

**OECD/G20 Base Erosion and Profit Shifting  
Project**



# **Making Dispute Resolution More Effective – MAP Peer Review Report, Singapore (Stage 1)**

**INCLUSIVE FRAMEWORK ON BEPS: ACTION 14**





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## Foreword

The integration of national economies and markets has increased substantially in recent years, putting a strain on the international tax rules, which were designed more than a century ago. Weaknesses in the current rules create opportunities for base erosion and profit shifting (BEPS), requiring bold moves by policy makers to restore confidence in the system and ensure that profits are taxed where economic activities take place and value is created.

Following the release of the report *Addressing Base Erosion and Profit Shifting* in February 2013, OECD and G20 countries adopted a 15-point Action Plan to address BEPS in September 2013. The Action Plan identified 15 actions along three key pillars: introducing coherence in the domestic rules that affect cross-border activities, reinforcing substance requirements in the existing international standards, and improving transparency as well as certainty.

After two years of work, measures in response to the 15 actions were delivered to G20 Leaders in Antalya in November 2015. All the different outputs, including those delivered in an interim form in 2014, were consolidated into a comprehensive package. The BEPS package of measures represents the first substantial renovation of the international tax rules in almost a century. Once the new measures become applicable, it is expected that profits will be reported where the economic activities that generate them are carried out and where value is created. BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

Implementation is now the focus of this work. The BEPS package is designed to be implemented via changes in domestic law and practices, and via treaty provisions. With the negotiation for a multilateral instrument having been finalised in 2016 to facilitate the implementation of the treaty related measures, 67 countries signed the multilateral instrument on 7 June 2017, paving the way for swift implementation of the treaty related measures. OECD and G20 countries also agreed to continue to work together to ensure a consistent and co-ordinated implementation of the BEPS recommendations and to make the project more inclusive. Globalisation requires that global solutions and a global dialogue be established which go beyond OECD and G20 countries.

A better understanding of how the BEPS recommendations are implemented in practice could reduce misunderstandings and disputes between governments. Greater focus on implementation and tax administration should therefore be mutually beneficial to governments and business. Proposed improvements to data and analysis will help support ongoing evaluation of the quantitative impact of BEPS, as well as evaluating the impact of the countermeasures developed under the BEPS Project.

As a result, the OECD established an Inclusive Framework on BEPS, bringing all interested and committed countries and jurisdictions on an equal footing in the Committee on Fiscal Affairs and all its subsidiary bodies. The Inclusive Framework, which already has more than 100 members, will monitor and peer review the implementation of the minimum standards as well as complete the work on standard setting to address BEPS issues. In addition to BEPS Members, other international organisations and regional tax bodies are involved in the work of the Inclusive Framework, which also consults business and the civil society on its different work streams.



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*Abbreviations and acronyms*

<b>APA</b>	Advance Pricing Agreement
<b>BEPS</b>	Base Erosion and Profit Shifting
<b>FTA</b>	Forum on Tax Administration
<b>IRAS</b>	Inland Revenue Authority of Singapore
<b>ITBR</b>	Income Tax Board of Review
<b>MAP</b>	Mutual Agreement Procedure
<b>OECD</b>	Organisation for Economic Co-operation and Development



## Executive summary

Singapore has an extensive tax treaty network with 85 tax treaties. It has an established MAP programme even though it has a small MAP inventory, with a small number of new cases submitted each year and 21 cases pending on 31 December 2016. Of these cases, over 50% concern allocation/attribution cases. Overall Singapore meets almost all of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Singapore is working to address them.

All of Singapore's tax treaties include a provision relating to MAP, which mostly follow paragraphs 1 through 3 of Article 25 of the OECD Model Tax Convention on Income and on Capital 2014 (OECD Model Tax Convention OECD, 2015). Its treaty network is largely consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that:

- almost a quarter of its tax treaties neither contain a provision stating that mutual agreement shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for both Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.
- almost 10% of its tax treaties do not include the equivalent to Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2015) stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Singapore needs to amend and update a portion of its tax treaties. In this respect, Singapore signed the Multilateral Instrument, through which a number of its tax treaties will be potentially modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force and entry into effect of this Multilateral Instrument, Singapore reported that it intends to update all of its tax treaties to be compliant with the requirements under the Action 14 Minimum Standard via bilateral negotiations. Such bilateral negotiations have already been initiated for the majority of those treaties. Furthermore, Singapore opted for part VI of the Multilateral Instrument concerning the introduction of a mandatory and binding arbitration provision in tax treaties.

Singapore meets the Action 14 Minimum Standard concerning the prevention of disputes. It has in place a bilateral APA programme. This APA programme also enables taxpayers to request rollbacks of bilateral APAs and such rollbacks are granted in practice.

Singapore also meets the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases. It further has in place a documented bilateral consultation or notification process for those situations in which its competent authority considers the objection raised by taxpayers in

a MAP request as not justified. Singapore also has clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice under its tax treaties. However, Singapore’s main MAP guidance does not specify that taxpayers have access to MAP in case of audit settlements.

Concerning the average time needed to close MAP cases, the MAP statistics for Singapore for the year 2016 are as follows:

2016	Opening inventory	Cases started	Cases closed	End inventory	Average time to close cases (in months)*
Attribution/ allocation cases	10	3	3	10	54.95
Other cases	8	5	2	11	36.05
Total	18	8	5	21	47.39

\* The average time taken for closing MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. For computing the average time taken for closing pre-2016 MAP cases, Singapore used as a start date the date when Singapore’s competent authority receives a MAP request regardless of the completeness of the information and documentation required and as the end date, the date when the taxpayer is notified of the outcome by either of the competent authorities.

The number of cases Singapore closed is less than the number of all new cases started in 2016. Its MAP inventory as per 31 December 2016 increased as compared to its inventory as per 1 January 2016. Singapore’s competent authority did not close MAP cases on average within a timeframe of 24 months (which is the pursued average for resolving MAP cases received on or after 1 January 2016), as the average time necessary was 47.39 months. This particularly concerns the resolution of attribution/allocation cases, as the average time to close these cases is thereby considerably longer (almost 55 months) than the average time to close other cases (roughly 36 months). While the resources devoted to Singapore’s competent authority seem adequate, there have been issues of an organisational nature that impacted the average time on which Singapore has worked since then by providing more guidance to taxpayers on how to submit a MAP request. In that regard, Singapore should closely monitor whether the steps taken will decrease the time needed for the resolution of MAP cases in the future.

Furthermore, Singapore meets the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Singapore’s competent authority operates fully independently from the audit function of the tax authorities and adopts a co-operative approach to resolve MAP cases in an effective and efficient manner. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function.

Lastly, Singapore also meets the Action 14 Minimum Standard as regards implementation of MAP agreements. In addition, Singapore monitors the implementation of MAP agreements.

## *Introduction*

### **Available mechanisms in Singapore to resolve tax treaty-related disputes**

Singapore has entered into 85 tax treaties on income (and/or capital), 82 of which are in force.<sup>1</sup> These 85 treaties apply to the same number of jurisdictions. All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. One of such treaties provides for an arbitration procedure as a final stage to the mutual agreement procedure.

In Singapore, the competent authority function to conduct MAP is performed by Tax Policy and International Tax Division of Internal Revenue Authority of Singapore (“**IRAS**”). The division is headed by the assistant commissioner and assisted by the tax director. The work of the division is under the oversight of the deputy commissioner. The MAP function is performed by 15 staff, among whom two people are support staff. The staff is divided into three teams. Two of these teams deal with attribution/allocation cases while one team is in charge of other cases.

The organisation of this competent authority function is detailed in a webpage<sup>2</sup> dedicated to the mutual agreement procedure (“**Singapore’s MAP Guidance**”) as well as in a specific guide<sup>3</sup> covering attribution/allocation cases available online (“**Singapore’s Transfer Pricing Guidelines**”) which also includes information about the mutual agreement procedure (“**MAP**”).

### **Recent developments in Singapore**

Singapore recently signed new treaties with Cambodia, Ethiopia, Ghana, Nigeria and Sri Lanka, which have not yet entered into force. The treaty with Sri Lanka will replace, once entered into force, the existing treaty of 1979. In assessing whether Singapore is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, these new negotiated treaties were taken into account, provided that they were signed before the end of the period under review (see below). Consequently, the treaty entered into with Nigeria and signed in August 2017 was not taken into account.

Furthermore, Singapore recently signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”)<sup>4</sup> to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. Where treaties will not be modified by the Multilateral Instrument, Singapore reported that it strives updating them through future bilateral negotiations. Out of the 15 tax treaties containing a MAP provision that is not in line with the Action 14 Minimum Standard and that will not be modified by the Multilateral Instrument as stated in this report, Singapore reported that it is already in contact with 12 of these treaty

partners to initiate renegotiation of the tax treaties. Singapore reported that it will also approach the remaining treaty partners in the forthcoming months to initiate renegotiation of these tax treaties. With the signing of the Multilateral Instrument, Singapore also submitted its list of notifications and reservations to that instrument.<sup>5</sup> In relation to the Action 14 Minimum Standard, Singapore reserved, pursuant to Article 16(5)(a), the right not to apply Article 16(1) of the Multilateral Instrument (concerning the mutual agreement procedure) that modifies existing treaties to allow the submission of a MAP request to the competent authorities of either contracting state.<sup>6</sup> This reservation is in line with the requirements of the Action 14 Minimum Standard.

## Basis for the peer review process

The peer review process entails an evaluation of Singapore’s implementation of the Action 14 Minimum Standard through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic legislation and regulations, as well as its MAP programme guidance and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by Singapore and its peers. The peer review process entails an evaluation of Singapore’s implementation of the Action 14 Minimum Standard, through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic legislation and regulations, as well as its MAP programme guidance and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by the assessed jurisdiction, its peers and taxpayers.

The questionnaires for the peer review process were sent to Singapore and the peers on 7 July 2017. The period for evaluating Singapore’s implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 31 July 2017 (“**Review Period**”). While the commitment to the Action 14 Minimum Standard only starts from 1 January 2016, Singapore opted to provide information and requested peer input on a period starting as from 1 January 2014. While the period starting on 1 January 2014 is taken into account in the analysis in this report, the basis of conclusions only concerns the period starting on 1 January 2016. In addition to the assessment on Singapore’s compliance with the Action 14 Minimum Standard, Singapore also asked for peer input on best practices. This report may also depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Singapore’s implementation of this minimum standard. In the update of this report, being stage two of the peer review process, these recent developments will be taken into account in the assessment and, if necessary, the conclusions contained in this report will be amended accordingly.

For the purpose of this report and the statistics below, in assessing whether Singapore is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty currently in force, insofar as the newly negotiated treaty or protocol was signed before the end of the Review Period. Reference is made to Annex A for the overview of Singapore’s tax treaties regarding the mutual agreement procedure.

In total 11 peers provided input: Australia, China, Denmark, Germany, India, Japan, Korea, Liechtenstein, Spain, Switzerland and Turkey. These peers represent almost 40% of post-2015 MAP cases in Singapore’s inventory on 31 December 2016.<sup>7</sup>

Broadly, all peers indicated having a positive MAP experience with Singapore and a co-operative relationship, some of them emphasising IRAS' efficiency in terms of preventing disputes.

Singapore provided specific and extensive answers in its questionnaire, which was submitted on time. Singapore was very responsive in the course of the drafting of the peer review report by responding in a timely and comprehensive manner to requests for additional information, and provided further clarity where necessary. In addition, Singapore provided the following information:

- MAP profile<sup>8</sup>
- MAP statistics<sup>9</sup> according to the MAP Statistics Reporting Framework (see below).

Finally, Singapore is an active member of the FTA MAP Forum and has shown good co-operation during the peer review process. Singapore provided detailed peer input and made constructive suggestions on how to improve the process with some assessed jurisdictions.

## Overview of MAP caseload in Singapore

The analysis of Singapore's MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2016 (“**Statistics Reporting Period**”). According to the statistics provided by Singapore, on 31 December 2016 its MAP inventory was 21 cases, ten of which concern attribution/allocation cases and 11 other cases. During the Statistics Reporting Period eight cases started and five cases were closed.

## General outline of the peer review report

This report includes an evaluation of Singapore's implementation of the Action 14 Minimum Standard. The report comprises the following four sections:

- A. Preventing Disputes
- B. Availability and Access to MAP
- C. Resolution of MAP cases
- D. Implementation of MAP agreements.

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementation of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).<sup>10</sup> Apart from analysing Singapore's legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Singapore. Furthermore, the report depicts the changes adopted and plans shared by Singapore to implement elements of the Action 14 Minimum Standard where relevant. The conclusion of each element identifies areas for improvement (if any) and provides for recommendations how the specific area for improvement should be addressed.

The objective of Action 14 Minimum Standard is to make dispute resolution mechanisms more effective and concerns a continuous effort. Therefore, this peer review report includes recommendations that Singapore continues to act in accordance with a given element of the Action 14 Minimum Standard, even if there is no area for improvement for this specific element.

## Notes

1. The tax treaties Singapore has entered into are available at: <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/>. The treaties that are signed but have not yet entered into force are with Cambodia (2016), Ethiopia (2016), Ghana (2017), Sri Lanka (2014). The treaty with Sri Lanka will replace, once entered into force, the existing treaty of 1979. For that reason the newly negotiated treaty is taken into account in the treaty analysis. Reference is made to Annex A for the overview of Singapore’s tax treaties.
2. Available at <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/Mutual-Agreement-Procedure/>.
3. Available at [https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax\\_Guides/etaxguide\\_CIT\\_Transfer%20Pricing%20Guidelines\\_4th.pdf](https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax_Guides/etaxguide_CIT_Transfer%20Pricing%20Guidelines_4th.pdf).
4. The analysis of applications of the Multilateral Instrument is based upon the status of positions provided by signatories as of 17 August which are available on: [www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf](http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf).
5. An overview of Singapore’s positions on the Multilateral Instrument is available at: [www.oecd.org/tax/treaties/beps-mli-position-singapore.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-singapore.pdf).
6. Ibid. This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, the Republic of Singapore reserves the right for the first sentence of Article 16(1) not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under each of its Covered Tax Agreements (other than a Covered Tax Agreement that permits a person to present a case to the competent authority of either Contracting Jurisdiction), where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of the Contracting Jurisdiction of which the person is a resident or, if the case presented by that person comes under a provision of a Covered Tax Agreement relating to non-discrimination based on nationality, to that of the Contracting Jurisdiction of which that person is a national; and the competent authority of that Contracting Jurisdiction will implement a bilateral notification or consultation process with the competent authority of the other Contracting Jurisdiction for cases in which the competent authority to which the mutual agreement procedure case was presented does not consider the taxpayer’s objection to be justified.”
7. The breakdown of treaty partners on a jurisdiction-by-jurisdiction basis is only available for post-2015 cases under the MAP Statistics Reporting Framework. Singapore also provided the relevant information for pre-2016 cases, which shows that the peers that provided input represent almost 70% of pre-2016 MAP cases in Singapore’s inventory on 31 December 2016.
8. Available at: <https://www.oecd.org/tax/dispute/Singapore-Dispute-Resolution-Profile.pdf>.
9. The MAP statistics of Singapore are included in Annex B and C of this report.
10. The terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective can be found in the Peer Review Documents (OECD, 2016): [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).



## *Bibliography*

- OECD (2016), *BEPS Action 14 on More Effective Dispute Resolution Mechanisms*, Peer Review Documents, [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf) (accessed on 22 August 2017).
- OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264239081-en>.



## *Part A*

### Preventing disputes

#### [A.1] **Include Article 25(3), first sentence, of the OECD Model Tax Convention in tax treaties**

Jurisdictions should ensure that their tax treaties contain a provision which requires the competent authority of their jurisdiction to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of their tax treaties.

1. Cases may arise concerning the interpretation or the application of tax treaties that do not necessarily relate to individual cases, but are more of a general nature. Inclusion of the first sentence of Article 25(3) of the OECD Model Tax Convention (OECD, 2015) in tax treaties invites and authorises competent authorities to solve these cases, which may avoid submission of MAP requests and/or future disputes from arising, and which may reinforce the consistent bilateral application of tax treaties.

#### *Current situation of Singapore’s tax treaties*

2. Out of Singapore’s 85 tax treaties, 82 treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty. For one of the three remaining treaties a provision based on Article 25(3), first sentence is included, but this provision only relates to difficulties or doubts arising as to the “application” of the treaty and not as to the “interpretation” of the treaty. The other two treaties do not refer to “doubts” (and one of them does not refer to “difficulties” either). These treaties do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015).

3. Singapore reported that in practice it endeavours to resolve with its treaty partners by mutual agreement any difficulties or doubts arising as to the interpretation or application of tax treaties, whether or not the applicable treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015).

#### *Anticipated modifications*

##### *Multilateral Instrument*

4. Singapore recently signed the Multilateral Instrument. Article 16(4)(c)(i) of that instrument stipulates that Article 16(3), first sentence – containing the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) – will apply

in the absence of a provision in tax treaties that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015). In other words, in the absence of this equivalent, Article 16(4)(c)(i) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. This shall apply, however, only if both contracting parties to the applicable treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified the depositary of the fact that this treaty does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015).

5. In regard of the 3 tax treaties identified above, Singapore listed all of those treaties as a covered tax agreement under the Multilateral Instrument, but only made, pursuant to Article 16(6)(d)(i), for 2 of those treaties, a notification that they do not contain a provision described in Article 16(4)(c)(i). Of those two relevant treaty partners, only one also made such a notification. At this stage therefore, the Multilateral Instrument will, on its entry into force, modify only one treaty to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015).

#### *Bilateral modifications*

6. For those treaties, which do not contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015), and which will not be modified by the Multilateral Instrument, Singapore reported it will strive to update them via bilateral negotiations to be compliant with element A.1. In addition, Singapore reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) in all of its future treaties.

#### *Peer input*

7. Almost all peers that provided input reported that their tax treaty with Singapore meets the requirements under element A.1. One peer, however, mentioned that its tax treaty does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015), but reported that this should be modified by the Multilateral Instrument. This peer, however, did not notify that the treaty with Singapore does not contain a provision described in Article 16(4)(c)(i) and therefore, the treaty will not be modified.

8. For the other two treaties identified that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015), the relevant peers did not provide input.

## Conclusion

	Areas for improvement	Recommendations
[A.1]	Three out of 85 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015).	<p>Singapore should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) following its entry into force, Singapore should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Singapore should maintain its stated intention to include the required provision in all future treaties.</p>

### [A.2] Provide roll-back of bilateral APAs in appropriate cases

Jurisdictions with bilateral advance pricing arrangement (“APA”) programmes should provide for the roll-back of APAs in appropriate cases, subject to the applicable time limits (such as statutes of limitation for assessment) where the relevant facts and circumstances in the earlier tax years are the same and subject to the verification of these facts and circumstances on audit.

9. An APA is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustment thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time.<sup>1</sup> The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The “roll-back” of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

#### *Singapore’s APA programme*

10. Singapore is authorised to enter into bilateral APAs and has implemented a bilateral APA programme. The guidance on Singapore’s bilateral APA programme can be found in Singapore’s Transfer Pricing Guidelines.<sup>2</sup> In particular, Singapore reported that a bilateral APA request should be introduced during a pre-filing meeting that should be held at the latest nine months before the start of the period to be covered by the bilateral APA. Paragraph 8.16 of Singapore’s Transfer Pricing Guidelines states that IRAS will generally accept an APA request to cover three to five future fiscal years, although the duration of the covered period should be based on taxpayers’ assessment that there will not be any significant changes during the covered period that may affect the validity of the APA.

11. Statistics on Singapore’s bilateral APA programme are available online.<sup>3</sup>

### ***Roll-back of bilateral APAs***

12. Singapore allows taxpayers to request a roll-back of bilateral APAs provided that the facts and circumstances of the bilateral APA itself are similar to those of the previous years covered by the request for a roll-back. This possibility is described in section 8.17 of Singapore’s Transfer Pricing Guidelines. Singapore’s MAP profile indicates that roll-backs are generally given up to two years prior to the period originally covered by APAs

### ***Practical application of roll-back of bilateral APAs***

13. Singapore reported that, since 1 January 2014, four taxpayers have requested a roll-back of their bilateral APAs to Singapore. As regards those requests, in all cases Singapore allowed a roll-back.

14. Peers commented and confirmed that it is possible to enter into roll-back of bilateral APAs with Singapore.

### ***Anticipated modifications***

15. Singapore did not indicate that it anticipates any modifications in relation to element A.2.

### ***Conclusion***

	Areas for improvement	Recommendations
[A.2]	-	Singapore should continue to provide for roll-back of bilateral APAs in appropriate cases as it has done thus far.

## **Notes**

1. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.
2. <https://www.iras.gov.sg/irashome/Businesses/Companies/Working-out-Corporate-Income-Taxes/Specific-topics/Transfer-Pricing/Transfer-Pricing-Administration/>.
3. <https://data.gov.sg/dataset/transfer-pricing-map-and-apa-cases-annual> and <https://www.iras.gov.sg/IRASHome/Publications/Statistics-and-Papers/Tax-Statistics/#international>.

## ***Bibliography***

- OECD (2017), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/tpg-2017-en>.
- OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264239081-en>.

## *Part B*

### **Availability and access to MAP**

#### **[B.1] Include Article 25(1) of the OECD Model Tax Convention in tax treaties**

Jurisdictions should ensure that their tax treaties contain a MAP provision which provides that when the taxpayer considers that the actions of one or both of the Contracting Parties result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty, the taxpayer, may irrespective of the remedies provided by the domestic law of those Contracting Parties, make a request for MAP assistance, and that the taxpayer can present the request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty.

16. For resolving cases of taxation not in accordance with the provisions of the tax treaty, it is necessary that tax treaties contain a provision allowing taxpayers to request a mutual agreement procedure and that this procedure can be requested irrespective of the remedies provided by the domestic law of the treaty partners. In addition, to provide certainty to taxpayers and competent authorities on the availability of the mutual agreement procedure, a minimum period of three years for submission of a MAP request, beginning on the date of the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty, is the baseline.

#### ***Current situation of Singapore's tax treaties***

##### *Inclusion of Article 25(1), first sentence of the OECD Model Tax Convention*

17. Out of Singapore's 85 tax treaties, 64 contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the *Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report* (Action 14 final report, OECD 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state. None of Singapore's tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as changed by the Action 14 final report (OECD 2015b).

18. The remaining 21 treaties can be categorised as follows:

Provision	Number of treaties
A variation to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of Action 14 final report (OECD 2015b), whereby the MAP is provided in cases of “double taxation contrary to the provisions of the agreement” instead of “taxation not in accordance with the provisions of the convention”.	1
A variation to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD 2015b), whereby the taxpayer can submit a MAP request irrespective of domestic available remedies, but whereby pursuant to a protocol provision the taxpayer is also required to initiate these remedies when submitting a MAP request.	1
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD 2015b), whereby taxpayers can only submit a MAP request to the competent authorities of the contracting state of which they are resident.	19

19. With respect to the treaty mentioned in the first row of the table above, Singapore specified that it will grant access to MAP for requests submitted under this treaty that would relate to a mere taxation not in accordance with the tax treaty, even though the treaty itself requires a double taxation. Nevertheless, this treaty is considered not to have the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD 2015b).

20. With respect to the treaty mentioned in the second row of the table above, the provision generally incorporated in the protocol to these treaties reads:

... the expression “notwithstanding the remedies provided by the national laws” means that the mutual agreement procedure is not alternative with the national contentious proceedings which shall be, in any case, preventively initiated, when the claim is related with an assessment of taxes not in accordance with this Convention.

21. As pursuant to this provision a domestic procedure has to be initiated analogous to the initiation of the mutual agreement procedure, a MAP request can in practice thus not be submitted irrespective of the remedies provided by the domestic law, even though the provision contained in the MAP article is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the final report on Action 14. This treaty is therefore considered not in line with element B.1.

22. The 19 treaties mentioned in the last row of the above table are considered not to have the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD 2015b), since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, this can be explained by the following reasons:

- The relevant tax treaty does not contain a non-discrimination provision and only applies to residents of one of the states (three treaties).
- The non-discrimination provision of the relevant tax treaty only covers nationals that are resident of one of the contracting states. Therefore, it is logical to only allow for the submission of MAP requests to the state of which the taxpayer is a resident (16 treaties).

23. Consequently, all of these 19 treaties are considered to contain a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a).



*Inclusion of Article 25(1), second sentence of the OECD Model Tax Convention*

24. Out of Singapore’s 85 tax treaties, 74 treaties contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015a) allowing taxpayers to submit a MAP request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.

25. The remaining 11 tax treaties that do not contain such provision can be categorised as follows:

Provision	Number of treaties
No filing period for a MAP request	6
Filing period longer than three years for a MAP request (four years)	2
Filing period shorter than three years for a MAP request (two years)	3

26. Singapore reported that in the absence of a filing period for MAP requests in the relevant tax treaties, there is no domestic time limit to submit a MAP request.

*Anticipated modifications**Multilateral Instrument**Article 25(1), first sentence of the OECD Model Tax Convention*

27. Singapore reported it has recently signed the Multilateral Instrument. Article 16(4)(a) (i) of that instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read after the adoption of the Action 14 final report (OECD 2015b) and allowing the submission of MAP requests to the competent authority of either contracting state – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the final report on Action 14. This, however, only if both contracting parties to the applicable tax treaty have listed this tax treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified the depositary of the fact that this tax treaty contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a). Such modification will for a specific treaty not take effect if one of the treaty partners has, pursuant to Article 16(5)(a) of the Multilateral Instrument, reserved the right not to apply the first sentence of Article 16(1) of that instrument to its covered tax treaties.

28. Singapore reserved the right, pursuant to Article 16(5)(a) of the Multilateral Instrument, not to apply the first sentence of Article 16(1) of that instrument to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.<sup>1</sup> In this reservation, Singapore declared to ensure that all of its tax treaties, which are considered covered tax agreements for purposes of the Multilateral Instrument, contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the final report on Action 14. It subsequently declared to implement a bilateral notification or consultation process for those cases in which its competent authority considers the objection raised by a taxpayer in its MAP request as not being justified. The introduction and application of such process will be further discussed under element B.2.

29. In view of the above, following the reservation made by Singapore, those two treaties identified in paragraphs 19 and 20 above that do not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the final report on Action 14 will not be modified by the Multilateral Instrument with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.

#### Article 25(1), second sentence of the OECD Model Tax Convention

30. With respect to the period of filing of a MAP request, Article 16(4)(a)(ii) of the Multilateral Instrument stipulates that Article 16(1), second sentence – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015a) – will apply where such period is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty. This shall apply, however, only if both contracting parties to the applicable treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar both notified the depositary of the fact that this treaty does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015a).

31. In regard of the three tax treaties identified in paragraph 25 above that contain a filing period for MAP requests of less than three years, Singapore listed two of them as a covered tax agreement under the Multilateral Instrument and made for those two treaties, pursuant to Article 16(6)(b)(i), a notification that it does not contain a provision described in Article 16(4)(a)(ii). Regarding the two relevant treaty partners, one is not a signatory to the Multilateral Instrument. The remaining treaty partner listed its treaty with Singapore as not having a time limit for filing of MAP requests of at least three years. At this stage therefore, the Multilateral Instrument will, upon entry into force, modify one of the three treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015a).

#### *Bilateral modifications*

32. For those treaties, which do not contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015a), and which will not be modified by the Multilateral Instrument, Singapore reported it will strive to update them via bilateral negotiations to be compliant with element B.1. In addition, Singapore also reported it will strive to update the two treaties identified in paragraphs 19 and 20 via bilateral negotiations to include Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), as it read before the final report on Action 14, as well as seek to include the same in all of its future treaties.

#### *Peer input*

33. Almost all peers that provided input reported that their tax treaty with Singapore meets the requirements under element B.1. One peer, however, mentioned that its tax treaty does not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), but reported that this should be covered by the Multilateral Instrument. However, this would apply to Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2015a), this would not apply to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a) further to the reservation made by Singapore and described previously.

34. For the other four treaties identified that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), the relevant peers did not provide input.

### Conclusion

	Areas for improvement	Recommendations
[B.1]	<p>Five out of 85 tax treaties do not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the final report on Action 14 or as amended by that report. Of those five tax treaties:</p> <ul style="list-style-type: none"> <li>• Two tax treaties do not incorporate the equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the final report on Action 14 or as amended by that final report.</li> <li>• Three tax treaties do not contain a provision equivalent to Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2015a) which allows taxpayers to submit a MAP request within a period of no less than three years from the notification of the action resulting in taxation not in accordance with the provisions of the treaty.</li> </ul>	<p>Singapore should as quickly as is possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015a) in those treaties that currently do not contain such equivalent. This concerns both:</p> <ul style="list-style-type: none"> <li>• a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a) either: <ul style="list-style-type: none"> <li>a. As amended in the final report of action 14 (OECD, 2015b); or</li> <li>b. As it read prior to the adoption of final report of action 14 (OECD, 2015b), thereby including the full sentence of such provision.</li> </ul> </li> <li>• a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.</li> </ul> <p>For the remaining treaties that will not be modified by the Multilateral Instrument following its entry into force to include such equivalent, Singapore should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Singapore should maintain its stated intention to include the required provision in all future treaties.</p>

### [B.2] Allow submission of MAP requests to the competent authority of either treaty partner, or, alternatively, introduce a bilateral consultation or notification process

Jurisdictions should ensure that either (i) their tax treaties contain a provision which provides that the taxpayer can make a request for MAP assistance to the competent authority of either Contracting Party, or (ii) where the treaty does not permit a MAP request to be made to either Contracting Party and the competent authority who received the MAP request from the taxpayer does not consider the taxpayer's objection to be justified, the competent authority should implement a bilateral consultation or notification process which allows the other competent authority to provide its views on the case (such consultation shall not be interpreted as consultation as to how to resolve the case).

35. In order to ensure that all competent authorities concerned are aware of MAP requests submitted, for a proper consideration of the request by them and to ensure that taxpayers have effective access to MAP in eligible cases, it is essential that all tax treaties contain a provision that either allows taxpayers to submit a MAP request to the competent authority:

- i. of either treaty partner; or in the absence of such provision
- ii. where it is a resident, or to the competent authority of the state of which they are a national if their cases come under the non-discrimination article. In such cases, jurisdictions should have in place a bilateral consultation or notification process where a competent authority considers the objection raised by the taxpayer in a MAP request as being not justified.

### ***Domestic bilateral consultation or notification process in place***

36. None of Singapore’s tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as changed by the Action 14 final report (OECD 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. Singapore indicated that it has introduced an informal notification process since the early 1990s which allows the other competent authority concerned to provide its views on the case when its competent authority considers the objection raised in the MAP request not to be justified. Singapore reported that it has formalised such a process in 2006. Singapore reported that, to apply the notification process, its competent authority sends a letter (via mail and e-mail) to the other competent authority including the taxpayer’s information, the issue at stake, the date of application, the outcome of the case as well as the reasons why Singapore’s competent authority considers the case as raising a not justified objection.

37. As far as attribution/allocation cases are concerned, paragraph 9.11 of Singapore’s Transfer Pricing Guidelines stipulates that when IRAS considers a MAP request as raising a not justified objection it notifies both the taxpayer and the relevant treaty partner of this.

### ***Practical application***

38. From the MAP Statistics provided by Singapore it follows that it has neither denied access to any cases nor considered any objection raised by the taxpayer as not justified during the Statistics Reporting Period.

39. No peer indicated that it was aware of nor that it had been consulted or notified of a case where Singapore’s competent authority considered the objection raised in a MAP request as not justified since 1 January 2014, which can be explained by the fact that Singapore did not consider that an objection raised in a MAP request was not justified in the recent period of time.

### ***Anticipated modifications***

40. As previously discussed under element B.1, Singapore has recently signed the Multilateral Instrument. Specifically regarding element B.2, Singapore reserved the right, as is allowed pursuant to Article 16(5)(a) of the Multilateral Instrument, not to apply the first sentence of Article 16(1) of that instrument to existing treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.<sup>2</sup> As tax treaties will not be modified via the Multilateral Instrument, Singapore declared it will continue to notify, or where appropriate, to consult when its competent authority considers the objection raised in a MAP request not to be justified.

### ***Peer input***

41. All of the peers who provided input indicated not being aware of any MAP requests, for which access to MAP was denied by Singapore.

## Conclusion

	Areas for improvement	Recommendations
[B.2]	There is a formal process in place to notify the other competent authority in cases where the objection raised in the MAP request was considered as being not justified. However, it was not possible to assess whether the notification process is applied in practice because for the period under review no such cases have occurred.	

### [B.3] Provide access to MAP in transfer pricing cases

Jurisdictions should provide access to MAP in transfer pricing cases.

42. Where two or more tax administrations take different positions on what constitutes arm's length conditions for specific transactions between associated enterprises, economic double taxation may occur. Not granting access to MAP with respect to a treaty partner's transfer pricing adjustment, with a view to eliminating the economic double taxation that may arise from such adjustment, will likely frustrate the main objective of tax treaties. Countries should thus provide access to MAP in transfer pricing cases.

#### *Legal and administrative framework*

43. Out of Singapore's 85 tax treaties, 38 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015a) requiring their competent authorities to make a corresponding adjustment in case a transfer pricing adjustment is made by the treaty partner. The remaining 47 treaties do not contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015a). For these 47 treaties, the following analysis can be made:

- 13 treaties do not have any provision referring to a corresponding adjustment
- 34 treaties contain either in the treaty itself or in a protocol a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2015a), but is not equivalent to such a provision as a corresponding adjustment can only be provided after involving the competent authorities through a consultation process or after the competent authority agrees with such a corresponding adjustment.

44. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is included in Singapore's tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B3, as translated from the Action 14 Minimum Standard, Singapore indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments when necessary. In practice, in order to obtain a corresponding adjustment after a primary adjustment was imposed in a foreign jurisdiction, Singaporean taxpayers have to ask IRAS for relief in application of the MAP provision of the relevant tax treaty. This is also specified in section 11.22 of Singapore's Transfer Pricing Guidelines.

#### *Application of legal and administrative framework in practice*

45. Singapore reported that since 1 January 2014, it has not denied access to MAP on the basis that their case was a transfer pricing case.



46. Peers indicated not being aware of a denial of access to MAP by Singapore on the grounds that it was a transfer pricing case during the same period.

### *Anticipated modifications*

47. Singapore reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention (OECD, 2015a) in its tax treaties where possible and that it will seek to include Article 9(2) of the OECD Model Tax Convention (OECD, 2015a) in all of its future treaties. In that regard, Singapore recently signed the Multilateral Instrument. Article 17(2) of that instrument stipulates that Article 17(1) – containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2015a) – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015a). This shall apply, however, only if both contracting parties to the applicable treaty has listed this treaty as a covered tax agreement under the Multilateral Instrument. Article 17(2) of the Multilateral Instrument does not take effect if one or both of the signatory states to the tax treaty reserved the right, pursuant to Article 17(3), not to apply Article 17(2) for those tax treaties that already contain the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2015a), or not to apply Article 17(2) in the absence of such equivalent, on the basis that: (i) it shall make appropriate corresponding adjustments or (ii) its competent authority shall endeavour to resolve the case under mutual agreement procedure of the applicable tax treaty. Where neither treaty partner has made such a reservation, Article 17(4) of the Multilateral Instrument stipulates that both have to make a notification of whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015a). Where such a notification is made by both of them the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention [OECD, 2015a]).

48. Singapore has, pursuant to Article 17(3), not reserved the right not to apply Article 17(2) of the Multilateral Instrument for those treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015a). In regard of the 47 treaties identified above in paragraph 43 above and that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015a), Singapore listed 37 treaties as a covered tax agreement under the Multilateral Instrument and made for 26 of them a notification on the basis of Article 17(4).

49. With regard to those 26 treaties, eight treaty partners are not a signatory to the Multilateral Instrument, whereas one has not listed its treaty with Singapore under that instrument and nine have, on the basis of Article 17(3), reserved the right not to apply Article 17(2) as they considered that their treaty with Singapore already contains the equivalent of Article 9(2). At this stage therefore, Article 17(1) of the Multilateral Instrument will, upon entry into force, replace the provisions in the remaining eight treaties to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2015a).

50. With regard to the remaining 11 treaties, one treaty partners are not a signatory to the Multilateral Instrument, one has not listed its treaty with Singapore under that instrument and three have, on the basis of Article 17(3), reserved the right not to apply Article 17(2) as they considered that their treaty with Singapore already contains the equivalent of Article 9(2). At this stage therefore, Article 17(1) of the Multilateral Instrument will,

upon entry into force, supersede the remaining five treaties only to the extent that the provisions included in those treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).

### ***Conclusion***

	Areas for improvement	Recommendations
[B.3]	-	As Singapore has thus far granted access to MAP in eligible transfer pricing cases, it should continue granting access for these cases.

## **[B.4] Provide access to MAP in relation to the application of anti-abuse provisions**

Jurisdictions should provide access to MAP in cases in which there is a disagreement between the taxpayer and the tax authorities making the adjustment as to whether the conditions for the application of a treaty anti-abuse provision have been met or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty.

51. There is no general rule denying access to MAP in cases of perceived abuse. In order to protect taxpayers from arbitrary application of anti-abuse provisions in tax treaties and in order to ensure that competent authorities have a common understanding on such application, it is important that taxpayers have access to MAP if they consider the interpretation and/or application of a treaty anti-abuse provision as being incorrect. Subsequently, to avoid cases in which the application of domestic anti-abuse legislation is in conflict with the provisions of a tax treaty, it is also important that taxpayers have access to MAP in such cases.

### ***Legal and administrative framework***

52. None of Singapore's 85 tax treaties allow competent authorities to restrict access to MAP for cases when a treaty anti-abuse provision applies or when there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, the domestic law and/or administrative processes of Singapore do not contain a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

53. This is, however, not addressed in Singapore's MAP Guidance or in Singapore's Transfer Pricing Guidelines.

### ***Practical application***

54. Singapore reported that, since 1 January 2014, it did not deny access to MAP in cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the application of a treaty anti-abuse provision has been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

55. Peers indicated not being aware of cases that have been denied access to MAP in Singapore since 1 January 2014 in relation to the application of treaty and/or domestic anti-abuse provisions.

### *Anticipated modifications*

56. Singapore did not indicate that it anticipates any modifications in relation to element B.4.

### *Conclusion*

	Areas for improvement	Recommendations
[B.4]	-	As Singapore has thus far granted access to MAP in eligible cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty, it should continue granting access for these cases.

## **[B.5] Provide access to MAP in cases of audit settlements**

Jurisdictions should not deny access to MAP in cases where there is an audit settlement between tax authorities and taxpayers. If jurisdictions have an administrative or statutory dispute settlement/resolution process independent from the audit and examination functions and that can only be accessed through a request by the taxpayer, jurisdictions may limit access to the MAP with respect to the matters resolved through that process.

57. An audit settlement procedure can be valuable to taxpayers by providing certainty on their tax position. Nevertheless, as double taxation may not be fully eliminated by agreeing on such settlements, taxpayers should have access to MAP in such cases, unless they were already resolved via an administrative or statutory disputes settlement/resolution process that functions independently from the audit and examination function and which is only accessible through a request by taxpayers.

### *Legal and administrative framework*

58. Singapore reported that audit settlements are available in Singapore. Furthermore, when the taxpayer disagrees with the outcome of an audit, it may make an appeal to the Income Tax Board of Review (“ITBR”), which is an independent board set up under the Ministry of Finance.

59. If an audit settlement has been reached or if the dispute was resolved through the appeal to the ITBR, Singapore will not preclude access to MAP. As described in element B.10, however, this is not specifically addressed in Singapore’s MAP Guidance or in Singapore’s Transfer Pricing Guidelines. This is only addressed in paragraph 7.15 of Singapore’s e-tax guide on tax treaties<sup>3</sup> that was published recently, and after the end of the Review Period.

### *Practical application*

60. According to Singapore, since 1 January 2014 it has not denied access to MAP in cases where an audit settlement has been reached or were resolved through an administrative or a statutory dispute settlement/resolution process.



61. Peers indicated not being aware of a denial of access to MAP in Singapore since 1 January 2014.

### *Anticipated modifications*

62. Singapore did not indicate that it anticipates any modifications in relation to element B.5.

### *Conclusion*

	Areas for improvement	Recommendations
[B.5]	-	As Singapore has thus far granted access to MAP in eligible cases, even if there was an audit settlement between the tax authority and a taxpayer, it should continue granting access for these cases.

## **[B.6] Provide access to MAP if required information is submitted**

Jurisdictions should not limit access to MAP based on the argument that insufficient information was provided if the taxpayer has provided the required information based on the rules, guidelines and procedures made available to taxpayers on access to and the use of MAP.

63. To resolve cases where there is taxation not in accordance with the provisions of the tax treaty, it is important that competent authorities do not limit access to MAP when taxpayers have complied with the information and documentation requirements as provided in the jurisdiction's guidance relating hereto. Access to MAP will be facilitated when such required information and documentation is made publically available.

### *Legal framework on access to MAP and information to be submitted*

64. The information and documentation Singapore requires taxpayers to include in a request for MAP assistance are discussed under element B.8.

### *Practical application*

65. During the Review Period Singapore reported that it has not limited access to MAP in cases on the grounds that insufficient information was provided.

66. In case a MAP request does not include sufficient information or documentation, Singapore reported that its competent authority would ask the taxpayer to submit missing information within one month after being asked to do so. In case the taxpayer fails to comply with such a timeline, Singapore reported that it would not deny access to MAP for this specific reason and that the timeline may also be extended if the taxpayer requests for it.

67. Peers indicated not being aware of a limitation of access to MAP by Singapore since 1 January 2014 in situations where taxpayers complied with information and documentation requirements.

### *Anticipated modifications*

68. Singapore did not indicate that it anticipates any modifications in relation to element B.6.

### *Conclusion*

	Areas for improvement	Recommendations
[B.6]	-	As Singapore has thus far not limited access to MAP in eligible cases when taxpayers have complied with Singapore's information and documentation requirements for MAP requests, it should continue this practice.

### **[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties**

Jurisdictions should ensure that their tax treaties contain a provision under which competent authorities may consult together for the elimination of double taxation in cases not provided for in their tax treaties.

69. For ensuring that tax treaties operate effectively and in order for competent authorities to be able to respond quickly to unanticipated situations, it is useful that tax treaties contain the second sentence of Article 25(3) of the OECD Model Tax Convention (OECD, 2015a), enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

#### *Current situation of Singapore's tax treaties*

70. Out of Singapore's 85 tax treaties, eight treaties do not contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. Among these eight treaties, seven do not contain any provision while one treaty contains a provision that does not refer to the elimination of double taxation and limits the cases of discussion to certain issues. This treaty, therefore, is considered not having the full equivalent of Article 25(3), second sentence.

#### *Anticipated modifications*

##### *Multilateral Instrument*

71. Singapore recently signed the Multilateral Instrument. Article 16(4)(c)(ii) of that instrument stipulates that Article 16(3), second sentence – containing the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a). In other words, in the absence of such equivalent, Article 16(4)(c)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. This shall apply, however, only if both contracting parties to the applicable treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar both notified the depositary of the fact that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a).

72. In regard of the eight tax treaties identified above, Singapore listed seven as a covered tax agreement under the Multilateral Instrument and for all seven treaties did Singapore make, pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). Of the relevant seven treaty partners, one is not

a signatory to the Multilateral Instrument. The remaining six treaty partners also made the notification that their treaty with Singapore does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a). At this stage therefore, the Multilateral Instrument will, upon entry into force, modify six of the eight tax treaties identified above to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a).

### *Bilateral modifications*

73. For those treaties, which do not contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a), and which will not be modified via the Multilateral Instrument, Singapore reported it will strive to update them via bilateral negotiations to be compliant with element B.7. In addition, Singapore reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) in all of its future treaties.

### *Peer input*

74. Almost all peers that provided input reported that their tax treaty with Singapore meets the requirements under element B.7. One peer, however, mentioned that its tax treaty does not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2015a), but reported that this should be covered by the Multilateral Instrument, which is consistent with the above analysis.

75. For the other seven treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a), the relevant peers did not provide input.

### *Conclusion*

	Areas for improvement	Recommendations
[B.7]	Eight out of 85 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a).	<p>Singapore should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) in those three treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) following its entry into force, Singapore should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Singapore should maintain its stated intention to include the required provision in all future treaties.</p>

**[B.8] Publish clear and comprehensive MAP guidance**

Jurisdictions should publish clear rules, guidelines and procedures on access to and use of the MAP and include the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance.

76. Information on a jurisdiction's MAP regime facilitates the timely initiation and resolution of MAP cases. Clear rules, guidelines and procedures on access to and use of the MAP are essential for making taxpayers and other stakeholders aware of how a jurisdiction's MAP regime functions. In addition, to ensure that a MAP request is received and will be reviewed by the competent authority in a timely manner, it is important that a jurisdiction's MAP guidance clearly and comprehensively explains how a taxpayer can make a MAP request and what information and documentation should be included in such request.

***Singapore's MAP guidance***

77. Singapore's rules, guidelines and procedures are included in its MAP Guidance and are available at:

[https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/  
Mutual-Agreement-Procedure/](https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/Mutual-Agreement-Procedure/)

78. This contains information on:

- a. Contact information of the competent authority or the office in charge of MAP cases
- b. The manner and form in which the taxpayer should submit its MAP request
- c. The specific information and documentation that should be included in a MAP request (see also below)
- d. How the MAP functions in terms of timing and the role of the competent authorities
- e. Relationship with domestic available remedies
- f. Access to MAP in transfer pricing cases
- g. Rights and role of taxpayers in the process
- h. The steps for the implementation of MAP agreements and the timing of such steps
- i. Interest and penalties.

79. The above-described MAP guidance of Singapore includes detailed information on the availability and the use of the MAP and how its competent authority conducts the procedure in practice. This guidance includes the information that the FTA MAP Forum agreed should be included in a jurisdiction's MAP guidance, which concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request.<sup>4</sup> Moreover, a specific section at the end of the webpage including the MAP guidance enables the taxpayers to rate the page, to suggest any improvements as well as to ask for any additional information via email. Although this information is available, various subjects are not specifically discussed in Singapore's MAP guidance. This concerns the availability of the MAP (i) in cases where an anti-abuse provision applies and (ii) in cases of bona fide foreign-initiated self-adjustments as well as information on the suspension (or non-suspension of the tax collection).

80. Moreover, Singapore’s Transfer Pricing Guidelines provide additional details on how the MAP functions in Singapore with respect to attribution/allocation cases. Singapore also published an additional e-tax guide on tax treaties including information on MAP after the end of the Review Period.<sup>5</sup>

***Information and documentation to be included in a MAP request***

81. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in request for MAP assistance.<sup>6</sup> This agreed guidance is shown below. Singapore’s MAP guidance enumerating which items must be included in a request for MAP assistance are checked in the following list:

- Identity of the taxpayer(s) covered in the MAP request
- The basis for the request
- Facts of the case
- Analysis of the issue(s) requested to be resolved via MAP
- Whether the MAP request was also submitted to the competent authority of the other treaty partner
- Whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes
- Whether the issue(s) involved were dealt with previously
- A statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the competent authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the competent authority in a timely manner.

82. In addition, Singapore requires the following information to be provided along with a MAP request:

- Whether the taxpayer has pursued domestic remedies such as tax tribunals or courts in the foreign jurisdiction. If yes, a copy of the decision is to be provided
- Whether similar issue(s) has been previously dealt with in an advance ruling or by any tax tribunal or court. If yes, a copy of these rulings or decisions should be provided where relevant and available
- How the taxpayer has reflected the issue(s) in its Singapore income tax return (e.g. income not brought to tax, foreign tax credit claimed).

***Anticipated modifications***

83. Singapore reported that its MAP Guidance and its Transfer Pricing Guidelines are reviewed on an annual basis to determine whether or not there is a need to update it. Moreover, as also discussed in element B.10, Singapore indicated that it intends to make continuous efforts to improve the presentation of its MAP guidance.

## Conclusion

	Areas for improvement	Recommendations
[B.8]	-	<p>Although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance Singapore could consider including information on:</p> <ul style="list-style-type: none"> <li>• Whether MAP is available in cases of: (i) the application of anti-abuse provisions and (ii) bona fide foreign-initiated self-adjustments.</li> <li>• The possibility of suspension of tax collection during the course of a MAP.</li> </ul> <p>Recommendations on guidance in relation to audit settlements and access to MAP are discussed in element B.10.</p>

### [B.9] Make MAP guidance available and easily accessible and publish MAP profile

Jurisdictions should take appropriate measures to make rules, guidelines and procedures on access to and use of the MAP available and easily accessible to the public and should publish their jurisdiction MAP profiles on a shared public platform pursuant to the agreed template.

84. The public availability and accessibility of a jurisdiction’s MAP guidance increases public awareness on access to and the use of the MAP in that jurisdiction. Publishing MAP profiles on a shared public platform further promotes the transparency and dissemination of the MAP programme.<sup>7</sup>

#### *Rules, guidelines and procedures on access to and use of the MAP*

85. Singapore’s MAP guidance is published and can be found at:

[https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/  
Mutual-Agreement-Procedure/](https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/Mutual-Agreement-Procedure/)

86. This guidance was last updated in May 2017. It is accessible after searching for “mutual agreement procedure” on the homepage of IRAS’ website.

#### *MAP profile*

87. Singapore’s MAP profile is published on the website of the OECD. This MAP profile is complete and often supplemented with detailed information. This profile includes external links which provide extra information and guidance where appropriate.

#### *Anticipated modifications*

88. Singapore did not indicate that it anticipates any modifications in relation to element B.9.

### *Conclusion*

	Areas for improvement	Recommendations
[B.9]	-	Singapore should ensure that future updates of its MAP guidance are made publically available and easily accessible. Its MAP profile, published on the shared public platform, should be updated if needed.

### **[B.10] Clarify in MAP guidance that audit settlements do not preclude access to MAP**

Jurisdictions should clarify in their MAP guidance that audit settlements between tax authorities and taxpayers do not preclude access to MAP. If jurisdictions have an administrative or statutory dispute settlement/resolution process independent from the audit and examination functions and that can only be accessed through a request by the taxpayer, and jurisdictions limit access to the MAP with respect to the matters resolved through that process, jurisdictions should notify their treaty partners of such administrative or statutory processes and should expressly address the effects of those processes with respect to the MAP in their public guidance on such processes and in their public MAP programme guidance.

89. As explained under element B.5, an audit settlement can be valuable to taxpayers by providing certainty to them on their tax position. Nevertheless, as double taxation may not be fully eliminated by agreeing with such settlements, it is important that a jurisdiction's MAP guidance clarifies that in case of audit settlement taxpayers have access to MAP. In addition, for providing clarity on the relationship between administrative or statutory dispute settlement or resolution processes and the MAP (if any), it is critical that both the public guidance on such processes and the public MAP programme guidance address the effects of those processes, if any. Finally, as the MAP represents a collaborative approach between treaty partners, it is helpful that treaty partners are notified of each other's MAP programme and limitations thereto, particularly in relation to the processes mentioned above.

#### ***MAP and audit settlements in the MAP guidance***

90. As previously mentioned in B.5, Singapore's MAP guidance did not clarify that taxpayers have access to MAP in cases of audit settlements before the end of the Review Period. However, Singapore published an e-tax guide on tax treaties issues after the end of the Review Period that confirmed that access to MAP is not precluded when taxpayers enter into audit settlements.<sup>8</sup>

91. Peers indicated no issues regarding element B.10 in relation to audit settlements.

#### ***MAP and other administrative or statutory dispute settlement/resolution processes in available guidance***

92. There is no administrative or statutory dispute settlement/resolution process in Singapore that impacts access to MAP.



### ***Notification of treaty partners of existing administrative or statutory dispute settlement/resolution processes***

93. There is no need for notification of treaty partners as Singapore reported that it does not limit access to MAP to cases that may be solved through an administrative or statutory dispute settlement/resolution process.

### ***Anticipated modifications***

94. Singapore indicated that it intends to make continuous efforts to improve the presentation of its MAP guidance.

### ***Conclusion***

	Areas for improvement	Recommendations
[B.10]	While Singapore published an additional e-tax guide including information on the relationship between MAP and audit settlements after the end of the Review period, Singapore's MAP guidance does not include information on the relationship between MAP and audit settlements.	Singapore's MAP guidance should clarify that taxpayers have access to MAP in case of audit settlements. For clarity purposes, Singapore could follow up on its stated intention to improve the presentation of its MAP guidance.

## **Notes**

1. This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, the Republic of Singapore reserves the right for the first sentence of Article 16(1) not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under each of its Covered Tax Agreements (other than a Covered Tax Agreement that permits a person to present a case to the competent authority of either Contracting Jurisdiction), where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of the Contracting Jurisdiction of which the person is a resident or, if the case presented by that person comes under a provision of a Covered Tax Agreement relating to non-discrimination based on nationality, to that of the Contracting Jurisdiction of which that person is a national; and the competent authority of that Contracting Jurisdiction will implement a bilateral notification or consultation process with the competent authority of the other Contracting Jurisdiction for cases in which the competent authority to which the mutual agreement procedure case was presented does not consider the taxpayer’s objection to be justified. An overview of Singapore’s positions on the Multilateral Instrument is available at: [www.oecd.org/tax/treaties/beps-mli-position-singapore.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-singapore.pdf).”
2. This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, the Republic of Singapore reserves the right for the first sentence of Article 16(1) not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under each of its Covered Tax Agreements (other than a Covered Tax Agreement that permits a person to present a case to the competent authority



of either Contracting Jurisdiction), where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of the Contracting Jurisdiction of which the person is a resident or, if the case presented by that person comes under a provision of a Covered Tax Agreement relating to non-discrimination based on nationality, to that of the Contracting Jurisdiction of which that person is a national; and the competent authority of that Contracting Jurisdiction will implement a bilateral notification or consultation process with the competent authority of the other Contracting Jurisdiction for cases in which the competent authority to which the mutual agreement procedure case was presented does not consider the taxpayer’s objection to be justified.” An overview of Singapore’s positions on the Multilateral Instrument is available at: [www.oecd.org/tax/treaties/beps-mli-position-singapore.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-singapore.pdf).

3. Available at: [https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax\\_Guides/etaxguide\\_Income%20Tax\\_Avoidance%20of%20Double%20Taxation%20Agreements%20\(DTAs\).pdf](https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax_Guides/etaxguide_Income%20Tax_Avoidance%20of%20Double%20Taxation%20Agreements%20(DTAs).pdf) and <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/> and <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/Mutual-Agreement-Procedure/>.
4. Available at: [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).
5. Available at: [https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax\\_Guides/etaxguide\\_Income%20Tax\\_Avoidance%20of%20Double%20Taxation%20Agreements%20\(DTAs\).pdf](https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax_Guides/etaxguide_Income%20Tax_Avoidance%20of%20Double%20Taxation%20Agreements%20(DTAs).pdf) and <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/> and <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/Mutual-Agreement-Procedure/>.
6. Available at: [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).
7. The shared public platform can be found at: [www.oecd.org/ctp/dispute/country-map-profiles.htm](http://www.oecd.org/ctp/dispute/country-map-profiles.htm).
8. Available at: [https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax\\_Guides/etaxguide\\_Income%20Tax\\_Avoidance%20of%20Double%20Taxation%20Agreements%20\(DTAs\).pdf](https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax_Guides/etaxguide_Income%20Tax_Avoidance%20of%20Double%20Taxation%20Agreements%20(DTAs).pdf) and <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/> and <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/Mutual-Agreement-Procedure/>.

## *Bibliography*

- OECD (2017), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/tpg-2017-en>.
- OECD (2015a), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264239081-en>.
- OECD (2015b), *Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264241633-en>.



## *Part C*

### **Resolution of MAP cases**

#### **[C.1] Include Article 25(2), first sentence, of the OECD Model Tax Convention in tax treaties**

Jurisdictions should ensure that their tax treaties contain a provision which requires that the competent authority who receives a MAP request from the taxpayer, shall endeavour, if the objection from the taxpayer appears to be justified and the competent authority is not itself able to arrive at a satisfactory solution, to resolve the MAP case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the tax treaty.

95. It is of critical importance that in addition to allowing taxpayers to request for a MAP, tax treaties also contain a provision equivalent to the first sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2015a), which obliges competent authorities, in situations where the objection raised by taxpayers are considered justified and where cases cannot be unilaterally resolved, to enter into discussions with each other to resolve cases of taxation not in accordance with the provisions of a tax treaty.

#### ***Current situation of Singapore’s tax treaties***

96. Out of Singapore’s 85 tax treaties, 83 contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.

97. For one of the remaining two treaties, the purpose of the mutual agreement procedure is to avoid “double taxation” and not “taxation not in accordance with the convention”, which is in line with the basis for which a MAP request can be submitted under this treaty but is not considered as equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).

98. The other treaty contains similar wording as Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) but also contains additional wording whereby the resolution of a MAP case is dependent on the notification of such MAP case to the other competent authority involved within a certain term. This additional language reads: “... provided that the competent authority of the other Contracting State is notified of the case within four and a half years from the due date or the date of filing of the return in that other State, whichever is later.” As this additional wording may limit the situations

where a MAP case is actually discussed, the provision is not considered as equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).

### *Anticipated modifications*

#### *Multilateral Instrument*

99. Singapore recently signed the Multilateral Instrument. Article 16(4)(b)(i) of that instrument stipulates that Article 16(2), first sentence – containing the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a). In other words, in the absence of such equivalent, Article 16(4)(b)(i) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. This, however, only if both contracting parties to the applicable treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar both notified the depositary of the fact that this treaty does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).

100. In regard of the two tax treaties identified above, Singapore listed both of them as a covered tax agreement under the Multilateral Instrument, but only for one did it make, pursuant to Article 16(6)(c)(i), a notification that it does not contain a provision described in Article 16(4)(b)(i). The relevant treaty partner also made the notification that its treaty with Singapore does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a). At this stage therefore, the Multilateral Instrument will, upon entry into force, modify one treaty identified above to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).

#### *Bilateral modifications*

101. For those treaties, which do not contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a), and which will not be modified by the Multilateral Instrument, Singapore reported it will strive to update them via bilateral negotiations to be compliant with element C.1. In addition, Singapore reported it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) in all of its future treaties.

#### *Peer input*

102. Almost all peers that provided input reported that their tax treaty with Singapore meets the requirements under element C.1. Two peers, however, mentioned that its tax treaty does not contain the equivalent of Article 25(2), first sentence of the OECD Model Tax Convention (OECD, 2015a), but reported that this should be covered by the Multilateral Instrument. Singapore, however, did not notify that the treaty with one of these peers does not contain a provision described in Article 16(4)(b)(i) and therefore, the corresponding treaty will not be modified while the other will be modified.

## Conclusion

	Areas for improvement	Recommendations
[C.1]	Two out of 85 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).	<p>Singapore should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) following its entry into force, Singapore should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Singapore should maintain its stated intention to include the required provision in all future treaties.</p>

### [C.2] Seek to resolve MAP cases within a 24-month average timeframe

Jurisdictions should seek to resolve MAP cases within an average time frame of 24 months. This time frame applies to both jurisdictions (i.e. the jurisdiction which receives the MAP request from the taxpayer and its treaty partner).

103. As double taxation creates uncertainties and leads to costs for both taxpayers and jurisdictions, and as the resolution of MAP cases may also avoid (potential) similar issues for future years concerning the same taxpayers, it is important that MAP cases are resolved swiftly. A period of 24 months is considered as an appropriate time period to resolve MAP cases on average.

### Reporting of MAP statistics

104. Statistics related to MAPs and APAs are published on IRAS' website.<sup>1</sup> The data provided includes the number of cases in inventory as well as the number of cases started and closed and the time needed for the resolution of such cases.

105. The FTA MAP Forum has agreed on rules for reporting of MAP statistics (“**MAP Statistics Reporting Framework**”) for MAP requests submitted on or after 1 January 2016 (“**post-2015 cases**”). Also, for MAP requests submitted prior to that date (“**pre-2016 cases**”), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template. Singapore provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Singapore and of which its competent authority was aware. The statistics discussed below include both pre-2016 and post-2015 cases and the full statistics are attached to this report as Annex B and C respectively<sup>2</sup> and should be considered jointly for an understanding of the MAP caseload of Singapore. With respect to post-2015 cases, Singapore reported having reached out to all its MAP partners with a view to have their MAP statistics matching. Singapore indicated that it could match its statistics with all of them.

### *Monitoring of MAP statistics*

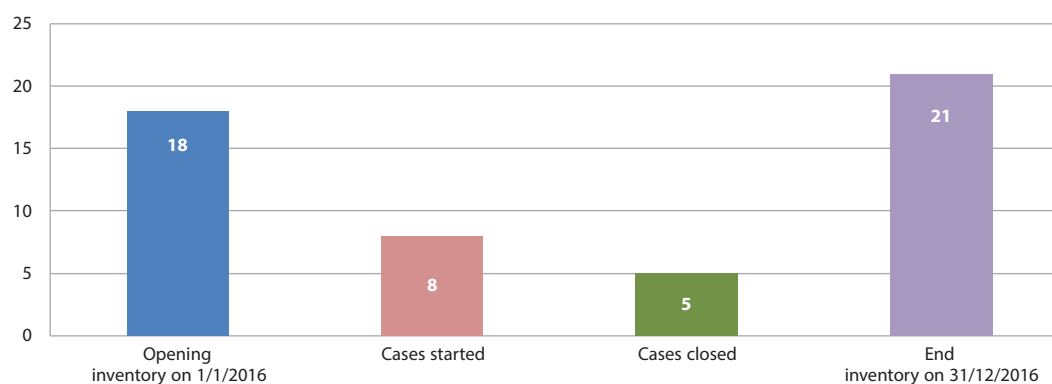
106. Singapore has a system in place to oversee the total MAP caseload and its evolution as well as the time needed for the resolution of MAP cases on average.

### *Analysis of Singapore’s MAP caseload*

#### *Global overview of the MAP caseload*

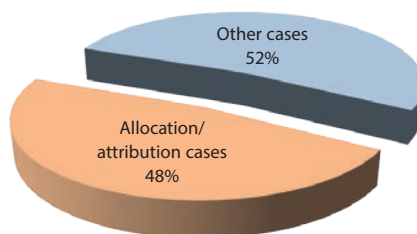
107. The following graph shows the evolution of Singapore’s MAP caseload over the Statistics Reporting Period.

Figure C.1. Singapore’s MAP inventory



108. At the beginning of the Statistics Reporting Period Singapore had 18 pending MAP cases, ten of which were attribution/allocation cases and eight other MAP cases.<sup>3</sup> At the end of the Statistics Reporting Period, Singapore had 21 MAP cases in inventory, of which ten are attribution/allocation cases and 11 other MAP cases. This end inventory can be illustrated as follows:

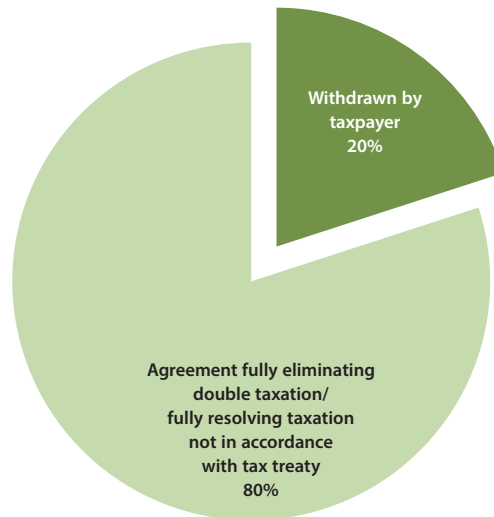
Figure C.2. End inventory on 31 December 2016 (21 cases)



109. During the Statistics Reporting Period Singapore closed five MAP cases and the outcomes shown in Figure C.3 were reported.

110. Figure C.3 indicates that during the Statistics Reporting Period, four out of five cases were closed through an agreement that fully eliminated double taxation or fully closed taxation not in accordance with the tax treaty.

Figure C.3. Cases closed during the Statistics Reporting Period (5 cases)



#### *Pre-2016 cases*

111. At the beginning of the Statistics Reporting Period, Singapore’s MAP inventory of pre-2016 MAP cases consisted of 18 cases, of which were ten attribution/allocation cases and eight other cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases had decreased to 13 cases, consisting of seven attribution/allocation cases and six other cases. This decrease concerns almost 30% of the total opening inventory of pre-2016 cases, which can be broken down in a decrease by around 30% of the number of attribution allocation cases and a decrease by 25% of the number of other cases.

#### *Post-2015 cases*

112. As mentioned previously, eight MAP cases were started on or after 1 January 2016, three of which concerned attribution/allocation cases and five other cases. At the end of the Statistics Reporting Period the total post-2015 cases inventory was the same as Singapore did not close any post-2015 cases during the Statistics Reporting Period.

#### *Average timeframe needed to close MAP cases*

##### *Pre-2016 cases*

113. Singapore reported that on average it needed 54.95 months to close attribution/allocation cases and 36.05 months to close other cases. This resulted in an average time needed of 47.39 months to close pre-2016 cases. For the purpose of computing the average time needed to close pre-2016 cases, Singapore used:

- As a start date, the date when Singapore’s competent authority receives a MAP request regardless of the completeness of the information and documentation required.
- As the end date, the date when the taxpayer is notified of the outcome by either of the competent authorities.



*Post-2015 cases*

114. As a preliminary remark, it should be noted that the period for assessing post-2015 MAP statistics only comprises 12 months.

115. Singapore did not close any post-2015 cases during the Statistics Reporting Period.

*All cases closed during the Statistics Reporting Period*

116. The average time needed to close MAP cases during the Statistics Reporting Period was 47.39 months, which corresponds to the average time needed to close pre-2016 cases only as no post-2015 cases were closed during the reporting period. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	3	54.95
Other cases	2	36.05
All cases	5	47.39

*Peer input*

117. Peers generally did not raise any issue with respect to element C.2. One peer mentioned that Singapore's competent authority endeavours to resolve MAP cases within a reasonable timeframe and another peer indicated that no impediments leading to unnecessary delays to resolve MAP cases could be observed with Singapore. One peer, however, reported that the resolution of MAP cases involving Singapore took longer than 24 months. Singapore responded that this input related to a single MAP case and that the peer and Singapore had taken a different approach in computing the time taken to resolve that pre-2016 case. Singapore reported that it had indeed treated the case as closed once it informed its taxpayer of the outcome of the competent authorities' discussion (and this was done within 24 months) while the peer treated the case as closed only upon receipt of the formal closing letter which was exchanged beyond 24 months.

118. One peer further reported that it has in 2014 entered into an agreement for improving MAP and bilateral APAs discussions between both competent authorities, which consists of the three main following steps: (i) early and open communication to identify key issues and concerns in relation to MAP and bilateral APAs, (ii) continual review of the MAP and bilateral APA programmes with the aim of improving the efficiency and effectiveness in resolving cases and (iii) improving understanding of the MAP and APA programmes of each administration.

*Anticipated modifications*

119. As mentioned under element C.6, Singapore has opted to provide for mandatory and binding MAP arbitration in its bilateral tax treaties, as a mechanism to provide that treaty-related disputes will be resolved within a specified timeframe. Other than this commitment, Singapore did not indicate that it anticipates any modifications in relation to element C.2.

## Conclusion

	Areas for improvement	Recommendations
[C.2]	Singapore submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework. Based on the information received by Singapore's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.	Singapore's MAP statistics point out that it did not close any of its post-2015 cases during the Statistics Reporting Period. In that regard, Singapore is recommended to seek to resolve all of the post-2015 cases pending on 31 December 2016 (eight cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.

### [C.3] Provide adequate resources to the MAP function

Jurisdictions should ensure that adequate resources are provided to the MAP function.

120. Adequate resources, including personnel, funding and training, are necessary to properly perform the competent authority function and to ensure that MAP cases are resolved in a timely, efficient and effective manner.

#### *Description of Singapore's competent authority*

121. Singapore reported that the competent authority function to conduct MAP is performed in Singapore by the Tax Policy and International Tax Division of IRAS. The division is headed by the assistant commissioner and assisted by the tax director. The work in the division is under the oversight of the deputy commissioner. The MAP function is performed by 15 staff, among whom two people are support staff. The staff is divided into three teams. Two of these teams deal with attribution/allocation cases while one team is in charge of other cases. Each team is supervised by a group tax specialist.

122. Singapore specified that the members of the competent authority are mostly tax specialists who are trained and experienced in dealing with international tax issues. Singapore also specified that the staff has prior experiences in tax assessments and audits.

#### *Monitoring mechanism*

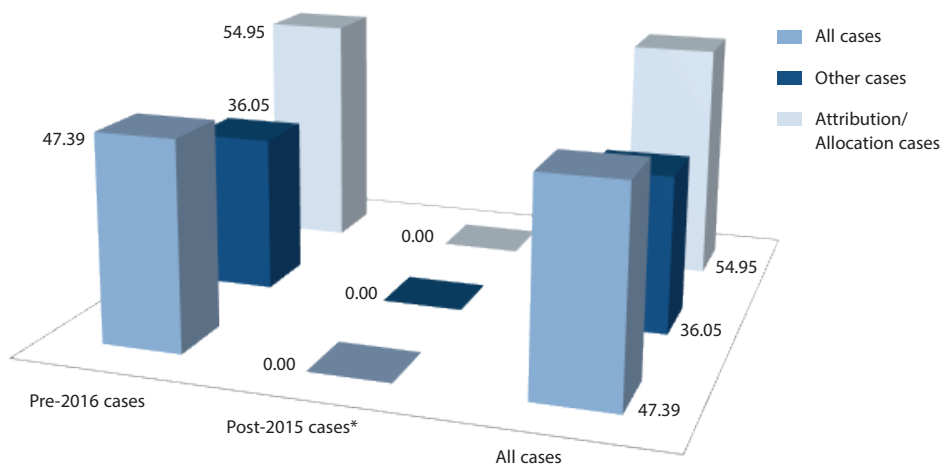
123. The framework for the monitoring/assessment of whether such resources are adequate consists of analysing the MAP caseload, the number of MAP cases per official as well as the time taken to resolve MAP cases. Singapore reported that the resources dedicated to the MAP function have regularly been assessed to match the needs of the competent authority function.

#### *Practical application*

##### *MAP statistics*

124. As discussed under element C.2 Singapore did not close its MAP cases within the pursued 24-month average. Singapore's average, however, only concerns pre-2016 cases as no post-2015 cases were closed during the Statistics reporting period. Moreover, a discrepancy exists between the average time taken to solve attribution/allocation cases and other cases. This can be illustrated by Figure C.4.

Figure C.4. Average time (in months)



\* Note that post-2015 cases only concern cases opened and closed during 2016.

125. Based on these figures, it follows that on average it took Singapore 47.39 months to close MAP cases, which may indicate that additional resources may be necessary to accelerate the resolution of MAP cases.

126. Singapore reported that the statistics relate to five cases in total and case-specific external factors, independent from the level of the resources available to perform the competent authority function, contributed to why these five MAP cases were not closed within the 24-month average time period. In this respect, Singapore reported having taken recent steps to address such external factors, consisting of:

- i. Providing clearer directions to taxpayers on specific documents and information to be provided within a specific timeline.
- ii. Emphasising the importance of meeting the Action 14 Minimum Standard with respect of closing cases in less than 24 months during the discussions with other competent authorities.
- iii. Encouraging MAP partners to be more flexible in terms of accepting electronic modes of communication compared to previous more traditional modes of communication like face-to-face meetings or letters.
- iv. In respect of jurisdictions where Singapore has a steady inventory of MAP and APA cases, agreeing on frameworks and milestones to facilitate and accelerate the resolution of cases in a timely and principled manner.

127. Singapore emphasised that as of the end of the Statistics reporting period (31 December 2016), it has a relatively small caseload of 20 cases and a low caseload per staff of less than two cases. Taking into account its low case inventory and low caseload per staff, Singapore is of the view that it has devoted adequate resources to the MAP function.

128. In respect of the two “other” MAP cases closed during the Statistics reporting period, arising from a lack of sufficient information, Singapore reported that it took time to do its fact-finding (including getting additional facts from the local entities) before it could “start” working on the MAP cases. In one of the cases, Singapore indicated that there was also time spent to convince the other competent authority that the MAP request was

received on time. Singapore reported that it has since then provided clearer directions to taxpayers on specific documents and information to be provided.

129. In respect of one “Attribution/Allocation” MAP case closed during the Statistics reporting period, Singapore reported that time was lost in directing the case appropriately to the MAP office. Singapore reported that it has since then provided clearer instructions for taxpayers on the MAP process and the manner and form for a MAP request to be submitted.

130. In respect of another “Attribution/Allocation” MAP case closed during the Statistics reporting period, Singapore indicated that it wrote to the other competent authority to understand the basis for making the adjustment in its jurisdiction and to ask for its position paper within one month of receiving taxpayer’s MAP request. Singapore reported that the other competent authority took some time to review the adjustment resulting from the audit in its jurisdiction and finally withdrew the adjustments at issue after approximately 30 months and hence this case did not enter the bilateral discussion phase.

131. In respect of the last “Attribution/Allocation” MAP case closed in the Statistics reporting period, Singapore reported that after it sent its first position paper to the other competent authority, it received the other competent authority’s response position paper, which explained the primary adjustment, after the 24-month timeline.

132. Moreover, the timeframe for Singapore computed only relates to pre-2016 cases, for which the start date was the date when the MAP request was received, regardless of the completeness of the information and documentation required. According to the MAP Statistics Reporting Framework, the start date of post-2015 cases shall be one week from the date of notification by the competent authority that receives the MAP request from the taxpayer or five weeks from the receipt of the taxpayer’s MAP request, whichever is the earlier date (except where a competent authority receives a MAP request that does not include all the information and documentation required to be furnished pursuant to its published MAP guidance). Therefore, the start date of some cases could have been five weeks later if computed as required for post-2015 cases. Consequently, the definition of the start date that Singapore used impacted and increased the average timeframe.

### *Peer input*

133. All peers that provided input did not indicate that the resources available to Singapore’s competent authority would not be adequate. No peers formulated any suggestion with respect to the level of resources allocated to the competent authority function in Singapore. As mentioned previously, one peer reported that Singapore’s competent authority endeavours to resolve MAP cases within a reasonable timeframe and another peer indicated that no impediments leading to unnecessary delays to resolve MAP cases could be observed with Singapore.

134. One peer, however, suggested that Singapore’s competent authority has a more significant focus on economic analysis, which would impact positively the resolution of MAP cases.

### *Anticipated modifications*

135. Singapore indicated that it anticipates an improvement of the time needed to resolve MAP cases further to the steps recently taken as described above.

### *Conclusion*

	Areas for improvement	Recommendations
[C.3]	As Singapore closed MAP cases in 47.39 months on average, there may be a risk that post-2015 cases are not resolved within the average of 24 months, which is the pursued average for resolving MAP cases received on or after 1 January 2016, and which indicates that although Singapore's competent authority resources seem adequate, there have been issues of an organisational nature that delayed the resolution of MAP cases.	Singapore should closely monitor whether the organisational steps recently taken will contribute to the resolution of MAP cases in a timely, efficient and effective manner, or whether other measures are necessary to accelerate the resolution of cases.

#### **[C.4] Ensure staff in charge of MAP has the authority to resolve cases in accordance with the applicable tax treaty**

Jurisdictions should ensure that the staff in charge of MAP processes have the authority to resolve MAP cases in accordance with the terms of the applicable tax treaty, in particular without being dependent on the approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy that the jurisdictions would like to see reflected in future amendments to the treaty.

136. Ensuring that staff in charge of MAP can and will resolve cases, absent of any approval/direction by the tax administration personnel directly involved in the adjustment and absent of any policy considerations, contributes to a principled and consistent approach to MAP cases.

#### *Functioning of staff in charge of MAP*

137. Singapore reported that its competent authority resolves MAP cases in accordance with the applicable tax treaty and that it is not dependent on the approval or the direction of the tax administration personnel who made the adjustments at issue. In practice, the competent authority may only ask the tax auditors for the description of the facts and circumstances and for the provision of some documents.

138. Furthermore, Singapore reported that the resolution of MAP cases by its competent authority is not influenced by policy considerations. In particular, staff handling attribution/allocation cases is not involved in any treaty negotiation or policy works. Singapore also indicated that staff in charge of other MAP cases will take into consideration the actual terms of a tax treaty as applicable for the relevant year and that it is committed not to be influenced by policy considerations. In addition, Singapore reported that its treaty interpretation is largely aligned with the OECD Model Tax Convention (OECD, 2015a) and its commentary.

#### *Practical application*

139. Peers indicated not being aware of the fact that Singapore's competent authority would be formally dependent on the approval or the direction of the tax administration personnel or influenced by policy considerations.

#### *Anticipated modifications*

140. Singapore did not indicate that it anticipates any modifications in relation to element C.4.

### *Conclusion*

	Areas for improvement	Recommendations
[C.4]	-	As it has done thus far, Singapore should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent of any policy considerations.

### **[C.5] Use appropriate performance indicators for the MAP function**

Jurisdictions should not use performance indicators for their competent authority functions and staff in charge of MAP processes based on the amount of sustained audit adjustments or maintaining tax revenue.

141. For ensuring that each case is considered on its individual merits and will be resolved in a principled and consistent manner, it is essential that any performance indicators for the competent authority function and for the staff in charge of MAP processes are appropriate and not based on the amount of sustained audit adjustments or aim at maintaining a certain amount of tax revenue.

#### *Performance indicators used by Singapore*

142. Singapore reported that it does not use performance indicators on the outcome of MAP discussions in terms of amount of sustained audit adjustment or maintained tax revenue.

143. The Final Report on Action 14 includes examples of performance indicators that are considered appropriate. These indicators are shown below and presented in the form of a checklist when they are used by Singapore in the performance of the MAP office:

- Number of MAP cases resolved
- Consistency (i.e. a treaty should be applied in a principled and consistent manner to MAP cases involving the same facts and similarly-situated taxpayers)
- Time taken to resolve a MAP case (recognising that the time taken to resolve a MAP case may vary according to its complexity and that matters not under the control of a competent authority may have a significant impact on the time needed to resolve a case).

144. In addition to these items, Singapore indicated the assessment of the staff is also based on the time taken to issue position papers and respond to requests made by taxpayers as well as on building and maintaining relationships with other competent authorities.

#### *Practical application*

145. Peers indicated not being aware of the fact that Singapore would use performance indicators based on the amount of sustained audit adjustments or maintaining tax revenue for its competent authority functions and staff in charge of MAP processes.

*Anticipated modifications*

146. Singapore did not indicate that it anticipates any modifications in relation to element C.5.

*Conclusion*

	Areas for improvement	Recommendations
[C.5]	-	As it has done thus far, Singapore should continue to use appropriate performance indicators.

**[C.6] Provide transparency with respect to the position on MAP arbitration**

Jurisdictions should provide transparency with respect to their positions on MAP arbitration.

147. The inclusion of an arbitration provision in tax treaties may help ensure that MAP cases are resolved within a certain timeframe, which provides certainty to both taxpayers and competent authorities. In order to have full clarity on whether arbitration as a final stage in the MAP process can and will be available in jurisdictions it is important that jurisdictions are transparent on their position on MAP arbitration.

*Position on MAP arbitration*

148. Singapore reported that there are no domestic law limitations in Singapore for including MAP arbitration in its tax treaties and the inclusion of MAP arbitration is part of its tax treaty policy. This position is included in Singapore's MAP profile and has been made public during a speech of Singapore's Senior Minister of State for Law and Finance held in 2016.<sup>4</sup> In particular, Singapore has been a participant in the sub-group on arbitration as part of the group which negotiated the Multilateral Instrument. In that regard, Singapore reported that it has opted for part VI of the Multilateral Instrument, which includes a mandatory and binding arbitration provision.<sup>5</sup>

*Practical application*

149. Singapore has incorporated a voluntary and binding arbitration clause in one bilateral tax treaty.<sup>6</sup>

*Anticipated modifications*

150. Singapore has opted for part VI of the Multilateral Instrument, which includes a mandatory and binding arbitration provision. It is currently in the process of analysing which of its tax treaties, and to what extent, will be modified to incorporate this arbitration provision.

*Conclusion*

	Areas for improvement	Recommendations
[C.6]	-	-



## Notes

1. [https://data.gov.sg/dataset/transfer-pricing-map-and-apa-cases-annual?resource\\_id=765a764a-4283-4249-93e5-e5e819547812](https://data.gov.sg/dataset/transfer-pricing-map-and-apa-cases-annual?resource_id=765a764a-4283-4249-93e5-e5e819547812).
2. For post-2015 cases, if the number of MAP cases in Singapore’s inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Reporting Period was more than five for any treaty partner, it reports its MAP caseload for such treaty partner on a jurisdiction-by-jurisdiction basis. This rule applies for each type of case (attribution/allocation cases and other cases).
3. For pre-2016 and post-2015 Singapore follows the MAP Statistics Reporting Framework for determining whether a case is considered an attribution/allocation MAP case. Annex D of MAP Statistics Reporting Framework provides that “an attribution/allocation MAP case is a MAP case where the taxpayer’s MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the OECD Model Tax Convention [OECD, 2015]); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention [OECD, 2015]), which is also known as a transfer pricing MAP case”.
4. Available at [www.mof.gov.sg/news-reader/articleid/1701/parentId/59/year/2016](http://www.mof.gov.sg/news-reader/articleid/1701/parentId/59/year/2016).
5. An overview of Singapore’s position on the Multilateral Instrument is available at: [www.oecd.org/tax/treaties/beps-mli-position-singapore.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-singapore.pdf).
6. This concerns the treaty entered into with Mexico.

## Bibliography

- OECD (2017), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/tpg-2017-en>.
- OECD (2016), *BEPS Action 14 on More Effective Dispute Resolution Mechanisms*, Peer Review Documents, OECD, Paris, [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf) (accessed on 22 August 2017).
- OECD (2015a), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264239081-en>.
- OECD (2015b), *Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264241633-en>.
- OECD (2007) *Manual on Effective Mutual Agreement Procedures*, OECD, Paris, [www.oecd.org/ctp/38061910.pdf](http://www.oecd.org/ctp/38061910.pdf).



## *Part D*

### **Implementation of MAP agreements**

#### **[D.1] Implement all MAP agreements**

Jurisdictions should implement any agreement reached in MAP discussions, including by making appropriate adjustments to the tax assessed in transfer pricing cases.

151. In order to provide full certainty to taxpayers and the jurisdictions, it is essential that all MAP agreements are implemented by the competent authorities concerned.

#### ***Legal framework to implement MAP agreements***

152. Singapore reported that it will implement all agreements reached in MAP discussions both for upward and downward adjustments of taxpayers' positions. While there is a four-year domestic time limit for implementing upward adjustments, there is no domestic time limit applicable for implementing a downward adjustment of the taxpayer's position resulting from a MAP agreement. The domestic time limit, which is however only applicable to upward adjustments, is specified in section 74(1) of the Singapore Income Tax Act. Furthermore, Singapore specified that the Singapore Income Tax Amendment Bill, which will come into force at the end of 2017, will enable the four-year statute of limitations to be lifted for upward adjustments of the taxpayer's position resulting from a MAP agreement.

153. With respect to taxpayer's position on implementing MAP agreements, Singapore requests the taxpayer concerned to give its approval to the agreement reached as a prerequisite for implementation. This both applies for agreements reached as the result of the MAP, as also for any agreements reached following the decision of an arbitration panel as a final stage to the MAP. In practice, Singapore reported that it informs the taxpayer within one month after reaching a mutual agreement and that the taxpayer subsequently has one month to accept or reject the outcome of the MAP. Once the taxpayer gives its approval, Singapore reported that its competent authority (i) exchanges confirmation letters with the foreign competent authority, (ii) provides the taxpayer with a copy of the mutual agreement and (iii) amends the tax assessment by making relevant adjustments. Singapore's competent authority subsequently tracks the implementation of all MAP agreements. Information on the implementation is publically available and can be found in Singapore's MAP Guidance as well as in sections 9.14 to 9.16 of Singapore's Transfer Pricing Guidelines.

#### ***Practical application***

154. Singapore reported that all MAP agreements that were reached on or after 1 January 2014 have been (or will be) implemented.

155. Peers generally reported not being aware of MAP agreements that were reached on or after 1 January 2014 that were not implemented in Singapore.

### *Anticipated modifications*

156. Singapore did not indicate that it anticipates any modifications in relation to element D.1.

### *Conclusion*

	Areas for improvement	Recommendations
[D.1]	-	As it has done thus far, Singapore should continue to implement all MAP agreements reached if the conditions for such implementation are fulfilled.

## **[D.2] Implement all MAP agreements on a timely basis**

Agreements reached by competent authorities through the MAP process should be implemented on a timely basis.

157. Delay of implementation of MAP agreements may lead to adverse financial consequences for both taxpayers and competent authorities. To avoid this and to increase certainty for all parties involved, it is important that the implementation of any MAP agreement is not obstructed by procedural and/or statutory delays in the jurisdictions concerned.

### *Theoretical timeframe for implementing mutual agreements*

158. As explained under element D.1, Singapore follows a specific timeframe for implementation of mutual agreements reached. In this respect, Singapore reported that its competent authority usually informs the taxpayers of any mutual agreement reached within one month after entering into such an agreement. This is specified in Singapore's MAP guidance as well as in Singapore's Transfer pricing guidelines. Singapore reported that the taxpayer is usually asked to approve or reject such an agreement within one month. Once the taxpayer approves the mutual agreement, Singapore reported that any additional tax to be paid will be due and any refund will be reimbursed within one month as from the notice of assessment. This information is publically available both for additional taxes to be paid<sup>1</sup> and refunds<sup>2</sup>.

### *Practical application*

159. Singapore reported that all MAP agreements that were reached on or after 1 January 2016 have been (or will be) implemented on a timely basis. In addition, Singapore referred to the commitment to service<sup>3</sup> according to which IRAS is committed to respond to 80% of the letters within 15 working days. Singapore reported that this commitment is applicable to the implementation of mutual agreements.

160. Peers generally reported not being aware of MAP agreements that were reached on or after 1 January 2016 that were not implemented in Singapore on a timely basis.

*Anticipated modifications*

161. Singapore did not indicate that it anticipates any modifications in relation to element D.2.

*Conclusion*

	Areas for improvement	Recommendations
[D.2]	-	As it has done thus far, Singapore should continue to implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.

**[D.3] Include Article 25(2), second sentence, of the OECD Model Tax Convention in tax treaties or alternative provisions in Article 9(1) and Article 7(2)**

Jurisdictions should either (i) provide in their tax treaties that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law, or (ii) be willing to accept alternative treaty provisions that limit the time during which a Contracting Party may make an adjustment pursuant to Article 9(1) or Article 7(2), in order to avoid late adjustments with respect to which MAP relief will not be available.

162. In order to provide full certainty to taxpayers it is essential that implementation of MAP agreements is not obstructed by any time limits in the domestic law of the jurisdictions concerned. Such certainty can be provided by either including the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) in tax treaties, or alternatively, setting a time limit in Article 9(1) and Article 7(2) for making adjustments to avoid that late adjustments obstruct granting of MAP relief.

*Legal framework and current situation of Singapore's tax treaties*

163. As discussed under element D.1, Singapore's domestic legislation does not include a statute of limitations for implementing MAP agreements in case of downward adjustments, but such a limitation exists for upward adjustments.

164. Out of Singapore's 85 tax treaties, 64 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law.<sup>4</sup> The remaining 21 treaties contain neither a provision concerning the implementation of MAP agreements notwithstanding any time limits in the domestic laws of the states concerned, nor the alternative provisions provide for in Article 9(1) and 7(2) of the OECD Model Tax Convention (OECD, 2015) which sets a time limitation for making primary adjustments.

*Anticipated modifications**Multilateral Instrument*

165. Singapore recently signed the Multilateral Instrument. Article 16(4)(b)(ii) of that instrument stipulates that Article 16(2), second sentence – containing the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015). In other words, in the

absence of this equivalent, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. This shall apply, however, only if both contracting parties to the applicable treaty has listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar both notified the depositary of the fact that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015). Furthermore, Article 16(4)(b)(ii) of the Multilateral Instrument does not take effect if one or both of the signatory states to the tax treaty, pursuant to Article 16(5)(c), reserved the right not to apply Article 16(2), second sentence, under the conditions that: (i) any MAP agreement shall be implemented notwithstanding any time limits in the domestic laws of the contracting states, or (ii) the jurisdiction intends to meet the Action 14 Minimum Standard by accepting in its tax treaties the alternative provisions to Article 9(1) and 7(2) concerning the introduction of a time limit for making transfer pricing profit adjustments.

166. In regard of the 21 tax treaties above that are considered not having the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015), Singapore listed 18 as covered tax agreements under the Multilateral Instrument and made for all of them, pursuant to Article 16(6)(c)(ii), a notification that they do not contain a provision described in Article 16(4)(b)(ii) of the Multilateral Instrument. Of the relevant 18 treaty partners, four are not a signatory to the Multilateral Instrument and three did not list their treaty with Singapore as a covered tax agreement. Of the remaining 11 treaty partners, nine also made such a notification that their treaty with Singapore does not contain such provision, whereas two made a reservation on the basis of Article 16(5)(c). At this stage therefore, nine of the 21 treaties will, upon entry into force, be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015).

### *Bilateral modifications*

167. For those treaties, which do not contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015), and which will not be modified by the Multilateral Instrument, Singapore reported it will strive to update them via bilateral negotiations to be compliant with element D.3. In addition, Singapore reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) in all of its future treaties.

### *Peer input*

168. The majority of peers that provided input reported that their treaty with Singapore meets the requirements under element D.3. Two peers specified that their treaty with Singapore does not meet the requirement of element D.3 but that they expect their treaty to be modified by the Multilateral Instrument, which is consistent with the above analysis. Another peer specified that it has not contacted Singapore nor is it in discussion with Singapore to amend their treaty with a view to incorporate the required provision. One last peer reported that even though the treaty does not contain the required provision, implementation of MAP agreements has not triggered any difficulties in practice.

169. For the other 17 treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015), the relevant peers did not provide input.

## Conclusion

	Areas for improvement	Recommendations
[D.3]	21 out of 85 tax treaties do neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) nor contain the alternative provisions provided for in Article 9(1) or Article 7(2).	Singapore should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) in those nine treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force. For the remaining 12 treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) following its entry into force, Singapore should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.  In addition, Singapore should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future treaties.
	One of the 64 tax treaties that contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) or the alternative provisions provided for in Article 9(1) or Article 7(2) is not yet in force, while there is another treaty in force with the same jurisdiction that does neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) nor contains the alternative provisions provided for in Article 9(1) or Article 7(2).	Singapore should as quickly as possible ratify the tax treaty that includes a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) and replaces an existing treaty that does neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) nor contains the alternative provisions provided for in Article 9(1) or Article 7(2).

## Notes

1. See <https://www.iras.gov.sg/irashome/Businesses/Companies/Paying-Corporate-Income-Tax/Late-Payment-or-Non-Payment-of-Taxes/>.
2. <https://www.iras.gov.sg/irashome/Businesses/Companies/Paying-Corporate-Income-Tax/Claiming-Tax-Refunds/>.
3. <https://www.iras.gov.sg/IRASHome/About-Us/Commitment-to-Service/>.
4. These 64 treaties include the treaty recently signed with Sri Lanka (2014) that is not yet in force and which will replace, once entered into force, the existing treaty of 1979.

## Bibliography

- OECD (2016), *BEPS Action 14 on More Effective Dispute Resolution Mechanisms*, Peer Review Documents, [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf) (accessed on 22 August 2017).
- OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264239081-en>.





## Summary

	Areas for improvement	Recommendations
<b>Part A: Preventing disputes</b>		
[A.1]	Three out of 85 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015).	<p>Singapore should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) following its entry into force, Singapore should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Singapore should maintain its stated intention to include the required provision in all future treaties.</p>
[A.2]	-	Singapore should continue to provide for roll-back of bilateral APAs in appropriate cases as it has done thus far.
<b>Part B: Availability and access to MAP</b>		
[B.1]	<p>Five out of 85 tax treaties do not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the final report on Action 14 or as amended by that report. Of those five tax treaties:</p> <ul style="list-style-type: none"> <li>• Two tax treaties do not incorporate the equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the final report on Action 14 or as amended by that final report.</li> <li>• Three tax treaties do not contain a provision equivalent to Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2015a) which allows taxpayers to submit a MAP request within a period of no less than three years from the notification of the action resulting in taxation not in accordance with the provisions of the treaty.</li> </ul>	<p>Singapore should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015a) in those treaties that currently do not contain such equivalent. This concerns both:</p> <ul style="list-style-type: none"> <li>• a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a) either:             <ol style="list-style-type: none"> <li>a. As amended in the final report of action 14 (OECD, 2015b); or</li> <li>b. As it read prior to the adoption of final report of action 14 (OECD, 2015b), thereby including the full sentence of such provision.</li> </ol> </li> <li>• a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.</li> </ul> <p>For the remaining treaties that will not be modified by the Multilateral Instrument following its entry into force to include such equivalent, Singapore should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Singapore should maintain its stated intention to include the required provision in all future treaties.</p>
[B.2]	There is a formal process in place to notify the other competent authority in cases where the objection raised in the MAP request was considered as being not justified. However, it was not possible to assess whether the notification process is applied in practice because for the period under review no such cases have occurred.	

	Areas for improvement	Recommendations
[B.3]	-	As Singapore has thus far granted access to MAP in eligible transfer pricing cases, it should continue granting access for these cases.
[B.4]	-	As Singapore has thus far granted access to MAP in eligible cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty, it should continue granting access for these cases.
[B.5]	-	As Singapore has thus far granted access to MAP in eligible cases, even if there was an audit settlement between the tax authority and a taxpayer, it should continue granting access for these cases.
[B.6]	-	As Singapore has thus far not limited access to MAP in eligible cases when taxpayers have complied with Singapore's information and documentation requirements for MAP requests, it should continue this practice.
[B.7]	Eight out of 85 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a).	<p>Singapore should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) in those six treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) following its entry into force, Singapore should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Singapore should maintain its stated intention to include the required provision in all future treaties.</p>
[B.8]	-	<p>Although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance Singapore could consider including information on:</p> <ul style="list-style-type: none"> <li>• Whether MAP is available in cases of: (i) the application of anti-abuse provisions and (ii) bona fide foreign-initiated self-adjustments.</li> <li>• The possibility of suspension of tax collection during the course of a MAP.</li> </ul> <p>Recommendations on guidance in relation to audit settlements and access to MAP are discussed in element B.10.</p>
[B.9]	-	Singapore should ensure that future updates of its MAP guidance are made publically available and easily accessible. Its MAP profile, published on the shared public platform, should be updated if needed.
[B.10]	While Singapore published an additional e-tax guide including information on the relationship between MAP and audit settlements after the end of the Review period, Singapore's MAP guidance does not include information on the relationship between MAP and audit settlements.	<p>Singapore's MAP guidance should clarify that taxpayers have access to MAP in case of audit settlements.</p> <p>For clarity purposes, Singapore could follow up on its stated intention to improve the presentation of its MAP guidance.</p>

	Areas for improvement	Recommendations
<b>Part C: Resolution of MAP cases</b>		
[C.1]	Two out of 85 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).	<p>Singapore should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) following its entry into force, Singapore should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Singapore should maintain its stated intention to include the required provision in all future treaties.</p>
[C.2]	<p>Singapore submitted timely comprehensive MAP statistics on the basis of the MAP Statistics Reporting Framework and based on the information received by Singapore's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.</p> <p>Singapore's MAP statistics point out that it did not close any of its post-2015 cases during the Statistics Reporting Period. In that regard, Singapore is recommended to seek to resolve all of the post-2015 cases pending on 31 December 2016 (eight cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.</p>	
[C.3]	As Singapore closed MAP cases in 47.39 months on average, there may be a risk that post-2015 cases are not resolved within the average of 24 months, which is the pursued average for resolving MAP cases received on or after 1 January 2016, and which indicates that although Singapore's competent authority resources seem adequate, there have been issues of an organisational nature that delayed the resolution of MAP cases.	Singapore should closely monitor whether the organisational steps recently taken will contribute to the resolution of MAP cases in a timely, efficient and effective manner, or whether other measures are necessary to accelerate the resolution of cases.
[C.4]	-	As it has done thus far, Singapore should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent of any policy considerations.
[C.5]	-	As it has done thus far, Singapore should continue to use appropriate performance indicators.
[C.6]	-	-
<b>Part D: Implementation of MAP agreements</b>		
[D.1]	-	As it has done thus far, Singapore should continue to implement all MAP agreements reached if the conditions for such implementation are fulfilled.
[D.2]	-	As it has done thus far, Singapore should continue to implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.

	Areas for improvement	Recommendations
[D.3]	<p>21 out of 85 tax treaties do neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) nor contain the alternative provisions provided for in Article 9(1) or Article 7(2).</p>	<p>Singapore should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) in those nine treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force. For the remaining 12 treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) following its entry into force, Singapore should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>In addition, Singapore should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future treaties.</p>
	<p>One of the 64 tax treaties that contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) or the alternative provisions provided for in Article 9(1) or Article 7(2) is not yet in force, while there is another treaty in force with the same jurisdiction that does neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) nor contains the alternative provisions provided for in Article 9(1) or Article 7(2).</p>	<p>Singapore should as quickly as possible ratify the tax treaty that includes a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) and replaces an existing treaty that does neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) nor contains the alternative provisions provided for in Article 9(1) or Article 7(2).</p>

## Annex A

### Tax treaty network of Singapore

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Action 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration		Article 25(3) of the OECD MTC		Arbitration		Article 25(3) of the OECD MTC		Arbitration	
	B.1	B.3	B.4	B.3	B.4	C.1	D.3	A.1	B.7	C.6										
	Inclusion Art. 25(1) first sentence? if yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) (Note 2) if no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?									
	Y = yes N = signed pending ratification	E = yes, either CAs O = yes, only one CA N = No	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different iv = no, other reasons	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes N = no	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes if yes N = no i - Art. 25(5) ii - mandatory other iii - voluntary									
Albania	Y	O	Y	i	Y	Y	Y	Y	Y	Y										
Australia	Y	N	Y	i	N	N**	N	N	N**	N										
Austria	Y	O	Y	i**	Y	Y	Y	Y	Y	Y										
Bahrain	Y	O	Y	i	Y	Y	Y	Y	Y	Y										
Bangladesh	Y	O	ii	i	Y	Y	Y	Y	Y	Y										
Barbados	Y	O	Y	i	Y	Y	Y	Y	Y	Y										

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	DTC in force?	Inclusion Art. 25(1) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) (Note 2) if no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4) If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion Art. 25(3) of the OECD MTC	Article 25(2) of the OECD MTC	Anti-abuse	Article 9(2) of the OECD MTC	B.3	B.4	C.1	D.3	A.1	B.7	Arbitration	
Belarus	Y	O	Y	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Belgium	Y	O	Y	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N**	N	N/A
Brunei	Y	O	Y	Y	i	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Bulgaria	Y	O	Y	Y	i	N/A	i	i	Y	Y	N**	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Cambodia	N	O	Y	Y	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Canada	Y	O	ii**	2 years	i	N/A	i	i	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N**	N	N/A
China	Y	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Cyprus*	Y	O	Y	N/A	i**	N/A	i	i	Y	Y	N**	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Czech Republic	Y	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Denmark	Y	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Ecuador	Y	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Egypt	Y	O	Y	N/A	i	N/A	i	i	Y	Y	N**	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Estonia	Y	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Ethiopia	N	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Fiji	Y	O	Y	N/A	i**	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Finland	Y	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
France	Y	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	N**	Y	N	N/A
Georgia	Y	O	Y	N/A	i	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Germany	Y	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Ghana	N	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Guernsey	Y	O	Y	N/A	i	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Hungary	Y	O	Y	N/A	i***	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
India	Y	O	Y	N/A	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Indonesia	Y	O	Y	N/A	i	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A



Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Action 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration									
	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6												
Ireland	Y	O		i	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Isle of Man	Y	O		i	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Israel	Y	O		Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Italy	Y	N		i***	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Japan	Y	O		i**	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Jersey	Y	O		Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Kazakhstan	Y	O		i	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Korea, Republic of	Y	O		i	i	Y	Y	N	Y	Y	Y	Y	N	N	N/A					
Kuwait	Y	O		i**	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Laos	Y	O		i	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Latvia	Y	O		i	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Libya	Y	O		Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Liechtenstein	Y	O		Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Lithuania	Y	O		Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Luxembourg	Y	O		Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Malaysia	Y	O		Y	Y	Y	Y	N	Y	Y	Y	Y	N	N	N/A					
Malta	Y	O		Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Mauritius	Y	O		Y	Y	Y	Y	N	Y	Y	Y	Y	N	N	N/A					
Mexico	Y	O		i****	i	N**	N	N	Y	Y	Y	Y	Y	Y	N/A					
Mongolia	Y	O		i	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Morocco	Y	O		i	i	Y	Y	Y	Y	Y	Y	Y	N	N	N/A					
Myanmar	Y	O		i	i	Y	Y	N	Y	Y	Y	Y	N	N	N/A					
Netherlands	Y	O		i****	i	Y	Y	N**	Y	Y	Y	Y	N	N	N/A					

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	DTC in force?	Inclusion Art. 25(1) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) of the OECD MTC (Note 2) if no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4) If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?	Arbitration										
	B.1	B.3	B.4	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	C.1	
New Zealand	Y	O	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Norway	Y	O	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Oman	Y	O	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Pakistan	Y	O	Y	i***	Y	Y	Y	Y	Y	Y	N**	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Panama	Y	O	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Papua New Guinea	Y	O	ii	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Philippines	Y	O	ii	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Poland	Y	O	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Portugal	Y	O	Y	i**	Y	Y	Y	Y	Y	Y	N**	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Qatar	Y	O	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Romania	Y	O	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Russian Federation	Y	O	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Rwanda	Y	O	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
San Marino	Y	O	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Saudi Arabia	Y	O	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Seychelles	Y	O	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Slovak Republic	Y	O	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Slovenia	Y	O	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
South Africa	Y	O	Y	i**	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Spain	Y	O	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Sri Lanka****	N****	O	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Sweden	Y	O	i	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A

Treaty partner	Column 1		Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Action 25(1) of the OECD Model Tax Convention (“MTC”)		Article 25(1) of the OECD MTC		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration									
	B.1	B.2	B.3	B.4	B.5	B.6	B.7	B.8	B.9	B.10	B.11	B.12	B.13	B.14	B.15	B.16	B.17	B.18	B.19	B.20	B.21	B.22
Switzerland	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Taiwan	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Thailand	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Turkey	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Ukraine	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
United Arab Emirates	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
United Kingdom	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Uruguay	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Uzbekistan	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Viet Nam	Y	O	Y	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

\* Footnote by Turkey: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of United Nations, Turkey shall preserve its position concerning the “Cyprus” issue.

Footnote by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

\*\* Treaties that will be modified upon entry into force of the Multilateral Instrument.

\*\*\* Treaties will be modified upon entry into force of the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of Article 17 of the Multilateral Instrument.

\*\*\*\* A tax treaty between Sri Lanka and Singapore, signed in 1979 is currently in force. This treaty will be replaced by the treaty signed in 2014, once it enters into force. For purposes of the treaty analysis, the newly negotiated treaty is taken into account.

## Annex B

## MAP Statistics: pre-2016 cases

Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2016	Number of pre-2016 cases closed during the reporting period by outcome										Average time taken (in months) for closing pre-2016 cases during the reporting period	
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		No. of pre-2016 cases remaining in on MAP inventory on 31 December 2016
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	10	0	0	1	0	0	2	0	0	0	0	7	54.95
Others	8	0	0	0	0	0	2	0	0	0	0	6	36.05
Total	18	0	0	1	0	0	4	0	0	0	0	13	47.39

Notes: 1. The average time taken for closing pre-2016 cases is computed from the date the Singapore competent authority receives a MAP application, irrespective of whether it includes or not all the information and documentation required. (Guidance on minimum information requirement on transfer pricing MAP was published on 6 Jan 2015. Guidance on minimum information requirement on treaty MAP was published on 12 Jan 2017) to the date taxpayer is notified of the outcome of its MAP application by either of the competent authorities.

2. Main reasons for average time of the MAP cases being > 24 months – (i) the cases involved a few rounds of exchanges of position and discussion papers with the foreign competent authorities; and (ii) additional time taken for further fact-finding with the relevant local taxpayers.

## Annex C

## MAP statistics: post-2015 cases

Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										Average time taken (in months) for closing post-2015 cases during the reporting period		
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/ Allocation	0	3	0	0	0	0	0	0	0	0	0	0	0	3	0.00
Others	0	5	0	0	0	0	0	0	0	0	0	0	0	5	0.00
Total	0	8	0	0	0	0	0	0	0	0	0	0	0	8	0.00

## *Glossary*

<b>Action 14 Minimum Standard</b>	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
<b>MAP Statistics Reporting Framework</b>	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
<b>Multilateral Instrument</b>	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
<b>OECD Model Tax Convention</b>	OECD Model Tax Convention on Income and on Capital as it read on 15 July 2014
<b>OECD Transfer Pricing Guidelines</b>	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
<b>Pre-2016 cases</b>	MAP cases in a competent authority's inventory pending resolution on 31 December 2015
<b>Post-2015 cases</b>	MAP cases received by a competent authority from the taxpayer on or after 1 January 2016
<b>Review Period</b>	Period for the peer review process that started on 1 January 2016 and ended on 31 July 2017
<b>Singapore's MAP Guidance</b>	The IRAS webpage on Mutual Agreement Procedures
<b>Singapore's Transfer Pricing Guidelines</b>	The e-Tax Guide "Transfer Pricing Guidelines" available on the IRAS website
<b>Statistics Reporting Period</b>	Period for reporting MAP statistics that started on 1 January 2016 and ended on 31 December 2016
<b>Terms of Reference</b>	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective

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## OECD/G20 Base Erosion and Profit Shifting Project

# Making Dispute Resolution More Effective – MAP Peer Review Report, Singapore (Stage 1)

## INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

Addressing base erosion and profit shifting is a key priority of governments around the globe. In 2013, OECD and G20 countries, working together on an equal footing, adopted a 15-point Action Plan to address BEPS. Beyond securing revenues by realigning taxation with economic activities and value creation, the OECD/G20 BEPS Project aims to create a single set of consensus-based international tax rules to address BEPS, and hence to protect tax bases while offering increased certainty and predictability to taxpayers. In 2016, the OECD and G20 established an Inclusive Framework on BEPS to allow interested countries and jurisdictions to work with OECD and G20 members to develop standards on BEPS related issues and reviewing and monitoring the implementation of the whole BEPS Package. Over 100 countries and jurisdictions have joined the Inclusive Framework.

Under Action 14, countries have committed to implement a minimum standard to strengthen the effectiveness and efficiency of the mutual agreement procedure (MAP). The MAP is included in Article 25 of the OECD Model Tax Convention and commits countries to endeavour to resolve disputes related to the interpretation and application of tax treaties. The Action 14 Minimum Standard has been translated into specific terms of reference and a methodology for the peer review and monitoring process. The minimum standard is complemented by a set of best practices.

The peer review process is conducted in two stages. Stage 1 assesses countries against the terms of reference of the minimum standard according to an agreed schedule of review. Stage 2 focuses on monitoring the follow-up of any recommendations resulting from jurisdictions' stage 1 peer review report. This report reflects the outcome of the stage 1 peer review of the implementation of the Action 14 Minimum Standard by Singapore, which is accompanied by a document addressing the implementation of best practices which can be accessed on the OECD website: <http://oe.cd/bepsaction14>.

Consult this publication on line at <http://dx.doi.org/10.1787/9789264290488-en>.

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