



Advance Pricing Agreement (APA) Programme of India

**Annual Report
(2022-23)**

**Central Board of Direct Taxes
September, 2023**

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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. 516 APAs have been entered into by the CBDT till March, 2023, which demonstrates the widespread acceptance of the programme by taxpayers and stakeholders alike. This year 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 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 for more than 3,200 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. The record number of bilateral agreements signed this year is 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). My appreciation to 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 take it forward to greater heights. Feedback/suggestions on the Report are welcome, which will help us in identifying how we can further strengthen the APA programme.



Nitin Gupta

**Chairman, Central Board of Direct Taxes
Ministry of Finance, Government of India**

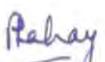
Preface by Member (L), CBDT

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. Thus, a more cooperative rather than adversarial approach, forms the cornerstone of the APA programme.

It gives me immense pleasure to present this fifth Annual Report (for FY 2022-23) 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 2022-23 in particular has been one of resounding success for the programme with several milestones in terms of number of signings surpassed.

I would like to appreciate the efforts put in by the officers in the Foreign Tax & Tax Research Division of the CBDT and the officers in the APA teams under Principal CCIT (International Taxation) to make this programme a success. The financial year has been a record-breaking year for the APA programme in many respects, be it the highest number of signings in any year in the history of the programme or record single day signings, 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.


Pragya Sahay Saksena
Member (Legislation), Central Board of Direct Taxes

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 in India was launched in 2012 vide the Finance Act, 2012 through the insertion of sections 92CC and 92CD in the Income-tax Act, 1961. 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 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.

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

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 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 bilateral (involving CBDT and the tax authorities of another country) or unilateral (involving the CBDT only). Over the last 11 years, more than 1600 applications have been filed in India. About 75% of these are for unilateral APAs between the Indian taxpayer and the CBDT. Till 31st March, 2023, 516 Agreements have been entered into (420 unilateral and 96 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 Commissioner of Income-tax. The team also comprises Addl./Joint Commissioners of Income-tax and Deputy/Asst. Commissioners of Income-tax. Presently, there are four APA teams. These teams are based in Delhi, Mumbai and Bengaluru. A new APA team has been constituted in this financial year in Gurugram, to further streamline processing of APAs.

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. 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 under the Tax Treaty) 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 Mutual Agreement is 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 fifth Annual Report on the APA programme highlights the progress made in financial year 2022-23. This has been a landmark year for the APA programme. This year, CBDT recorded the highest ever APA signings in any financial year since the launch of the APA programme, signing a total of 95 APAs. This year, CBDT also signed the maximum number of BAPAs in any financial year till date, with the signing on 32 BAPAs. The BAPAs were signed as a consequence of entering into Mutual Agreements with India's treaty partners namely Finland, the UK, the US, Denmark, Singapore, and Japan. A record of the largest number of single day signings in the history of the programme was also created with a total of 21 APAs signed on 24th March, 2023. This was possible due to the efforts of the CBDT and its officers working in the Foreign Tax & Tax Research Division and in 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 encourage discussion and debate amongst taxpayers, policy makers, and economists, among others, on the strengths and weaknesses of the programme. 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.

Chapter 2: Data and Qualitative Analyses

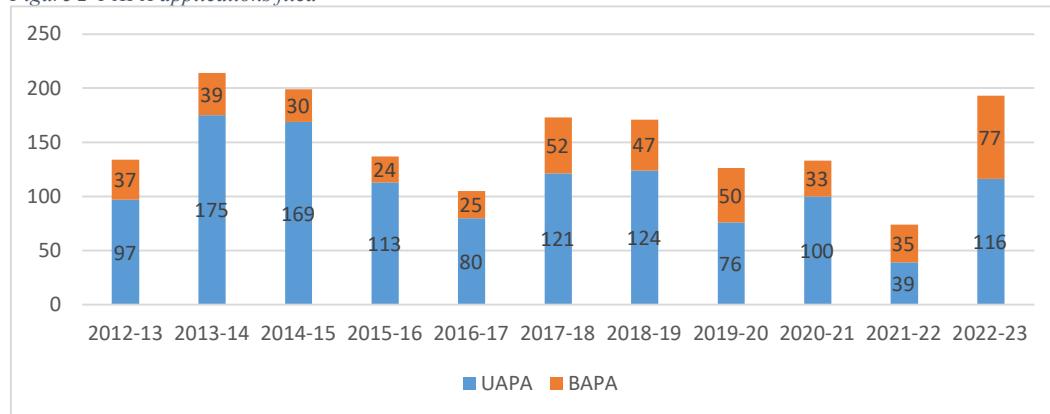
2.1 Applications filed

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 applications remained largely consistent from FY 2017-18 to FY 2019-20 before a sharp drop in FY 2020-21 and FY 2021-22. However, the number of filings bounced back in FY 2022-23, driven primarily by the highest number of BAPA filings ever. 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 31.03.2023

Financial Year ²	UAPA applications	BAPA applications	Total
2012-13	97	37	134
2013-14	175	39	214
2014-15	169	30	199
2015-16	113	24	137
2016-17	80	25	105
2017-18	121	52	173
2018-19	124	47	171
2019-20	76	50	126
2020-21	100	33	133
2021-22	39	35	74
2022-23	116	77	193
Total	1210	449	1659

Figure 2-1 APA applications filed



² Some filing years have been corrected

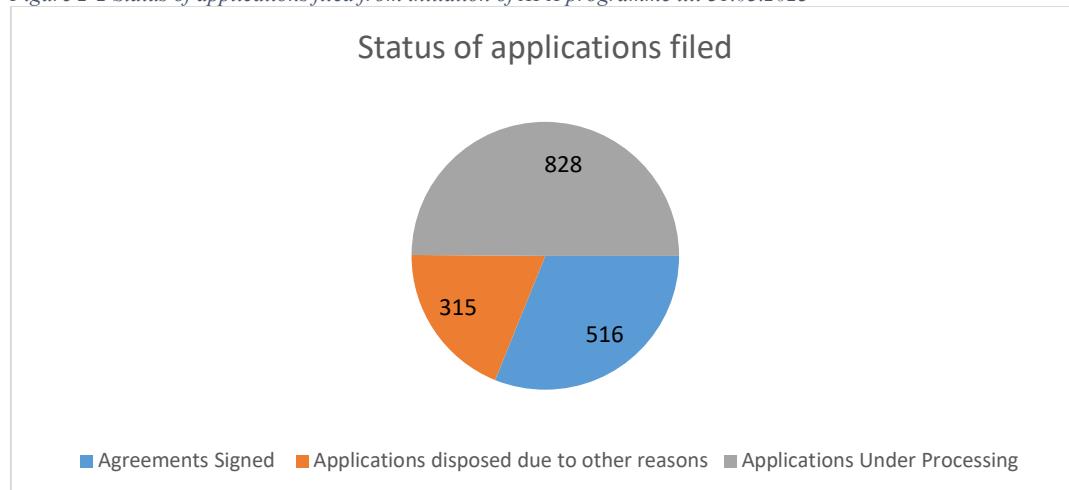
2.2 Status of applications filed

Table 2-2 shows the status of applications filed. Out of a total 1659 applications filed till 31st March 2023, a total of 831 applications have been disposed and 828 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

Sl. 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	134	107	21	6
2	2013-14	214	130	65	19
3	2014-15	199	96	72	31
4	2015-16	137	56	51	30
5	2016-17	105	33	34	38
6	2017-18	173	32	31	110
7	2018-19	171	39	26	106
8	2019-20	126	13	6	107
9	2020-21	133	9	7	117
10	2021-22	74	1	1	72
11	2022-23	193	0	1	192
Total		1659	516	315	828

Figure 2-2 Status of applications filed from initiation of APA programme till 31.03.2023



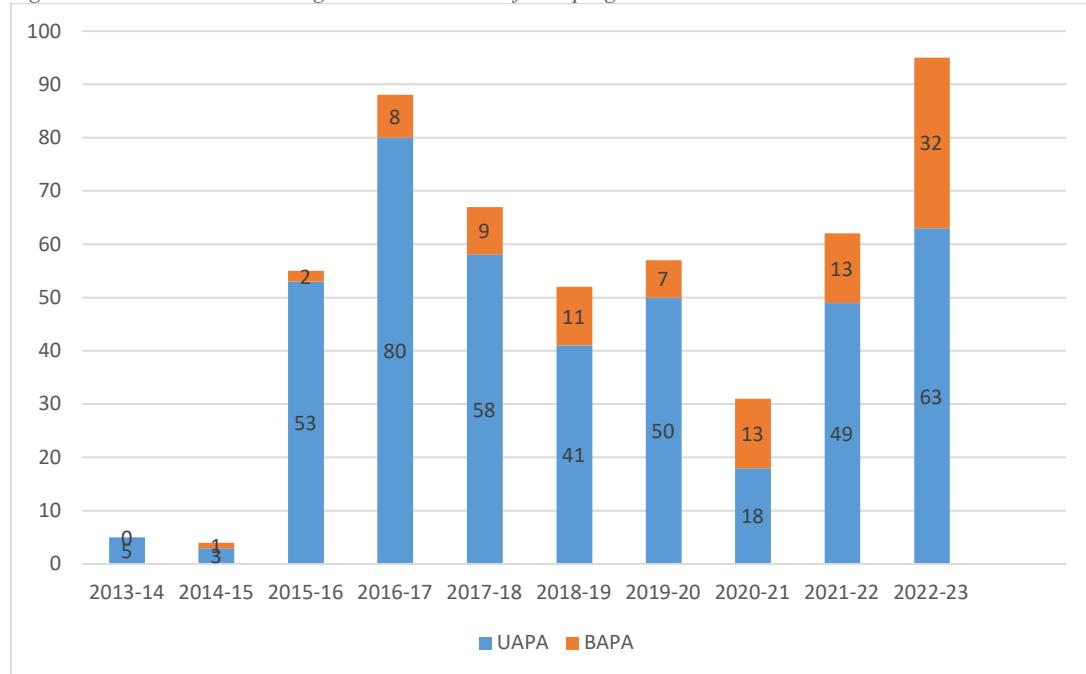
2.3 Agreements signed: Year-wise

The number of agreements signed in various years of the APA programme are detailed in Table 2-3 and Figure 2-3 below. While there was a significant fall in the number of APAs signed in FY 2020-21, mainly due to the CoVID-19 pandemic, the APA programme bounced back in FY 2021-22, and hit a record high in FY 2022-23. The highest number of BAPAs ever were signed in this year. Additionally, signing of the 400th UAPA and the 500th APA were also milestones 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
Total	420	96	516

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 3200 years.

Particulars	APA years	Rollback Years	Total Years
Agreements signed till 2021-22	2023 years & 7 Months	693 years	2716 years & 7 months
Agreements signed in 2022-23	452 years, 3 months, & 21 days	84 years & 8 months	536 years, 11 months & 21 days
Total Agreements signed till 31st March 2023	2475 years, 10 months, & 21 days	777 years & 8 months	3253 years, 6 months, & 21 days

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 1600 assessment years, in other words more than 1600 transfer pricing matters related appeals. During the last financial year itself, the **APA programme has provided tax certainty to more than 500 assessment years annually.**

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 filed³ (original and post-conversion)

S.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
Total		1251	1210

3.2 Status of Applications Filed

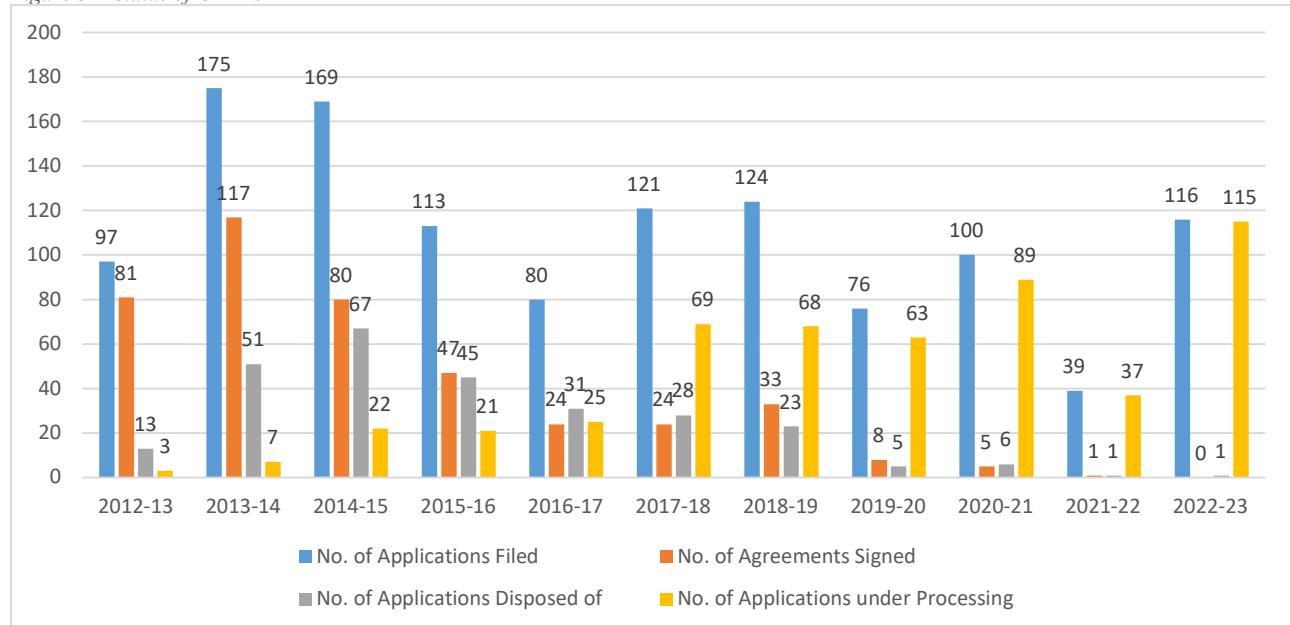
The number of UAPAs disposed off and number of UAPAs still under processing are detailed in Table 3-2 and Figure 3-2 below. The disposal in earlier years is high while number of cases still under processing is low. For recent years, a large proportion of cases are still under processing. Reason for this is that processing of APAs involves conducting site visits, various due diligence processes, and multiple rounds of negotiations, all of which take time. More than 20% of the applications under processing pertain to applications filed in March 2023 and so the processing is at a preliminary stage.

³ Some filings have been corrected

Table 3-2 Status of UAPAs filed

S.No	F.Y	(A)	(B)	(C)	(D)
		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	13	3
2	2013-14	175	117	51	7
3	2014-15	169	80	67	22
4	2015-16	113	47	45	21
5	2016-17	80	24	31	25
6	2017-18	121	24	28	69
7	2018-19	124	33	23	68
8	2019-20	76	8	5	63
9	2020-21	100	5	6	89
10	2021-22	39	1	1	37
11	2022-23	116	0	1	115
TOTAL		1210	420	271	519

Figure 3-2 Status of UAPAs



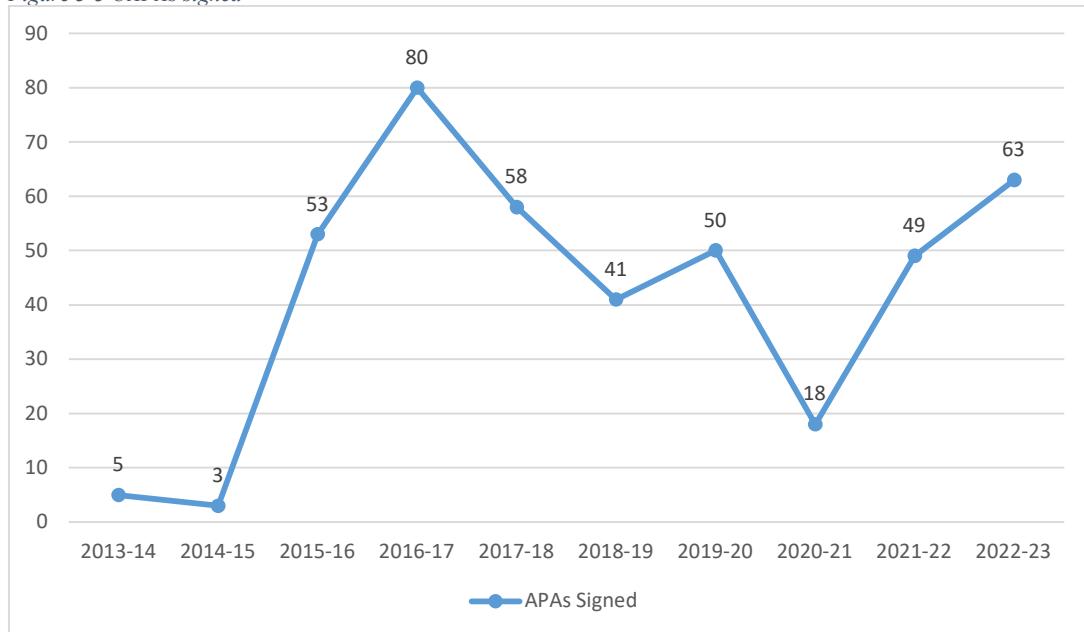
3.3 Agreements Signed – Year wise

The number of UAPA agreements signed in various years are detailed in Table 3-3 and Figure 3-3. In 2022-23, the 63 agreements entered have provided tax certainty for 301 APA years & 3 months and 54 rollback years. A total of 16 APAs out of the 63 signed, had a rollback.

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
Total	420

Figure 3-3 UAPAs signed



3.4 Duration of Processing

The number of UAPAs signed in FY 2022-23 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 2022-23 is approximately 59.73 months. The average duration of processing on a cumulative basis is approximately 44.2 months. In the recent years, the focus of the APA programme has been on closure of backlog as well as more complex cases. The average duration of processing of cases in FY 2022-23, when compared to cumulative figure, highlights the impact of these factors.

Table 3-4-1 Duration of processing of UAPAs in FY 2022-23

Duration of processing	FY 2022-23
Within 12 Months	1
13-24 Months	2
25-36 Months	9
37-48 Months	16
49-60 months	12
61-72 months	7
More than 72 months	16
Total	63

Figure 3-4-1 The duration taken in processing and negotiation of UAPAs signed in FY 2022-23



The cumulative data on period of processing of all UAPAs signed till 31st March, 2023, is as 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 2023

Duration of processing	Agreements signed till 31st March 2023
Within 12 Months	10
13-24 Months	54
25-36 Months	123
37-48 Months	104
49-60 months	52
61-72 months	46
More than 72 months	31
Total	420

Figure 3-4-2 The duration taken in processing and negotiation of UAPAs signed till March 2023



3.5 Sectoral distribution of applicants

The primary economic activity of applicants in whose cases UAPAs were signed in FY 2022-23 are mentioned in Table 3-5 below. As can be seen, a majority of applications which culminated into agreement in FY 2022-23 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 14 out of the 63 companies with which CBDT entered into agreements also have manufacturing activities. Further, 11 out of 63 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 2022-23

Sl. No.	Economic Activity	Agreements signed
1	Service	44
2	Manufacturing & Trading	4
3	Trading & Service	5
4	Manufacturing & Service	8
5	Manufacturing, trading & Service	2
	Total	63

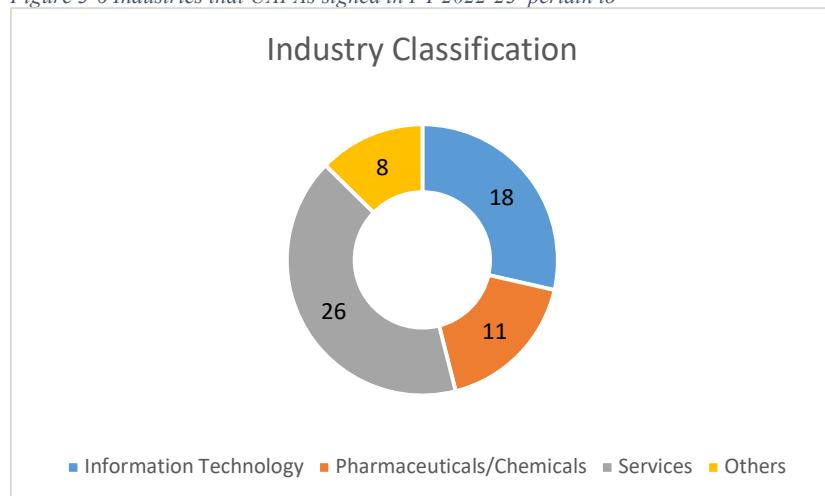
3.6 Industry-wise distribution of agreements

A majority of UAPAs signed in the financial year 2022-23 pertain to the I-T industry, banking & insurance, and engineering services. 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 pharmaceutical/chemical industry has also been increasingly reflected in the APAs signed, mirroring the importance of the Indian pharmaceutical industry globally. 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

S. No	Industry	Agreements Signed
1	Information Technology	18
2	Cement	1
3	Pharmaceuticals/Chemicals	11
4	Automotive	2
5	Services	26
6	Packaging	1
7	Beverages	2
8	Publication	1
9	Apparel	1
	Total	63

Figure 3-6 Industries that UAPAs signed in FY 2022-23 pertain to



3.7 Nature of Transactions Covered

The nature of the 267 international transactions covered by the 63 UAPAs signed in FY 2022-23 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 maturity of the APA programme and competence of the APA teams in processing applications that include complex transactions.

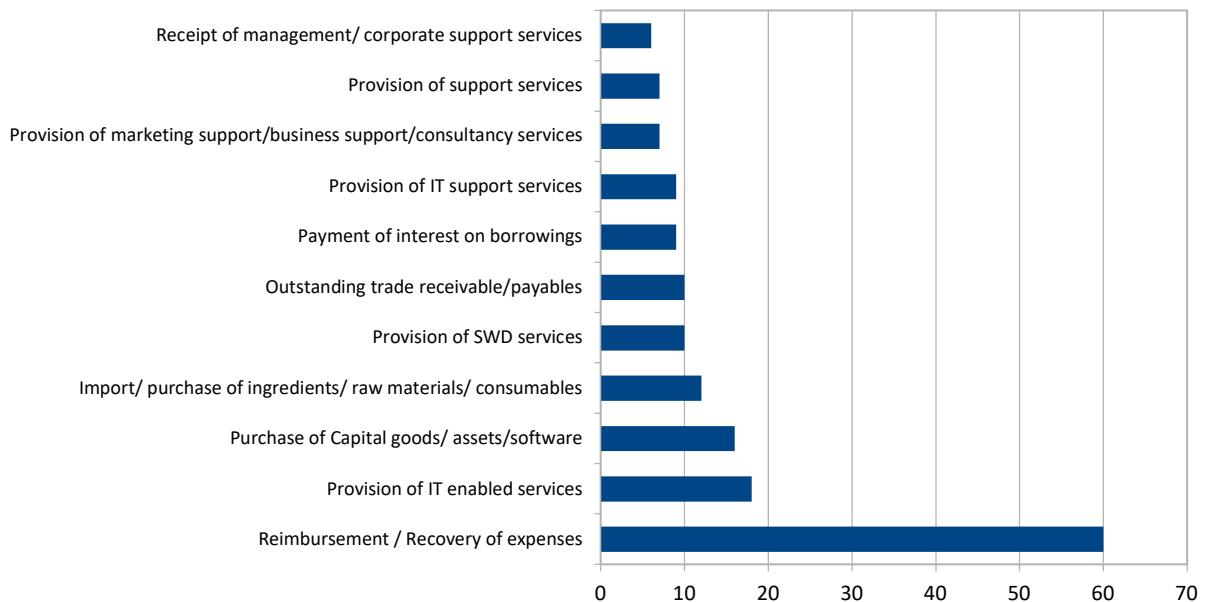
While captive services like SWD services and ITeS services are usually benchmarked at cost plus a mark-up under the Transactional Net Margin Method (TNMM), the determination of arm's length price for manufacturing, royalty transactions, IGS, etc. is more intricate. Some complex transactions need to be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

Sl. No.	Covered Transaction	FY 2022-23
1	Reimbursement / Recovery of expenses	60
2	Provision of IT enabled services	18
3	Purchase of Capital goods/ assets/software	16
4	Import/ purchase of ingredients/ raw materials/ consumables	12
5	Provision of SWD services	10
6	Outstanding trade receivable/payables	10
7	Payment of interest on borrowings	9
8	Provision of IT support services	9
9	Provision of marketing support/business support/consultancy services	7
10	Provision of support services	7
11	Receipt of management/ corporate support services	6
12	Payment of royalty/licence fee	6
13	Export/sale of finished goods/products	6
14	Payment for IT charges/IT services	5
15	Receipt/Payment of corporate guarantee fee	5
16	Provision of non-binding investment advisory service	4
17	Receipt of Technical services	4
18	Provision of engineering design services	3
19	Import of finished goods	3
20	Sale of ingredients/ raw materials/ consumables	3
21	Provision of contract R&D Services	3
22	Contract manufacturing	3
23	Any other closely linked transaction	3
24	Provision/Receipt of training services	3
25	Provision of analytics/ KPO services	3
26	Deemed international transactions	3

27	Provision of sourcing support services	3
28	Purchase of software licences	2
29	Receipt of interest	2
30	Sale of assets	2
31	Receipt of facility standby charges	2
32	Provision of engineering and consultancy services	2
33	Provision of EPCM services	2
34	Licensing of intangibles	2
35	Repair and maintenance expenses	2
36	Collection and remittance of contribution toward Employee Stock Purchase Plan	2
37	Availing of other support services	1
38	AMP expense	1
39	Receipt of commission	1
40	Receipt of Technical Services	1
41	Provision of contract services	1
42	Payments to third party vendors	1
43	After sales Service Income during the warranty period	1
44	Availing of Engineering & Consultancy services	1
45	Provision of IT consulting services	1
46	Receipt of Legal, consultancy and professional services	1
47	Distribution/Trading of IT products	1
48	Grant of non-exclusive and recoverable license	1
49	Transfer of inventories, components and spare pertaining to Manufacturing/	1
50	Provision of coordination support and liaisoning services	1
51	Sale of bulk drugs/bulk drug intermediaries	1
52	Payment of service charges	1
53	Rental income	1
54	Bank charges	1
55	Provision of monitored buying services	1
56	Availing support services	1
57	Payment for professional services	1
58	Provision of global audit services	1
59	Payment of plant facility charges	1
60	Payment of sales and marketing fee	1
61	Export of R&D products and services	1

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



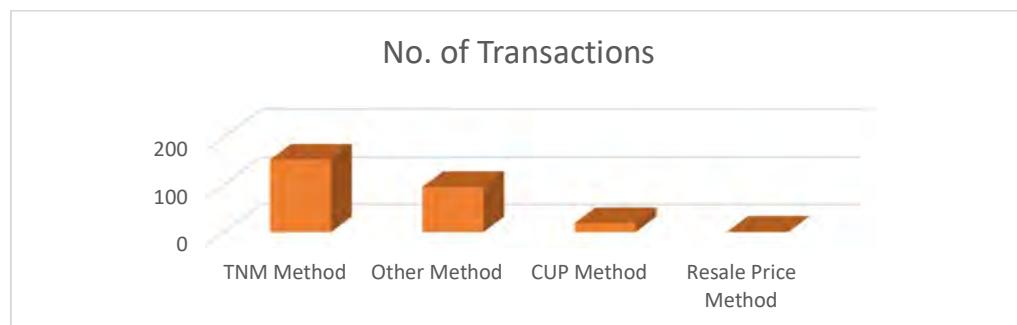
3.8 Transfer Pricing Methodologies Used

A total of 267 transactions were benchmarked using 4 different methods, across the 63 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

Sl. No	TP Methodology	No. of Transactions
1	TNM Method	152
2	Other Method	95
3	CUP Method	19
4	Resale Price Method	1
	Total	267

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



3.9 Location of AEs

The 63 UAPAs entered into in the financial year have AEs across 130 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

Sl. No.	Countries	Location of AEs in signed UAPAs	Sl. No.	Countries	Location of AEs in signed UAPAs
1	USA	302	30	Austria	13
2	China	96	31	Belgium	13
3	UK	83	32	Hungary	12
4	France	61	33	Luxembourg	12
5	Germany	58	34	Bermuda	11
6	Singapore	58	35	New Zealand	11
7	Netherlands	51	36	Romania	11
8	Japan	42	37	Russia	11
9	Australia	41	38	Sweden	11
10	Ireland	39	39	Czechia	10
11	Canada	29	40	Indonesia	10
12	Taiwan	25	41	Cayman Islands	9
13	Spain	24	42	Colombia	9
14	UAE	24	43	Turkey	9
15	Malaysia	23	44	Vietnam	9
16	Denmark	22	45	Ghana	8
17	Hong Kong	21	46	Argentina	7
18	Israel	20	47	Bulgaria	7
19	Italy	19	48	Chile	7
20	Mexico	19	49	Egypt	7
21	Poland	18	50	Morocco	7
22	Brazil	17	51	Norway	7
23	India	17	52	Qatar	7
24	Philippines	17	53	Slovakia	7
25	Switzerland	17	54	Bangladesh	6
26	Thailand	17	55	Cyprus	6
27	South Korea	15	56	Kenya	6
28	Saudi Arabia	14	57	Portugal	6
29	South Africa	14	58	Costa Rica	5

Sl. No.	Countries	Location of AEs in signed UAPAs	Sl. No.	Countries	Location of AEs in signed UAPAs
59	Croatia	5	100	Brunei	1
60	Finland	5	101	Burkina Faso	1
61	Nigeria	5	102	Cameroon	1
62	Ukraine	5	103	Cote d'Ivoire	1
63	Bahrain	4	104	Ecuador	1
64	Macedonia	4	105	El Salvador	1
65	Madagascar	4	106	Equatorial Guinea	1
66	Oman	4	107	French Polynesia	1
67	Pakistan	4	108	Gayana	1
68	Peru	4	109	Greece	1
69	Republic of Congo	4	110	Guatemala	1
70	Serbia	4	111	Iran	1
71	Uganda	4	112	Iraq	1
72	Chad	3	113	Jamaica	1
73	Kazakhstan	3	114	Kuwait	1
74	Lithuania	3	115	Lebanon	1
75	Mauritius	3	116	Saint Lucia	1
76	Myanmar	3	117	Macau	1
77	Senegal	3	118	Malta	1
78	Slovenia	3	119	Mauritania	1
79	Sri Lanka	3	120	Montenegro	1
80	Tanzania	3	121	Mozambique	1
81	Tunisia	3	122	Republic of Moldova	1
82	Cambodia	2	123	Republique de Guinee	1
83	Estonia	2	124	Rwanda	1
84	Gabon	2	125	Sierra Leone	1
85	Guernsey	2	126	Suriname	1
86	Jordan	2	127	Togo	1
87	Latvia	2	128	Trinidad & Tobago	1
88	Malawi	2	129	Uruguay	1
89	Niger	2	130	Yugoslav	1
90	Panama	2			
91	Seychelles	2			
92	Venezuela	2			
93	Zambia	2			
94	Albania	1			
95	Aruba	1			
96	Azerbaijan	1			
97	Bahamas	1			
98	Barbados	1			
99	Benin	1			

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 been a landmark year in BAPA filings, with 77 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 filed⁴

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
Total	408	449

4.2 Country-wise Distribution of applications

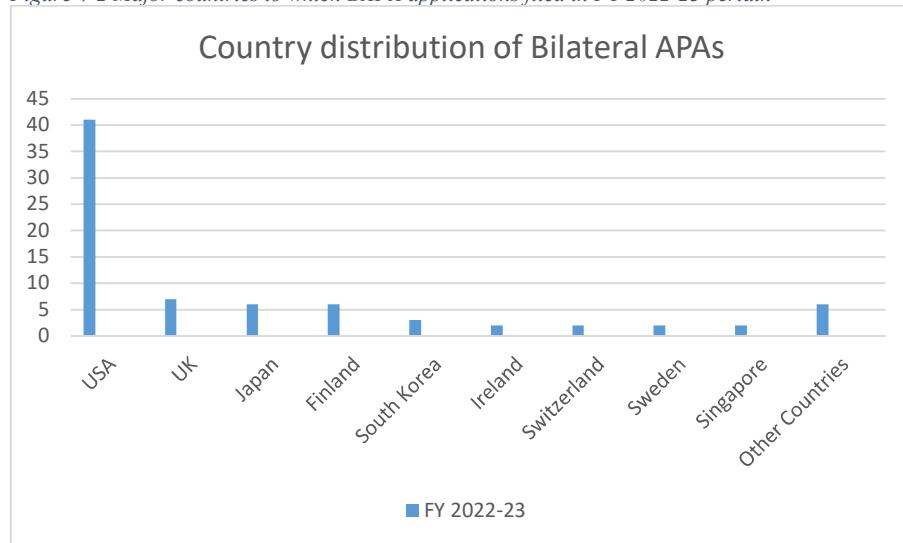
The country-wise distribution of BAPAs is detailed in Table 4-2 and Figure 4-2. More than half of BAPA applications are with one treaty partner, i.e., the United States of America. Other treaty partners with whom large number of applications have been filed in FY 2022-23 are the UK, Japan, Finland, and South Korea.

⁴ Some filing years have been corrected

Table 4-2 Country-wise distribution of BAPAs

Countries	Applications filed in 2022-23
USA	41
UK	7
Japan	6
Finland	6
South Korea	3
Ireland	2
Switzerland	2
Sweden	2
Singapore	2
Germany	1
Denmark	1
Netherlands	1
Italy	1
Canada	1
Australia	1
Total	77

Figure 4-2 Major countries to which BAPA applications filed in FY 2022-23 pertain



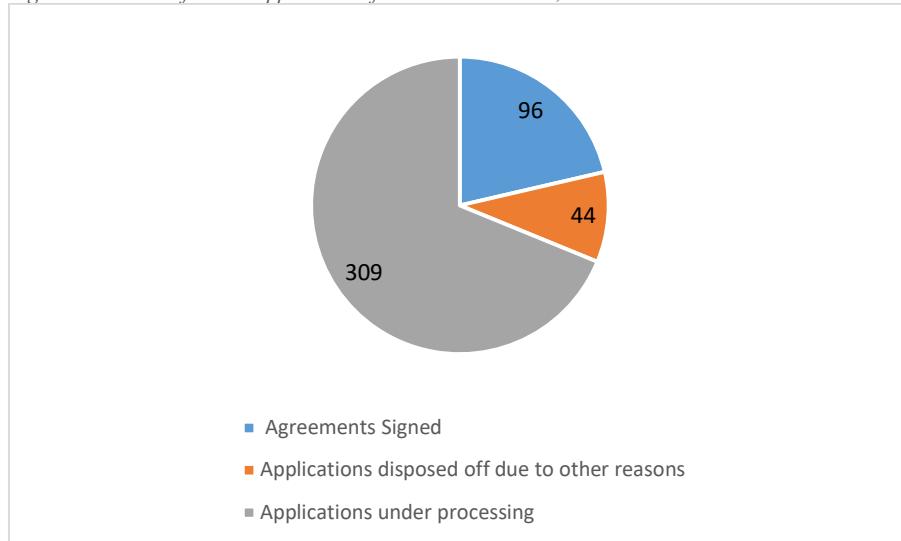
4.3 Status of Applications Filed

The status of applications filed is shown in Table 4-3 below. Out of a total 449 applications filed by 31st March 2023, a total of 140 applications have been disposed and 309 applications are under processing. A comparison of status of applications signed, disposed, and under processing for the BAPA applications filed till FY 2022-23 (as on 31st March, 2023) is presented in Figure 4-3.

Table 4-3 Status of BAPA applications filed

Sl. 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	16	5	9
4	2015-16	24	9	6	9
5	2016-17	25	9	3	13
6	2017-18	52	8	3	41
7	2018-19	47	6	3	38
8	2019-20	50	5	1	44
9	2020-21	33	4	1	28
10	2021-22	35	0	0	35
11	2022-23	77	0	0	77
Total		449	96	44	309

Figure 4-3 Status of BAPA applications filed till FY 2022-23, as on 31st March 2023



In the 96 BAPAs signed so far, CBDT has provided tax certainty of 614 years, 5 months & 21 days. These 614 years, 5 months & 21 days include 151 years & 8 months covered under the Rollback period of the concluded APAs. Out of the 96 Agreements, 47 have Rollback provisions. In FY 2022-23, the 32 BAPAs entered into have provided tax certainty totalling to 181 years, 8 months, & 21 days. Of these 32 BAPAs, 10 BAPAs have Rollback period of 30 years & 8 months.

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 5 countries – the USA, the UK, Japan, Switzerland, and Singapore. The maximum number of BAPAs signed so far have been with the USA followed by the UK and Japan.

Table 4-4 Status of application filed

Sl. 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	205	45	9	151
2	UK	71	18	23	30
3	Japan	39	10	2	27
4	Switzerland	20	6	1	13
5	Singapore	16	2	2	12
6	Finland	15	3	1	11
7	Germany	10	0	0	10
8	Sweden	9	0	0	9
9	South Korea	9	0	0	9
10	Australia	9	3	0	6
11	Canada	6	0	0	6
12	Ireland	6	0	1	5
13	Denmark	10	6	0	4
14	France	5	0	1	4
15	The Nether-lands	10	3	4	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 Repub-lic	1	0	0	1
21	Belgium	1	0	0	1
22	Indonesia	1	0	0	1
	TOTAL	449	96	44	309

Figure 4-4-1 BAPAs signed

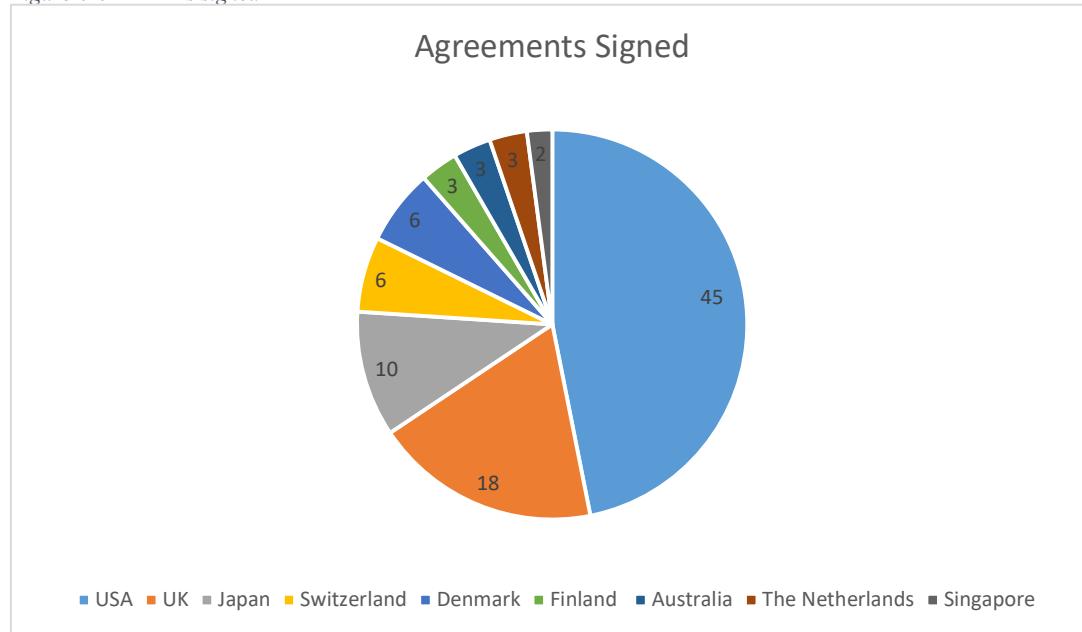
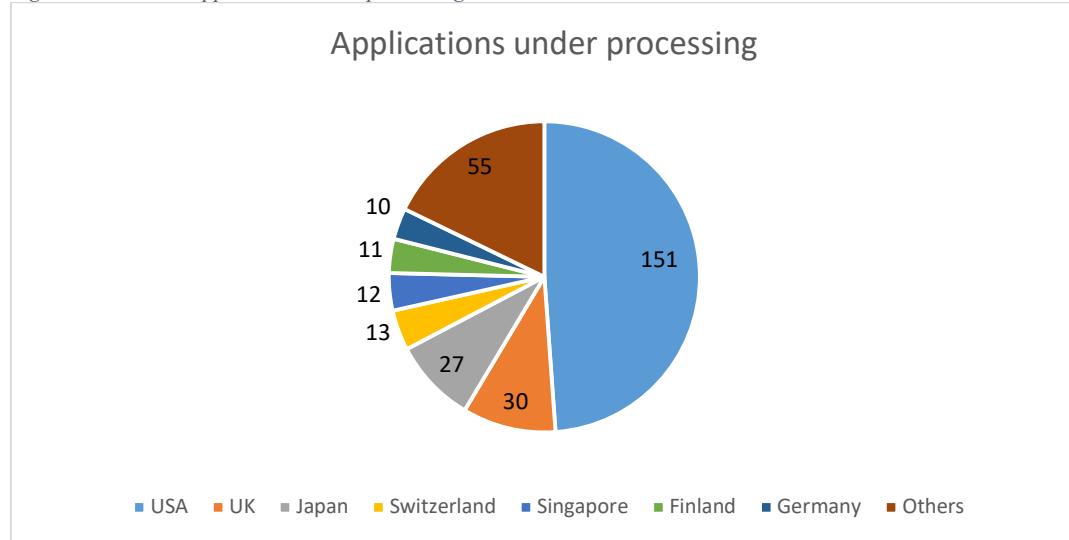


Figure 4-4-2 BAPA applications under processing



4.5 Agreements Signed – Year wise

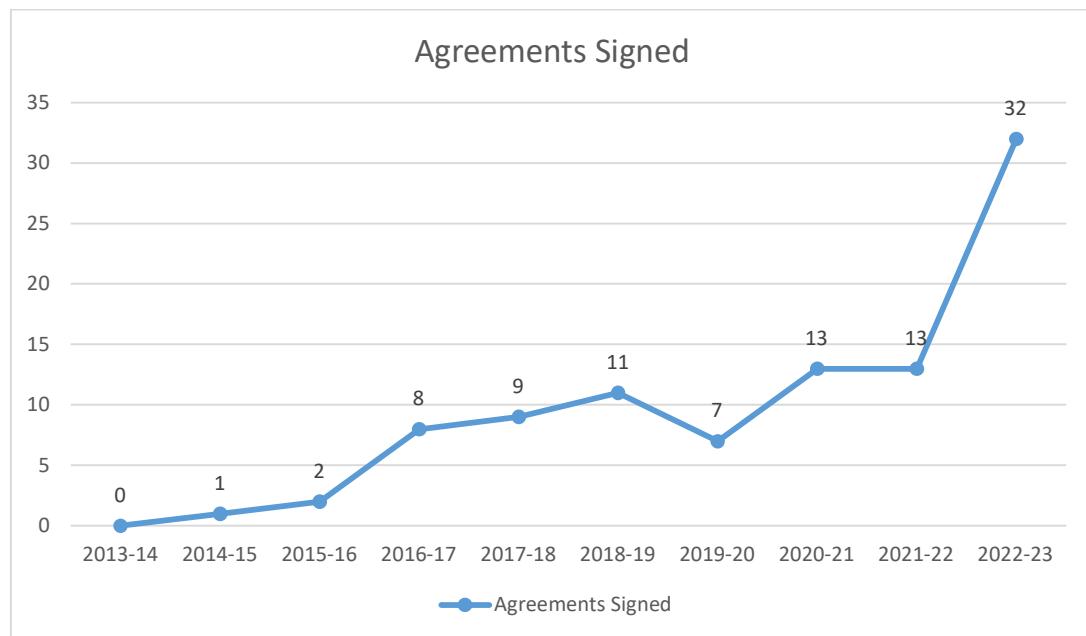
The Table 4-5 and Figure 4-5 below show the year-wise details of BAPAs entered into till 31st March, 2023. As can be seen below, almost a three-fold increase in signing of BAPAs was achieved in FY 2022-23. This stellar performance was possible due to increasing frequency of communication with treaty partners, streamlined efforts by officers, and maturity of the APA programme.

In FY 2022-23, out of the 32 Agreements signed with taxpayers, 22 pertained to the USA, 3 to Finland, and 2 each to the UK, Singapore, and Denmark, while 1 pertained to Japan.

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
Total	96

Figure 4-5 Year-wise BAPAs signed



4.6 Duration of Processing

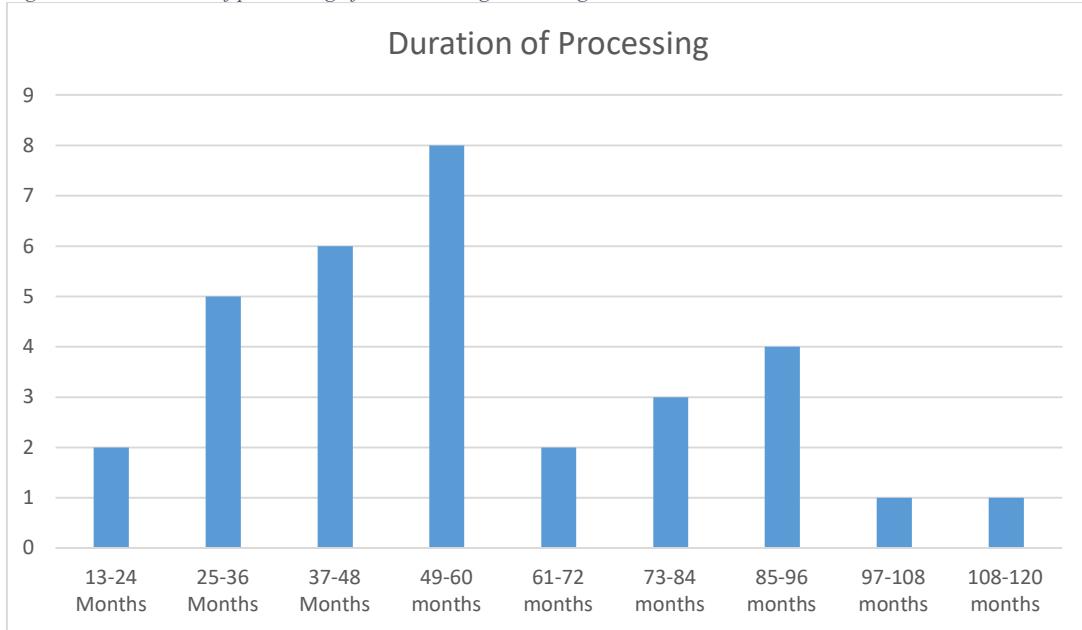
In FY 2022-23, the average time taken to conclude BAPAs has come down to approximately 62.1 months. The detailed analysis of this is depicted in Table 4-6-1 and Figure 4-6-1 below. With hard-fought negotiations with treaty partners longstanding BAPAs were successfully concluded in this year which however led to a high average processing time for the year. However, there was a simultaneous focus on quick resolution of renewals in order to leverage the due diligence done while processing original applications and ensure movement in a mixed-basket of cases. This has reduced the average time taken for all BAPAs concluded till 31st March, 2023 marginally from 58.91 months (as on 31st March, 2022) to approximately 58.77

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

S. No.	Duration of processing	No. of Agreements signed during FY 2022-23
1	within 12 Months	0
2	13-24 Months	2
3	25-36 Months	5
4	37-48 Months	6
5	49-60 months	8
6	61-72 months	2
7	73-84 months	3
8	85-96 months	4
9	97-108 months	1
10	108-120 months	1
Total		32

Figure 4-6-1 Duration of processing of all BAPAs signed during FY 2022-23

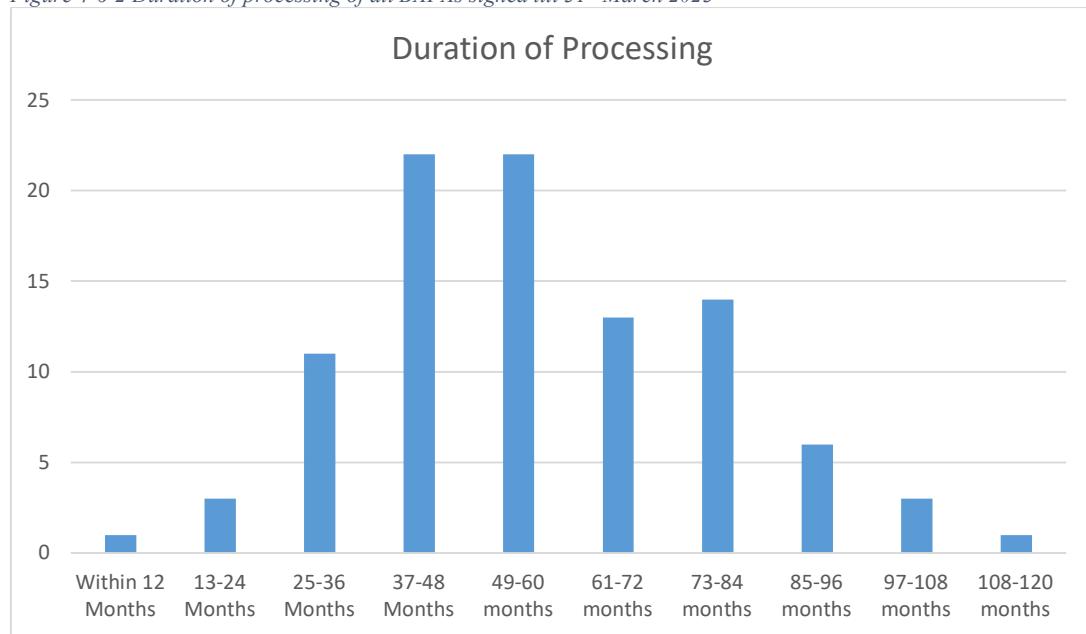


The cumulative figures for duration of processing of all BAPAs signed till 31st March 2023 are as given in Table 4-6-2 and Figure 4-6-2 hereunder:

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

Duration of processing	Agreements signed till 31st March 2023
Within 12 Months	1
13-24 Months	3
25-36 Months	11
37-48 Months	22
49-60 months	22
61-72 months	13
73-84 months	14
85-96 months	6
97-108 months	3
108-120 months	1
Total	96

Figure 4-6-2 Duration of processing of all BAPAs signed till 31st March 2023



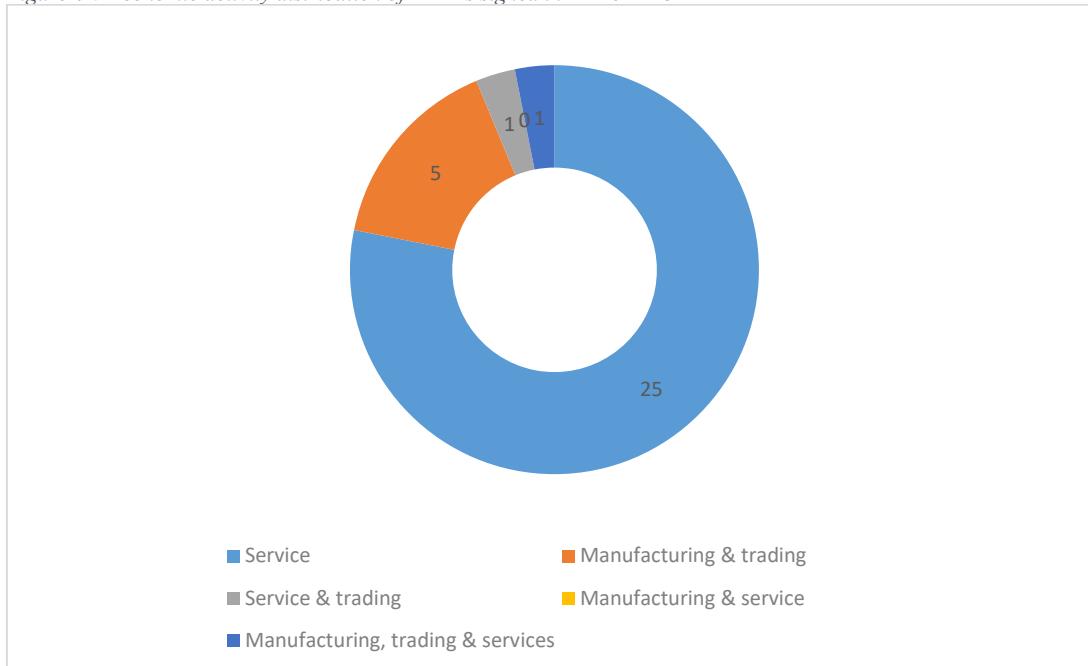
4.7 Distribution of agreements –Economic Activity wise

Table 4-7 and Figure 4-7 below capture the data regarding the economic activity or the predominant economic activity in each of the BAPAs entered into during FY 2022-23. 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

S. No	Economic Activity	Agreements Signed in FY 2022-23
1	Service	25
2	Manufacturing & trading	5
3	Service & trading	1
4	Manufacturing, trading & services	1
Total		32

Figure 4-7 Economic activity distribution of BAPAs signed in FY 2022-23



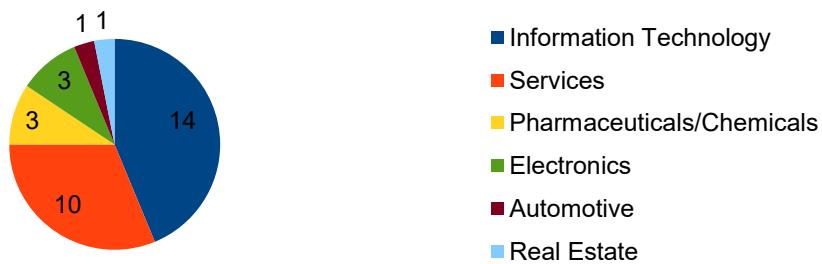
4.8 Distribution of Agreements – Industry-wise

Table 4-8 and the Figure 4-8 below reveal that there are six broad industry categories that have been covered under BAPAs concluded in FY 2022-23. 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 2022-23

S. No	Industry	No. of Agreements Signed
1	Information Technology	14
2	Pharmaceuticals/Chemicals	3
3	Automotive	1
4	Services	10
5	Electronics	3
6	Real Estate	1
	Total	32

Figure 4-8 Industry-wise distribution of BAPAs



4.9 Nature of Covered Transactions

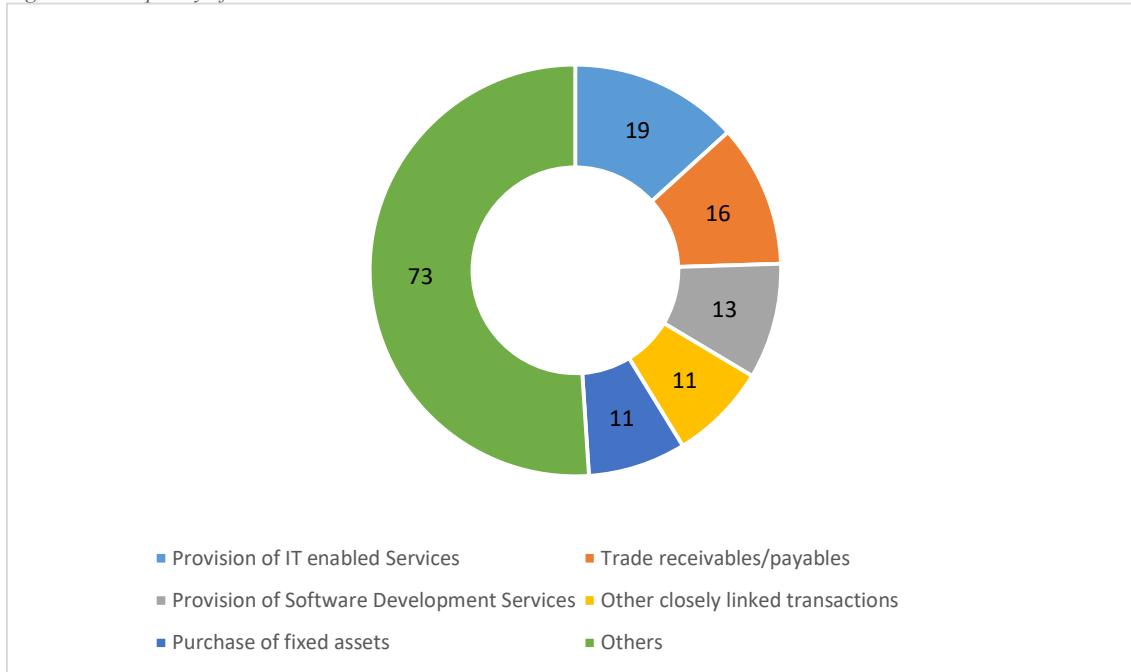
During FY 2022-23, the 32 BAPAs entered into had a total of 179 covered international transactions as depicted in Table 4-9 and Figure 4-9. As can be seen, a wide variety of transactions have been covered by the APAs signed in the year. Service-related transactions continue to lead in the transaction mix.

Table 4-9 Nature of covered transactions

S. No	Nature of Transactions	Frequency
1	Reimbursement/ Recovery of expenses	36
2	Provision of Information Technology enabled Services (ITeS)	19
3	Trade receivables and payables	16
4	Provision of Software Development Services	13
5	Other closely linked transactions	11
6	Purchase of fixed assets	11
7	Receivables/payables	8
8	Deemed international transactions under Section 92B(2)	6
9	Import of raw material, components and sub-assemblies for manufacturing/assembling of network equipment	4
10	Provision of Support Services	3
11	Payment of Royalty	3
12	Provision of Information Technology services	3
13	Import of network equipment for re-sale	2
14	Export of manufactured/assembled network equipment	2
15	Sale of capital items	2
16	Provision of warranty support services	2
17	Provision of welcome support center services	2
18	Provision of repair and exchange services	2
19	Provision of remote network management and other support services	2
20	Provision of operational support services	2
21	Provision of software services	2
22	Import of assets free of charge	1
23	Receipt of intra Group Services/ other services	1
24	Purchase of finished good/ consumables	1
25	Provision of technical support services	1
26	Provision of new product launch services	1
27	Provision of limited supervision activities	1
28	Provision of clinical trial services	1
29	Payment of training charges	1
30	Payment of consultancy charges	1
31	Reimbursement of share based payments	1
32	Recovery of seconddment charges	1
33	Provision of Non-binding investment advisory services	1
34	Provision of services to end customers	1

35	Export of finished goods	1
36	Provision of management support services	1
37	Purchase of software license	1
38	Purchase of computer hardware	1
39	Provision of contract software development and IT support services	1
40	Payment of business advisory services	1
41	Payment of BAS charges	1
42	Provision of software consulting services	1
43	Employee Stock Option Plans or similar benefits such as	1
44	Lease line connectivity/WAN/third party software/tools	1
45	Purchase of raw materials	1
46	Receipt of royalty	1
47	Import of traded goods	1
48	Availing of services for provision of services to end customers	1
49	Provision of export services	1
TOTAL		179

Figure 4-9 Frequency of covered transactions



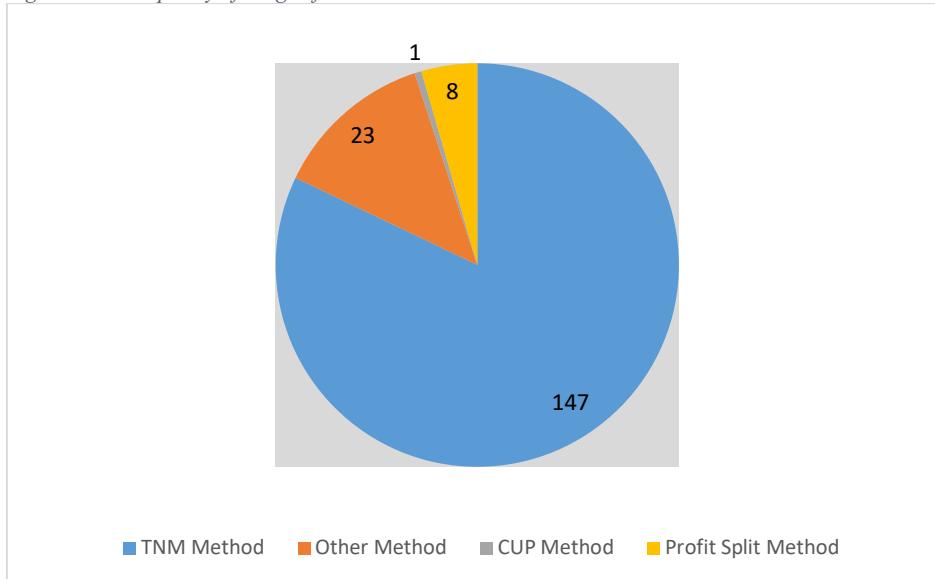
4.10 Transfer Pricing Methodology adopted

Table 4-10 and Figure 4-10 below shows a break up of Transfer Pricing Methodologies adopted in the signed cases. Out of 179 covered transactions, 147 have been benchmarked by using TNMM.

Table 4-10 Frequency of usage of TP methods

S. No	TP Methodology	No. Of Transactions
1	TNM Method	147
2	Other Method	23
3	CUP Method	1
4	Profit Split Method	8
	Total	179

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



4.11 Renewal of BAPAs

An overwhelming majority 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 96 BAPAs signed till 31.03.2023, 63 applicants have opted for a renewal of the APA till date.

Chapter 5: Other dispute resolution processes

BAPAs are a special type of dispute prevention/resolution process between two treaty partners. 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. MAP can be filed to avoid anticipated double taxation or resolve double taxation. The inventory of MAP cases in calendar years 2022as 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 2022 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 2022

Sl.No.	Calendar Year	Opening Inventory	Invocations during the year	Closures during the year	Closing Inventory
1	2022	740*	101	144	697

*Opening inventory has been corrected by agreement with the respective treaty partners

As can be seen from Figures 5-1 and 5-2, the number of cases being resolved under MAP has been steadily increasing with a corresponding decline in closing inventory. 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

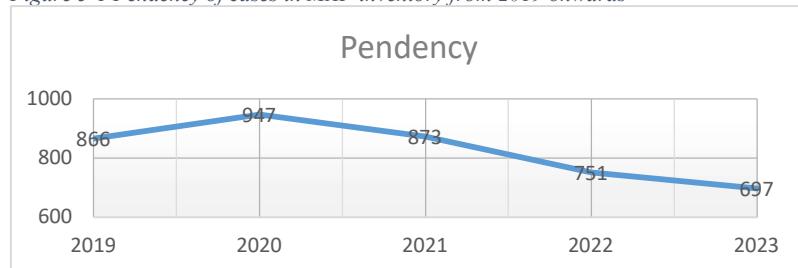
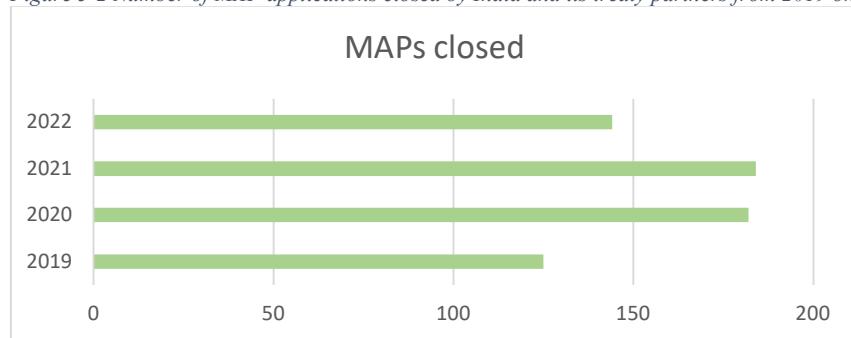


Figure 5-2 Number of MAP applications closed by India and its treaty partners from 2019 onwards



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 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 audits and other procedures.

APAs are beneficial to the Government at the same time, by assuring tax revenues from multinationals on the basis of the terms and conditions embedded in the Agreements. 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 516 signed APAs have resulted in bringing finality in taxation to income of about Rs. 19,000 crore. This translates into a payment of tax of about Rs. 7,000 Crore. 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.