service	8
4	Manufacturing & Trading	5
5	Manufacturing & service	4
6	Trading	3
7	Manufacturing	2
	Total	86

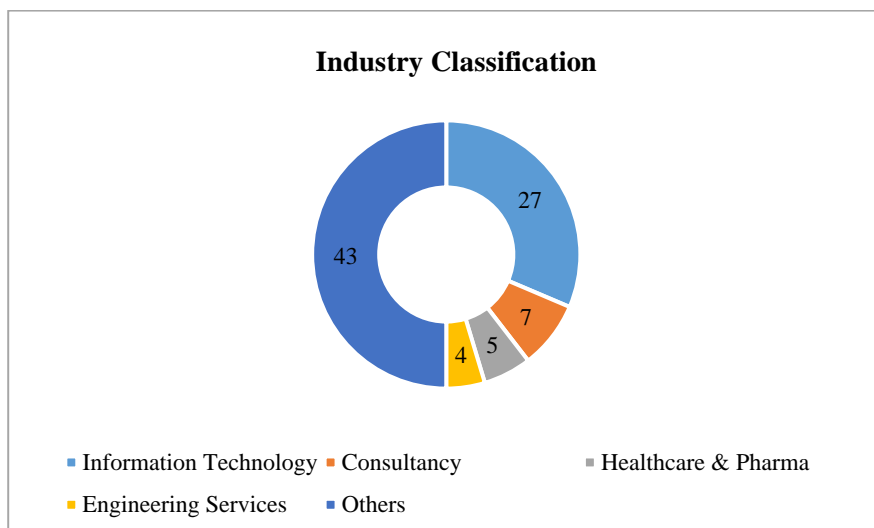
3.6 Industry-wise distribution of agreements

A majority of UAPAs signed in the financial year 2023-24 pertain to the I-T industry, banking & insurance, engineering services, telecommunication and power and energy. This reflects on the fact that India is a major outsourcing destination for information technology and business processes, and significant number of foreign MNEs have presence in I-T clusters of India such as Bengaluru, Hyderabad, Chennai, Gurgaon, and Noida. The industry-wise distribution of UAPAs is as given in Table 3-6 and Figure 3-6 below.

Table 3-6 Industry-wise distribution of UAPAs

Sr. No.	Industry	No. of Agreements Signed
1	Information Technology	27
2	Consultancy	7
3	Power & Energy	5
4	Engineering Services	4
5	Telecommunication	4
6	Trading & Logistics	4
7	Foods & Beverages	4
8	Industrial/Commercial Goods	3
9	Pharmaceutical	3
10	Consumer Goods	2
11	Media & entertainment	3
12	Automotive	2
13	Pumps	2
14	Banking & insurance	2
15	Healthcare	2
16	Paints & chemical	1
17	Others	11
	Total	86

Figure 3-6 Industries that UAPAs signed in FY 2023-24 pertain to



3.7 Nature of Transactions Covered

The nature of the 224 international transactions covered by the 86 UAPAs signed in FY 2023-24 are mentioned in Table 3-7 and Figure 3-7 below. As can be seen from the table, a wide variety of transactions have been covered by the UAPAs signed in this year. A diversified basket of international transactions indicates the growing maturity of the APA programme and competence of the APA teams in processing applications that include complex transactions.

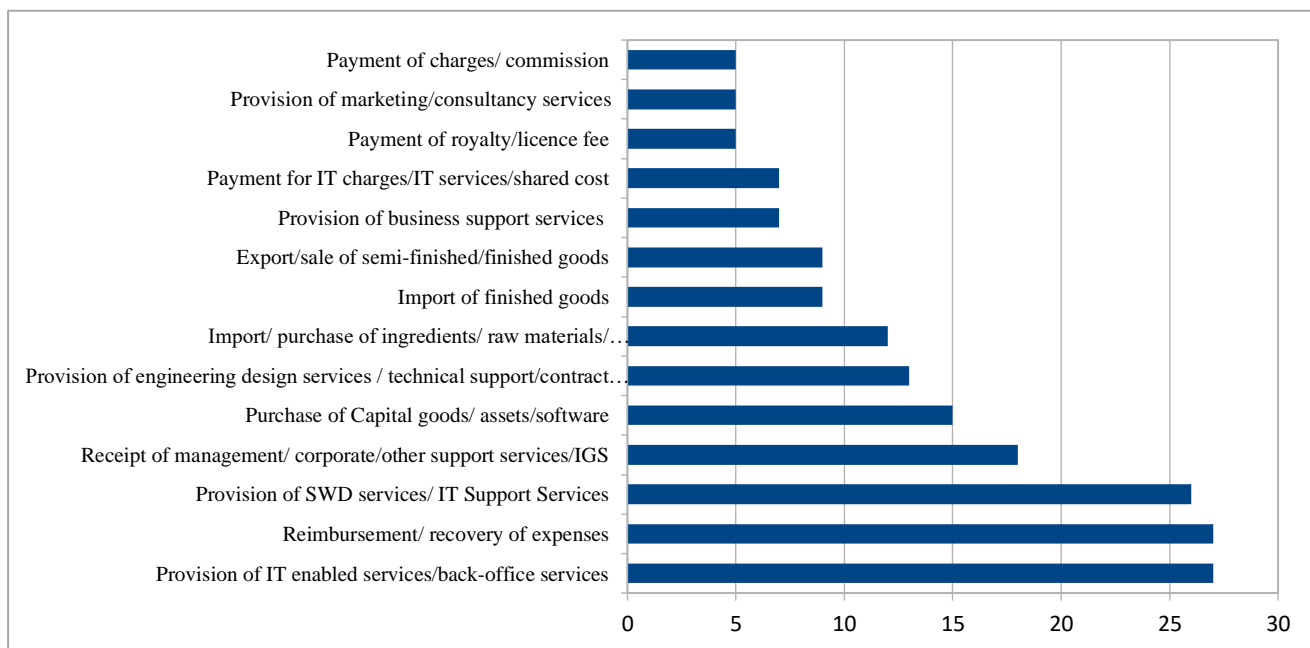
While captive services like SWD services and ITeS services are usually benchmarked at cost plus mark-up under the Transactional Net Margin Method (TNMM), the determination of arm's length price for manufacturing, royalty transactions, IGS, etc. is more intricate. Some complex transactions need to be benchmarked using multiple methods (a primary method and a secondary method for sanity check).

Table 3-7 Nature of international transactions covered by UAPAs signed

Sr. No.	Covered Transaction	Total No. of Transactions
1	Provision of IT enabled services/back-office services	27
2	Reimbursement/ recovery of expenses	27
3	Provision of SWD services/ IT Support Services	26
4	Receipt of management/ corporate/other support services/IGS	18
5	Purchase of Capital goods/ assets/software	15

Sr. No.	Covered Transaction	Total No. of Transactions
6	Provision of engineering design services / technical support/contract R&D services	13
7	Import/ purchase of ingredients/ raw materials/ consumables/components	12
8	Import of finished goods	9
9	Export/sale of semi-finished/finished goods	9
10	Provision of business support services	7
11	Payment for IT charges/IT services/shared cost	7
12	Payment of royalty/licence fee	5
13	Provision of marketing/consultancy services	5
14	Payment of charges/ commission	5
15	Trade Receivable/Payables	4
16	Payment of interest on borrowings/ECBs	4
17	Sale of ingredients/ raw materials/ consumables	3
18	Fixed Assets	3
19	Provision of installation, commissioning and other support services	2
20	Provision of finance/accounting support services	2
21	Provision of non-binding investment advisory service	2
22	Purchase of software licences	2
23	Receipt of application support services	2
24	Reimbursement of ESPP, RSU/ESOP paid/payable	2
25	Provision for Restricted Stock Units/Options/ESIP (RSU/Options)	2
26	Fee for provision of guarantee/LOC in support of AEs	2
27	Receipt of corporate guarantee fee	1
28	Receipt of subvention income	1
29	Receipt of licence fee	1
30	Receipt of commission	1
31	Receipt of interest	1
32	Purchase of online advertisement space and enterprise products	1
33	Provision of outsourcing services	1
34	Manufacturing of food products	1
35	Provision of procurement and support services	1

Figure 3-7 Nature of international transactions covered by the signed UAPAs



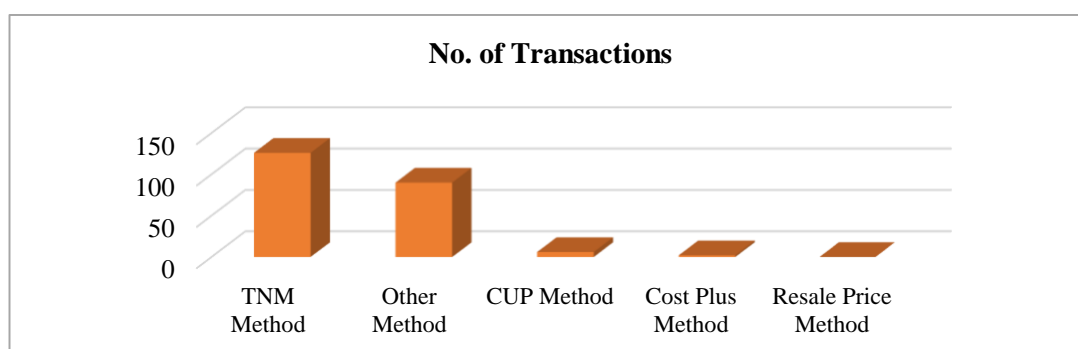
3.8 Transfer Pricing Methodologies Used

A total of 224 transactions were benchmarked using 5 different methods, across the 86 UAPAs signed in the financial year. The various methods are given in Table 3-8 and Figure 3-8 below.

Table 3-8 TP methods used to benchmark international transactions

Sr. No	TP Methodology	No. of Transactions
1	TNM Method	126
2	Other Method	90
3	CUP Method	6
4	Cost Plus method	2
5	Resale Price Method	0
Total		224

Figure 3-8 Methods used to benchmark transactions in UAPA agreements



3.9 Location of AEs

The 86 UAPAs entered into in the financial year have AEs across 74 countries, as given in Table 3-9 below. Usually, a single APA covers AEs located in multiple jurisdictions. The transactions with these AEs could be the primary covered international transaction, or a closely linked transaction like reimbursement/recovery of expenses, etc. In a majority of cases, AEs are located in the United States, the United Kingdom, France, Germany, etc. The APA applicants are usually a part of MNE groups, whose parent jurisdictions are in these countries. Many AEs are also located in investment and business hubs such as Singapore, Hong Kong, and Ireland.

Table 3-9: Location of AEs

Sr. No.	Countries	Number of Agreements
1	USA	51
2	Singapore	35
3	UK	37
4	Australia	22
5	Hong Kong	13
6	Netherlands	19
7	China	17
8	France	15
9	Japan	11
10	Switzerland	10
11	Canada	14
12	Germany	22
13	Ireland	5
14	Belgium	8
15	Italy	11
16	Malaysia	13
17	Thailand	6
18	Indonesia	9
19	UAE	8
20	Taiwan	5
21	Brazil	7
22	Finland	2
23	Portugal	3
24	South Africa	7
25	South Korea	9
26	Spain	6

Sr. No.	Countries	Number of Agreements
27	Sweden	10
28	New Zealand	2
29	Philippines	8
30	Poland	10
31	Chile	2
32	Denmark	3
33	Hungary	4
34	Mexico	5
35	Saudi Arabia	3
36	Austria	5
37	Argentina	4
38	Czech Republic	2
39	Luxembourg	6
40	Peru	1
41	Qatar	1
42	Russia	3
43	Turkey	4
44	Bermuda	1
45	Dubai	1
46	Israel	6
47	Mauritius	3
48	Morocco	1
49	Norway	3
50	Vietnam	7
51	Colombia	2
52	Cyprus	2
53	Greece	1
54	Jersey	1
55	Oman	1
56	Pakistan	1
57	Romania	3
58	Zambia	1
59	Malawi	1
60	Tanzania	1
61	Zimbabwe	1
62	Botswana	1
63	Ghana	2

Sr. No.	Countries	Number of Agreements
64	Myanmar	1
65	Malta	1
66	Egypt	2
67	Congo	1
68	Angola	1
69	Nigeria	1
70	Kenya	1
71	British Virgin Island	1
72	Kazakhstan	1
73	Bolivia	1
74	Bulgaria	3

Chapter 4: Bilateral APAs

4.1 Applications Filed

BAPA applications filed in various years, and UAPA applications filed in various years but subsequently converted into BAPA applications are detailed in Table 4-1. This financial year has also seen a rise in BAPA filings, with 78 new applications being received. This demonstrates the trust reposed in the bilateral process by our taxpayers, and reflects deeper relationships with our treaty partners, leading to quicker resolutions.

Table 4-1 Number of BAPA applications filed

FY	Applications (Original)	Applications (After Conversions)
2012-13	29	37
2013-14	26	39
2014-15	14	30
2015-16	17	24
2016-17	24	25
2017-18	53	52
2018-19	47	47
2019-20	53	50
2020-21	33	33
2021-22	35	35
2022-23	77	77
2023-24	78	78
Total	486	527

4.2 Country-wise Distribution of applications

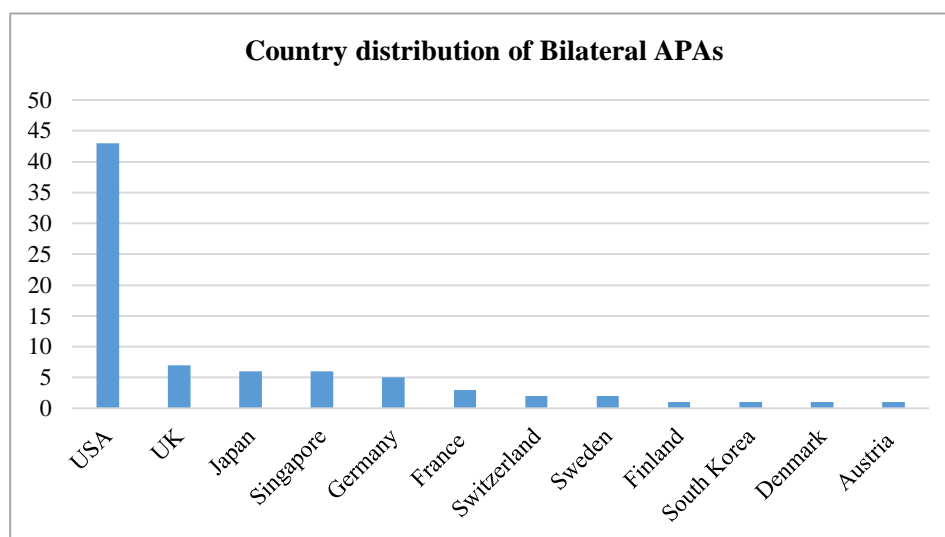
The country-wise distribution of BAPA applications is detailed in Table 4-2 and Figure 4-2. More than half of BAPA applications are with one treaty partner, i.e., the United States of America. Other treaty partners with whom large number of applications have been filed in FY 2023-24 are the UK, Japan, Singapore, Germany and France.

Table 4-2 Country-wise distribution of BAPAs

Countries	Applications filed in 2023-24
USA	43
UK	7
Japan	6
Singapore	6
Germany	5
France	3

Countries	Applications filed in 2023-24
Switzerland	2
Sweden	2
Finland	1
South Korea	1
Denmark	1
Austria	1
Total	78

Figure 4-2 Major countries to which BAPA applications filed in FY 2023-24 pertain



4.3 Status of Applications Filed

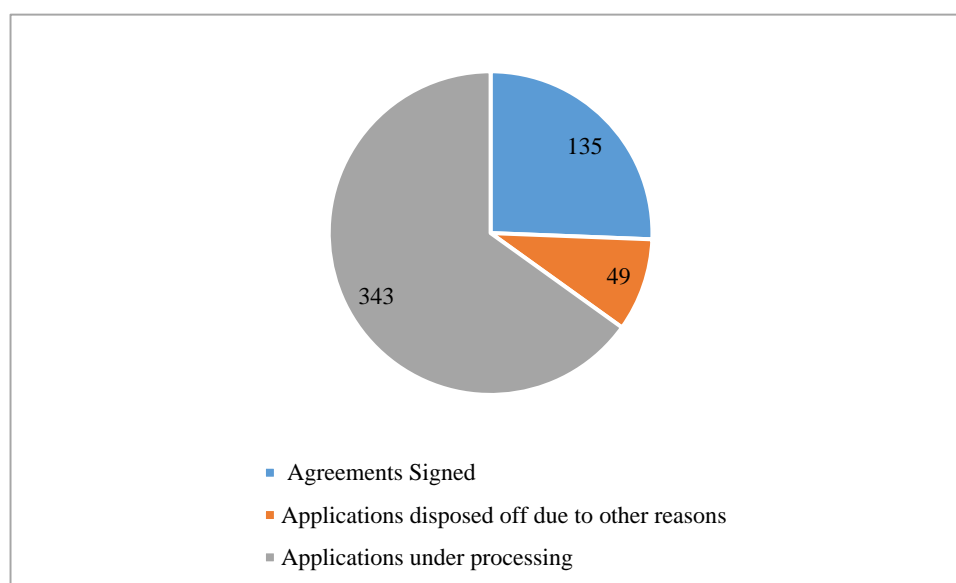
The status of applications filed is shown in Table 4-3 below. Out of a total 527 applications filed by 31st March 2024, a total of 184 applications have been disposed and 343 applications are under processing. A comparison of status of applications signed, disposed, and under processing for the BAPA applications filed till FY 2023-24 (as on 31st March, 2024) is presented in Figure 4-3.

Table 4-3 Status of BAPA applications filed

Sr. No.	FY	Applications Filed (Post Conversion)	Agreements Signed	Applications disposed off due to other reasons	Applications under processing
		A	B	C	$D = A - B - C$
1	2012-13	37	26	8	3
2	2013-14	39	13	14	12
3	2014-15	30	18	6	6
4	2015-16	24	11	6	7

Sr. No.	FY	Applications Filed (Post Conversion)	Agreements Signed	Applications disposed off due to other reasons	Applications under processing
5	2016-17	25	11	3	11
6	2017-18	52	19	4	29
7	2018-19	47	14	3	30
8	2019-20	50	10	1	39
9	2020-21	33	10	4	20
10	2021-22	35	0	0	35
11	2022-23	77	3	0	74
12	2023-24	78	0	0	78
Total		527	135	49²	343

Figure 4-3 Status of BAPA applications filed till FY 2023-24, as on 31st March 2024



In the 135 BAPAs signed so far, CBDT has provided tax certainty for 645 assessment years. These 645 years include 203 years covered under the Rollback period of the concluded APAs. Out of the 135 Agreements, 65 have Rollback provisions. In FY 2023-24, the 39 BAPAs entered into have provided tax certainty totalling to 183 years. Of these 39 BAPAs, 18 BAPAs have Rollback period of 52 years.

4.4 Country wise status of application filed (post conversion)

The country-wise status of BAPA applications filed is shown in Table 4-4 and Figures 4-4-1 and 4-4-2 below. More than 70% of the total BAPA applications that are still under processing, are with 6 countries – the USA, the UK, Japan, Germany, Switzerland and Singapore. The maximum number of BAPAs signed so far have been with the USA followed by the UK and Japan.

² reconciliation with existing data

Table 4-4 Status of applications filed

Sr. No.	Country	Applications Filed	Agreements Signed	Applications disposed off due to other reasons	Applications under Processing
		A	B	C	D = A – B – C
1	*USA	244	69	13	162
2	*UK	80	19	23	38
3	Japan	45	16	2	27
4	*Germany	16	0	0	16
5	Switzerland	22	6	1	15
6	Singapore	22	6	2	14
7	*Sweden	12	0	0	12
8	*Finland	15	3	1	11
9	South Korea	10	0	0	10
10	France	8	0	1	7
11	Canada	6	1	0	5
12	Ireland	6	0	1	5
13	Australia	9	5	0	4
14	*The Netherlands	11	3	4	4
15	*Denmark	10	7	0	3
16	Luxembourg	2	0	0	2
17	Italy	2	0	0	2
18	New Zealand	1	0	0	1
19	China	1	0	0	1
20	Czech Republic	1	0	0	1
21	Belgium	1	0	0	1
22	Indonesia	1	0	0	1
23	Austria	1	0	0	1
	Total	527	135	49³	343

³reconciliation with existing data

Figure 4-4-1 BAPAs signed

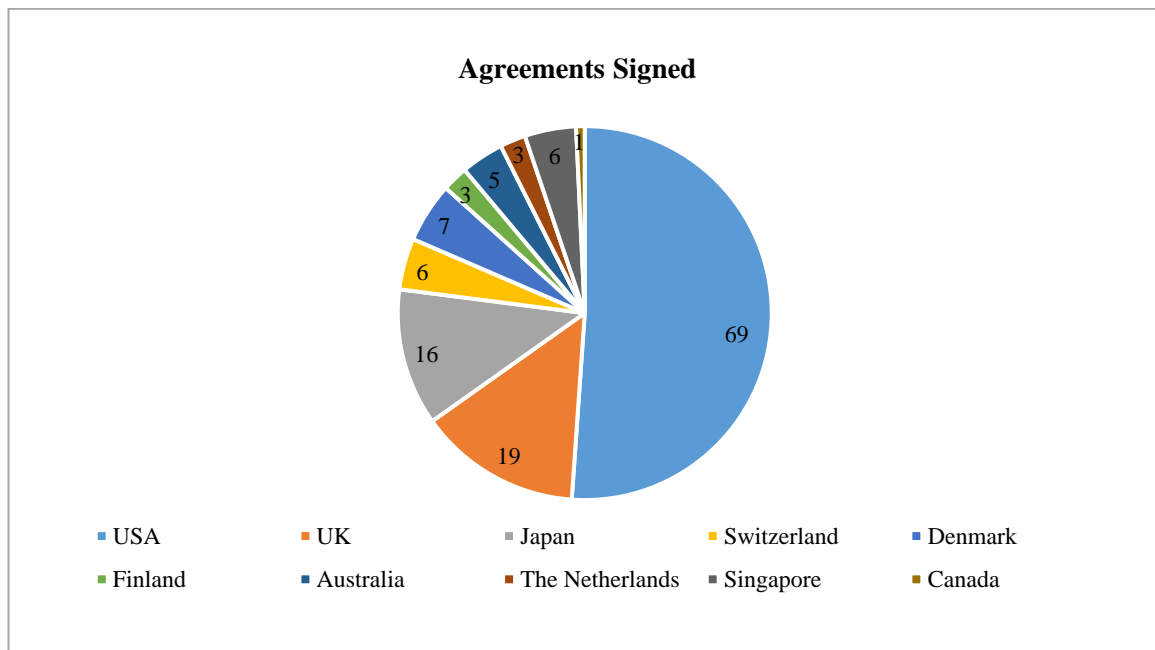
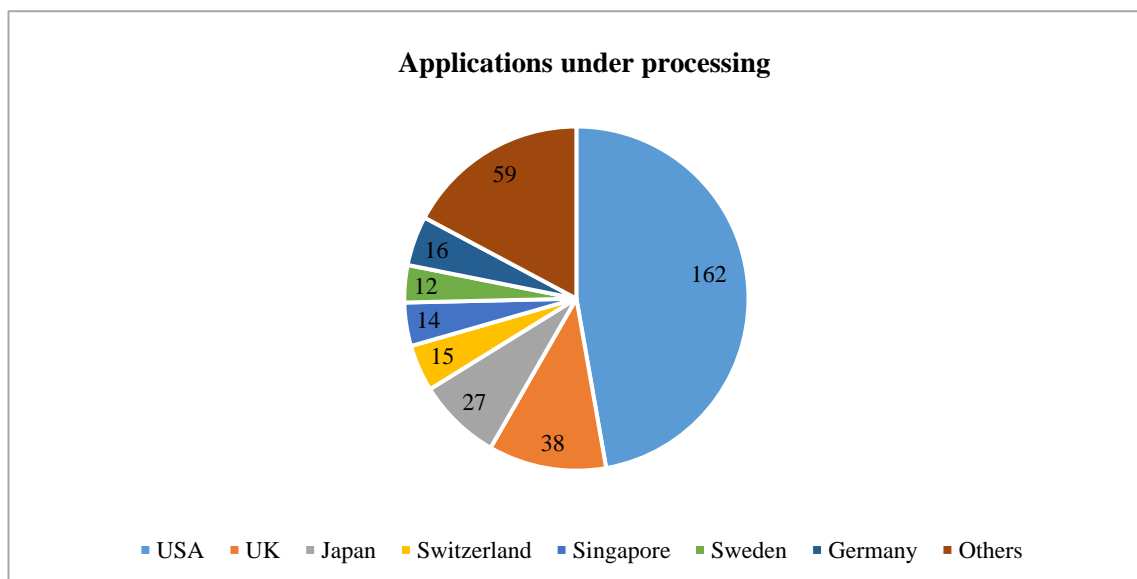


Figure 4-4-2 BAPA applications under processing



4.5 Agreements Signed – Year wise

The Table 4-5 and Figure 4-5 below show the year-wise details of BAPAs entered into till 31st March, 2024. As can be seen below, an increase of more than 21% in signing of BAPAs was achieved in FY 2023-24. Further, it can be seen that there is a steady increase in the signing of BAPA's year on year basis indicating confidence in our resolutions with our treaty partners. This was made possible by the

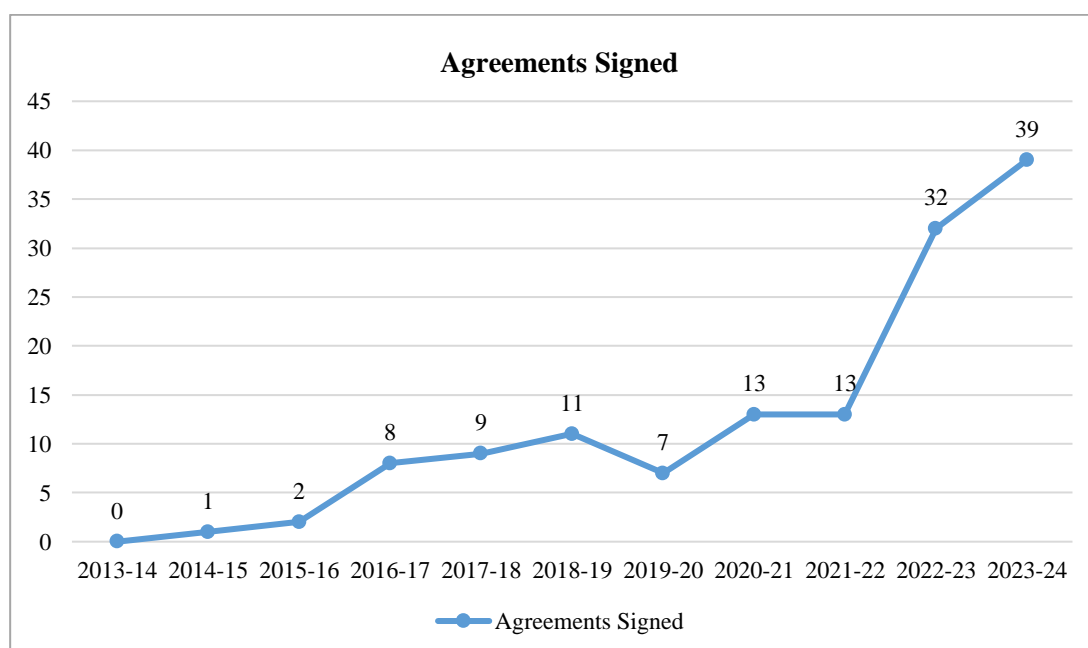
increasing frequency of communication with treaty partners, streamlined efforts by officers, and the growing maturity of the APA programme.

In FY 2023-24, out of the 39 Agreements signed with taxpayers, 24 pertained to the USA, 6 to Japan, 4 to Singapore, 2 to Australia and 1 each to the UK, Canada and Denmark.

Table 4-5 Year-wise BAPAs signed

FY	Agreements Signed
2013-14	0
2014-15	1
2015-16	2
2016-17	8
2017-18	9
2018-19	11
2019-20	7
2020-21	13
2021-22	13
2022-23	32
2023-24	39
Total	135

Figure 4-5 Year-wise BAPAs signed



4.6 Duration of Processing

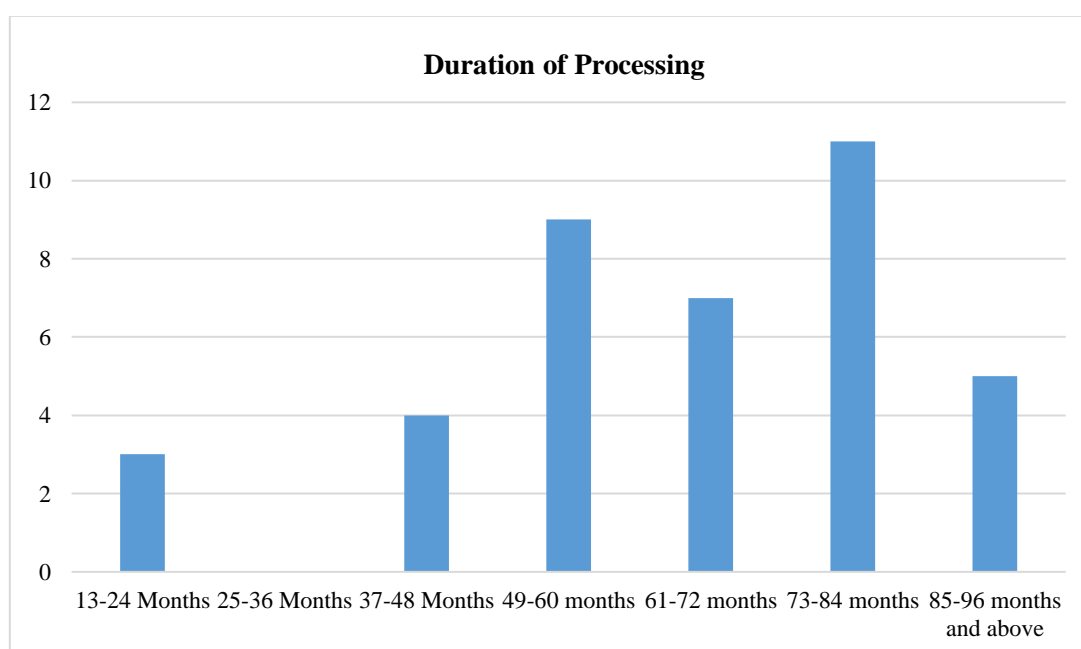
In FY 2023-24, the average time taken to conclude BAPAs has been approximately 65.61 months. The detailed analysis of this is depicted in Table 4-6-1 and Figure 4-6-1 below. With intense negotiations with treaty partners, longstanding BAPAs were successfully concluded in this year, but the overall time taken in their resolution led to a high average processing time for the year. However,

there was also a simultaneous focus on more expedient resolution of renewals in order to leverage the due diligence already done recently while processing original applications and ensure movement in a mixed-basket of cases. The average time taken for all BAPAs concluded till 31st March, 2024 is approximately 63.11 months. A number of BAPAs are actually resolved much before they are finally signed. However, due to several reasons such as the desire of the applicants to conclude both the unilateral and bilateral legs of the application together, the Applicant waiting to clear the draft of agreements through multiple levels of internal approvals etc., the formal signing takes longer even after bilateral resolution, which increases the final duration of processing of BAPAs.

Table 4-6-1 Duration of processing of BAPA applications

Sr. No.	Duration of processing	No. of Agreements signed during FY 2023-24
1	Within 12 Months	0
2	13-24 Months	3
3	25-36 Months	0
4	37-48 Months	4
5	49-60 months	9
6	61-72 months	7
7	73-84 months	11
8	85-96 months and above	5
	Total	39

Figure 4-6-1 Duration of processing of all BAPAs signed during FY 2023-24

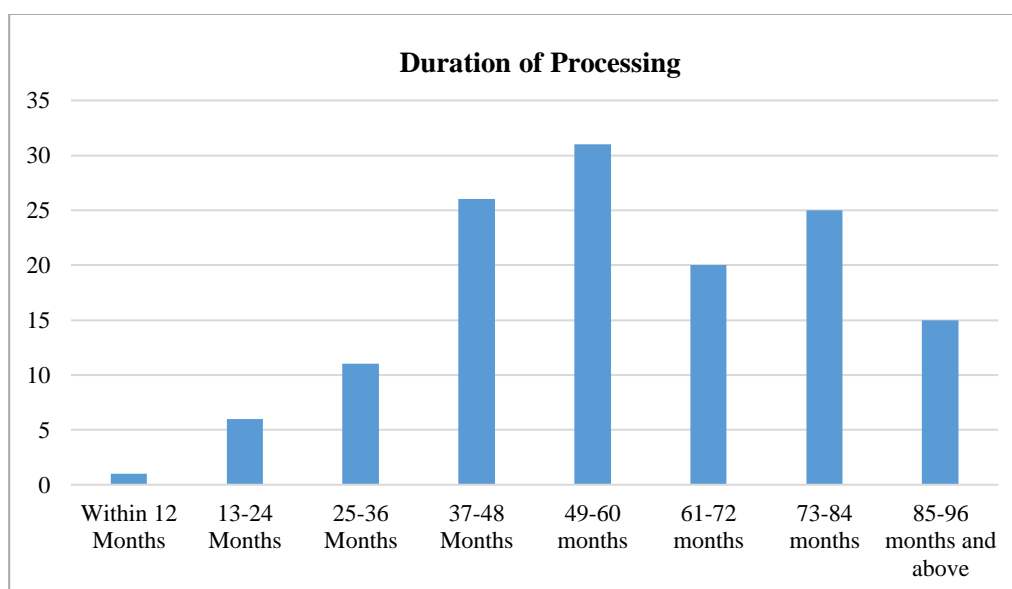


The cumulative figures for duration of processing of all BAPAs signed till 31st March 2024 are given in Table 4-6-2 and Figure 4-6-2 hereunder:

Table 4-6-2 Cumulative figures for duration of processing of BAPAs

Duration of processing	Agreements signed till 31st March 2024
Within 12 Months	1
13-24 Months	6
25-36 Months	11
37-48 Months	26
49-60 months	31
61-72 months	20
73-84 months	25
85-96 months & above	15
Total	135

Figure 4-6-2 Duration of processing of all BAPAs signed till 31st March 2024



4.7 Distribution of agreements –Economic Activity wise

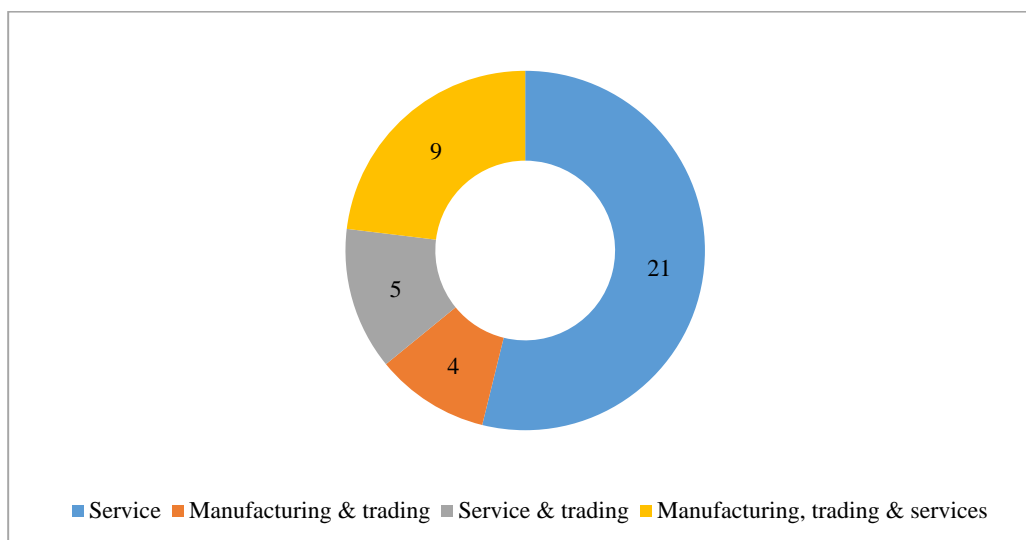
Table 4-7 and Figure 4-7 below capture the data regarding the economic activity or the pre-dominant economic activity in each of the BAPAs entered into during FY 2023-24. As in UAPAs, the service sector of the Indian economy has been the dominant sector that has been covered in BAPAs.

Table 4-7 Distribution of BAPAs as per economic activity

Sr. No	Economic Activity	Agreements Signed in FY 2023-24
1	Service	21
2	Manufacturing, trading & services	9

3	Service & trading	5
4	Manufacturing & trading	4
	Total	39

Figure 4-7 Economic activity distribution of BAPAs signed in FY 2023-24



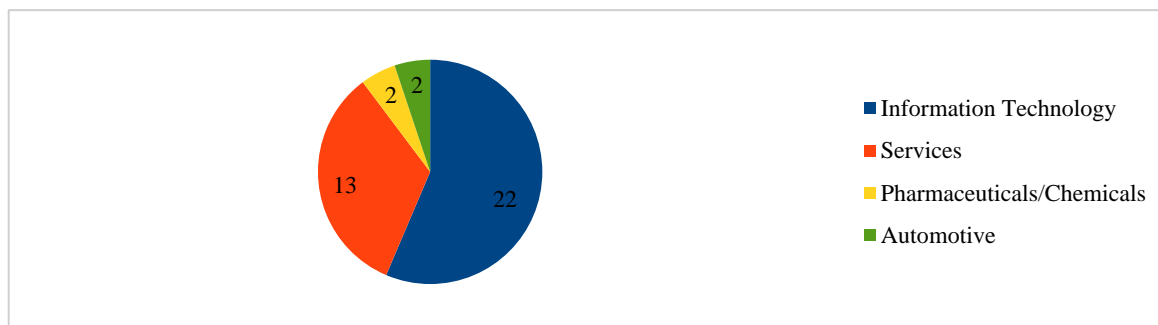
4.8 Distribution of Agreements – Industry-wise

Table 4-8 and the Figure 4-8 below reveal that there are four broad industry categories that have been covered under BAPAs concluded in FY 2023-24. The Information Technology industry is the leading industry when it comes to being a part of the APA programme.

Table 4-8 Industry-wise distribution of BAPAs signed in FY 2023-24

Sr. No	Industry	No. of Agreements Signed
1	Information Technology	22
2	Services	13
3	Pharmaceuticals/Chemicals	2
4	Automotive	2
	Total	39

Figure 4-8 Industry-wise distribution of BAPAs



4.9 Nature of Covered Transactions

During FY 2023-24, the 39 BAPAs entered into had a total of 181 covered international transactions as depicted in Table 4-9 and Figure 4-9. As can be seen, a wide variety of transactions have been covered by the APAs signed in the year. Service-related transactions continue to lead in the transaction mix.

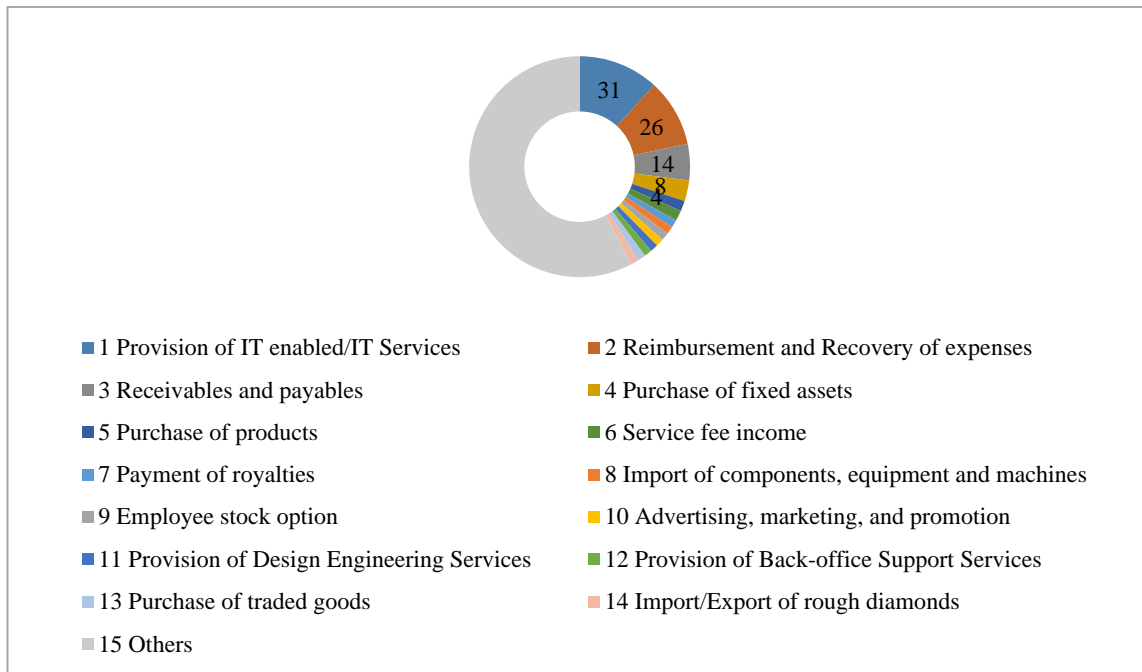
Table 4-9 Nature of covered transactions

Sr. No	Nature of Transactions	No. of Transactions
1	Provision of IT enabled/IT Services	31
2	Reimbursement and Recovery of expenses	26
3	Receivables and payables	14
4	Purchase of fixed assets	8
5	Purchase of products	4
6	Service fee income	4
7	Payment of royalties	3
8	Import of components, equipment and machines	3
9	Employee stock option	3
10	Advertising, marketing, and promotion	3
11	Provision of Design Engineering Services	3
12	Provision of Back-office Support Services	3
13	Purchase of traded goods	3
14	Import/Export of rough diamonds	3
15	Import of materials	2
16	Import of capital assets	2
17	Receipt of services	2

Sr. No	Nature of Transactions	No. of Transactions
18	Provision of service in the nature of TSS and AS	2
19	Import of components for consumption in the manufactured activity	2
20	Provision of shared support services	2
21	Purchase of capital assets/goods	2
22	Allocated Franchise Revenue, Unallocated Franchise Revenue, Credit items	2
23	Interest rates derivatives market-making businesses	2
24	Foreign exchange market-making businesses	2
25	Import of spares for resales to customers and sale of spares	2
26	Sale of goods	2
27	Commission income	2
28	Provision of technical consultancy services	2
29	Export of component and spares	1
30	Provision of business support services	1
31	Receipt for technology and know-how fee	1
32	Provision customer support services	1
33	Provision of accounting support services	1
34	Provision of analytics support services	1
35	Provision of Other Support Services	1
36	Provision of fixed assets	1
37	Provision of management services	1
38	Inter-company receivables, payables and advances	1
39	Provision of Export services	1
40	Purchase of TSS and AS contracts	1
41	Purchase of replacement product equipment	1
42	Receipt of management support services	1
43	Purchase of computer hardware	1
44	Payment for support services	1
45	Reimbursement of employee contribution	1
46	Reimbursement of employee stock ownership	1
47	Licensing of intangible assets	1
48	Provision of contract design and development services	1
49	Export of manufactured equipment/machinery, spares and components	1
50	Export of bought out finished goods	1
51	Export of finished goods	1

Sr. No	Nature of Transactions	No. of Transactions
52	Payment of commission	1
53	Payment of IT support charges	1
54	Receipt of interest on delayed payments	1
55	Payment of internet service charges	1
56	Payment of repair and maintenance charges	1
57	Provision of marketing support services	1
58	Provision of off-shore data analytics	1
59	Receipt of intra Group Services/ other services	1
60	Payment of know-how/ licence fee	1
61	Purchase of finished good/ consumables	1
62	Provision of marketing & Sales Support Services	1
63	Provision of technical support services	1
64	Sale of products to AEs	1
65	Third party software/tools	1
66	Interest on External commercial borrowings	1
67	Import of fixed assets	1
68	Provision of lease line	1
69	Payment of interest on delayed payment	1
70	Payment of corporate guarantee fee	1
	Total	181

Figure 4-9 Frequency of covered transactions



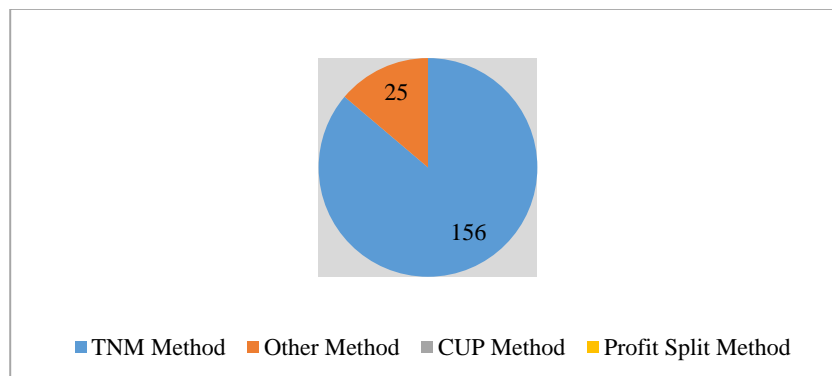
4.10 Transfer Pricing Methodology adopted

Table 4-10 and Figure 4-10 below shows a break up of Transfer Pricing Methodologies adopted in the signed cases.

Table 4-10 Frequency of usage of TP methods

Sr. No	TP Methodology	No. of Transactions
1	TNM Method	156
2	Other Method	25
3	CUP Method	-
4	Profit Split Method	-
	Total	181

Figure 4-10 Frequency of usage of various TP methods to benchmark covered transactions in BAPA



4.11 Renewal of BAPAs

A large number of the applicants who have signed a BAPA with the CBDT have opted to file a renewal. This shows the trust reposed by the taxpayers in the APA programme and the preference for obtaining advance certainty rather than undergoing possible TP litigation and its related costs. Out of the 135 BAPAs signed till 31.03.2024, 66 applicants have opted for a renewal of the APA till date.

Chapter 5: Other dispute resolution processes

Another dispute resolution channel available under India's Double Taxation Avoidance Agreements (DTAAs) is the Mutual Agreement Procedure (MAP). It is an alternate dispute resolution process involving two treaty partners, that seeks to remove taxation not in accordance with the DTAA arising from action by one or both treaty partners. India participates in the FTA MAP Forum of the Organisation of Economic Cooperation and Development (OECD) and shares its MAP statistics with the Forum. The statistics are available in the public domain.

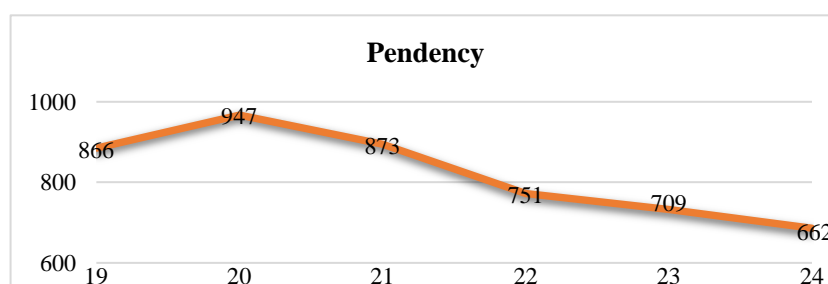
MAP cases are negotiated by the Competent Authorities of India, namely the Joint Secretary (FT&TR-I) and Joint Secretary (FT&TR-II) in the CBDT, and other officers supporting them in this regard. The inventory of MAP cases in calendar year 2023 as also reported under MAP statistics with the OECD is detailed in Table 5-1 below. As can be seen from the table, the number of MAP cases closed in 2023 are substantially more than the number of new MAP applications invoked. As a result, the total number of MAP in India's inventory is gradually reducing.

Table 5-1 MAP cases resolved in 2023

Sr.No.	Calendar Year	Opening Inventory	Invocations during the year	Closures during the year	Closing Inventory
1	2023	709 ⁴	68	115	662

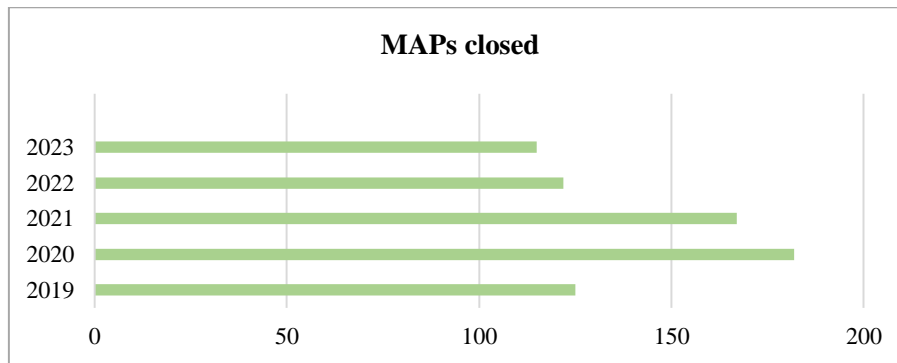
As can be seen from Figures 5-1 and 5-2, there has been a steady decline in closing inventory and a substantial number of cases being resolved under MAP each year. This is primarily due to the maturing of our relationships with treaty partners and efforts to increase frequency of communication with our treaty partners.

Figure 5-1 Pendency of cases in MAP inventory from 2019 onwards



⁴Opening inventory as per MAP statistics report

Figure 5-2 Number of MAP applications closed by India and its treaty partners from 2019 onwards



Conclusion

The Indian APA programme is a very important part of CBDT's efforts to enhance the ease of doing business in India and providing tax certainty to taxpayers. Since its commencement in July, 2012, the APA programme has resolved many complex transfer pricing issues which were otherwise prone to long drawn and expensive litigation.

The Indian APA programme has successfully achieved resolutions that are beneficial to both taxpayers and the Government. While taxpayers have managed to get certainty over transfer pricing issues for five to nine years (depending upon whether rollback provisions are applicable to an Agreement), the Government has been able to streamline limited resources on more productive work, including audits and other procedures.

APAs are also beneficial to the Government, as they assure tax revenues from multinationals on the basis of the terms and conditions embedded in the Agreements, without any further disputes and litigation. Though revenue mobilisation has never been the primary objective of the Indian APA programme, it is a positive externality flowing out from the programme that provides assured revenues to the Government of India. It is estimated that the 641 signed APAs have resulted in bringing finality in taxation to income of about Rs. 25,000 crores⁵. This translates into a payment of tax of about Rs. 7,500 Crores⁵. This is litigation-free and does not give rise to appellate proceedings. Though the APA programme has been successful in enabling a positive economic environment for multinationals doing business in India, the Government is committed to increase the efficacy of the programme further by providing it with adequate resources.

⁵Estimates are based on the basis of data available on record