

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



# **Making Dispute Resolution More Effective - MAP Peer Review Report, Andorra (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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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 90 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 OECD/G20 Inclusive Framework on BEPS (Inclusive Framework), 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 135 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 12 May 2020 and prepared for publication by the OECD Secretariat.

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*Abbreviations and acronyms*

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



## Executive summary

Andorra has a modest tax treaty network with eight tax treaties. Andorra has a newly established MAP programme and has no experience with resolving MAP cases as it has not yet been involved in any cases. Overall Andorra meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Andorra is working to address them.

All of Andorra's tax treaties contain a provision relating to MAP. Those treaties follow paragraphs 1 to 3 of Article 25 of the OECD Model Tax Convention. Its treaty network is fully consistent with the requirements of the Action 14 Minimum Standard.

In order to allow taxpayers to submit a MAP request to the competent authority of either state, Andorra has opted to update a certain number of its tax treaties. In this respect, Andorra signed the Multilateral Instrument. Through this instrument some of the relevant tax treaties will be modified to include a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention, as changed by the Action 14 final report.

As Andorra has no bilateral APA programme in place, there were no further elements to assess regarding the prevention of disputes.

Andorra meets some the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 January 2016 not received any MAP requests from a taxpayer. However, Andorra does not have in place a documented bilateral consultation or notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Andorra also has no published guidance on the availability of MAP and how it applies this procedure in practice under tax treaties.

Andorra has not been involved in any MAP cases during the period 2016-18 but it meets in principle all the requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases.

As there was no MAP agreement reached that required implementation in 2016, 2017 or 2018, it was not yet possible to assess whether Andorra meets the Action 14 Minimum Standard as regards the implementation of MAP agreements.



## *Introduction*

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

Andorra has entered into eight tax treaties on income (and/or capital), all of them are in force.<sup>1</sup> These eight treaties are being applied to eight jurisdictions. All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. None of these eight treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.

In Andorra, the competent authority function to conduct MAP is delegated to the Minister of Finance or his authorised representative. The competent authority of Andorra currently employs approximately five part time employees, to deal with MAP cases shall they arise in the future. These would be responsible for both attribution/allocation and other cases in addition to other non-related MAP duties.

Andorra intends to issue guidance on the governance and administration of the mutual agreement procedure (“**MAP**”), but this has not been issued yet.

### **Recent developments in Andorra**

On 7 June 2017 Andorra 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 MLI, Andorra also submitted its list of notifications and reservations to that instrument.<sup>2</sup> There were no reservations with impact on the requirements of the Action 14 Minimum Standard.

Where treaties will not be modified by the Multilateral Instrument, Andorra reported that it strives updating them through future bilateral negotiations. Andorra further reported that it intends to contact all of its relevant treaty partners in this respect, prioritising the treaty that contains more deficiencies with respect to the Action 14 Minimum Standard.

### **Basis for the peer review process**

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

The questionnaires for the peer review process were sent to Andorra and the peers on 30 August 2019.

The period for evaluating Andorra’s implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 31 August 2019 (“**Review Period**”). Furthermore, this report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Andorra’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.

Reference is made to Annex A for the overview of Andorra’s tax treaties regarding the mutual agreement procedure.

No peers have provided input on Andorra’s implementation of the Action 14 Minimum Standard. This can be explained by the fact that Andorra’s competent authority has never been involved in a MAP case as it has never received a MAP request from a taxpayer or from another competent authority. Andorra provided its questionnaire on time. Andorra was very responsive in the course of the drafting of the peer review report by responding timely and comprehensively to requests for additional information, and provided further clarity where necessary. In addition, Andorra provided the following information:

- MAP profile<sup>3</sup>
- MAP statistics<sup>4</sup> according to the MAP Statistics Reporting Framework (see below).

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

## Overview of MAP caseload in Andorra

As mentioned above, Andorra has not been involved in any MAP cases during the Review Period.

## General outline of the peer review report

This report includes an evaluation of Andorra’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>5</sup> Apart from analysing Andorra’s legal framework and its administrative practice, the report depicts the changes adopted and plans shared by Andorra 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 Andorra 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 Andorra has entered into are available at: <https://www.finances.ad/regulations>. Reference is made to Annex A for the overview of Andorra's tax treaties.
2. Available at: [www.oecd.org/tax/treaties/beps-mli-position-andorra.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-andorra.pdf).
3. Available at [www.oecd.org/tax/dispute/Andorra-Dispute-Resolution-Profile.pdf](http://www.oecd.org/tax/dispute/Andorra-Dispute-Resolution-Profile.pdf).
4. The MAP statistics of Andorra are included in Annex B and C of this report.
5. 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 Andorra's tax treaties*

2. All Andorra's eight tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty.

3. Andorra reported that it considers itself able to enter into interpretative MAP agreements irrespective of whether the applicable treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention.

#### *Anticipated modifications*

##### *Bilateral modifications*

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

##### *Peer input*

5. No peer input was provided.

**Conclusion**

	Areas for Improvement	Recommendations
[A.1]	-	Andorra 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.

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

***Andorra’s APA programme***

7. Andorra is not authorised to enter into (bilateral) APAs, by which there is no possibility for providing roll-back of bilateral APAs to previous years.

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

8. No peer input was provided.

***Anticipated modifications***

9. Andorra indicated that it does not anticipate any modifications in relation to element A.2.

**Conclusion**

	Areas for Improvement	Recommendations
[A.2]	-	-

## Note

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

## 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.

10. 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 Andorra's tax treaties***

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

11. Out of Andorra's eight tax treaties, seven contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state.

12. In addition, one of Andorra's tax treaties contains a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as changed by the Action 14 final report and allowing taxpayers to submit a MAP request to the competent authority of either state.

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

13. All of the Andorra's eight tax treaties 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.

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

14. All of Andorra's eight tax treaties contain a provision allowing taxpayers to file a MAP request irrespective of domestic remedies. Andorra reported that taxpayers can still have access to MAP if there is a domestic appeal. However, Andorra reported that if a court decision is rendered and is final, Andorra's competent authority cannot deviate from it.

***Anticipated modifications****Multilateral Instrument*

15. Andorra signed the Multilateral Instrument on 7 June 2017.

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

16. Article 16(4)(a)(i) of that instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report and allowing the submission of MAP requests to the competent authority of either contracting state – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this tax treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified the depositary, pursuant to Article 16(6)(a), that this treaty contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report. Article 16(4)(a)(i) will for a tax treaty not take effect if one of the treaty partners has, pursuant to Article 16(5)(a), reserved the right not to apply the first sentence of Article 16(1) of that instrument to all of its covered tax agreements.

17. With the signing of the Multilateral Instrument, Andorra opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Andorra tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which a resident, Andorra opted to modify these seven treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Andorra listed seven of its eight treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for the seven of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report.

18. All of the relevant seven treaties partners are a signatory to the Multilateral Instrument, but only five of them have listed their treaty with Andorra as a covered tax

agreement under that instrument. Two of them have reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state. The remaining five treaty partners listed their treaty with Andorra as having a provision that is 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. Therefore, at this stage, five of the seven 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(1), first sentence, of the OECD Model Tax Convention as amended by the Action 14 final report.

### *Bilateral modifications*

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

### *Peer input*

20. No peer input was provided.

### **Conclusion**

	Areas for Improvement	Recommendations
[B.1]	-	Andorra should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as amended in the Action 14 final report 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).

21. 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***

22. As discussed under element B.1, out of Andorra’s eight treaties, one currently contains 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. In addition, as was also discussed under element B.1, five of these eight treaties will, upon entry into force, be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

23. Andorra reported that it has not introduced a bilateral consultation or notification process that allows the other competent authority concerned to provide its views on the case when Andorra’s competent authority considers the objection raised in the MAP request not to be justified.

### ***Practical application***

24. Andorra reported that since 1 January 2016 its competent authority has not received any MAP requests. Therefore, there were no cases where it was decided that the objection raised by taxpayers in such request was not justified.

25. No peer input was provided.

### ***Anticipated modifications***

26. Andorra indicated that it will introduce a bilateral consultation for those situations where its competent authority considers an objection raised in a MAP request as being not justified. This process will be documented by internal communication mentioning the information that would be shared with the other competent authority and the timing of the communication. Andorra noted that it will use the template for “Notification or Bilateral consultation when an objection is considered as not justified”, which will be attached to Andorra’s internal guidance.

### ***Conclusion***

	<b>Areas for Improvement</b>	<b>Recommendations</b>
[B.2]	Seven of eight 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.	Andorra should introduce without further delay a documented notification and/or consultation process and apply that process in practice for 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.
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27. 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***

28. All of Andorra's eight tax treaties 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.

29. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Andorra'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, Andorra indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments.

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

30. Andorra 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, its competent authority has not received any MAP request from a taxpayer since that date.

31. No peer input was provided.

***Anticipated modifications***

32. Andorra 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 Article 9(2) of the OECD Model Tax Convention in all of its future tax treaties.

***Conclusion***

	Areas for Improvement	Recommendations
[B.3]	Andorra reported that it will give access to MAP in transfer pricing cases. Its competent authority, however, did not receive any MAP request for such cases during the Review Period. Andorra is therefore recommended to follow its policy and grant access to MAP in such cases.	

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

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

33. 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***

34. None of Andorra's eight tax treaties allow 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, also the domestic law and/or administrative processes of Andorra 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 are in conflict with the provisions of a tax treaty.

***Practical application***

35. Andorra reported that since 1 January 2016 it has not denied access to MAP in any 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, its competent authority has not received any MAP request from a taxpayer since that date.

36. No peer input was provided.

***Anticipated modifications***

37. Andorra indicated that it does not anticipate any modifications in relation to element B.4.

***Conclusion***

	Areas for Improvement	Recommendations
[B.4]	Andorra reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Andorra is therefore recommended to follow its policy and grant access to MAP in such cases.	

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

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

38. 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*

39. From a legal perspective, Andorra reported that audit settlements are not available in Andorra. However, the outcome of an audit may reflect an understanding between the auditors and the taxpayer, with a possibility of a regularisation proposal, which could be viewed as a certain type of audit settlement. In such cases, Andorra indicated that access to MAP is still granted to the taxpayer.

40. Andorra reported that the taxpayer may agree with the regularisation proposal and have a reduction in the pecuniary penalties but this will not impact access to MAP in Andorra.

41. Apart from the information published in Andorra's MAP profile, there is no information publically available with respect to access to MAP for cases in which taxpayers have entered into an audit settlement with the tax administration. In this respect, reference is made to element B.10.

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

42. Andorra reported it does not have an administrative or statutory dispute settlement/resolution process in place, which is independent from the audit and examination functions and which can only be accessed through a request by the taxpayer.

### *Practical application*

43. Andorra reported that since 1 January 2016 it has not denied access to MAP for cases where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration. However, its competent authority has not received any MAP request from a taxpayer since that date.

44. No peer input was provided.

*Anticipated modifications*

45. Andorra indicated that it does not anticipate any modifications in relation to element B.5.

*Conclusion*

	Areas for Improvement	Recommendations
[B.5]	Andorra reported it will give access to MAP in cases where the tax authority and the taxpayer have entered into an audit settlement. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Andorra is therefore recommended to follow its policy and grant access to MAP when such cases surface.	

**[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.

46. 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 publicly available.

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

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

48. Andorra has not yet published MAP guidance. Andorra indicated that it intends to include in its MAP guidance all required information/documentation to be provided by the taxpayer and the process implemented when not all required information/documentation is provided by the taxpayer.

49. Andorra noted that even though the MAP guidance has not been issued yet, their domestic legislation establishes the minimum content of a request in cases where the tax procedure is initiated by the request of a taxpayer. Their legislation also establishes that when it is considered that a request of an interested party does not meet the necessary requirements, the administration will inform about it to the concerned taxpayer, granting a period of ten days to complement the abovementioned request.

*Practical application*

50. Andorra reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements as set out in its MAP guidance. It further reported that since 1 January 2016 it has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

51. No peer input was provided.

*Anticipated modifications*

52. Andorra indicated that it does not anticipate any modifications in relation to element B.6.

*Conclusion*

	Areas for Improvement	Recommendations
[B.6]	Andorra reported it will give access to MAP in cases where taxpayers have complied with Andorra's information and documentation requirements for MAP requests. Its competent authority, however, did not receive any MAP requests from taxpayers during the Review Period. Andorra is therefore recommended to follow its policy and grant access to MAP when it receives a request that includes the required information and documentation.	

**[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.

53. 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 Andorra's tax treaties*

54. All of the Andorra's eight tax treaties 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.

*Anticipated modifications**Bilateral modifications*

55. Andorra 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*

56. No peer input was provided.

*Conclusion*

	Areas for Improvement	Recommendations
[B.7]	-	Andorra 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.

57. 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.

### *Andorra's MAP guidance*

58. Apart from the information available in Andorra's MAP profile the rules, guidelines and procedures are not publically available yet. In particular, the information that the FTA MAP Forum agreed should be included in a jurisdiction's MAP guidance<sup>1</sup>, which concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request is not publically available.

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

59. 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>2</sup> This agreed guidance is shown below.

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

*Anticipated modifications*

60. Andorra indicated currently being in the process of drafting its MAP guidance and that intends to include the level of information of the guidance agreed by the FTA MAP Forum.

*Conclusion*

	Areas for Improvement	Recommendations
[B.8]	There is no published MAP guidance.	Andorra should, without further delay, introduce guidance on access to and use of the MAP and the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation and information that should be included in such a request.
		<p>Additionally, although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance Andorra's could consider including information on:</p> <ul style="list-style-type: none"> <li>• whether MAP is available in cases of: (i) transfer pricing cases, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments</li> <li>• whether taxpayers can request for the multi-year resolution of recurring issues through MAP</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> <li>• the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).</li> </ul>
	No MAP guidance is available on what information taxpayers should include in their MAP request.	<p>Andorra should introduce in its MAP guidance more detailed guidance on the manner and form in which taxpayers should submit their MAP request. In particular, the following items could be included:</p> <ul style="list-style-type: none"> <li>• facts of the case</li> <li>• analysis of the issue(s) requested to be resolved via MAP</li> <li>• whether the MAP request was also submitted to the competent authority of the other treaty partner</li> <li>• whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes</li> <li>• whether the issue(s) involved were dealt with previously</li> <li>• 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.</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.

61. 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>3</sup>

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

62. As mentioned under element B.8, Andorra has not published any MAP guidance.

***MAP profile***

63. Andorra’s MAP profile is published on the website of the OECD. This MAP profile is complete and includes additional information where necessary.

***Anticipated modifications***

64. Andorra indicated that it anticipates publishing its MAP guidance under preparation in both Catalan and English on the website of the Ministry of Finance.

***Conclusion***

	Areas for Improvement	Recommendations
[B.9]	The MAP guidance is not publicly available.	Andorra should make its MAP guidance currently in preparation publicly available and easily accessible. Its MAP profile, published on the shared public platform, should be updated once Andorra’s MAP guidance has been introduced.

**[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.

65. 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***

66. As previously mentioned in B.5, Andorra reported that audit settlements are not available in Andorra from a legal perspective. Andorra reported that the outcome of an audit may, however, reflect an understanding between the auditors and the taxpayer and the agreement with a regularisation proposal. According to Andorra, such an agreement does not preclude access to MAP. Apart from the information available in Andorra’s MAP profile, there is no information publically available in this respect.

67. No peer input was provided.

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

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

69. No peer input was provided.

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

70. As Andorra does not have an internal administrative or statutory dispute settlement/resolution process in place, there is no need for notifying treaty partners of such process.

### ***Anticipated modifications***

71. Andorra indicated that it does not anticipate any modifications in relation to element B.10.

### ***Conclusion***

	<b>Areas for Improvement</b>	<b>Recommendations</b>
[B.10]	As Andorra has not published any MAP guidance, there is no information publicly available on whether there is access to MAP in cases where the outcome of an audit reflects an understanding between the auditors and the taxpayer.	Andorra should introduce and publish its MAP guidance without delay, stating that the conclusion of transactions between tax authorities and taxpayers does not exclude the opening of a MAP procedure.

## Notes

1. 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).
2. 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).
3. 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).

## References

- OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.
- OECD (2015a), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>.
- OECD (2015b), “*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>.

## *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.

72. It is of critical importance that in addition to allowing taxpayers to request for a MAP, tax treaties also include the equivalent of the first sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017), which obliges competent authorities, in situations where the objection raised by taxpayers are considered justified and where cases cannot be unilaterally resolved, to enter into discussions with each other to resolve cases of taxation not in accordance with the provisions of a tax treaty.

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

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

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

##### *Bilateral modifications*

74. Andorra 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*

75. No peer input was provided.

### *Conclusion*

	Areas for Improvement	Recommendations
[C.1]		Andorra 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).

76. 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*

77. 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. Andorra did not provide its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline. It reported during its peer review that it had not been involved in any MAP cases. The statistics discussed below include both pre-2016 and post-2015 cases and they are attached to this report as Annex B and Annex C respectively, showing that Andorra has not been involved in any MAP cases since 1 January 2016.

#### *Monitoring of MAP statistics*

78. As Andorra has never been involved in a MAP case, it has no system in place that communicates, monitors and manages with its treaty partners the MAP caseload.

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

79. Andorra has not been involved in any MAP cases during the Review Period.

#### *Overview of cases closed during the Statistics Reporting Period*

80. Andorra has not been involved in any MAP cases during the Review Period.

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

81. Andorra has not been involved in any MAP cases during the Review Period.

#### *Peer input*

82. No peer input was provided.

*Anticipated modifications*

83. Despite not having received any MAP requests, Andorra reported that any future MAP statistics will be compiled by the Minister of Finance or his authorised representative. Andorra indicated that the competent authority will be responsible for monitoring MAP cases inventory, new MAP requests, the outcomes as well as the time needed to resolve MAP cases.

*Conclusion*

	Areas for Improvement	Recommendations
[C.2]	MAP statistics for 2016, 2017 and 2018 were not submitted.	Andorra should report its MAP statistics in accordance with the MAP Statistics Reporting Framework
	As there were no post-2015 MAP cases to resolve it was therefore at this stage not possible to evaluate whether Andorra's competent authority seeks to resolve MAP cases within an average time frame of 24 months.	

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

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

84. 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 Andorra's competent authority*

85. Under Andorra's tax treaties, the competent authority function is assigned to the Minister of Finance or his authorised representative. This has been delegated to the general director of the tax administration, the deputy director of tax management and taxpayers assistance, the chief of tax management, the chief of taxpayers assistance and a specialised technical tax agent that will be assigned depending on the tax being object of the MAP case. Andorra's competent authority consists of five people, who deal partly with MAP cases along with other tasks such as tax treaty negotiations, among others tax matters. This is further discussed under element C.4.

86. Andorra further reported that any necessary adjustments to the level of resources available in its competent authority and specific training to staff will be discussed when necessary. Given that Andorra has not yet been involved in any MAP cases, there has been no need for a monitoring mechanism to request more staff to handle MAP inventory.

*Monitoring mechanism*

87. As discussed under element C.2, Andorra has not been involved in any MAP cases during the Review Period, so it does not have a monitoring mechanism of available resources at this point.

***Practical application****MAP statistics*

88. As discussed under element C.2, Andorra’s competent authority has not yet been involved in any MAP cases, by which there were no MAP statistics available to analyse the pursued 24-month average.

*Peer input*

89. No peer input was provided.

***Anticipated modifications***

90. Andorra indicated that it does not anticipate any modifications in relation to element C.3.

***Conclusion***

	Areas for Improvement	Recommendations
[C.3]	-	Andorra should monitor whether the resources available for the competent authority function remain adequate in order to resolve 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.

91. 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***

92. As mentioned under element C.3, Andorra’s competent authority would be exercised by the general director of the tax administration, the deputy director of tax management and taxpayers assistance, the chief of tax management, the chief of taxpayers assistance and a specialised technical tax agent that will be assigned depending on the tax being object of the MAP case. Andorra reported that the staff in charge of MAP are part of the Tax Administration, as well as the staff in charge of tax audits. Nevertheless, its functions are organisationally separated except in the case of the General Director of the Tax Administration, who has powers in both areas. Andorra noted that even though the General Director has powers in both areas, MAP outcomes have to be reached by a committee, constituted not just by the General Director of the Tax Administration, but also by other authorities that have to agree on the outcome. Andorra clarified that its competent authority is also responsible for the treaty negotiation, general interpretation of tax treaties and other tasks. Andorra further clarified that any decisions on MAP will be based on the applicable

tax treaty and not influenced by any proposed future amendments to the treaty. Andorra further noted that this structure appears to be adequate at this point due to the small size of Andorran Tax Administration and the absence of MAP requests at this point.

93. In regard of the above, Andorra reported that staff in charge of MAP in practices operates independently and has the authority to resolve MAP cases without being dependent on the approval/direction of the tax administration personnel directly involved in the adjustment and the process for negotiating MAP agreements is not influenced by policy considerations that Andorra would like to see reflected in future amendments to the treaty.

### *Practical application*

94. No peer input was provided.

### *Anticipated modifications*

95. Andorra indicated that it does not anticipate any modifications in relation to element C.4.

### *Conclusion*

	Areas for Improvement	Recommendations
[C.4]	-	Andorra should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that Andorra would like to see reflected in future amendments to the treaty.

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

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

96. 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 Andorra*

97. As Andorra has not yet received a MAP request, it reported that at the time of review performance indicators have not yet been set for the MAP office.

98. The Action 14 final report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These indicators are shown below:

- 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).

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

### *Practical application*

100. No peer input was provided.

### *Anticipated modifications*

101. Andorra indicated that it does not anticipate any modifications in relation to element C.5.

### *Conclusion*

	Areas for Improvement	Recommendations
[C.5]	-	Andorra could consider using the examples of performance indicators mentioned in the Action 14 final report to evaluate staff in charge of the MAP processes.

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

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

102. 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*

103. As clarified in Andorra's MAP profile, Andorra reported that although it has no domestic law limitations for including MAP arbitration in its tax treaties and that none of the tax treaties currently in force includes a MAP provision. As mentioned in B.8, Andorra's MAP guidance is still not accessible to the public.

### *Practical application*

104. Up to date, Andorra has not incorporated an arbitration clause in any of its eight treaties as a final stage to the MAP.



### *Anticipated modifications*

105. Andorra noted that has changed its position on using MAP arbitration in its tax treaties. Andorra’s tax treaty policy for future tax treaties is to include a mandatory and binding arbitration provision in its bilateral tax treaties. In this respect, in the two double tax treaties that Andorra is currently negotiating already include a mandatory and binding arbitration provision. In addition, Andorra has with the depositing of its position on the Multilateral Instrument opted in for part VI.

### *Conclusion*

	Areas for Improvement	Recommendations
[C.6]	-	-

## *References*

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



## *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.

106. 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***

107. Andorra reported that Andorra’s tax administration should modify “ex officio” or at the request of the interested taxpayer any material mistakes of the tax actions and resolutions. The deadline to notify the resolution of the procedure is six months from the day the request is made by the taxpayer or from notification of the “ex officio” procedure. Andorra noted that this would not apply to cases where the tax authority would need to make an adjustment as a result of a MAP agreement.

108. Andorra indicated that all MAP agreements will be implemented notwithstanding time limits in its domestic laws, and that this would apply even in the absence of the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017).

109. As Andorra has not published its MAP guidance so far, there is a lack of available information on the process of implementing MAP agreements. Andorra noted that in any case, the taxpayer does not need to submit a request for refund and that as a result of the MAP agreement reached, a tax settlement will be determined and on that basis the corresponding adjustment would be made. Andorra further noted that the taxpayer will be notified in writing of the decision reached and in the case that the taxpayer has presented his case to the competent authority of the other Contracting State, Andorra’s competent authority would also inform the taxpayer in writing of the effects of the reaching agreement with the other Contracting State.

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

110. As Andorra has not been involved in any MAP case during the Review Period, it also did not reach any mutual agreements during that period.

111. No peer input was provided.

*Anticipated modifications*

112. Andorra indicated that is currently finalising its MAP guidance and it intends to cover more details on the implementation of MAP agreements.

*Conclusion*

	Areas for Improvement	Recommendations
[D.1]	As there was no MAP agreement reached during the Review Period, it was not yet possible to assess whether Andorra would have implemented all MAP agreements thus far.	

**[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.

113. 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*

114. As discussed under element D.1., the timeframes that would be applicable for the implementation of mutual agreements reached are not clear.

115. Apart from what is included in Andorra's MAP profile, information on the implementation is not publically available. Reference is also made to element B.8.

*Practical application*

116. As discussed under element D.1, Andorra has not been involved in any MAP case during the Review Period, it also did not reach any mutual agreements during that period.

117. No peer input was provided.

*Anticipated modifications*

118. Andorra indicated that it does not anticipate any modifications in relation to element D.2.

*Conclusion*

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

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

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

119. 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 Andorra tax treaties***

120. As discussed under element D.1, Andorra’s domestic statute of limitation does not affect the implementation of a MAP agreement.

121. All of the Andorra’s eight tax treaties 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.

***Anticipated modifications***

***Bilateral modifications***

122. Andorra 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***

123. No peer input was provided.

***Conclusion***

	Areas for Improvement	Recommendations
[D.3]	-	Andorra 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.

***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]	-	Andorra should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	-	-
<b>Part B: Availability and access to MAP</b>		
[B.1]	-	Andorra should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as amended in the Action 14 final report in all future tax treaties.
[B.2]	Seven of eight 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.	Andorra should introduce without further delay a documented notification and/or consultation process and apply that process in practice for 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]	Andorra reported that it will give access to MAP in transfer pricing cases. Its competent authority, however, did not receive any MAP request for such cases during the Review Period. Andorra is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.4]	Andorra reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Andorra is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	Andorra reported it will give access to MAP in cases where the tax authority and the taxpayer have entered into an audit settlement. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Andorra is therefore recommended to follow its policy and grant access to MAP when such cases surface.	
[B.6]	Andorra reported it will give access to MAP in cases where taxpayers have complied with Andorra's information and documentation requirements for MAP requests. Its competent authority, however, did not receive any MAP requests from taxpayers during the Review Period. Andorra is therefore recommended to follow its policy and grant access to MAP when it receives a request that includes the required information and documentation.	
[B.7]	-	Andorra should maintain its stated intention to include the required provision in all future tax treaties.

	Areas for Improvement	Recommendations
[B.8]	There is no published MAP guidance.	Andorra should, without further delay, introduce guidance on access to and use of the MAP and the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation and information that should be included in such a request.
		<p>Additionally, although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance Andorra's could consider including information on:</p> <ul style="list-style-type: none"> <li>• whether MAP is available in cases of: (i) transfer pricing cases, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments</li> <li>• whether taxpayers can request for the multi-year resolution of recurring issues through MAP</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> <li>• the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).</li> </ul>
	No MAP guidance is available on what information taxpayers should include in their MAP request.	<p>Andorra should introduce in its MAP guidance more detailed guidance on the manner and form in which taxpayers should submit their MAP request. In particular, the following items could be included:</p> <ul style="list-style-type: none"> <li>• facts of the case</li> <li>• analysis of the issue(s) requested to be resolved via MAP</li> <li>• whether the MAP request was also submitted to the competent authority of the other treaty partner</li> <li>• whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes</li> <li>• whether the issue(s) involved were dealt with previously</li> <li>• 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.</li> </ul>
[B.9]	The MAP guidance is not publicly available.	Andorra should make its MAP guidance currently in preparation publicly available and easily accessible. Its MAP profile, published on the shared public platform, should be updated once Andorra's MAP guidance has been introduced.
[B.10]	As Andorra has not published any MAP guidance, there is no information publicly available on whether there is access to MAP in cases where the outcome of an audit reflects an understanding between the auditors and the taxpayer.	Andorra should introduce and publish its MAP guidance without delay, stating that the conclusion of transactions between tax authorities and taxpayers does not exclude the opening of a MAP procedure.



	Areas for Improvement	Recommendations
<b>Part C: Resolution of MAP cases</b>		
[C.1]	-	Andorra should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	MAP statistics for 2016, 2017 and 2018 were not submitted.	Andorra should report its MAP statistics in accordance with the MAP Statistics Reporting Framework
	As there were no post-2015 MAP cases to resolve it was therefore at this stage not possible to evaluate whether Andorra's competent authority seeks to resolve MAP cases within an average time frame of 24 months.	
[C.3]	-	Andorra should monitor whether the resources available for the competent authority function remain adequate in order to resolve future MAP cases in a timely, efficient and effective manner.
[C.4]	-	Andorra should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that Andorra would like to see reflected in future amendments to the treaty.
[C.5]	-	Andorra could consider using the examples of performance indicators mentioned in the Action 14 final report to evaluate staff in charge of the MAP processes.
[C.6]	-	-
<b>Part D: Implementation of MAP agreements</b>		
[D.1]	As there was no MAP agreement reached during the Review Period, it was not yet possible to assess whether Andorra would have implemented all MAP agreements thus far.	
[D.2]	As there was no MAP agreement reached during the Review Period that needed to be implemented in Andorra, it was not yet possible to assess whether Andorra would have implemented all MAP agreements on a timely basis thus far.	
[D.3]	-	Andorra 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.



## Annex A

## Tax treaty network of Andorra

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	DTC in force?	If N, date of signing	If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) of the OECD MTC (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion Art. 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Arbitration	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	
														B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6
Cyprus*	Y	N/A	E	Y	Y	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 ii = no but such cases will not be accepted for MAP	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
France	Y	N/A	O*	Y	Y	N/A	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 have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Liechtenstein	Y	N/A	O*	Y	Y	N/A	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 have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Luxembourg	Y	N/A	O*	Y	Y	N/A	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 have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Malta	Y	N/A	O*	Y	Y	N/A	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 have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Portugal	Y	N/A	O	Y	Y	N/A	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 have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Spain	Y	N/A	O	Y	Y	N/A	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 have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
United Arab Emirates	Y	N/A	O*	Y	Y	N/A	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 have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

*Note:* 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 reporting for pre-2016 cases

2016 MAP Statistics													
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 MAP inventory on 31 December 2016	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2017 MAP Statistics													
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 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 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2018 MAP Statistics														
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2018	Number of pre-2016 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in MAP inventory on 31 December 2018	Average time taken (in months) for closing pre-2016 cases during the reporting period	
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome			Column 10
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

## Annex C

## MAP statistics reporting for post-2015 cases

2016 MAP Statistics															
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing post-2015 cases during the reporting period				
			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	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2017 MAP Statistics															
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2015 cases during the reporting period				
			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	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2018 MAP Statistics															
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2018	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome								No. of post-2015 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty			No agreement, including agreement to disagree	Any other outcome	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	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 Guidance</b>	If used in the report, specify here the full title of the country’s MAP Guidance
<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 that are pending resolution on 31 December 2015
<b>Post-2015 cases</b>	MAP cases that are 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 2019
<b>Statistics Reporting Period</b>	Period for reporting MAP statistics that started on 1 January 2016 and that ended on 31 December 2018
<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

## OECD/G20 Base Erosion and Profit Shifting Project

# Making Dispute Resolution More Effective - MAP Peer Review Report, Andorra (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 Andorra.



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