

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



# **Making Dispute Resolution More Effective – MAP Peer Review Report, Latvia (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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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*

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



## Executive summary

Latvia has a relatively large tax treaty network with over 60 tax treaties and has signed and ratified the EU Arbitration Convention. Latvia has limited experience with resolving MAP cases. It has a small MAP inventory, except for a set of cases submitted in 2016 where almost 200 taxpayers were involved, and four cases are pending on 31 December 2017. Of these cases, 50% concern allocation/attribution cases. Overall Latvia meets slightly more than half of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Latvia is working to address some of them.

All of Latvia's tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 through 3 of Article 25 of the *Model Tax Convention on Income and Capital 2017* (OECD, 2017) Its treaty network is largely consistent with the requirements of the Action 14 Minimum Standard, except for the fact that approximately 10% of its tax treaties do not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Latvia needs to amend and update a certain number of its tax treaties. In this respect, Latvia 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, Latvia 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, but has not yet put a plan in place in relation hereto.

Latvia in principle meets the Action 14 Minimum Standard concerning the prevention of disputes. It has in place a bilateral APA programme. This APA programme in theory enables taxpayers to request roll-back of bilateral APAs. However, no such cases were requested during the period of review.

Latvia meets some requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in transfer pricing cases, although it has since 1 January 2016 not received any MAP request concerning such cases. However, Latvia might deny access to MAP in cases where anti-abuse provisions are applied. Furthermore, Latvia does not have yet 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. Latvia has not yet introduced 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 Latvia 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	2	0	0	2	N/A
Other cases	1	200	199	2	5.60
<b>Total</b>	<b>3</b>	<b>200</b>	<b>199</b>	<b>4</b>	<b>5.60</b>

\*The average time taken for resolving MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. For computing the average time taken for resolving pre-2016 MAP cases, Latvia used as a start date five weeks from the receipt of a MAP request received from the taxpayer, and as the end date the date the taxpayer is informed of the outcome of the MAP.

These statistics were revised after Latvia reported that it omitted a set of cases concerning 197 taxpayers in its initial reporting for 2016 MAP statistics, and it did not reach out to all of its treaty partners to ensure that its statistics were matching with those reports by the latter. The number of cases Latvia closed in 2016 or 2017 is roughly the same as the number of all new cases started in those years. Its MAP inventory as per 31 December 2017 remained similar as compared to its inventory as per 1 January 2016. During these years, MAP cases were closed on average within a timeframe of 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the average time necessary was 5.60 months. This concerns the resolution of other cases, and no attribution/allocation cases were closed.

Furthermore, Latvia does not meet the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Tax administration personnel directly involved in the adjustment at issue may influence the resolution of attribution/allocation cases. Also, one of the performance indicators used for the evaluation of staff in charge of MAP might be based on the maintained amounts of tax revenues. However, no issues have surfaced during the period under review and its competent authority adopts a solution-oriented and collaborative approach to resolve MAP cases.

Lastly, Latvia meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. In addition, Latvia monitors the implementation of MAP agreements and no issues have surfaced throughout the process.

## *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>.

## *Introduction*

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

Latvia has entered into 61 tax treaties on income (and/or capital), all of which are in force.<sup>1</sup> These 61 treaties apply to 62 jurisdictions.<sup>2</sup> 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, three of the 61 treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.<sup>3</sup>

Furthermore, Latvia is a signatory to the EU Arbitration Convention, which provides for a mutual agreement procedure supplemented with an arbitration procedure for settling transfer pricing disputes and disputes on the attribution of profits to permanent establishments between EU Member States.<sup>4</sup> In addition, Latvia also adopted the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union. This directive needs to be implemented in Latvia’s domestic legislation as per 1 July 2019.<sup>5</sup>

In Latvia, the competent authority function to conduct MAP is delegated to the Minister of Finance and further to the Head of the State Revenue Department. The competent authority of Latvia currently employs approximately six employees across several divisions who also deal with other tasks in the respective divisions. Latvia has not issued any guidance on governance and administration of the mutual agreement procedure (“**MAP**”).

### **Recent developments in Latvia**

Latvia reported that it is currently conducting tax treaty negotiations with eleven jurisdictions.

Furthermore, Latvia on 7 June 2017 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. With the signing of the Multilateral Instrument, Latvia also submitted its list of notifications and reservations to that instrument.<sup>6</sup> In relation to the Action 14 Minimum Standard, Latvia reserved, pursuant to Article 16(5)(a), the right not to apply Article 16(1) of the Multilateral Instrument (concerning the mutual agreement procedure) that modifies existing treaties to allow the submission of a MAP request to the competent authorities of either contracting state.<sup>7</sup> This reservation is in line with the requirements of the Action 14 Minimum Standard.

Where treaties will not be modified by the Multilateral Instrument, Latvia reported that it strives updating them through future bilateral negotiations. In this respect, Latvia reported that it will initiate those after the entry into force of the Multilateral Instrument

for the treaties concerned, and in the meantime, it will analyse proposals from other jurisdictions. Latvia has no plan in place yet for that purpose. Latvia intends to set such a plan after this peer review.

### Basis for the peer review process

The peer review process entails an evaluation of Latvia'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 Latvia, its peers and taxpayers. The questionnaires for the peer review process were sent to Latvia and the peers on 31 August 2018.

The period for evaluating Latvia's implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 31 August 2018 ("**Review Period**"). In addition to the assessment on its compliance with the Action 14 Minimum Standard, Latvia also asked for peer input on best practices. 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 Latvia'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 Latvia 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. Furthermore, the treaty analysis also takes into account the treaty with the former Serbia and Montenegro for both Serbia and Montenegro to which this treaty is still being applied by Latvia. As it concerns the same tax treaty that is applicable to multiple jurisdictions, this treaty is only counted as one treaty for this purpose. Reference is made to Annex A for the overview of Latvia's tax treaties regarding the mutual agreement procedure.

In total nine peers provided input: Germany, Lithuania, the Netherlands, Norway, Slovenia, Sweden, Switzerland, Turkey and the United States. Out of these eight peers, three had MAP cases with Latvia that started on or after 1 January 2016, according to the MAP statistics reported by Latvia. These three peers represent 99.5% of post-2015 MAP cases in Latvia's inventory that started in 2016 or 2017. While most peers indicated their limited experiences with Latvia, some of them reported having experienced good co-operation from Latvia's competent authority.

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

- MAP profile<sup>8</sup>
- MAP statistics<sup>9</sup> (see below). Latvia provided information in the course of its peer review on a case relating to a significant number of taxpayers that caused a revision

to the 2016 MAP statistics as initially submitted and published on the OECD website. For the purpose of this report, the revised (and accurate) version of the 2016 MAP statistics is taken into account.

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

## Overview of MAP caseload in Latvia

The analysis of Latvia’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2017 (“**Statistics Reporting Period**”). According to the revised 2016 MAP statistics provided by Latvia in the course of its peer review, 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	2	0	0	2
Other cases	1	200	199	2
<b>Total</b>	3	200	199	4

## General outline of the peer review report

This report includes an evaluation of Latvia’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**”).<sup>10</sup> Apart from analysing Latvia’s legal framework and its administrative practice, the report also incorporates peer input. Furthermore, the report depicts the changes adopted and plans shared by Latvia 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 Latvia 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 Latvia has entered into are available at: [www.fm.gov.lv/en/s/taxes/conventions/](http://www.fm.gov.lv/en/s/taxes/conventions/). The newly signed protocol (2016) with Switzerland will amend the existing treaty (2002) with Switzerland, once entered into force. Those treaties are taken into account in the treaty analysis. Reference is made to Annex A for the overview of Latvia's tax treaties.
2. Latvia continues to apply the treaty with former Serbia and Montenegro to both Serbia and Montenegro.
3. It concerns the treaties with Japan, Netherlands and Switzerland. In case of Switzerland, an arbitration provision will be added by the newly signed protocol referred to in the above note. Reference is made to Annex A for the overview of Latvia's tax treaties.
4. Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (90/436/EEC) of July 23, 1990.
5. Available at: <https://eur-lex.europa.eu/eli/dir/2017/1852/oj>.
6. Available at: [www.oecd.org/tax/treaties/beps-mli-position-latvia.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-latvia.pdf).
7. *Ibid.* This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, LATVIA 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”.
8. Available at [www.oecd.org/tax/dispute/Latvia-Dispute-Resolution-Profile.pdf](http://www.oecd.org/tax/dispute/Latvia-Dispute-Resolution-Profile.pdf).
9. The MAP statistics of Latvia are included in Annex B and C of this report.
10. 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](http://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 Latvia's tax treaties*

2. All of Latvia's 61 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.<sup>1</sup>

3. Eight peers indicated that their treaty with Latvia meet the requirement under element A.1, which is in line with the above analysis.

#### *Anticipated modifications*

4. Latvia reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention in all of its future tax treaties.

#### *Conclusion*

	Areas for improvement	Recommendations
[A.1]	-	Latvia 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.<sup>2</sup> The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The “roll-back” of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

***Latvia’s APA programme***

6. Latvia reported that it has a unilateral APA programme since 2013, but it has not introduced a bilateral or multilateral APA programme. Latvia reported that its competent authority would however be open to discuss a bilateral APA request that would have been received by its treaty partner, provided that the relevant treaty would contain a provision that would be equivalent to Article 25(3).

7. Latvia further reported two routes are available to Latvian taxpayers to request for bilateral APAs even though such a programme does not exist in Latvia’s legal framework. The first one is the use of a collaborative compliance project in Latvia, whereby Latvian multinational enterprises can ask their foreign affiliates located in other jurisdictions to submit a bilateral APA request in their jurisdictions. The other one would result from a consultation between Latvia’s tax administration and a Latvian taxpayer who submitted a unilateral APA request, whereby Latvia would invite the taxpayer to submit a bilateral request via its affiliates in other jurisdictions.

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

8. Latvia reported that it is open to provide roll-back of bilateral APAs, subject to the limitations described in the previous paragraphs.

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

9. Latvia publishes statistics on APAs on the website of the EU JTPF.<sup>3</sup>

10. Latvia reported it has never received requests for bilateral APAs during the Review Period. Latvia specified that it has one pilot project with one jurisdiction.

11. All peers that provided input reported that they have not received any bilateral APA requests with Latvia.

### *Anticipated modifications*

12. Latvia reported that by 1 December 2018, it plans to adopt rules on roll-back of bilateral APAs, provided that an APA request meets the five-year statute of limitation. The law to delegate legislative power is being processed in the Parliament of Latvia.

### *Conclusion*

	Areas for improvement	Recommendations
[A.2]	Latvia is in theory able to provide roll-back of bilateral APAs. However, it was not possible at this stage to evaluate the effective implementation of this element in practice since Latvia did not receive any request for roll-back of bilateral APAs during the Review Period.	

## Notes

1. These 61 treaties include the treaty with former Serbia and Montenegro that Latvia continues to apply to both Serbia and Montenegro.
2. 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.
3. Available at: [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2016\\_jptf\\_apa\\_statistics\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2016_jptf_apa_statistics_en.pdf). The most recent statistics published are up to 2016.

## 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.

13. 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 Latvia's tax treaties***

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

14. Out of Latvia's 61 tax treaties, 56 contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) 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.<sup>1</sup> In addition, two of Latvia's tax treaties contain 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.

15. The remaining three treaties can be categorised as follows:

Provision	Number of tax treaties
A variation 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, whereby the taxpayer can submit a MAP request irrespective of domestic available remedies, but whereby pursuant to a protocol provision the taxpayer is also required to initiate these remedies when submitting a MAP request.	1
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 Final Report, whereby taxpayers can only submit a MAP request to the competent authority of the contracting state of which they are resident.	2

16. The treaty mentioned in the first row of the table above allows taxpayers to submit a MAP request irrespective of domestic available remedies. However, the protocol to this treaty limits such submission, as it requires that a domestic remedy should first be initiated before a case can be dealt with in MAP. The protocol prescribes that:

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

17. As pursuant to this provision a domestic procedure has to be initiated concomitantly to the initiation of the mutual agreement procedure, a MAP request can in practice thus not be submitted irrespective of the remedies provided by the domestic law. This tax treaty is therefore also considered not to be in line with this part of element B.1.

18. The two treaties mentioned in the second row above are 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, the non-discrimination provision of these two treaties only covers nationals that are resident of one of the contracting states. Therefore, it is logical to only allow for the submission of MAP requests to the state of which the taxpayer is a resident, and these treaties are therefore in line with the Action 14 Minimum Standard.

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

19. Out of Latvia’s 61 tax treaties, 59 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.

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

Provision	Number of tax treaties
No filing period for a MAP request	1
Filing period less than 3 years for a MAP request (2 years)	1

### ***Practical application***

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

21. As noted in paragraphs 16 and 17 above, in all but one of Latvia's tax treaties taxpayers can file a MAP request irrespective of domestic remedies. In this respect, Latvia reported that if a taxpayer submits a MAP request and simultaneously initiates domestic available remedies, access to MAP would be granted. However, Latvia reported that access to MAP would not be granted if these domestic remedies have been finalised.

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

22. Latvia reported that in the absence of a provision setting a filing period for MAP requests, its competent authority would in practice apply the three-year period for the date of the first notification of the action resulting in taxation not in accordance with the treaty as prescribed in Article 25(1), second sentence, of the OECD Model Tax Convention.

### ***Anticipated modifications***

#### *Multilateral Instrument*

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

23. Latvia 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 final report on Action 14 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 final report on Action 14. 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 final report on Action 14. 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.

24. Latvia 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.<sup>2</sup> In this reservation, Latvia 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 final report on Action 14. It subsequently declared to implement a bilateral notification or consultation process for those cases in which its competent authority considers the objection raised by a taxpayer in its MAP request as not being justified. The introduction and application of such process will be further discussed under element B.2.

25. In view of the above, following the reservation made by Latvia, the treaty identified in paragraphs 16 and 17 above that is considered not including the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the final

report on Action 14, 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.

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

26. 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.

27. In regard of the treaty identified in paragraph 20 above that contains a filing period for MAP requests of less than three years, Latvia listed this treaty as a covered tax agreement under the Multilateral Instrument and, pursuant to Article 16(6)(b)(i), made a notification that it does not contain a provision described in Article 16(4)(a)(ii). The relevant treaty partner, being a signatory to the Multilateral Instrument, listed this treaty as a covered tax agreement under that instrument, and also made such notification.

28. Therefore, at this stage, this treaty will be modified by the Multilateral Instrument upon its entry into force for the treaty to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention.

#### *Bilateral modifications*

29. Latvia 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*

30. Eight peers indicated that their treaty with Latvia meets the requirement under element B.1, which is in line with the above analysis.

31. For the two treaties identified that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention, the relevant peers did not provide input.

#### **Conclusion**

	Areas for improvement	Recommendations
[B.1]	One out of 61 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention. This treaty is expected not to be modified by the Multilateral Instrument.	As the treaty that does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention will not be modified by the Multilateral Instrument to include such equivalent upon its entry into force for the treaty concerned, Latvia should request the inclusion of the required provision via bilateral negotiations. This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either <ul style="list-style-type: none"> <li>a. as amended in the final report of Action 14; or</li> <li>b. as it read prior to the adoption of final report on Action 14, thereby including the full sentence of such provision.</li> </ul> To this end, Latvia should put a plan in place on how it envisages updating one treaty to include the required provision.



	Areas for improvement	Recommendations
	One out of 61 tax treaties does not contain a provision that is equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention. This is expected to be modified by the Multilateral Instrument to include the required provision upon its entry into force for the treaty concerned.	Latvia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence of the OECD Model Tax Convention in the treaty that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.
[B.1]	Access to MAP will be denied in eligible cases where the issue under dispute has already been decided via the judicial remedies provided by domestic law.	Latvia should ensure that taxpayers that meet the requirements of Article 25(1) of the OECD Model Tax Convention can access the MAP.
		In addition, Latvia 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 on Action 14 in all future tax treaties.

## [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).

32. 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*

33. As discussed under element B.1, out of Latvia's 61 treaties, two 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. However, as was also discussed under element B.1, Latvia reserved the right, as is allowed pursuant to Article 16(5)(a) of the Multilateral Instrument, not to apply the first sentence of Article 16(1) of that instrument to existing treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state.<sup>3</sup> Therefore, none of the remaining 59 treaties will

be modified by the Multilateral Instrument, upon its entry into force for these treaties concerned, to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

34. Latvia reported that it has not introduced a documented bilateral consultation or notification process which allows the other competent authority concerned to provide its views on the case when Latvia's competent authority considers the objection raised in the MAP request not to be justified. Latvia explained that it follows this process in practice for transfer pricing cases to which the EU Arbitration Convention applies.

### *Practical application*

35. Latvia 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 Latvia also show that none of its MAP cases was closed with the outcome "objection not justified".

36. Five peers indicated not being aware of any cases for which Latvia's competent authority denied access to MAP since 1 January 2016.

### *Anticipated modifications*

37. Latvia reported that it intends to document a bilateral consultation/notification process to formalise the procedures in line with the Action 14 Minimum Standard. The documentation is expected to provide detailed internal guidance on such process, based on Article 6 of the EU Arbitration Convention or MAP articles of bilateral tax treaties. Particularly the guidance would include:

- the duty of informing the relevant competent authority on the preliminary assessment made by the competent authority that the taxpayer's objection is not justified
- how the consultation process would be depending on the types of the response by the other competent authority.

### *Conclusion*

	Areas for improvement	Recommendations
[B.2]	59 of the 61 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.	Latvia 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, Latvia 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.

38. 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*

39. Out of Latvia's 61 tax treaties, 52 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner. Furthermore, three do not contain Article 9(2) of the OECD Model Tax Convention. The remaining six treaties do contain a provision that is based on Article 9(2) of the OECD Model Tax Convention, but deviate from this provision for the following reasons:

- In three treaties, the term “may” is used instead of “shall” when it concerns the granting of a corresponding adjustment.<sup>4</sup>
- In two treaties, its provision only indicates that the competent authorities may consult together for granting a corresponding adjustment.
- In one treaty, it requires the agreement by the competent authority of the other state to grant a corresponding adjustment.

40. Latvia is a signatory to the EU Arbitration Convention, which provides for a mutual agreement procedure supplemented with an arbitration procedure for settling transfer pricing disputes and disputes on the attribution of profits to permanent establishments between EU Member States.

41. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Latvia'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, Latvia indicated that it will provide appropriate adjustments or will endeavour to resolve issues with other competent authorities in accordance with the MAP article in the respective tax treaty. It also indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments, such regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention is contained in its tax treaties. Since Latvia has not published its MAP guidance, there is no publicly available information in Latvia on this subject.

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

42. Latvia reported that since 1 January 2016, it has not denied access to MAP on the basis that the case concerned a transfer pricing case. However, since that date no requests in relation hereto were received from a taxpayer by its competent authority.

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

### *Anticipated modifications*

44. Latvia 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, Latvia 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).

45. Latvia 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. Furthermore, Latvia reserved its right not to apply the provision on the basis that in the absence of a provision referred to in Article 17(2) in its Covered Tax Agreement:

- i. it shall make the appropriate adjustment referred to in Article 17(1); or
- ii. its competent authority shall endeavour to resolve the case under the provisions of a Covered Tax Agreement relating to the mutual agreement procedure

46. Therefore, at this stage, none of the nine 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.

47. Latvia reported that a draft protocol amending the tax treaty between Latvia and one jurisdiction has been agreed in order to ensure the implementation of the minimum standards of BEPS, and that this tax treaty will also be amended to include the equivalent of Article 9(2) of the OECD Model Tax Convention. This protocol is expected to be signed and to come into force in 2019, and its application could be started on January 1, 2020.

### *Conclusion*

	Areas for improvement	Recommendations
[B.3]	Although Latvia reported that it will provide access to MAP in transfer pricing cases, it did not receive any MAP request for such cases during the Review Period. It was therefore not possible at this stage to evaluate the effective implementation of this element in practice.	

## [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.

48. 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*

49. None of Latvia's 61 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 Latvia 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.

50. Latvia reported that after receiving MAP requests for such cases, its competent authority would consult the other competent authority and clarify the relevant facts relating to the taxpayers' actions, the actions taken by the competent authorities as well as the information provided in both countries on transactions performed with a view detect to more accurately abuses of treaty or domestic provisions. Latvia further reported that its competent authority would decide on giving or denying access to MAP after analysing such information. As Latvia has not published its MAP guidance, there is no publically available information in Latvia on this subject.

### *Practical application*

51. Latvia reported that since 1 January 2016 it did not deny access to MAP in cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the 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 tax treaty. However, since that date no requests in relation hereto were received by its competent authority.

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

### *Anticipated modifications*

53. Latvia indicated that it does not anticipate any modifications in relation to element B.4.

### *Conclusion*

	Areas for improvement	Recommendations
[B.4]	Access to MAP may be restricted in cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met and/or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty.	Latvia should ensure that access to MAP is granted for eligible cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty.

### **[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.

54. 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*

55. Under Latvia's domestic law it is not possible that taxpayers and the tax administration enter into an audit settlement.

##### *Administrative or statutory dispute settlement/resolution process*

56. Latvia 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 assessed through a request by the taxpayer, which may limit access to MAP.

##### *Practical application*

57. Latvia reported that since 1 January 2016 it has not received or 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, which can be explained by the fact that audit settlements are not available in Latvia.

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

##### *Anticipated modifications*

59. Latvia indicated that it may allow audit settlements in the future.

### *Conclusion*

	Areas for improvement	Recommendations
[B.5]	While audit settlements are not yet available in Latvia, Latvia should ensure that taxpayers have access to MAP in cases of audit settlements, if such settlements become available in the future.	

### **[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.

60. 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*

61. As discussed in element B.8, Latvia reported that with respect to information and documentation to be included in a MAP request, it refers to the principles contained in 2009/C 322/01 “Revised Code of Conduct for the effective implementation of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises”. In addition, since Latvia has not issued its MAP guidance, it reported that its competent authority notifies the taxpayer individually of the information necessary by regular post or electronically via email.

62. Latvia reported that the timeframe given to the taxpayer to provide the requested information or documentation is one month, and such timeframe can be extended for valid reasons.

#### *Practical application*

63. Latvia reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements. It further 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.

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

#### *Anticipated modifications*

65. Latvia indicated that it does not anticipate any modifications in relation to element B.6, apart from publishing its MAP guidance, which will also address the information and documentation required to be submitted along with a MAP request.

### *Conclusion*

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

66. 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 Latvia's tax treaties*

67. Out of Latvia's 61 tax treaties, 56 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.<sup>5</sup> The remaining five treaties do not contain such a provision at all.

#### *Anticipated modifications*

##### *Multilateral Instrument*

68. Latvia 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.

69. In regard of the five tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Latvia 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). The relevant five treaty partners, being a signatory to the Multilateral Instrument, listed their treaty with Latvia as a covered tax agreement and made such notification.



70. Therefore, at this stage, these five 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*

71. Latvia 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*

72. Eight peers indicated that their treaty with Latvia meets the requirement under element B.7, which is in line with the above statement.

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

### **Conclusion**

	Areas for improvement	Recommendations
[B.7]	Five out of 61 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. All of these five treaties are expected to be modified by the Multilateral Instrument to include the required provision upon its entry into force for the treaties concerned.	Latvia 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 five 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.  In addition, Latvia 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.

74. 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.

### ***Latvia's MAP guidance***

75. Latvia reported that since it does not have its published or internal MAP guidance, its staff in charge of MAP refers to best practices included in the OECD Manual on Effective Mutual Agreement Procedures, the commentary of Article 25 of the OECD Model Tax Convention (if necessary), and the Code of Conduct of the Arbitration Convention.

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

76. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in request for MAP assistance.<sup>6</sup> Latvia reported that with respect to information and documentation to be included in a MAP request, it refers to the list mentioned in paragraph 5.(a) 2009/C 322/01 “Revised Code of Conduct for the effective implementation of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises”. This list provides the information and documentation necessary for a request submitted under the EU Arbitration Convention in order to initiate the two-year period within which a MAP agreement should be reached. On this basis, the items to be included in a request for MAP assistance in Latvia 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.

77. In addition to the above, the list of required information contains (i) the copies of the tax assessment notices, tax audit report or equivalent leading to the alleged double taxation and (ii) details of any appeals and litigation procedures initiated by the enterprise or the other parties to the relevant transactions and any court decisions concerning the case.

78. Since Latvia has not issued its MAP guidance, it reported that its competent authority notifies the taxpayer individually of the information necessary by regular post or electronically via email.

### ***Anticipated modifications***

79. Latvia reported that it plans to publish by the middle of 2019 its MAP guidance when it transposes the Council Directive on Tax Dispute Resolution Mechanisms in the European Union and respective provisions related to disputes with non-EU members.

80. Latvia reported that its MAP guidance is expected to 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 (which would include all information contained in the list described above as indicative guidance of the FTA MAP Forum)
- how the MAP functions in terms of timing and the role of the competent authorities
- information on availability of arbitration (including the EU Arbitration Convention)
- relationship with domestic available remedies
- access to MAP in transfer pricing cases, for multilateral disputes, bona fide foreign-initiated self-adjustments and for multi-year resolution of cases
- implementation of MAP agreements
- rights and role of taxpayers in the process
- suspension of tax collection.

### **Conclusion**

	<b>Areas for improvement</b>	<b>Recommendations</b>
[B.8]	There is no published MAP guidance.	<p>Latvia should, without further delay, introduce guidance 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 and publish such guidance.</p> <p>Additionally, although not required by the Action 14 Minimum Standard, Latvia could follow its stated intention to include the items identified above and could consider including information on:</p> <ul style="list-style-type: none"> <li>• whether MAP is available in cases of : the application of anti-abuse provisions;</li> <li>• the possibility of suspension of tax collection during the course of a MAP</li> <li>• the consideration of interest and penalties in the MAP.</li> </ul>

### **[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.<sup>7</sup>

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

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

**MAP profile**

83. The MAP profile of Latvia is published on the website of the OECD. This MAP profile is complete, but often without further explanation or detailed guidance. Apart from the link to the tax treaties, this profile contains only one external link referring to European Union law general webpage.

**Anticipated modifications**

84. Latvia reported that it plans to publish by the middle of 2019 its MAP guidance, when it transposes the Council Directive on Tax Dispute Resolution Mechanisms in the European Union.

**Conclusion**

	Areas for improvement	Recommendations
[B.9]	There is no MAP guidance publicly available.	Latvia should follow its stated intention to make MAP guidance publicly available and easily accessible once it is being introduced.
	The published MAP profile is complete but contains limited information.	In order to provide more detailed information on its MAP programme, Latvia should update its MAP profile once it has issued its MAP guidance.

**[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 Latvia's domestic law it is not possible that taxpayers and the tax administration enter into audit settlements. In that regard, there is no need for Latvia to address in its MAP guidance it plans to publish whether taxpayers have access to MAP in such situations.

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, Latvia has no 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. In this regard, there is no need for Latvia 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 the Latvia, which can be clarified by the fact that such process is not in place in Latvia.

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

90. Since the administrative or statutory dispute settlement/resolution process in Latvia does not preclude access to MAP, there is no need for Latvia to notify its treaty partners of this process. Peers also reported not informed of the existence of this process and its effect on MAP.

***Anticipated modifications***

91. Latvia indicated that it may allow audit settlements in the future.

***Conclusion***

	Areas for improvement	Recommendations
[B.10]	While audit settlements are not yet available in Latvia, Latvia should ensure that the relationship between access to MAP and audit settlements is addressed in its guidance to be published, if such settlements become available in the future.	

**Notes**

1. These 58 treaties include the treaty with former Serbia and Montenegro that Latvia continues to apply to both Serbia and Montenegro.
2. This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, LATVIA 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 Latvia’s positions on the Multilateral Instrument is available at: [www.oecd.org/tax/treaties/beps-mli-position-latvia.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-latvia.pdf).
3. This reservation on Article 16 – Mutual Agreement Procedure reads: “Pursuant to Article 16(5)(a) of the Convention, LATVIA 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 Latvia’s positions on the Multilateral Instrument is available at: [www.oecd.org/tax/treaties/beps-mli-position-latvia.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-latvia.pdf).
  4. These two treaties contain the treaty with former Serbia and Montenegro that Latvia continues to apply to both Serbia and Montenegro.
  5. These 56 treaties include the treaty with former Serbia and Montenegro that Latvia continues to apply to both Serbia and Montenegro.
  6. Available at: [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).
  7. The shared public platform can be found at: [www.oecd.org/ctp/dispute/country-map-profiles.htm](http://www.oecd.org/ctp/dispute/country-map-profiles.htm).

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- 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>.
- OECD (2015b), *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>.

## *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, 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 Latvia's tax treaties***

93. All but one of Latvia's 61 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), 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.<sup>1</sup> The remaining one treaty contains an additional condition stipulating that the competent authority of the other Contracting State is notified of the case within four and a half years from the due date or date of filing of the return in that other State, whichever is later. This provision is therefore considered not being the equivalent of Article 25(2), first sentence.

#### ***Anticipated modifications***

##### *Multilateral Instrument*

94. Latvia signed the Multilateral Instrument. Article 16(4)(b)(i) of that instrument stipulates that Article 16(2), first sentence – containing the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention. In other words, in the absence of this equivalent, Article 16(4)(b)(i) 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)(c)(i), the depositary that this treaty does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention.

95. In regard of the tax treaty identified above that is considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention, Latvia listed this treaty as a covered tax agreement under the Multilateral Instrument and it made, pursuant to Article 16(6)(c)(i), a notification that it does not contain a provision described in Article 16(4)(b)(i). The relevant treaty partner, which is a signatory to the Multilateral Instrument, listed the treaty with Latvia as a covered tax agreement and made such a notification.

96. Therefore, at this stage, the treaty identified above will be modified by the Multilateral Instrument upon its entry into force for this treaty to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention.

#### *Bilateral modifications*

97. Latvia 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*

98. Eight peers indicated that their treaty with Latvia meets the requirement under element C.1, which is in line with the above statement.

99. For the treaty identified that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention, the relevant peer did not provide input.

#### *Conclusion*

	Areas for improvement	Recommendations
[C.1]	One out of 61 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention. This treaty is expected to be modified by the Multilateral Instrument to include the required provision upon its entry into force for the treaty concerned. Latvia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.	In addition, Latvia 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).

100. 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***

101. Statistics regarding all tax treaty related disputes concerning Latvia are published on the website of the OECD as of 2013.<sup>2</sup> Latvia publishes MAP statistics regarding transfer pricing disputes with EU Member States also on the website of the EU Joint Transfer Pricing Forum.<sup>3</sup>

102. 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. Latvia provided its MAP statistics for 2016 and 2017 within the given deadline, but a significant number of post-2015 cases was not included in its 2016 MAP statistics as initially reported and published on the OECD website. Those cases involved 197 taxpayers who were Latvian residents having earned employment income in another jurisdiction and were unilaterally granted relief in Latvia. The statistics discussed below include all of both pre-2016 and post-2015 cases and the full statistics are attached to this report as Annex B and C respectively<sup>4</sup> and should be considered jointly for an understanding of the MAP caseload of Latvia. Because Latvia omitted the cases mentioned above in its initial reporting, Annex C provides information that is significantly different from the published version of Latvia’s MAP statistics for 2016. With respect to post-2015 cases, Latvia reported having reached out to all of its MAP partners with a view to have their MAP statistics matching. However, Latvia also did not reach out to the treaty partner with the significant number of cases omitted in its reporting.

### ***Monitoring of MAP statistics***

103. Latvia reported that it does not have a system in place with its treaty partners that communicates, monitors and manages with its treaty partners the MAP caseload. However, Latvia reported that it aims at resolving MAP cases within the pursued average time of 24 months in practice and that it refers to the OECD Manual on Effective Mutual Agreement Procedures for that purpose.

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

#### *Global overview*

104. Figure C.1 shows the evolution of Latvia’s MAP caseload over the Statistics Reporting Period.

105. At the beginning of the Statistics Reporting Period Latvia had three pending MAP cases, two of which were attribution/allocation cases and one other MAP case.<sup>5</sup> At the end of the Statistics Reporting Period, Latvia had four MAP cases in its inventory, of which two are attribution/allocation cases and two are other MAP cases. Latvia’s MAP caseload has increased by 33% during the Statistics Reporting Period.

106. The breakdown of the end inventory can be shown as in Figure C.2

#### *Pre-2016 cases*

107. Figure C.3 shows the evolution of Latvia’s pre-2016 MAP cases over the Statistics Reporting Period.

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

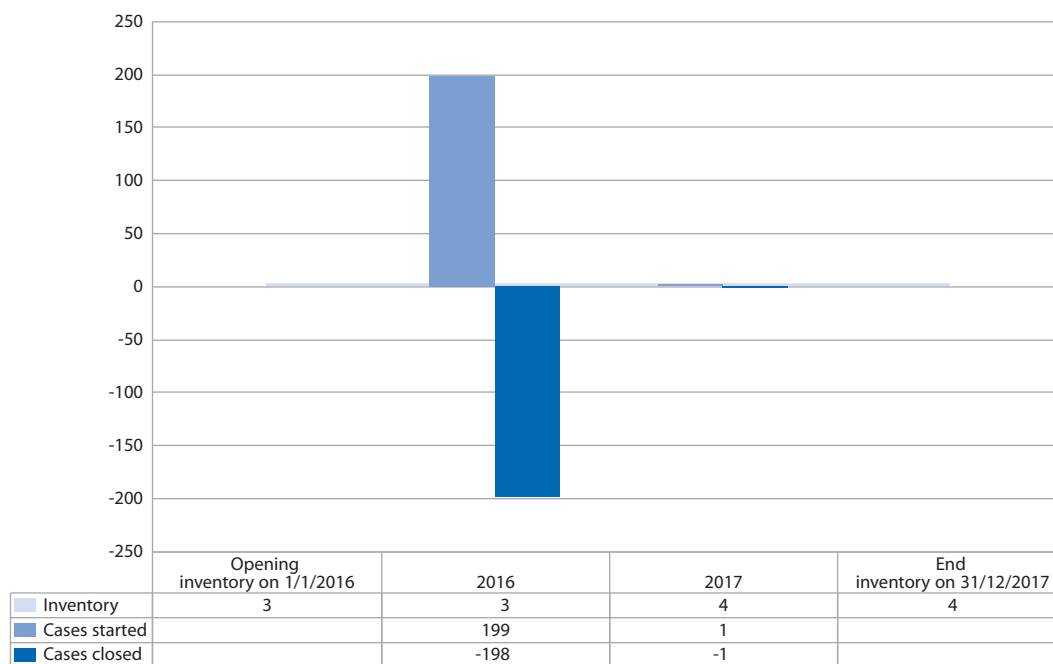


Figure C.2. End inventory on 31 December 2017 (four cases)

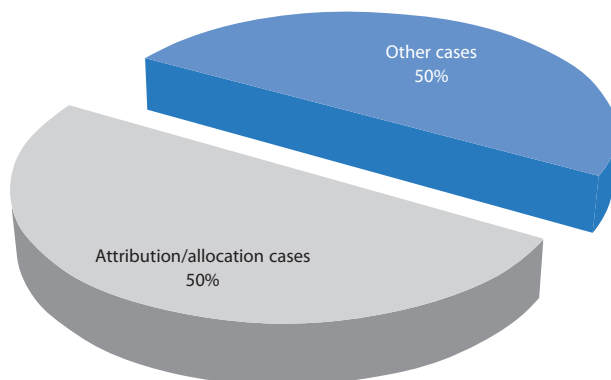
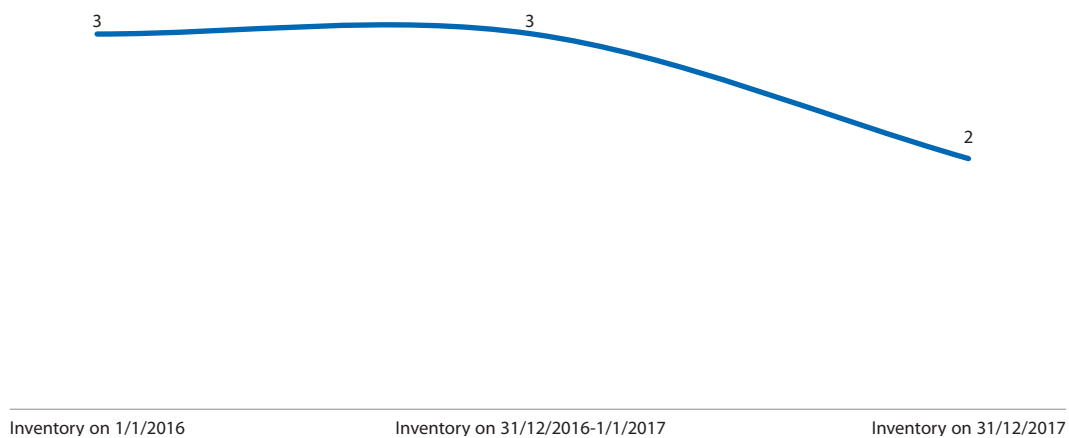


Figure C.3. Evolution of Latvia's MAP inventory Pre-2016 cases



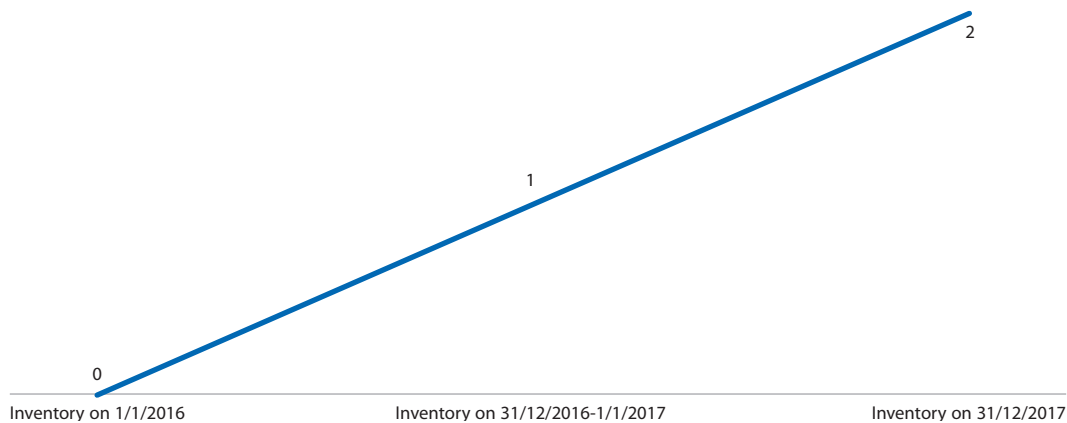
108. At the beginning of the Statistics Reporting Period, Latvia's MAP inventory of pre-2016 MAP cases consisted of three cases, including two attribution/allocation cases and one other case. At the end of the Statistics Reporting Period the total inventory of pre-2016 cases had decreased to two cases, both of which are attribution/allocation cases. The decrease in the number of pre-2016 MAP cases is shown in the table below.

Pre-2016 cases only	Evolution of total MAP caseload in 2016	Evolution of total MAP caseload in 2017	Cumulative evolution of total MAP caseload over the two years (2016 + 2017)
Attribution/allocation cases	(no case closed)	(no case closed)	(no case closed)
Other cases	(no case closed)	-100%	-100%

### Post-2015 cases

109. The following graph shows the evolution of Latvia's post-2015 MAP cases over the Statistics Reporting Period.

Figure C.4. Evolution of Latvia's MAP inventory Post-2015 cases



110. In total, 200 MAP cases started during the Statistics Reporting Period, all of which concerned other cases. At the end of this period the total number of post-2015 cases in the inventory was two cases that were other cases. Conclusively, Latvia closed one post-2015 other cases during the Statistics Reporting Period. The total number of closed cases represents 99% of the total number of post-2015 cases that started during the Statistics Reporting Period.

111. 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.

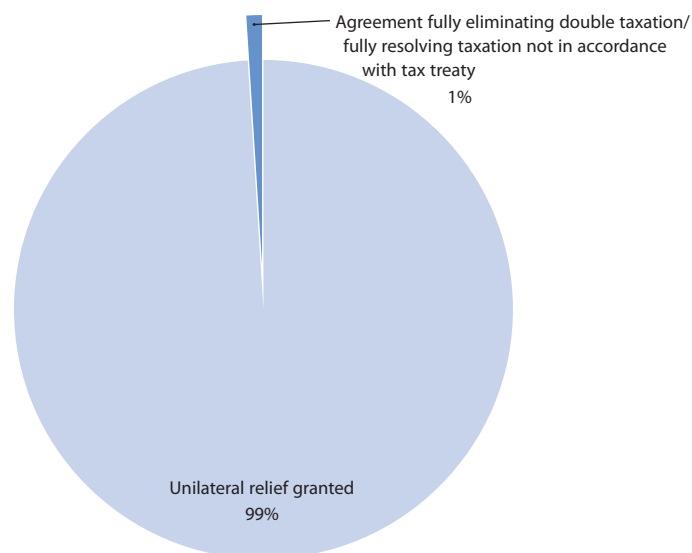
Post-2015 cases only	% of cases closed in 2016 compared to cases started in 2016	% of cases closed in 2017 compared to cases started in 2017	Cumulative % of cases closed compared to cases started over the two years (2016 + 2017)
Attribution/allocation cases	(no case started)	(no case started)	(no case started)
Other cases	99%	0%	99%

## Overview of cases closed during the Statistics Reporting Period

### Reported outcomes

112. During the Statistics Reporting Period Latvia in total closed 199 MAP cases.

Figure C.5. Cases closed during the Statistics reporting period (199 cases)



### Reported outcomes for attribution/allocation cases

113. No attribution/allocation cases were closed during the Statistics Reporting Period.

### Reported outcomes for other cases

114. In total, 199 other cases were closed during the Statistics Reporting Period. The reported outcomes for 197 of them are “unilateral relief granted” and for the other two “agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty” as shown in the above chart.

### Average timeframe needed to resolve MAP cases

#### All cases closed during the Statistics Reporting Period

115. The average time needed to close MAP cases during the Statistics Reporting Period was 5.60 months. This average time related to other cases.

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	0	N/A
Other cases	199	5.60
All cases	199	5.60

*Pre-2016 cases*

116. For pre-2016 cases Latvia reported that it needed 29 months to close one other case. For the purpose of computing the average time needed to resolve pre-2016 cases, Latvia reported that it uses the following dates:

- *Start date*: the date after five weeks from the receipt of the MAP request from the taxpayer
- *End date*: the date when the taxpayer is informed of the outcome of the MAP.

*Post-2015 cases*

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

118. For post-2015 cases Latvia reported that it needed 5.48 months to close 198 other cases.

*Peer input*

119. All the peers that provided input indicated that there were no impediments which led to unnecessary delays in finding the resolution of MAP cases with Latvia.

120. One peer that reported having been involved in four MAP cases with Latvia since 2014 reported that all MAP cases were resolved within the 24-month timeframe.

*Anticipated modifications*

121. Latvia indicated that it does not anticipate any modifications in relation to element C.2.

*Conclusion*

	Areas for improvement	Recommendations
[C.2]	Although 2016 and 2017 MAP statistics were submitted in time, 197 post-2015 cases were omitted from the 2016 MAP statistics. In addition, matching of MAP statistics was not sought with all of the treaty partners.	Latvia should report its MAP statistics in accordance with the MAP Statistics Reporting Framework. In addition, Latvia should endeavour matching its MAP statistics with all of its treaty partners.
	Latvia's MAP statistics show that during the Statistics Reporting Period it closed % (198 out of 200 cases) of its post-2015 cases in 5.48 months on average. In that regard, Latvia is recommended to seek to resolve the remaining 1% of its post-2015 cases pending on 31 December 2017 (two cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.	

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

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

122. 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 Latvia's competent authority***

123. Latvia reported that under its tax treaties, the competent authority function is assigned to the Minister of Finance and its authorised representatives, and it is delegated to the head of Latvia's tax administration. In practice, the function is performed by the following bodies within Latvia's tax administration:

- for attribution/allocation cases: the Transfer Pricing Unit within the International Transactions' Control, Analysis and Methodology Division of the Tax Control Department, the head of the Transfer Pricing Unit being the one competent to participate in face-to-face meetings
- for other cases: within the National Tax Board, the Natural Persons' Tax Division handles MAP cases involving natural persons and the Tax and Fee Accounting Methodology Division handles other MAP cases involving legal persons.

124. In terms of the number of staff in charge of MAP, there are six staff in total, four handling attribution/allocation cases and two handling other cases. All of these staff are also involved in other tasks in the respective bodies.

125. The Tax Control Department is primarily responsible for risk analysis and audits or other control measures, and the Transfer Pricing Unit is in charge of providing consultation on mechanisms on avoidance of double taxation to taxpayers as well as providing support to administration personnel in charge of audit. Support to administration personnel in charge of audit also covers consultation to avoid double taxation not in accordance with treaties. The National Tax Board is in general in charge of compliance and consultations.

126. The staff in charge of MAP have experiences in MAP from three to ten years. Trainings are given to the staff by way of educational courses jointly provided by the IOTA and the OECD, and Latvia is currently providing training for two additional persons.

### ***Monitoring mechanism***

127. Latvia reported that it does not monitor whether resources for MAP are adequate or not, since its caseload is very small and the MAP function is an additional duty besides other main responsibilities within the bodies. Latvia further explained that in general, human resources in Latvia's tax administration may be planned on an overall basis, as well as on an interim basis, further to a specific request for more resources.

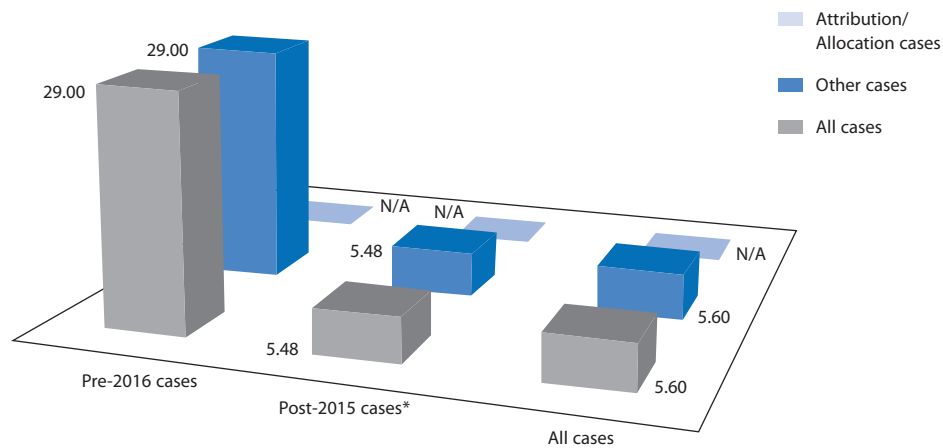
### ***Practical application***

#### ***MAP statistics***

128. As discussed under element C.2, Latvia closed its MAP cases during the Statistics Reporting Period within the pursued 24-month average. This can be illustrated by Figure C.6.

129. Based on these figures, it follows that on average it took Latvia 5.60 months to close MAP cases during the Statistics Reporting Period, by which Latvia is considered to be adequately resourced. During this period Latvia did not close any attribution/allocation cases.

Figure C.6. 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.

### *Peer input*

130. One peer reported that it has frequent communications with Latvia, which is an important treaty partner for its jurisdiction. This peer reported that it encountered some difficulties with Latvia's competent authority in the past, when the first MAP cases were discussed (such as delay for responses, limited scope for discussions, and formal positions taken). However, this peer explained that the MAP process with Latvia became fluent and efficient with the use of various channels of communication, including face-to-face meetings. Finally, this peer noted active efforts made by Latvia's competent authority to explore additional possibilities in finding solutions.

131. Most of the other peers that provided input noted that they have very limited experience in handling MAP cases with Latvia. Three of the peers that provided input did not comment on Latvia's competent authority's resources. One peer that has had four cases with Latvia since 2014 reported having experienced a good working relationship with Latvia and noted that Latvia's competent authority is highly co-operative in the resolution of MAP cases, which was evidenced by their willingness to resolve the MAP cases, their timely reactions and the timely implementation of the MAP outcomes. Another peer found that Latvia's competent authority was easy to contact, provided prompt response and was solution-oriented. This peer further reported not having experienced any impediments that could have led to improvements in the timeliness of the resolution of MAP cases in a principled manner. Another peer referred to its positive and collaborative relationship with Latvia's competent authority, and stated that both competent authorities can uphold their shared commitments under the Action 14 Minimum Standard by continuing, and fostering, consistent, direct communications to resolve cases efficiently.

132. The last two peers reiterated their very limited interactions with Latvia's competent authority. One of them mentioned that it did not identify any impediments that led to unnecessary delays in finding a resolution to a MAP case. The other peer referred to its expectations that both competent authorities will solve future cases in good co-operation.

### *Anticipated modifications*

133. Latvia reported that it does not plan to increase the number of staff in charge of MAP.

### Conclusion

	Areas for improvement	Recommendations
[C.3]	-	Latvia 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.  Specifically with respect to attribution/allocation cases, as no such cases were closed during the review period, and since both attribution/allocation cases were already pending at the beginning of the review period, Latvia could analyse the reasons why these cases have not yet been closed and ensure that these reasons will not act as an obstacle to resolving current pending and future MAP cases 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.

134. 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*

135. Latvia reported that MAP cases are handled by a project team, which is led by the head of the transfer pricing unit. Latvia further reported that such a project team may include audit personnel, if necessary. Latvia explained that the project team submits proposals on decisions on MAP to the Director General of Latvia's tax administration, after being confirmed by all members of the project team (including audit personnel as the case may be). This bears the risk that the resolution of MAP cases is dependent of the audit personnel who made the adjustment at issue. Latvia reported that this organisation is pragmatic and should enable its competent authority to resolve MAP cases in an efficient manner, taking into account its limited resources. It further reported that the cases are discussed based on their own merits and with a principled approach. Regarding other cases, Latvia reported that the teams in charge of these MAP cases only co-ordinate with tax auditors to obtain information about the cases and may co-ordinate with the Tax Department treaty interpretation with the Ministry of Finance.

136. Latvia also clarified that staff in charge of MAP is not involved in treaty negotiations and reported that decisions on MAP are not influenced by considerations of the policy that the jurisdictions would like to see reflected in future amendments to the treaty.



### *Practical application*

137. Peers generally reported no impediments in Latvia 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*

138. Latvia indicated that it does not anticipate any modifications in relation to element C.4.

### *Conclusion*

	Areas for improvement	Recommendations
[C.4]	A project team to handle attribution/allocation MAP cases may include tax administration personnel directly involved in the adjustment at issue, which bears the risk that staff in charge of MAP cannot handle and resolve MAP cases absent any approval/direction by such personnel.	<p>Latvia should ensure that tax administration personnel directly involved in the adjustment at issue does not have any influence in the decision making process of attribution/allocation MAP cases, and ensure that staff in charge of MAP can enter into MAP agreements and authorise such agreements without being dependent on such personnel.</p> <p>As it has done thus far, Latvia should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve other MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue.</p> <p>In addition, Latvia should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases absent any policy considerations that Latvia would like to see reflected in future amendments to the treaty.</p>

## **[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.

139. 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 Latvia*

140. As for the evaluation of staff in charge of MAP cases, Latvia reported that it uses the timeframe of 24 months to closes MAP cases as a main performance indicator to evaluate performance by the staff in charge of MAP cases. It also uses a variety of supplementary indicators which concern:

- teamwork: timing, internal discussions, effective organisation on team work, effectiveness in management, quality of proposals to the Director General
- communication with other competent authorities: culture, efficiency and co-operative skills proved during MAP.

141. 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).

142. In addition to these performance indicators, Latvia reported that targets are set for staff in charge of MAP for the purpose of evaluating their work performance. These targets are monitored in quarterly reports and cover the following:

- specific targets of the year for the Director General of Latvia’s tax administration (first report)
- strategic targets of the year which are included in the Government work plan for the Ministry of Finance (second report)
- main functions for the Director of the Tax Control Department (third report).

143. In this respect, Latvia reported that the second report might contain sums on tax revenue maintained.

### *Practical application*

144. Peers provided no specific input relating to this element of the Action 14 Minimum Standard.

### *Anticipated modifications*

145. Latvia indicated that it does not anticipate any modifications in relation to element C.5.

### *Conclusion*

	Areas for improvement	Recommendations
[C.5]	One performance indicator used might be based on the amount of tax revenue maintained.	Latvia should ensure that none of the performance indicators used is based on the amount of tax revenue maintained to assess the performance of its competent authority function.

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

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

146. 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***

147. Latvia reported that it does not have any domestic law limitations for including MAP arbitration in its tax treaties. Latvia’s tax treaty policy is to include a mandatory and binding arbitration provision in its bilateral tax treaties, as its MAP profile indicates so.

148. In addition, Latvia is a signatory to the EU Arbitration Convention.

### ***Practical application***

149. Latvia has incorporated an arbitration clause in three of its 61 treaties as a final stage to the MAP. These clauses can be classified as follows:

- Equivalent of Article 25(5) of the OECD Model Tax Convention: two treaties
- Voluntary and binding arbitration: one treaty.

### ***Anticipated modifications***

150. Latvia indicated that it does not anticipate any modifications in relation to element C.6.

### ***Conclusion***

	Areas for improvement	Recommendations
[C.6]	-	-

## **Notes**

1. These 60 treaties include the treaty with former Serbia and Montenegro that Latvia continues to apply to both Serbia and Montenegro.
2. Available at: [www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm](http://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm). These statistics are up to and include fiscal year 2017.
3. Available at: [http://ec.europa.eu/taxation\\_customs/business/company-tax/transfer-pricing-eu-context/joint-transfer-pricing-forum\\_en](http://ec.europa.eu/taxation_customs/business/company-tax/transfer-pricing-eu-context/joint-transfer-pricing-forum_en). These statistics are up to and include fiscal year 2016.
4. For post-2015 cases, if the number of MAP cases in Latvia’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, Latvia reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
5. For pre-2016 and post-2015 cases, Latvia 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.

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

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

152. Latvia reported that where its tax treaty contains the provision equivalent to Article 25, second sentence of the OECD Model Tax Convention (OECD, 2017), any agreement reached shall be implemented notwithstanding any time limits in its domestic law. In the absence of such a sentence, Latvia reported that it would also not apply its general statute of limitations prescribed in the Law “On Taxes and Duties” for MAP cases.

153. Latvia further reported that in all cases, the taxpayer is required to submit an application for refund and revised or adjusted tax declaration to enable the implementation process to be initiated. In this respect, Latvia also stated that its competent authority follows up on the implementation of MAP agreements when its tax administration is responsible for it.

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

154. Latvia reported that it has reached two MAP agreements on post-2015 cases since 1 January 2016, and that for both cases, it implemented MAP agreements by refunding the relevant taxes.

155. Latvia further reported that notwithstanding its domestic time limits it does not apply its general statute of limitations for the implementation of MAP agreements reached, even in the absence of the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention in the relevant tax treaty. Latvia clarified that it follows the same approach it would take if the relevant treaty would include the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention.

156. 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 Latvia. One peer specifically reported that Latvia provided good assistance with respect to the implementation of the outcomes of the MAP cases they handled together.

*Anticipated modifications*

157. Latvia reported that it is currently considering extending the statute of limitation for corresponding adjustments in attribution/allocation cases from three to five years. Latvia is also examining the extension of its statute of limitation to ten years for adjustments on assessments in Latvia.

*Conclusion*

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

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

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

158. 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*

159. Latvia reported that the timeframe to implement MAP agreements is subject to a legal period of one month after the relevant submission by the taxpayer, which is provided in Latvia's Law on Submissions.

*Practical application*

160. Latvia reported that all MAP agreements that were reached on or after 1 January 2016, once accepted by taxpayers, have been timely implemented and that no cases of noticeable delays have occurred. Latvia reported that it concerned two agreements and that it took seven days and six months respectively to implement each agreement.

161. All peers that provided input have not indicated experiencing any problems with Latvia regarding the implementation of MAP agreements reached on a timely basis. The peer in the first case referred to in the previous paragraph specifically reported that Latvia provided good assistance with respect to the implementation of the outcomes of the MAP cases they handled together and specified that implementation was performed timely. This peer further clarified that the taxpayer had to fill out a refund form to have refund to have a MAP agreement implemented, and stated that the tax was refunded within around three months after the form was submitted.

*Anticipated modifications*

162. Latvia indicated that it does not anticipate any modifications in relation to element D.2.

### *Conclusion*

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

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

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

163. 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 Latvia's tax treaties*

164. As discussed under element D.1, Latvia's domestic legislation includes a statute of limitations of three years for implementing MAP agreements, unless overridden by tax treaties or under the EU Arbitration Convention.

165. Out of Latvia's 61 tax treaties, 56 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.<sup>1</sup> Furthermore, one tax treaty contains the alternative provisions in Articles 9 and 25, setting a time limit for making adjustments.

166. The remaining four treaties are as follows:

- In three treaties, there is no such provision at all.
- In one treaty, it prescribes that any agreement reached shall be implemented within ten years from the due date or the date of filing of the return in the other state, which is later, or a longer period if permitted by the domestic law of that other state.

#### *Anticipated modifications*

##### *Multilateral Instrument*

167. Latvia 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.

168. In regard of the four 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), Latvia listed three treaties as covered tax agreements under the Multilateral Instrument and for these three treaties did it make, pursuant to Article 16(6)(c)(ii), a notification that they do not contain a provision described in Article 16(4)(b)(ii). The relevant three treaty partners, being a signatory to the Multilateral Instrument, listed their treaty with Latvia as a covered tax agreement, and two of these three treaty partners made such notification.

169. Therefore, at this stage, two of the four 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*

170. Latvia 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. Latvia, however, reported not having in place a specific plan for such negotiations.

171. In addition, Latvia 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*

172. Eight peers indicated that their treaty with Latvia meets the requirement under element D.3, which is in line with the above analysis.

173. For the four treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, or both alternatives, one of the relevant peers reported the absence of the equivalent and commented that it is willing to accept the alternative provisions. This peer further explained that it is working with Latvia on a draft amending protocol to bring the treaty with Latvia in line with the Action 14 Minimum Standard.



## Conclusion

	Areas for improvement	Recommendations
[D.3]	<p>Four out of 61 tax treaties do contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor any of the alternative provisions provided for in Article 9(1) and Article 7(2).</p> <p>Out of these four:</p> <ul style="list-style-type: none"> <li>• Two are expected to be modified by the Multilateral Instrument</li> <li>• Two will not be modified by the Multilateral Instrument.</li> </ul>	<p>Latvia 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 two 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 two 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, Latvia should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>To this end, Latvia should put a plan in place on how it envisages updating these two treaties to include the required provision or its alternative.</p>
		<p>In addition, Latvia 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>

## Note

1. These 58 treaties include the treaty with former Serbia and Montenegro that Latvia continues to apply to both Serbia and Montenegro.

## 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
<b>Part A: Preventing disputes</b>		
[A.1]	-	Latvia should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	<p>Latvia is in theory able to provide roll-back of bilateral APAs.</p> <p>However, it was not possible at this stage to evaluate the effective implementation of this element in practice since Latvia did not receive any request for roll-back of bilateral APAs during the Review Period.</p>	
<b>Part B: Availability and access to MAP</b>		
[B.1]	<p>One out of 61 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention. This treaty is expected not to be modified by the Multilateral Instrument.</p>	<p>As the treaty that does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention will not be modified by the Multilateral Instrument to include such equivalent upon its entry into force for the treaty concerned, Latvia should request the inclusion of the required provision via bilateral negotiations. This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either</p> <ul style="list-style-type: none"> <li>a. as amended in the final report of Action 14; or</li> <li>b. as it read prior to the adoption of final report on Action 14, thereby including the full sentence of such provision.</li> </ul> <p>To this end, Latvia should put a plan in place on how it envisages updating one treaty to include the required provision.</p>
	<p>One out of 61 tax treaties does not contain a provision that is equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention. This is expected to be modified by the Multilateral Instrument to include the required provision upon its entry into force for the treaty concerned.</p>	<p>Latvia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence of the OECD Model Tax Convention in the treaty that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.</p>
	<p>Access to MAP will be denied in eligible cases where the issue under dispute has already been decided via the judicial remedies provided by domestic law.</p>	<p>Latvia should ensure that taxpayers that meet the requirements of Article 25(1) of the OECD Model Tax Convention can access the MAP.</p>
		<p>In addition, Latvia 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 on Action 14 in all future tax treaties.</p>

	Areas for improvement	Recommendations
[B.2]	59 of the 61 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.	Latvia 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, Latvia 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]	Although Latvia reported that it will provide access to MAP in transfer pricing cases, it did not receive any MAP request for such cases during the Review Period. It was therefore not possible at this stage to evaluate the effective implementation of this element in practice.	
[B.4]	Access to MAP may be restricted in cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met and/or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty.	Latvia should ensure that access to MAP is granted for eligible cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty.
[B.5]	While audit settlements are not yet available in Latvia, Latvia should ensure that taxpayers have access to MAP in cases of audit settlements, if such settlements become available in the future.	
[B.6]	-	As Latvia has thus far not limited access to MAP in eligible cases when taxpayers have complied with Latvia's information and documentation requirements for MAP requests, it should continue this practice.
[B.7]	Five out of 61 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. All of these five treaties are expected to be modified by the Multilateral Instrument to include the required provision upon its entry into force for the treaties concerned.	Latvia 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 five 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.
		In addition, Latvia should maintain its stated intention to include the required provision in all future tax treaties.
[B.8]	There is no published MAP guidance.	Latvia should, without further delay, introduce guidance 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 and publish such guidance.  Additionally, although not required by the Action 14 Minimum Standard, Latvia could follow its stated intention to include the items identified above and could consider including information on: <ul style="list-style-type: none"> <li>• whether MAP is available in cases of : the application of anti-abuse provisions;</li> <li>• the possibility of suspension of tax collection during the course of a MAP</li> <li>• the consideration of interest and penalties in the MAP.</li> </ul>

	Areas for improvement	Recommendations
[B.9]	There is no MAP guidance publicly available.	Latvia should follow its stated intention to make MAP guidance publicly available and easily accessible once it is being introduced.
	The published MAP profile is complete but contains limited information.	In order to provide more detailed information on its MAP programme, Latvia should update its MAP profile once it has issued its MAP guidance.
[B.10]	While audit settlements are not yet available in Latvia, Latvia should ensure that the relationship between access to MAP and audit settlements is addressed in its guidance to be published, if such settlements become available in the future.	
<b>Part C: Resolution of MAP cases</b>		
[C.1]	One out of 61 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention. This treaty is expected to be modified by the Multilateral Instrument to include the required provision upon its entry into force for the treaty concerned.	Latvia should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention in the treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaty concerned.  In addition, Latvia should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	Although 2016 and 2017 MAP statistics were submitted in time, 197 post-2015 cases were omitted from the 2016 MAP statistics.  In addition, matching of MAP statistics was not sought with all of the treaty partners.	Latvia should report its MAP statistics in accordance with the MAP Statistics Reporting Framework.  In addition, Latvia should endeavour matching its MAP statistics with all of its treaty partners.
		Latvia's MAP statistics show that during the Statistics Reporting Period it closed % (198 out of 200 cases) of its post-2015 cases in 5.48 months on average. In that regard, Latvia is recommended to seek to resolve the remaining 1% of its post-2015 cases pending on 31 December 2017 (two cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.
[C.3]	-	Latvia 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.  Specifically with respect to attribution/allocation cases, as no such cases were closed during the review period, and since both attribution/allocation cases were already pending at the beginning of the review period, Latvia could analyse the reasons why these cases have not yet been closed and ensure that these reasons will not act as an obstacle to resolving current pending and future MAP cases in a timely, efficient and effective manner.

	Areas for improvement	Recommendations
[C.4]	A project team to handle attribution/allocation MAP cases may include tax administration personnel directly involved in the adjustment at issue, which bears the risk that staff in charge of MAP cannot handle and resolve MAP cases absent any approval/direction by such personnel.	<p>Latvia should ensure that tax administration personnel directly involved in the adjustment at issue does not have any influence in the decision making process of attribution/allocation MAP cases, and ensure that staff in charge of MAP can enter into MAP agreements and authorise such agreements without being dependent on such personnel.</p> <p>As it has done thus far, Latvia should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve other MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue.</p> <p>In addition, Latvia should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases absent any policy considerations that Latvia would like to see reflected in future amendments to the treaty.</p>
[C.5]	One performance indicator used might be based on the amount of tax revenue maintained.	Latvia should ensure that none of the performance indicators used is based on the amount of tax revenue maintained to assess the performance of its competent authority function.
[C.6]	-	-
<b>Part D: Implementation of MAP agreements</b>		
[D.1]	-	As it has done thus far, Latvia should continue to implement all MAP agreements if the conditions for such implementation are fulfilled.
[D.2]	-	As it has done thus far, Latvia should continue to implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.
[D.3]	<p>Four out of 61 tax treaties do contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor any of the alternative provisions provided for in Article 9(1) and Article 7(2).</p> <p>Out of these four:</p> <ul style="list-style-type: none"> <li>• Two are expected to be modified by the Multilateral Instrument.</li> <li>• Two will not be modified by the Multilateral Instrument.</li> </ul>	<p>Latvia 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 two 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 two 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, Latvia should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>To this end, Latvia should put a plan in place on how it envisages updating these two treaties to include the required provision or its alternative.</p> <p>In addition, Latvia 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>

## Annex A

### Tax treaty network of Latvia

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 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						
	DTC in force?												
	Y = yes N = signed pending ratification	E = yes, either CAs O = yes, only one CA N = No	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different iv = no, other reasons	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes i = no, but access will be given to TP cases ii = no and access will not be given to TP cases	Y = yes i = no and such cases will be accepted for MAP	Y = yes i = no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9
Albania	Y	O	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	N
Armenia	Y	O	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	N
Austria	Y	O	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	N
Azerbaijan	Y	O	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	N
Belarus	Y	O	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	N

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Article 25(1) of the OECD Model Tax Convention ("MTC")	B.1	B.1	Article 9(2) of the OECD MTC	B.3	B.4	Article 25(2) of the OECD MTC	D.3	A.1	B.7	Arbitration	C.6								
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence?	Inclusion Art. 9(2) if no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?									
Belgium	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	N	N								
Bulgaria	Y	O	Y	i	ii	Y	Y	Y	Y	Y	Y	N								
Canada	Y	O	ii*	Y	ii	Y	iii	Y	Y	Y	Y	N								
China (People's Republic of)	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
Croatia	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
Cyprus (1)	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
Czech Republic	Y	O	Y	i	ii	Y	Y	Y	Y	Y	Y	N								
Denmark	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
Estonia	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
Finland	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
France	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
Georgia	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
Germany	Y	O	Y	i	ii	Y	Y	Y	Y	Y	Y	N								
Greece	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
Hong Kong (China)	Y	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	N								
Hungary	Y	O	Y	i	ii	Y	Y	Y	Y	Y	Y	N								



Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	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											
	Inclusion Art. 25(1) first sentence?		Inclusion Art. 25(1) second sentence?		Inclusion Art. 9(2) if no, will your CA provide access to MAP in TP cases?		Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the abuse of the DTC or of the domestic tax law?		Inclusion Art. 25(2) first sentence?		Inclusion Art. 25(3) first sentence?		Inclusion Art. 25(3) second sentence?		Inclusion arbitration provision?					
	If yes, submission to either competent authority? (new Art. 25(1), first sentence)		If no, please state reasons		If no, will your CA accept a taxpayer's request for MAP in relation to such cases?		If no, alternative provision in Art. 7 & 9 OECD MTC?		Inclusion Art. 25(3) first sentence?		Inclusion Art. 25(3) second sentence?		Inclusion arbitration provision?							
Treaty partner																				
Iceland	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
India	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ireland	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Israel	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Italy	N	Y	Y		Y	ii	Y	N*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Japan	E	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Kazakhstan	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Korea	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Kuwait	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Kyrgyzstan	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Lithuania	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Luxembourg	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Malta	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Mexico	O	Y	Y		Y	ii	Y	N*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Moldova	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Montenegro	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Morocco	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Netherlands	O	Y	Y		Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	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									
Treaty partner	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6											
	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence?	Inclusion Art. 9(2) if no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?											
	DTC in force?																			
Norway	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Poland	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Portugal	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Qatar	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Republic of North Macedonia	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Romania	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Russia	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Serbia	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Singapore	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Slovak Republic	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Slovenia	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Spain	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sweden	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Switzerland	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Tajikistan	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Turkey	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

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 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) 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 abuse of the DTC or of the domestic tax law?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence?	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 Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?
	If yes, submission to either competent authority? (new Art. 25(1), first sentence)	If no, please state reasons	If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first 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 Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion Art. 25(3) first sentence?
Turkmenistan	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ukraine	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	N*	N*	N
United Arab Emirates	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
United Kingdom	O	i	Y	ii	Y	Y	Y	N*	Y	Y	Y	N*	N*	N
United States	E	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Uzbekistan	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Viet Nam	O	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

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

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

#### 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		
		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	2	0	0	0	0	0	0	0	0	0	0	2	N/A
Others	1	0	0	0	0	0	0	0	0	0	0	1	N/A
Total	3	0	0	0	0	0	0	0	0	0	0	3	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	2	0	0	0	0	0	0	0	0	0	0	2	N/A	
Others	1	0	0	0	0	0	1	0	0	0	0	0	29.0	
Total	3	0	0	0	0	0	1	0	0	0	0	2	29.0	

## Annex C

### MAP Statistics Post-2015 cases

Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	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 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12			Column 13
	No. of post-2015 cases started during the reporting period	Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/ partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome			
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	199	0	0	0	197	0	1	0	0	0	0	0	1	5.5
Total	199	0	0	0	197	0	1	0	0	0	0	0	1	5.5

Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	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 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12			Column 13
	No. of post-2015 cases started during the reporting period	Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/ partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome			
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	1	0	0	0	0	0	0	0	0	0	0	0	2	N/A
Total	1	0	0	0	0	0	0	0	0	0	0	0	2	N/A

## *Glossary*

<b>Action 14 Minimum Standard</b>	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
<b>MAP Statistics Reporting Framework</b>	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
<b>Multilateral Instrument</b>	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
<b>OECD Model Tax Convention</b>	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
<b>OECD Transfer Pricing Guidelines</b>	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
<b>Pre-2016 cases</b>	MAP cases in a competent authority’s inventory pending resolution on 31 December 2015
<b>Post-2015 cases</b>	MAP cases received by a competent authority from the taxpayer on or after 1 January 2016
<b>Review Period</b>	Period for the peer review process that started on 1 January 2016 and ended on 31 August 2018
<b>Statistics Reporting Period</b>	Period for reporting MAP statistics that started on 1 January 2016 and ended on 31 December 2017
<b>Terms of Reference</b>	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective





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## OECD/G20 Base Erosion and Profit Shifting Project

# Making Dispute Resolution More Effective – MAP Peer Review Report, Latvia (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 Latvia.

Consult this publication on line at <https://doi.org/10.1787/b0de32d9-en>.

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