

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



Making Dispute Resolution More Effective – MAP Peer Review Report, Chile (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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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 in tax treaties. With the negotiation of a multilateral instrument (MLI) having been finalised in 2016 to facilitate the implementation of the treaty related BEPS measures, over 85 jurisdictions are covered by the MLI. The entry into force of the MLI on 1 July 2018 paves 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 the 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 125 members, is monitoring and peer reviewing the implementation of the minimum standards as well as completing 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.

This report was approved by the Inclusive Framework on BEPS on 8 May 2019 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

APA	Advance Pricing Arrangement
MAP	Mutual Agreement Procedure
OECD	Organisation for Economic Co-operation and Development

Executive summary

Chile has a modest tax treaty network with over 30 tax treaties. Chile has very limited experience with resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and three cases pending on 31 December 2017. Of these cases, two concern allocation/attribution cases. Overall Chile meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Chile is working to address most of them.

All of Chile's tax treaties contain a provision relating to MAP. Those treaties generally follow paragraphs 1 through 3 of Article 25 of the *Model Tax Convention on Income and Capital 2017* (OECD, 2017a). Its treaty network is partly consistent with the requirements of the Action 14 Minimum Standard, except for the fact that:

- Approximately 95% of its tax treaties do not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2015b) stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.
- More than 90% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Chile needs to amend and update almost all of its tax treaties. In this respect, Chile signed the Multilateral Instrument, through which a number of its tax treaties will potentially be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force of this Multilateral Instrument for the treaties concerned, Chile 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. In this regard, Chile plans to invite all the relevant treaty partners for such a negotiation, prioritising those jurisdictions with which cross border transactions are more significant.

Chile does not meet the Action 14 Minimum Standard concerning the prevention of disputes. It has in place a bilateral APA programme, but this programme does not allow roll-back of bilateral APAs.

Chile does not meet most of the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in transfer pricing cases and in cases where anti-abuse provisions are applied, although it has since 1 January 2016 not received any MAP request concerning the latter type of cases. However, access was denied in an eligible case under the argument that it was not timely filed, while the MAP request had been submitted within three years after the first notification of the

action resulting in taxation not in accordance with the tax treaty. Furthermore, Chile does not have 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. Finally, Chile has not yet published its guidance on the availability of MAP and how it applies this procedure in practice.

Concerning the average time needed to close MAP cases, the MAP statistics for Chile for the period 2016-17 are as follows:

2016-17	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2017	Average time to close cases (in months)*
Attribution/allocation cases	0	3	1	2	6.90
Other cases	0	1	0	1	N/A
Total	0	4	1	3	6.90

*The average time taken for resolving MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. Chile has no pre-2016 cases in its MAP inventory as shown in this table.

The number of cases Chile closed in 2016 or 2017 is less than the number of all new cases started in those years. Its MAP inventory as per 31 December 2017 increased as compared to its inventory as per 1 January 2016. During these years, a MAP case was closed within a timeframe of 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the time necessary was 6.90 months. This concerns the resolution of an attribution/allocation case, the outcome of which was access denied.

Furthermore, Chile meets the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Chile's competent authority operates fully independently from the audit function of the tax authorities. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function.

Lastly, Chile has a domestic statute of limitation for implementation of MAP agreements, under which there is a risk that some agreements cannot be implemented where the applicable tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. However, as there was no MAP agreement reached that required implementation in Chile, it was not yet possible to assess whether it meets the Action 14 Minimum Standard as regards the implementation of MAP agreements.

References

OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>.

OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

Introduction

Available mechanisms in Chile to resolve tax treaty-related disputes

Chile has entered into 34 tax treaties on income (and/or capital), 32 of which are in force.¹ These 34 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. In addition, ten of the 34 treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.²

In Chile, the competent authority function to conduct MAP is delegated to the Minister of Finance and/or the Commissioner of Chile’s revenue agency (“*Servicio de Impuestos Internos*”) and further delegated to specific departments within Chile’s tax administration. The competent authority of Chile currently employs 12 employees in total, who also handle other tasks such as Advance Pricing Arrangements (“**APA**”) or tax treaty negotiations. The competent authority is organised as follows:

- Attribution/allocation cases are dealt with by the Transfer Pricing and Valuation Area within the Department of Selective Analysis of Tax Compliance of the Audit and Compliance Directorate of Chile’s tax administration, and
- Other cases are dealt with by the International Taxation Department of the Legal and Regulatory Directorate of Chile’s tax administration.

Chile has not yet issued guidance on the governance and administration of the mutual agreement procedure (“**MAP**”) but indicated that it is currently preparing such guidance which it expects to be published in the first semester of 2019.

Recent developments in the assessed jurisdiction

Chile is currently conducting tax treaty negotiations with five jurisdictions. Chile recently signed new treaties with the United States and Uruguay which have not yet entered into force although it has already ratified both of them.

Furthermore, on 7 June 2017, Chile signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), 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. Chile also submitted its list of notifications and reservations to that instrument.³ In relation to the Action 14 Minimum Standard, Chile 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.⁴ This reservation is in line with the requirements of the Action 14 Minimum Standard.

Where treaties will not be modified by the Multilateral Instrument, Chile reported that it strives updating them through future bilateral negotiations. In this regard, Chile reported that it intends to send out a letter to all the relevant treaty partners with whom a tax treaty is in force, inviting them to negotiate bilaterally to align their tax treaties with the Action 14 Minimum Standard and that among those jurisdictions that show interest to negotiate bilaterally, it will prioritise those with which cross border transactions are more significant.

Basis for the peer review process

The peer review process entails an evaluation of Chile’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 (if any) and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by Chile, its peers and taxpayers. The questionnaires for the peer review process were sent to Chile and the peers on 31 August 2018.

The period for evaluating Chile’s implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 31 August 2018 (“**Review Period**”). Furthermore, this report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Chile’s implementation of this minimum standard. In the update of this report, being stage 2 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 Chile 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. Reference is made to Annex A for the overview of Chile’s tax treaties regarding the mutual agreement procedure.

In total six peers provided input: Denmark, Norway, Spain, Sweden, Switzerland and the United Kingdom. Out of these six peers, two had MAP cases with Chile that started on or after 1 January 2016. These two peers represent 75% of post-2015 MAP cases in Chile’s inventory that started in 2016 or 2017. Peers generally noted that Chile’s competent authority is responsive and efficient, even though some of them noted having experienced difficulties regarding procedural issues.

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

- MAP profile⁵
- MAP statistics⁶ according to the MAP Statistics Reporting Framework (see below).

Finally, Chile is an active member of the FTA MAP Forum and has shown good co-operation during the peer review process.

Overview of MAP caseload in Chile

The analysis of Chile’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2017 (“**Statistics Reporting Period**”). According to the statistics provided by Chile, its MAP caseload during this period was as follows:

2016-17	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2017
Attribution/allocation cases	0	3	1	2
Other cases	0	1	0	1
Total	0	4	1	3

General outline of the peer review report

This report includes an evaluation of Chile’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 implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).⁷ Apart from analysing Chile’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Chile. Furthermore, the report depicts the changes adopted and plans shared by Chile 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 the 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 Chile 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 Chile has entered into are available at: www.sii.cl/pagina/jurisprudencia/convenios.htm. The treaties that are signed and ratified by Chile but have not yet entered into force are with the United States and Uruguay. These treaties are taken into account in the treaty analysis. Reference is made to Annex A for the overview of Chile’s tax treaties.

2. These ten treaties concern the treaties with Austria, Canada, Ecuador, Italy, Japan, Mexico, Paraguay, Peru, Poland and Uruguay. Reference is made to Annex A for the overview of Chile's tax treaties.
3. Available at: www.oecd.org/tax/treaties/beps-mli-position-chile.pdf.
4. *Ibid.* This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, the Republic of Chile 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”.
5. Available at: www.oecd.org/tax/dispute/Chile-Dispute-Resolution-Profile.pdf.
6. The MAP statistics of Chile's are included in Annex B and C of this report.
7. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf

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, 2017a) 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 Chile's tax treaties

2. All of Chile's 34 tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention 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.

3. Peers did not provide input relating to this particular element.

Anticipated modifications

4. Chile reported that it will continue to seek to include Article 25(3), first sentence, in all of its future treaties.

Conclusion

	Areas for improvement	Recommendations
[A.1]	-	Chile should maintain its stated intention to include the required provision in all future tax treaties.

[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.

5. 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.¹ 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.

Chile’s APA programme

6. Chile is authorised to enter into bilateral APAs and has implemented an APA programme. Chile’s bilateral APA programme is based on its income tax law and its guidance is found in Circular N°29 of 14 June 2013 (“**APA guidance**”).

7. The provisions of Chile’s income tax law and its APA guidance prescribe that an APA is may be applied as from the fiscal year during which the application was filed and to the three following fiscal years.

8. The APA guidance further stipulates that the term of an APA could be extended or renewed when the term of an initial APA expires. Chile further referred to another legal document, being resolution exempt n° 68 of 14 June 2013, which provides that if the taxpayer intends the extension or renewal of an APA agreement, such a request should be submitted in writing six months before the termination of the initial agreement.

9. With regard to the effect of APAs on tax assessments or audits, Chile reported that once an APA is entered into, its tax authority is not entitled to make an adjustment on taxpayers’ positions covered by that APA. However, Chile clarified that a signed APA does not prevent its tax authority from exercising its auditing powers and verify that the indicated operations in the APA are executed in the manners and conditions established in the APA.

Roll-back of bilateral APAs

10. Chile reported that its APA programme does not provide for roll-back of APAs. Chile noted, however, that under its general tax legislation, a taxpayer can amend its tax return at any time provided that there is no tax adjustment or tax collection note issued by the tax authority. Chile clarified that in practice this could give an opportunity to the taxpayer to apply the results or conclusions of an APA to previous tax years. Nevertheless, Chile confirmed that this will also be subject to its domestic statute of limitation.

Practical application of roll-back of bilateral APAs

11. Chile reported having not received any requests for bilateral APAs during the Review Period.

12. One peer reported having discussed an APA case with Chile during the review period, which was submitted in 2013. This peer specified that the APA process came to an end in 2017 without any agreement with Chile’s competent authority even though some progress had been made. Finally, this peer confirmed that it experienced that Chile’s domestic law does not provide for roll-back of bilateral APAs.

Anticipated modifications

13. Chile indicated that it does not anticipate any modifications in relation to element A.2.

Conclusion

	Areas for improvement	Recommendations
[A.2]	Roll-back of bilateral APAs is not provided for in appropriate cases.	Chile should without further delay introduce the possibility of and in practice provide for roll-back of bilateral APAs in appropriate cases.

Note

1. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines (OECD, 2017b) for Multinational Enterprises and Tax Administrations.

References

OECD (2017a), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

OECD (2017b), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*. <https://dx.doi.org/10.1787/tpg-2017-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.

14. For resolving cases of taxation not in accordance with the provisions of the tax treaty, it is necessary that tax treaties include 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 Chile's tax treaties

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

15. All but one of Chile's 34 tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017a) 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, 2015a)), 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 Chile's tax treaties contains a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015b), as changed by the Action 14 final report and allowing taxpayers to submit a MAP request to the competent authority of either state.

16. The remaining one treaty is considered not to have the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, 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 treaty is considered to be in line with element B.1 since its non-discrimination provision only covers nationals that are resident of one of the contracting states and it is logical to only allow the submission of MAP requests to the state of which the taxpayer is a resident.

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

17. Out of Chile's 34 tax treaties, 21 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention 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. The remaining 13 treaties do not contain any provision setting such a time limit.

Practical application

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

18. As noted in paragraphs 15 and 16 above, in all of Chile's tax treaties taxpayers can file a MAP request irrespective of domestic remedies. In this respect, Chile reported that if a taxpayer submits a MAP request and simultaneously initiates domestic available remedies, access to MAP would be granted. Access would also be granted if these domestic remedies have been finalised, even though Chile is not able to derogate from decisions of its domestic courts and thus will only seek correlative relief at the level of the treaty partner. Finally, Chile also reported that it would discuss a case that would be submitted to the competent authority of its treaty partner if a decision has already been made by its domestic court, even though the efforts of its competent authority would be limited to provide any information the other competent authority would need.

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

19. Chile reported that in the absence of the provision setting a filing period for the submission of a MAP request in its tax treaties, there is no time limit for such submission since there is no domestic law establishing a particular period. Chile further clarified that in the absence of a filing period in the tax treaty, a MAP request can be submitted at any time.

20. Chile made two observations in the Commentary to Article 25 of the OECD Model Tax Convention with regard to the starting point of the three-year filing period.

- Under the first observation, Chile stated that regarding paragraphs 21 to 24 of the Commentary to Article 25 of the OECD Model Tax Convention in its view the date of the "first notification of the action resulting in taxation not in accordance with the tax treaty" is the date of the first notification by the tax administration of a proposed adjustment, unless an earlier date is applicable.
- Under the second one, Chile considers that in self-assessment cases discussed where a taxpayer pays additional tax in connection with the filing of an amended return the three-year filing period starts from the filing of the amended return.

21. With regard to the application of the filing period specified in the tax treaties, Chile reported that during the Review Period there was one case in which access to MAP was denied by its competent authority as it considered that the three-year filing period to submit a MAP request provided in the relevant tax treaty concerned had already expired.

22. Chile reported that the case at stake was an attribution/allocation case submitted in both jurisdictions in June 2016. Chile further reported that based on the information it was provided with, its competent authority understood that both competent authorities agreed that a proposed adjustment was notified to the taxpayer in the other jurisdiction in May 2012. Therefore, Chile’s competent authority denied access to MAP on the grounds that the request was submitted too late. Chile further reported that, instead of relying only on the Commentary of the OECD Model Tax Convention, and as it was a transfer pricing case, it referred to the 2010 OECD Transfer Pricing Guidelines. Chile is of the view that the latter provides more guidance, and referred to the paragraph 4.48 that states:

Another time limit that must be considered is the three year time limit within which a taxpayer must invoke the mutual agreement procedure under Article 25 of the OECD Model Tax Convention. The three year period begins to run from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention, which can be the time when the tax administration first notifies the taxpayer of the proposed adjustment, described as the “adjustment action” or “act of taxation”, or an earlier date as discussed at paragraphs 21-24 of the Commentary on Article 25.

23. Chile specified that its competent authority notified the other competent authority of its decision to deny access to MAP. Chile understood that its treaty partner considered that the filing period commenced on the date of the notification of the final adjustment and not on the date of the first notification of the proposed adjustment. Chile also specified that such proposed adjustment was notified in May 2012 and that the MAP request was submitted after the expiration of the filing period provided under the relevant tax treaty, which is three years starting from the first notification of the action resulting in taxation not in accordance with the provisions of the relevant tax treaty. Chile further specified that the MAP request could have been submitted earlier, and submitting it early after the notification of the final assessment would have been on time according to Chile.

24. In Chile’s view the notification of the proposed adjustment is the first notification of the action resulting in taxation not in accordance with the provisions of the relevant treaty as according to the terms of the proposed adjustment itself if uncontested it becomes final. Chile further indicated that the “first notification” language used in the relevant tax treaty precisely covers a provisional or a proposed adjustment after which other notifications may be issued. In Chile’s view not following this rationale would lead to the absurd conclusion that if the proposed adjustment in the relevant case would not have been contested by the taxpayer it would have become final, and since no other adjustment would have been required to be notified, there would never have been a “first notification” of the action resulting in taxation not in accordance with the provisions of the tax treaty.

25. The relevant peer to this case confirmed that the facts and circumstances described by Chile were correct but it clarified that the date of the proposed adjustment was brought forward by Chile only and not by its competent authority, as the latter considered that this date would not be relevant in relation to a MAP case. On the contrary, to its competent authority the date of the proposed adjustment is irrelevant, both in this case and in any other MAP case based on a primary adjustment in its jurisdiction. This peer further clarified that it does not agree with Chile’s understanding of the starting point of the three-year period. According to this peer, it should be referred to the Commentary on Article 25 of the OECD Model Tax Convention that states the following in paragraph 21:

The provision fixing the starting point of the three year time limit as the date of the “first notification of the action resulting in taxation not in accordance with the

provisions of the Convention” should be interpreted in the way most favourable to the taxpayer. Thus, even if such taxation should be directly charged in pursuance of an administrative decision or action of general application, the time limit begins to run only from the date of the notification of the individual action giving rise to such taxation, that is to say, under the most favourable interpretation, from the act of taxation itself, as evidenced by a notice of assessment or an official demand or other instrument for the collection or levy of tax. Since a taxpayer has the right to present a case as soon as the taxpayer considers that taxation will result in taxation not in accordance with the provisions of the Convention, whilst the three year limit only begins when that result has materialised, there will be cases where the taxpayer will have the right to initiate the mutual agreement procedure before the three year time limit begins (see the examples of such a situation given in paragraph 14 above).

26. According to this peer, the proposed adjustment notified in May 2012 is only of a provisional nature and results from the obligation of its tax administration to consult with the taxpayer before issuing a tax adjustment. The relevant peer further clarified that this provisional decision cannot in itself “give rise to taxation” nor is it an “adjustment action” or an “act of taxation” as referred to in paragraph 4.48 of the OECD Transfer Pricing Guidelines. This peer further stated that such a provisional decision must be followed by a tax adjustment decision notice/letter that would incorporate the comments of the taxpayer (if any) in order to start the tax collection process. This peer reported having presented its position in a letter to Chile’s competent authority, thereby also offering to discuss the case under the equivalent of Article 25(3), second sentence that is contained in its tax treaty with Chile, but it reported that Chile did not agree to discuss the case. Chile responded that it was willing to discuss the case and that it had several exchanges with the relevant peer. Chile further noted that the relevant peer informed Chile that it had notified the taxpayer and that it considered the case as closed even if it did not agree with Chile’s competent authority’s views on the case.

27. The Commentary on Article 25 of the OECD Model Tax Convention clarifies that the three-year time limit only begins when taxation not in accordance with the provisions of the convention has materialised. On the basis of the different views provided by Chile and its peer, it can be concluded that the result of the action not in accordance with the tax treaty has only materialised as from the date of the first notification of the final adjustment, and not of the first notification of the proposed adjustment. In addition, while the Commentary calls for the interpretation of such a date in the way most favourable to the taxpayer, it is clear that Chile’s interpretation did not benefit the taxpayer. However, Chile specified that this most favourable interpretation is to be applied in case of doubt only. Nevertheless, Chile’s interpretation of the starting point of the filing period in the case at stake resulted in denying access to MAP to a case that would be eligible according to the Commentary of the OECD Model Tax Convention based on the fact that the starting point of the filing period was the date of the first notification of the final adjustment (and not of the proposed adjustment).

28. Another peer reported that it experienced difficulties with an attribution/allocation case that was submitted to its competent authority and that involved Chile. This peer reported that Chile’s competent authority stated that in the absence of Article 25(2), second sentence, of the OECD Model Tax Convention in the relevant tax treaty, the taxpayer should have requested a refund before the expiration of Chile’s statute of limitation. In the case at stake, the peer reported that Chile’s competent authority clarified that such statute of limitation had already expired when it notified Chile’s competent authority of the MAP request. This peer also reported not having notified Chile’s competent authority in a timely manner. However, the peer further specified that even if it would have notified Chile’s

competent authority immediately after receiving the MAP request, less than six months would have been remaining before the expiration of Chile's domestic time limits, which might have been too short to reach a MAP agreement. Therefore, this peer considers that Chile's domestic statute of limitation might hamper the access to MAP.

29. Chile reported that if the peer would have notified Chile's competent authority immediately after receiving the MAP request, almost five months would have remained before the expiration of Chile's domestic time limits. Chile further specified that after its competent authority received the case from the competent authority of the peer, it sent an email to this peer's competent authority less than a month later, indicating that Chile's competent authority was ready to open discussion on the relevant case, noting the limitations pertaining to the application of Chile's domestic time limits.

Anticipated modifications

Multilateral Instrument

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

30. Chile 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 as amended by the Action 14 final report 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 as it read prior to the adoption of the Action 14 final report. However, this shall only apply 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, pursuant to Article 16(6)(a), that this treaty contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report. Article 16(4)(a)(i) will for a tax treaty not take effect if one of the treaty partners has, pursuant to Article 16(5)(a), reserved the right not to apply the first sentence of Article 16(1) of that instrument to all of its covered tax agreements.

31. Chile reserved, pursuant to Article 16(5)(a) of the Multilateral Instrument, the right 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.¹ In this reservation, Chile 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, as it read prior to the adoption of the Action 14 final report. 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.

32. In view of the above reservation made by Chile, all of Chile's 34 treaties not containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention, as changed by the Action 14 final report, will not be modified via the Multilateral Instrument with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state. However, all of these treaties are considered to be in line with this part of element B.1, as discussed under paragraphs 15 and 16.

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

33. 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 – 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. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(b)(i), the depositary that this treaty does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention.

34. Since none of Chile’s tax treaties contains a provision that is not in line with this part of element B.1, the application of the Multilateral Instrument is not further analysed as to Article 25(2), second sentence, of the OECD Model Tax Convention.

Bilateral modifications

35. Chile reported it will seek to include Article 25(1) of the OECD Model Tax Convention, as it read prior to the adoption of the final report on Action 14, in all of its future tax treaties.

Peer input

36. Two peers reported that their treaty with Chile does not meet the requirement under element B.1. According to the above analysis, those treaties are in line with element B.1

Conclusion

	Areas for improvement	Recommendations
	-	Chile should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as it read prior to the adoption of the final report of Action 14 in all future tax treaties.
[B.1]	Access to MAP was denied in an eligible case under the argument that it was not timely filed, while the MAP request had been submitted within three years after the first notification of the action resulting in taxation not in accordance with the tax treaty.	Chile should ensure that taxpayers that meet the requirements of paragraph 1 of Article 25 of the OECD Model Tax Convention have access to MAP in all eligible cases, in particular when the MAP request was filed within the time period specified in the treaty and as interpreted in the Commentary to Article 25 of the OECD Model Tax Convention. In addition, for clarification purposes, Chile could consider withdrawing its first position on Article 25(1), second sentence, of the OECD Model Tax Convention.

[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).

37. 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

38. As discussed under element B.1, out of Chile's 34 treaties, none currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. As was also discussed under element B.1, none of these 34 treaties will be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner as Chile 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.²

39. Chile reported that it does not have a documented bilateral consultation or notification process in place which allows the other competent authority concerned to provide its views on the case when Chile's competent authority considers the objection raised in the MAP request not to be justified. As described below, while such a process does exist, it is not documented in any internal guidance that would be available to Chile's competent authority.

Practical application

40. Chile reported that since 1 January 2016 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2016 and 2017 MAP statistics submitted by Chile also show that none of its MAP cases was closed with the outcome "objection not justified".

41. Chile also commented that in practice a notification process does exist, and that Chile's competent authority has used such a process in cases where it denied access to MAP since 1 January 2016. In those situations, Chile reported having included in the notification: the identity of the parties involved, the date of the submission of the MAP request, a brief summary of the case, and an analysis of the facts and the application of the treaty provision concerned.

Anticipated modifications

42. Chile indicated that in the MAP guidance it is currently preparing, it contemplates addressing the notification/consultation process for those situations where its competent authority considers an objection raised in a MAP request as being not justified.

Conclusion

	Areas for improvement	Recommendations
[B.2]	All of the 34 treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Chile should without further delay document its bilateral notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Chile should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.

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

Jurisdictions should provide access to MAP in transfer pricing cases.

43. 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. Jurisdictions should thus provide access to MAP in transfer pricing cases.

Legal and administrative framework

44. Out of Chile's 34 tax treaties, 32 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention requiring their state to make a corresponding adjustment in case a transfer pricing adjustment is imposed by the treaty partner. Furthermore, one does not contain Article 9(2) of the OECD Model Tax Convention. The remaining treaty contains a provision that is based on Article 9(2) of the OECD Model Tax Convention, but deviates from this provision since it also contains an additional phrase under which corresponding adjustments can be only granted in accordance with the mutual agreement procedure.

45. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Chile's tax treaties and irrespective of whether

its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, Chile indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments when an agreement is reached. Since Chile has not yet published MAP guidance, there is no publicly available information in Chile on this subject.

Application of legal and administrative framework in practice

46. Chile reported that since 1 January 2016, it has received four MAP requests, three of which are transfer pricing cases, and it has not denied access to MAP to these cases on the grounds that they were transfer pricing cases.

47. Peers indicated not being aware of a denial of access to MAP by Chile on the basis that the case concerned was a transfer pricing case.

Anticipated modifications

48. Chile reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention in its tax treaties where possible and that it will seek to include this provision in all of its future tax treaties. In that regard, Chile 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 – 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. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument. Article 17(2) of the Multilateral Instrument does for a tax treaty not take effect if one or both of the treaty partners to the tax treaty have, pursuant to Article 17(3), reserved the right 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, or not to apply Article 17(2) in the absence of such equivalent under the condition 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 whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention. 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).

49. Chile has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument for those tax treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention. In regard of the two treaties identified in paragraph 43 above that are considered not to contain a provision such equivalent, Chile listed both of them as a covered tax agreement under the Multilateral Instrument and included one of them in the list of treaties for which Chile has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument. For the remaining treaty, Chile did not make, pursuant to Article 17(4), a notification that this treaty does not contain such an equivalent.

50. For the remaining treaty, the relevant treaty partner is not a signatory to the Multilateral Instrument. Therefore, at this stage, none of the two tax treaties identified above will be modified by the Multilateral Instrument to include the equivalent of Article 9(2) of the OECD Model Tax Convention.

Conclusion

	Areas for improvement	Recommendations
[B.3]	-	As Chile 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 Chile's 34 tax treaties allows competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where 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 Chile do not include 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 conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

53. Chile reported that its competent authority does not limit access to MAP for cases concerning the application of anti-abuse provisions. Chile's MAP profile clarifies that such cases are covered by the scope of MAP.

Practical application

54. Chile reported that since 1 January 2016 it has not received any requests related to the application of a treaty anti-abuse provision.

55. Peers indicated not being aware of cases that have been denied access to MAP in Chile since 1 January 2016 in relation to the application of treaty and/or domestic anti-abuse provisions.

Anticipated modifications

56. Chile indicated that it does not anticipate any modifications in relation to element B.4.

Conclusion

	Areas for improvement	Recommendations
[B.4]	Chile reported it will give access to MAP in 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. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Chile is therefore recommended to follow its policy and grant access to MAP in such 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 the 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**Audit settlements*

58. Chile reported that there are no audit settlements available in Chile. This is also clarified in Chile's MAP profile.

Administrative or statutory dispute settlement/resolution process

59. Chile reported it has no administrative or statutory dispute settlement/resolution process in place, which is independent from the audit and examination functions and which can only be accessed through a request by the taxpayer that limits access to MAP.

Practical application

60. Chile reported that since 1 January 2016 it has not denied access to MAP for cases where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration, as audit settlements are not available in Chile.

61. All peers indicated not being aware of a denial of access to MAP Chile since 1 January 2016 in cases where there was an audit settlement between the taxpayer and the tax administration.

Anticipated modifications

62. Chile indicated that it does not anticipate any modifications in relation to element B.5.

	Areas for improvement	Recommendations
[B.5]	-	-

[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. Currently, there are no specific domestic legislative provisions or guidance pertaining to the MAP process published in Chile. Chile reported that this subject will be addressed in the MAP guidance it is currently preparing.

65. Chile reported that in the absence of any MAP guidance, a MAP request is regarded as an administrative request that has to be submitted in accordance with Form 2117 commonly used for every kind of administrative requests to Chile's tax administration. Under this form, the following items at least should be provided:

- identification, address and contact information of the taxpayer covered by the request
- matter of the request
- grounds of the request.

66. Chile further reported that if additional information is necessary for a MAP request, the taxpayer will always be given a reasonable time period (approximately two months) to provide such information. If the requested information is not submitted within the period indicated to the taxpayer, Chile reported that if such a case had happened the MAP request would have been considered as not submitted, noting that it may be presented again.

Practical application

67. Chile reported that since 1 January 2016 its competent authority has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation. Chile also noted that during the Review Period, Chile did not consider any MAP request as not submitted.

68. All peers that provided input indicated not being aware of a limitation of access to MAP by Chile since 1 January 2016 in situations where taxpayers complied with information and documentation requirements.

Anticipated modifications

69. As described above, Chile is currently working on its MAP guidance, which will describe the information and documentation that taxpayers are expected to provide when submitting a MAP request. In addition, Chile reported that for MAP statistics purposes it would not consider a MAP request as not submitted if it would not contain all relevant information and documentation after asking the taxpayer to provide the missing information or documentation. Instead, Chile reported that it would close the case with the outcome “objection not justified”.

Conclusion

	Areas for improvement	Recommendations
[B.6]	-	As Chile has thus far not limited access to MAP in eligible cases when taxpayers have complied with Chile'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.

70. 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 include the second sentence of Article 25(3) of the OECD Model Tax Convention, enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

Current situation of Chile's tax treaties

71. Out of Chile's 34 tax treaties, two contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The remaining 32 treaties do not contain such a provision at all.

*Anticipated modifications**Multilateral Instrument*

72. Chile 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 – 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. In other words, in the absence of this equivalent, Article 16(4)(c)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(ii), the depositary that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention.

73. In regard of the 32 tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Chile listed all of them as a covered tax agreement under the Multilateral Instrument and for all of them did it 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 32 treaty partners, five are not a signatory to the Multilateral Instrument and one did not list their treaty with Chile as a covered tax agreement. All the remaining 26 treaty partners made such notification. Therefore, at this stage, 26 of the 32 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention.

Bilateral modifications

74. Chile further reported that when the tax treaties that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.7. Given that the deficiencies in its tax treaties with respect to the Action 14 Minimum Standard relate exclusively to the absence of a provision equivalent to the second sentence of Article 25(2) and/or of the second sentence of Article 25(3) of the OECD Model Tax Convention, Chile intends to send out a letter to all the relevant treaty partners with whom a tax treaty is in force, inviting them to negotiate bilaterally to align their tax treaties with the Action 14 Minimum Standard and that among those jurisdictions that show interest to negotiate bilaterally, it will prioritise those with which cross border transactions are more significant. Chile added that it is currently negotiating a protocol with a treaty partner which is not a signatory of the Multilateral Instrument in order to amend the existing treaty and bring it in line with the Action 14 Minimum Standard.

75. In addition, Chile reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention in all of its future tax treaties.

Peer input

76. For the 32 treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, four relevant peers reported that their treaty with Chile does not contain the provision, but will be modified by the Multilateral Instrument, which is in line with the above analysis. The other relevant peers did not provide input.

Conclusion

	Areas for improvement	Recommendations
[B.7]	<p>32 out of 34 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. Out of these 32:</p> <ul style="list-style-type: none"> • 26 are expected to be modified by the Multilateral Instrument to include the required provision; • six will not be modified by that instrument to include the required provision. 	<p>Chile 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 in those 26 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining six 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, Chile should request the inclusion of the required provision via bilateral negotiations in accordance with its plan.</p>

	Areas for improvement	Recommendations
[B.7]		In addition, Chile should maintain its stated intention to include the required provision in all future tax treaties.

[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.

77. 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.

Chile's MAP guidance

78. Apart from the information available in Chile's MAP profile the rules, guidelines and procedures are not publicly available yet. In particular, 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 is not publically available.

Information and documentation to be included in a MAP request

79. 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.³ This agreed guidance is shown below. The items to be included are listed in the general publicly available form number 2117 applicable for every administrative request. Chile reported that this form can be used for MAP requests. These items 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.

Anticipated modifications

80. As discussed above, Chile reported that it intends to publish its MAP guidance in the first semester of 2019. Chile reported that its MAP guidance will address the following items:

- contact information of the competent authority or the office in charge of MAP cases
- the manner and form in which the taxpayer should submit its MAP request
- the specific information and documentation that should be included in a MAP request (in addition to what is currently requested, Chile specified that it would require the taxpayer to state whether the MAP request was also submitted to the competent authority of the other treaty partner, whether the issue(s) involved were dealt with previously and 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)
- how the MAP functions in terms of timing and the role of the competent authorities
- relationship with domestic available remedies
- access to MAP in (i) transfer pricing cases and (ii) anti-abuse provisions
- rights and role of taxpayers in the process
- the possibility of suspension of tax collection during the course of a MAP
- the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).

Conclusion

	Areas for improvement	Recommendations
[B.8]	There is no published MAP guidance.	Chile should introduce and publish, without further delay, guidance on access to and use of the MAP and include the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation/information that it should include in such a request.
		Although not required by the Action 14 Minimum Standard, Chile could also follow its stated intention to include the items identified above as well as information on: <ul style="list-style-type: none"> • whether MAP is available in cases of (ii) multilateral disputes and (ii) bona fide foreign-initiated self-adjustments • whether taxpayers can request for the multi-year resolution of recurring issues through MAP • the consideration of interest and penalties in the MAP.

[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.

81. 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.⁴

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

82. As discussed under element B.8, Chile has not published any MAP guidance.

MAP profile

83. The MAP profile of Chile is published on the website of the OECD. This MAP profile is complete and often with detailed information. This profile includes external links which provide extra information and guidance where appropriate.

Anticipated modifications

84. Chile reported that it is currently preparing a guidance on MAP which it intends to publish in the first semester of 2019.

Conclusion

	Areas for improvement	Recommendations
[B.9]	The MAP guidance is not publically available.	Chile should make its MAP guidance currently in preparation publicly 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.

85. 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 the 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 previously mentioned processes.

MAP and audit settlements in the MAP guidance

86. As previously discussed under B.5, under Chile's domestic law, audit settlements are not available. In that regard, there is no need for Chile to address in its future guidance whether taxpayers can have access to MAP in such situation.

87. Peers raised no issues with respect to this element concerning audit settlements.

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

88. As previously mentioned under element B.5, Chile does not have an administrative or statutory dispute settlement/resolution process in place that is independent from the audit and examination functions and that can only be accessed through a request by the taxpayer and that would limit access to MAP. In that regard, there is no need for Chile to address the effects of such process with respect to MAP.

89. All peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in Chile, which can be clarified by the fact that such process is not in place in Chile.

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

90. As Chile does not have an internal administrative or statutory dispute settlement/resolution process in place that would limit access to MAP, there is no need for notifying treaty partners of such process.

Anticipated modifications

91. Chile indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

Notes

1. This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, the Republic of Chile 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 Chile’s positions on the Multilateral Instrument is available at: www.oecd.org/tax/treaties/beps-mli-position-chile.pdf.
2. This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, the Republic of Chile 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 Chile’s positions on the Multilateral Instrument is available at: www.oecd.org/tax/treaties/beps-mli-position-chile.pdf.
3. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
4. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.

References

- OECD (2015a), *Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report*. In *OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241633-en>.
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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.

92. It is of critical importance that in addition to allowing taxpayers to request for a MAP, tax treaties also include the equivalent of the first sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017), 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 Chile’s tax treaties

93. All of Chile’s 34 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention 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.

Anticipated modifications

Bilateral modifications

94. Chile reported it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention in all of its future tax treaties.

Peer input

95. Peers did not provide any particular input related to element C.1.

Conclusion

	Areas for improvement	Recommendations
[C.1]	-	Chile should maintain its stated intention to include the required provision in all future tax treaties.

[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).

96. 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

97. Statistics regarding all tax treaty related disputes concerning Chile are published on the website of the OECD as of 2006.¹

98. 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. Chile provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Chile 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 respectively² and should be considered jointly for an understanding of the MAP caseload of Chile. With respect to post-2015 cases, Chile reported having reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, based on the information provided by Chile’s MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.

Monitoring of MAP statistics

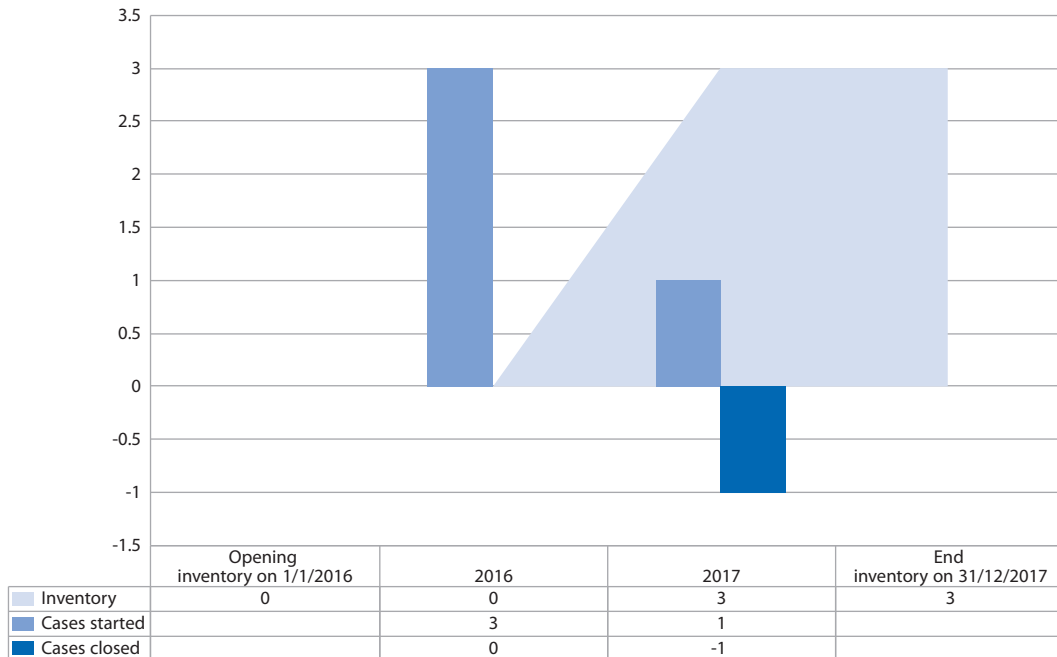
99. Chile reported that it uses the MAP Statistics Monitoring Template prepared by the FTA MAP Forum in order to communicate, monitor and manage the MAP caseload with its treaty partners.

Analysis of Chile’s MAP caseload

Global overview

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

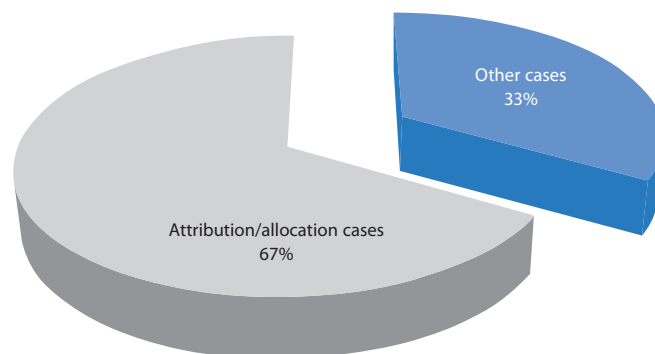
Figure C.1. Evolution of Chile's MAP caseload



101. At the beginning of the Statistics Reporting Period Chile had no MAP cases.³ At the end of the Statistics Reporting Period, Chile had three MAP cases in its inventory, of which two are attribution/allocation cases and one is an other MAP case. Chile's MAP caseload has increased from none to three during the Statistics Reporting Period.

102. The breakdown of the end inventory can be shown as follows:

Figure C.2. End inventory on 31 December 2017 (3 cases)



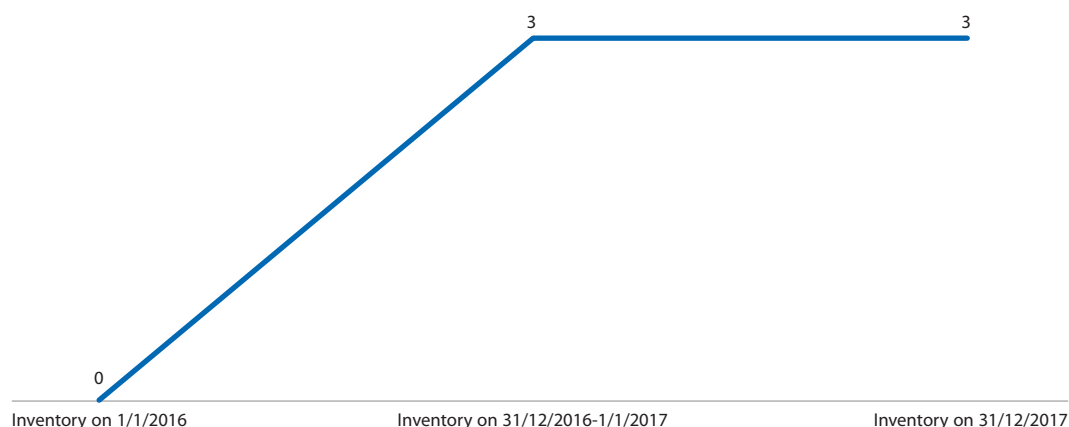
Pre-2016 cases

103. As mentioned above, Chile did not have any pre-2016 MAP cases over the Statistics Reporting Period.

Post-2015 cases

104. The following graph shows the evolution of Chile’s post-2015 MAP cases over the Statistics Reporting Period.

Figure C.3. Evolution of Chile’s MAP inventory Post-2015 cases



105. In total, four MAP cases started during the Statistics Reporting Period, three of which concerned attribution/allocation cases and one other case. At the end of this period the total number of post-2015 cases in the inventory was three cases, consisting of two attribution/allocation cases and one other case. Conclusively, Chile closed one post-2015 case during the Statistics Reporting Period, which was an attribution/allocation case. The total number of closed cases represents 25% of the total number of post-2015 cases that started during the Statistics Reporting Period.

106. The number of post-2015 cases closed as compared to the number of post-2015 cases started during the Statistics Reporting Period is shown in the table below.

Post-2015 cases only	% of cases closed in 2016 compared to cases started in 2016	% of cases closed in 2017 compared to cases started in 2017	Cumulative % of cases closed compared to cases started over the two years (2016 + 2017)
Attribution/allocation cases	0%	no cases started	33%
Other cases	no cases started	0%	0%

Overview of cases closed during the Statistics Reporting Period*Reported outcomes*

107. During the Statistics Reporting Period Chile closed only one attribution/allocation case, with the outcome “denied MAP access”.

Average timeframe needed to resolve MAP cases

All cases closed during the Statistics Reporting Period

108. The time needed to close one attribution/allocation case during the Statistics Reporting Period was 6.90 months.

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	1	6.90
Other cases	0	N/A
All cases	1	6.90

Pre-2016 cases

109. As discussed above, Chile did not have any pre-2016 cases during the Reporting Period.

Post-2015 cases

110. As a preliminary remark, it should be noted that the period for assessing post-2015 MAP statistics only comprises 24 months.

111. For post-2015 cases Chile reported that it needed 6.90 months to close one attribution/allocation case.

Peer input

112. Most of the peers that provided input reported having very few MAP experience (or none) with Chile's competent authority. Overall, as will be discussed under element C.3, the peers that provided input reported that the communication with Chile has been good and that no unnecessary delays have occurred.

113. One peer reported that during the Review Period two other cases have been initiated and not closed yet, but this peer observes that the duration of the cases are still within the timeframe of 24 months. Chile clarified that those requests were received in 2018 by this peer and Chile was notified of them at the beginning of September 2018, being after the Review Period.

Anticipated modifications

114. Chile indicated that it does not anticipate any modifications in relation to element C.2.

Conclusion

	Areas for improvement	Recommendations
[C.2]	<p>Chile submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016 and 2017. Based on the information provided by Chile's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter.</p> <p>Chile's MAP statistics show that during the Statistics Reporting Period it closed 25% (one out of four cases) of its post-2015 cases in 6.90 months. In that regard, Chile is recommended to seek to resolve the remaining 75% of the post-2015 cases pending on 31 December 2017 (three cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.</p>	

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

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

115. 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 Chile's competent authority

116. Chile reported that in Chile's tax treaties, the competent authority is generally defined as the Minister of Finance, the Commissioner of Chile's tax administration or their authorised representatives.

117. The competent authority function is exercised with advice and assistance provided by the following bodies within Chile's tax administration:

- for attribution/allocation cases: the Transfer Pricing and Valuation Area within the Department of Selective Analysis of Tax Compliance of the Audit and Compliance Directorate
- for other cases: the International Taxation Department of the Legal and Regulatory Directorate.

118. Chile reported that six people are working with the Transfer Pricing and Valuation Area, and their average experience in transfer pricing matters is six years. Chile further specified that these staff also deal with APA requests, risk analyses in transfer pricing and provisions of advice in those matters for other bodies of Chile's tax administration. Chile specified that the head of the Department of Selective Analysis of Tax Compliance of the Audit and Compliance Directorate participates in the meetings of Working Party number 6 on taxation of multinational enterprises of the OECD.

119. Chile further reported that six people are working with the International Taxation Department, and that all of them have a vast experience in international tax matters, overall exceeding 15 years of experience on average. Chile further specified that these staff are also involved in providing advice on international taxation issues for the purpose of negotiation, application and interpretation of tax treaties. Chile specified that the head of the International Taxation Department participates in the meetings of Working Party number 1 on tax conventions and related questions of the OECD and that another staff member participates in the FTA MAP Forum meetings.

120. Chile noted a Training Department within Chile's tax administration is dedicated to the training of the tax administration's staff. Chile further specified that such training includes courses on tax treaties, transfer pricing and international tax planning. In addition, Chile reported that staff, among which the staff in charge of MAP cases, may participate in courses provided by universities or qualified tax agencies, seminars given by private sector and international seminars of tax administrations, workshops and distant courses, including OECD workshops.

Monitoring mechanism

121. In terms of resource available to MAP, Chile reported that it considers the current resources as sufficient, given the fact that its MAP inventory in the Review Period did not exceed the four cases. In order to assess the adequacy of its resource, Chile monitors, for

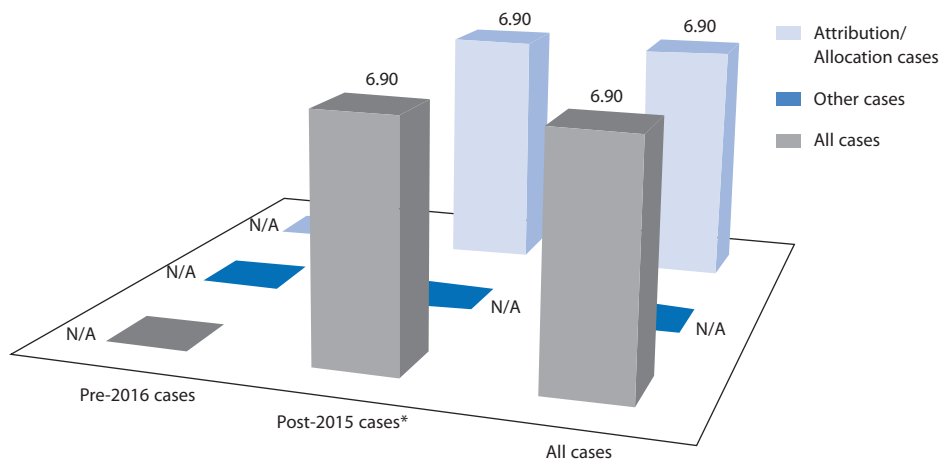
example, the number of MAP cases in inventory, the number of new cases presented each year and the time incurred to solve cases.

Practical application

MAP statistics

122. As discussed under element C.2 Chile closed its MAP case during the Statistics Reporting Period within the pursued 24-month average. This can be illustrated by the following graph:

Figure C.4. Average time (in months) to close cases in 2016 or 2017



*Note that post-2015 cases only concern cases started and closed during 2016 or 2017.

123. Based on these figures, it follows that it took Chile 6.90 months to close a MAP case during the Statistics Reporting Period. Chile closed one attribution/allocation case during the Statistical Reporting Period, but all the other cases were not closed. However, all these cases were submitted after 1 January 2016.

Peer input

124. Most of the peers that provided input reported having very few MAP experience (or none) with Chile's competent authority. Most peers also did not formulate any suggestion for improvement for Chile's competent authority.

125. One peer reported that its relationship with Chile's competent authority has been fluent and that it considered Chile's competent authority is dealing with MAP cases in a professional and efficient manner. One other peer has experienced difficulties in communicating with Chile as mails that were sent via regular post did not reach Chile's competent authority, but it reported that Chile's competent authority suggested to use e-mails, to which it reacts promptly according to this peer.

126. One last peer reported that relations have been cordial and communication has been good with Chile's competent authority, specifying that language has not been an issue in its dealing with Chile's competent authority.

Anticipated modifications

127. Chile indicated that it does not anticipate any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	-	Chile should continue to closely monitor whether it has adequate resources in place to ensure that future MAP cases are resolved in a timely, efficient and effective manner.

[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.

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

Functioning of staff in charge of MAP

129. Chile explained that the personnel in charge of MAP is under the supervision of the respective head of the departments and remains independent over all the stages of MAP process. Chile further clarified the other responsibilities of the departments within which staff in charge of competent authority function are as follows:

- The Department of Selective Analysis of Tax Compliance of the Audit and Compliance Directorate (in charge of attribution/allocation cases) is responsible for ensuring the characterisation of tax risks arising from specific taxpayer's behaviour and sharing the knowledge of these matters with the other areas of Chile's tax administration in charge of audits (see also below). In certain instances, the department may provide technical assistance to these other areas with respect to selective actions and identification of risks. Chile further specified that they may provide technical support to auditors in transfer pricing cases under the responsibility of regional directions, even though Chile emphasised that the latter remain the only decision makers with respect to the approach taken during the relevant audit.
- The International Taxation Department (in charge of other cases) is also responsible for providing advice on international taxation issues for the purpose of negotiation, application and interpretation of tax treaties, as discussed under element C.3. Chile further clarified that this Department is technically involved in treaty negotiations under the policy responsibility of Chile's Ministry of Finance.

130. Chile further reported that any position taken by its competent authority must be approved by the Commissioner of Chile’s tax administration and that the Commissioner does not sign off tax audits. With regard to the interaction between Chile’s competent authority and the audit function, Chile further reported that it is possible that the personnel in charge of MAP cases request information and documentation from tax administration personnel who made the adjustment at issue to have a better understanding of the case at stake even though Chile noted that in any case, the staff in charge of MAP does not need any approval from the personnel in charge of audits.

131. Finally, Chile reported that the resolution of MAP cases by the competent authority is not influenced by policy considerations that Chile would like to see reflected in future amendments to the respective tax treaty. In this respect, Chile clarified that the staff in charge of attribution/allocation cases is not involved any treaty negotiations. As described above, Chile further reported that although the International Taxation Department that is in charge of other MAP cases is involved in treaty negotiations, it does not make any policy decisions as the latter are made by the tax policy officials of the Ministry of Finance, not by the *Servicio de Impuestos Internos*.

Practical application

132. Peers reported no impediments in Chile to perform its MAP function in the absence of approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy.

Anticipated modifications

133. Chile indicated that it does not anticipate any modifications in relation to element C.4.

Conclusion

	Areas for improvement	Recommendations
[C.4]	-	As it has done thus far, Chile 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 any policy considerations that Chile would like to see reflected in future amendments to the treaty.

[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.

134. 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 Chile

135. Chile reported that it applies the same performance system as the one for other officers of the revenue agency (“*Servicio de Impuestos Internos*”). The evaluation system is established in the General Evaluation Regulations (Decree 1 825 of 1998) and in the Special Regulation of the *Servicio de Impuestos Internos* (Decree 964 of 2008).

136. Chile explained that the final evaluation score is given by the system that computes an overall grade, based on grades given for factors and sub-factors, combining weighted averages and arithmetic averages.

137. Chile further reported that Article 16 of the General Evaluation Regulations contains the list of evaluation factors and sub-factors, including the following:

- Efficiency: this factor measures the work executed during the period, in relation to the tasks entrusted.
 - Compliance of the work executed: it evaluates the completion of the tasks entrusted and the speed and timeliness of their execution.
 - Quality of the work executed: it evaluates the characteristics of the work executed and the absence of errors in the work and the skill in its execution.
- Personal conditions: this factor evaluates the official’s attitude in his/her relationship with others.
 - Interest in the work executed: it measures the official’s desire to improve himself/herself in the compliance of his/her obligations, to propose the execution of activities and solutions to the problems that arise and to propose new objectives or procedures for the better execution of the work assigned.
 - Ability to perform teamwork: it measures the official’s ease of integration in work teams, as well as the effective collaboration he/she provides when working with groups of people is required.
- Official behaviour: this factor evaluates the official’s behaviour in the completion of his/her obligations.
 - Norms and instructions compliance: it measures compliance with the regulations and instructions of the institution and other statutory duties.
 - Attendance and punctuality: it measures the official’s presence or absence at his/her workplace and the compliance correctness with the working hours.

138. Chile reported that when evaluating performance by officials in charge of MAP, the following items will be taken into account in evaluating the factor of “efficiency”:

- the 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)
- the 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 outside of the control of the competent authority may have a significant impact on the time needed to resolve a case)

139. Chile added that performance targets can be also agreed on in relation to a specific project (e.g. prepare MAP guidelines), which will be evaluated in accordance with the above factors.

140. The Action 14 Final Report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These indicators are shown below and presented in the form of a checklist:

- 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).

141. Further to the above, Chile also reported that it does not use any performance indicators for staff in charge of MAP that are related to the outcome of MAP discussions in terms of the amount of sustained audit adjustments or maintained tax revenue. In other words, staff in charge of MAP is not evaluated on the basis of the material outcome of MAP discussions.

Practical application

142. Peers that provided input did not report being aware of the use of performance indicators by Chile that are based on the amount of sustained audit adjustments or maintaining a certain amount of tax revenue.

Anticipated modifications

143. Chile indicated that it does not anticipate any modifications in relation to element C.5.

Conclusion

	Areas for improvement	Recommendations
[C.5]	-	As it has done thus far, Chile 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.

144. 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

145. Chile reported that its tax treaty policy is not to include a mandatory and binding arbitration provision in its bilateral tax treaties. In this regard, Chile reserved its right not to include Article 25(5) of the OECD Model Tax Convention in its tax treaties.

Practical application

146. Chile has incorporated an arbitration clause in several treaties as a final stage to the MAP, which is also mentioned in its MAP profile. Ten of its 34 treaties contain an arbitration provision, all of them being of a voluntary nature.

Anticipated modifications

147. Chile reported that it has included in several tax treaties an arbitration provision that is subject to the condition that both competent authorities accept such a procedure. Chile anticipates that at a point in the future, it will be able to undertake arbitration under those treaties once such a procedure is introduced in domestic laws.

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

Notes

1. Available at: www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm. These statistics are up to and include fiscal year 2017.
2. For post-2015 cases, if the number of MAP cases in Chile’s inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five, Chile reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
3. For pre-2016 and post-2015 cases, Chile 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); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention), which is also known as a transfer pricing MAP case”.

References

- OECD (2015), *Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report*. In *OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241633-en>.
- OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

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.

148. 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

149. Chile reported that when the relevant tax treaty contains the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017a), Chile will implement all MAP agreements reached notwithstanding any time limits in its domestic law. In the absence of such an equivalent, the implementation of MAP agreements in Chile will be subject to its domestic statute of limitation.

Statute of limitation applicable for upward adjustments

150. Article 200 of Chile's Tax Code No. 830 stipulates that Chile's tax administration may adjust a tax, review any deficiency on its tax adjustment and issue the tax collection note of the taxes derived thereon, within three years from the legal term in which the payment should have been made.

Statute of limitation applicable for downward adjustments

151. Specifically with respect to the implementation of MAP agreements that imply a downward adjustment in Chile, Chile reported that Article 126 of Tax Code No. 830 stipulates that refund requests must be submitted within a period of three years from the act or fact that serves as the basis for refund requests. For attribution/allocation cases initiated by other tax authorities, Chile further clarified that the tax refund request should state the scope of the request which would be the primary adjustment or the final adjustment if an objection was filed by the taxpayer in the other country.

152. The starting point of this three-year period depends on the circumstances at stake and can be summarised as follows:

- for all types of cases (attribution/allocation cases and other cases) initiated further to an adjustment made in Chile: the starting point of the three-year period for implementation is the date of the notification of the MAP agreement to the taxpayer

- for attribution/allocation cases that were initiated further to an adjustment made in the other jurisdiction: the starting point of the three-year period for implementation is either the date of the notification of the primary adjustment made in the other jurisdiction or, if an objection was filed by the taxpayer in the other jurisdiction, the date of the resolution of such procedure
- for other cases that were initiated further to an adjustment in the other jurisdiction: the starting point of the three-year period for implementation is either the date of the payment of the tax or the date of the notification of the MAP agreement. The latter would apply only in case the tax for which refund is requested was paid by the taxpayer based on an interpretation (or an adjustment) issued by Chile’s tax administration (“*Servicio de Impuestos Internos*”).

153. Specifically, it would be impossible to implement a MAP agreement under the following circumstances:

- for attribution/allocation cases that were initiated further to an adjustment made in the other jurisdiction, if the taxpayer did not make the refund request in Chile within the relevant timeline, for instance if a MAP request was only submitted in the other jurisdiction, and a MAP agreement is reached after the expiration of the relevant time period
- for other cases that were initiated further to an adjustment in the other jurisdiction, if the tax for which refund is requested was paid voluntarily by the taxpayer based on its own interpretation of the tax legislation and not based on an interpretation or adjustment made by the *Servicio de Impuestos Internos*.

154. Chile reported that the above analysis setting the starting point for the three-year period as from the notification of the MAP agreement reached is based on its interpretation of the ruling No. 2 573/2009 of the Commissioner of the *Servicio de Impuestos Internos*, which is publicly available in the administrative jurisprudence but does not specifically refer to MAP cases.

155. Chile further reported that once a MAP agreement is reached, taxpayers are not required to give their consent to have such an agreement implemented, but taxpayers have to submit the refund requests required with respect to the implementation of MAP agreements that imply a downward adjustment. Specifically with respect to attribution/allocation cases, taxpayers must submit an amended tax return as well to enable the implementation of the MAP agreement.

156. Further to the above, Chile reported that the actual implementation of MAP agreements is not performed by Chile’s competent authority but by other departments within Chile’s tax administration (“*Direcciones Regionales*” and “*Direccion de Grandes Contribuyentes*” as the case may be).

Practical application

157. Chile reported that it has not reached any MAP agreements since 1 January 2016.

158. All peers that provided input reported that they were not aware of any MAP agreement reached on or after 1 January 2016 that was not implemented by Chile.

159. One peer reported that it was informed by Chile’s competent authority that Chile’s domestic statute of limitations had already expired for the years at stake when it notified Chile of the MAP case, which caused that the implementation of MAP agreement would not have been possible and therefore the case was not discussed. This situation is further described under element B.1.

Anticipated modifications

160. Chile indicated that it intends to clarify in its MAP guidance to be published the steps and timing of the steps for the implementation of MAP agreements, which will also clarify the potential effect of domestic time limits on the implementation of MAP agreements, as summarised above.

161. In addition, to mitigate the risk that MAP agreements cannot be implemented in attribution/allocation cases that were initiated further to an adjustment made in the other jurisdiction and for which the taxpayer has submitted its MAP request in the other jurisdiction, Chile reported that its competent authority would notify the taxpayer in Chile to inform him of the case and of the relevant time limit to submit a refund request. Chile further specified that it intends to document such a procedure in its MAP guidance.

162. Chile indicated that no other actions are intended at this point.

Conclusion

	Areas for improvement	Recommendations
	As there was no MAP agreement reached during the Review Period that required implementation in Chile, it was not yet possible to assess whether Chile would have implemented all MAP agreements thus far.	
[D.1]	As will be discussed under element D.3 not all of Chile's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to the three-year time limits in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention in an assessed jurisdiction's relevant tax treaty, prevent the implementation of a MAP agreement, Chile should put appropriate procedures in place to ensure that such an agreement is implemented and follow its stated intention to inform taxpayers in order to mitigate the risk that an agreement cannot be implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Chile should for clarity and transparency purposes notify the treaty partner thereof without delay.

[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.

163. 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

164. Chile reported that there are no specific legislation and/or administration instructions in Chile that define a term within which MAP agreements must be implemented. Chile further reported that the general term established in the law for the duration of an administrative procedure would be relevant, whereby a six-month period applies from the time the necessary documentation and background for the implementation of the agreement reached have been submitted.

Practical application

165. As discussed under element D.1, Chile has not reached any MAP agreements since 1 January 2016.

166. All peers that provided input indicated not having experienced any problems with Chile regarding the implementation of MAP agreements, which can be explained by the fact mentioned in the previous paragraph.

Anticipated modifications

167. Chile indicated that it does not anticipate any modifications in relation to element D.2.

Conclusion

	Areas for improvement	Recommendations
[D.2]	As there was no MAP agreement reached during the Review Period that required implementation in Chile, it was not yet possible to assess whether Chile would have implemented all MAP agreements on a timely basis thus far.	

[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.

168. 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 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 Chile's tax treaties

169. As discussed under element D.1, Chile's domestic legislation contains a statute of limitations for implementing MAP agreements, depending on the types of cases and unless overridden by tax treaties.

170. Out of Chile's 34 tax treaties, three contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. The remaining 31 treaties can be categorised as follows:

- 27 treaties neither contain such equivalent nor any of the alternative provisions under Articles 7 or 9.
- Three treaties only contain an alternative provision setting a time limit in Article 9(1).
- One treaty stipulates that any agreement reached shall be implemented notwithstanding any time limits in domestic laws only if, in the case of Chile, a case is presented within three years from the determination of the Chilean tax liability to which the case relates.

171. Those 31 treaties are considered as not in line with the Action 14 Minimum Standard.

172. Up until the 2014 update of the OECD Model Tax Convention, Chile had reserved its position on Article 25(2), second sentence, of the OECD Model Convention. This reservation expressed that Chile considered that implementation of reliefs and refunds following a mutual agreement ought to remain linked to time limits prescribed by (its) domestic laws. Chile has withdrawn this reservation under the 2017 update of the Convention. Chile's current position is to include Article 25(2), second sentence, of the OECD Model Tax Convention or the alternatives provisions under Articles 7 or 9 in its tax treaties.

Anticipated modifications

Multilateral Instrument

173. Chile 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 – 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. 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. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both, pursuant to Article 16(6)(c)(ii), notified the depositary that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Article 16(4)(b)(ii) of the Multilateral Instrument will for a tax treaty not take effect if one or both of the treaty partners has, pursuant to Article 16(5)(c), reserved the right not to apply the second sentence of Article 16(2) of that instrument for all of its covered tax agreements under the condition 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.

174. In regard of the 31 tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or the alternative provisions for Articles 9(1) and 7(2), Chile listed all treaties as covered tax agreements under the Multilateral Instrument and for all of them it made, 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 relevant 31 treaty partners, four are not a signatory to the Multilateral Instrument and one did not list its treaty with Chile as a covered tax agreement. Of the remaining 26 treaty partners, 23 made such a notification. Therefore, at this stage, 23 of the 31 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention.

Bilateral modifications

175. Chile further reported that when tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or both alternatives provided for in Articles 9(1) and 7(2) will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element D.3. Given that the deficiencies with respect to the standard relate exclusively to

the absence of a provision equivalent to the second sentence of Article 25(2) and of the second sentence of Article 25(3) of the OECD Model Tax Convention, Chile reported that it intends to send out a letter to all the relevant treaty partners with whom a tax treaty is in force, inviting them to negotiate bilaterally to align their tax treaties with the Action 14 Minimum Standard and that among those jurisdictions that show interest to negotiate bilaterally, it will prioritise those with which cross border transactions are more significant. Chile added that it is currently negotiating a protocol with a treaty partner which is not a signatory of the Multilateral Instrument in order to amend the existing treaty to bring it in line with the Action 14 Minimum Standard.

176. In addition, Chile reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention or both alternatives in all of its future tax treaties.

Peer input

177. Among the 31 treaties identified that neither contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, nor both alternatives, five peers referred to the absence of such an equivalent. Four out of these five peers also reported that their treaty provision will be modified by the Multilateral Instrument and become in line with element D.3, which is in line with the above analysis.

Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>31 out of 34 tax treaties neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both of the alternative provisions provided for in Article 9(1) and Article 7(2). Out of these 31:</p> <ul style="list-style-type: none"> • 23 are expected to be modified by the Multilateral Instrument to include the required provision; • eight will not be modified by that instrument to include the required provision. 	<p>Chile 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 in those 23 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned.</p> <p>For the remaining eight 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, Chile 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, Chile should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.</p>

Reference

OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.

Summary

	Areas for improvement	Recommendations
Part A: Preventing disputes		
[A.1]	-	Chile should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	Roll-back of bilateral APAs is not provided for in appropriate cases.	Chile should without further delay introduce the possibility of and in practice provide for roll-back of bilateral APAs in appropriate cases.
Part B: Availability and access to MAP		
	-	Chile should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as it read prior to the adoption of the final report of Action 14 in all future tax treaties.
[B.1]	Access to MAP was denied in an eligible case under the argument that it was not timely filed, while the MAP request had been submitted within three years after the first notification of the action resulting in taxation not in accordance with the tax treaty.	Chile should ensure that taxpayers that meet the requirements of paragraph 1 of Article 25 of the OECD Model Tax Convention have access to MAP in all eligible cases, in particular when the MAP request was filed within the time period specified in the treaty and as interpreted in the Commentary to Article 25 of the OECD Model Tax Convention. In addition, for clarification purposes, Chile could consider withdrawing its first position on Article 25(1), second sentence, of the OECD Model Tax Convention.
[B.2]	All of the 34 treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Chile should without further delay document its bilateral notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Chile should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.
[B.3]	-	As Chile has thus far granted access to MAP in eligible transfer pricing cases, it should continue granting access for these cases.
[B.4]	Chile reported it will give access to MAP in 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. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Chile is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	-	-

	Areas for improvement	Recommendations
[B.6]	-	As Chile has thus far not limited access to MAP in eligible cases when taxpayers have complied with Chile's information and documentation requirements for MAP requests, it should continue this practice.
[B.7]	32 out of 34 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. Out of these 32: <ul style="list-style-type: none"> • 26 are expected to be modified by the Multilateral Instrument to include the required provision; • six will not be modified by that instrument to include the required provision. 	Chile 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 in those 26 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining six 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, Chile should request the inclusion of the required provision via bilateral negotiations in accordance with its plan.
		In addition, Chile should maintain its stated intention to include the required provision in all future tax treaties.
[B.8]	There is no published MAP guidance.	Chile should introduce and publish, without further delay, guidance on access to and use of the MAP and include the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation/information that it should include in such a request. Although not required by the Action 14 Minimum Standard, Chile could also follow its stated intention to include the items identified above as well as information on: <ul style="list-style-type: none"> • whether MAP is available in cases of (ii) multilateral disputes and (ii) bona fide foreign-initiated self-adjustments; • whether taxpayers can request for the multi-year resolution of recurring issues through MAP • the consideration of interest and penalties in the MAP.
[B.9]	The MAP guidance is not publically available.	Chile should make its MAP guidance currently in preparation publicly available and easily accessible. Its MAP profile, published on the shared public platform, should be updated if needed.
[B.10]	-	-
Part C: Resolution of MAP cases		
[C.1]	-	Chile should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	Chile submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016 and 2017. Based on the information provided by Chile's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners as reported by the latter. Chile's MAP statistics show that during the Statistics Reporting Period it closed 25% (one out of four cases) of its post-2015 cases in 6.90 months. In that regard, Chile is recommended to seek to resolve the remaining 75% of the post-2015 cases pending on 31 December 2017 (three cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.	
[C.3]	-	Chile should continue to closely monitor whether it has adequate resources in place to ensure that future MAP cases are resolved in a timely, efficient and effective manner.

	Areas for improvement	Recommendations
[C.4]	-	As it has done thus far, Chile 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 any policy considerations that Chile would like to see reflected in future amendments to the treaty.
[C.5]	-	As it has done thus far, Chile should continue to use appropriate performance indicators.
[C.6]	-	-
Part D: Implementation of MAP agreements		
	As there was no MAP agreement reached during the Review Period that required implementation in Chile, it was not yet possible to assess whether Chile would have implemented all MAP agreements thus far.	
[D.1]	As will be discussed under element D.3 not all of Chile's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to the three-year time limits in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention in an assessed jurisdiction's relevant tax treaty, prevent the implementation of a MAP agreement, Chile should put appropriate procedures in place to ensure that such an agreement is implemented and follow its stated intention to inform taxpayers in order to mitigate the risk that an agreement cannot be implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Chile should for clarity and transparency purposes notify the treaty partner thereof without delay.
[D.2]	As there was no MAP agreement reached during the Review Period that required implementation in Chile, it was not yet possible to assess whether Chile would have implemented all MAP agreements on a timely basis thus far.	
[D.3]	31 out of 34 tax treaties neither contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both of the alternative provisions provided for in Article 9(1) and Article 7(2). Out of these 31: <ul style="list-style-type: none"> • 23 are expected to be modified by the Multilateral Instrument to include the required provision; • eight will not be modified by that instrument to include the required provision. 	Chile 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 in those 23 treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining eight 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, Chile should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.
		In addition, Chile should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
			B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6										
			Article 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.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6										
China (People's Republic of)	Y	O	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Colombia	Y	O	i	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	N
Croatia	Y	O	Y	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	N
Czech Republic	Y	O	Y	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	N
Denmark	Y	O	Y	Y	Y	i	Y	N	Y	N	Y	N	N	Y	N	Y	N	N	Y	N	N
Ecuador	Y	O	i	Y	Y	i	Y	N	Y	N	Y	N	N	Y	N	Y	N	N	Y	N	Y
France	Y	O	Y	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	N
Ireland	Y	O	i	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	N
Italy	Y	O	Y	Y	i	i	Y	N	Y	N	Y	N	N	Y	N	Y	N	N	Y	N	Y
Japan	Y	O	Y	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Korea	Y	O	Y	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	N
Malaysia	Y	O	Y	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	N
Mexico	Y	O	i	Y	Y	i	Y	ii	Y	N*	Y	N*	ii	Y	N*	Y	N*	N*	Y	N*	Y
New Zealand	Y	O	Y	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	N
Norway	Y	O	i	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	N
Paraguay	Y	O	Y	Y	Y	i	Y	N	Y	N	Y	N	N	Y	N	Y	N	N	Y	N	Y
Peru	Y	O	i	Y	Y	i	Y	N*	Y	N*	Y	N*	N*	Y	N*	Y	N*	N*	Y	N*	Y

Treaty partner	Article 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.1		B.3	B.4	C.1	D.3	A.1	B.7	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11
		Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence?	Inclusion Art. 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Arbitration		
		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? if no, please state reasons	Inclusion Art. 9(2) of the OECD MTC 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? Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence? Inclusion Art. 25(3) second sentence?	Inclusion Art. 25(3) first sentence? Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?
Poland	Y	O	i	Y	i	Y	N*	Y	N*	Y
Portugal	Y	O	Y	Y	i	Y	N*	Y	N*	N
Russia	Y	O	i	Y	i	Y	N*	Y	N*	N
South Africa	Y	O	Y	Y	i	Y	N*	Y	N*	N
Spain	Y	O	Y	Y	i	Y	N*	Y	N*	N
Sweden	Y	O	i	Y	i	Y	N*	Y	N*	N
Switzerland	Y	O	Y	Y	i	Y	ii	Y	N*	N
Thailand	Y	O	Y	Y	i	Y	N	Y	N	N
United Kingdom	Y	O	i	Y	i	Y	N*	Y	N*	N
United States	N	O	Y	Y	i	Y	Y	Y	N	N
Uruguay	N	O	Y	Y	i	Y	N*	Y	N*	Y

Legend

E* The provision contained in this treaty was already in line with the requirements under this element of the Action 14 Minimum Standard, but has been modified by the Multilateral Instrument to allow the filing of a MAP request in either contracting state.

E** The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this standard.

O* The provision contained in this treaty is already in line with the requirements under this element of the Action 14 Minimum Standard, but will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then allow the filing of a MAP request in either contracting state.

Y*	The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this element of the Action 14 Minimum Standard.
Y**	The provision contained in this treaty already included an arbitration provision, which has been replaced by part VI of the Multilateral Instrument containing a mandatory and binding arbitration procedure.
Y***	The provision contained in this treaty did not include an arbitration provision, but part VI of the Multilateral Instrument applies, following which a mandatory and binding arbitration procedure is included in this treaty
i*/ii*/iv*/N*	The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then be in line with this element of the Action 14 Minimum Standard.
i**/iv**/N**	The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be superseded by the Multilateral Instrument upon entry into force for this specific treaty only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.
i***	The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.

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										No. of pre-2016 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing pre-2016 cases during the reporting period	
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12			Column 13
		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			
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A

Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2017	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing pre-2016 cases during the reporting period	
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12			Column 13
		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			
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A

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										No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing post-2015 cases during the reporting period
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13		
	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	3	N/A
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	0	3	0	0	0	0	0	0	0	0	0	0	3	N/A

Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										No. of post-2015 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2015 cases during the reporting period
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13		
	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	3	0	1	0	0	0	0	0	0	0	0	0	2	6.9
Others	0	1	0	0	0	0	0	0	0	0	0	0	1	N/A
Total	3	1	1	0	0	0	0	0	0	0	0	0	3	6.9

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
APA guidance	Circular No. 29 of 14 June 2013
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
Multilateral Instrument	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
OECD Transfer Pricing Guidelines	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
Pre-2016 cases	MAP cases in a competent authority’s inventory pending resolution on 31 December 2015
Post-2015 cases	MAP cases received by a competent authority from the taxpayer on or after 1 January 2016
Review Period	Period for the peer review process that started on 1 January 2016 and ended on 31 August 2018
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2016 and ended on 31 December 2017
Terms of Reference	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, Chile (Stage 1)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

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 Chile.

Consult this publication on line at <https://doi.org/10.1787/43add6b6-en>.

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