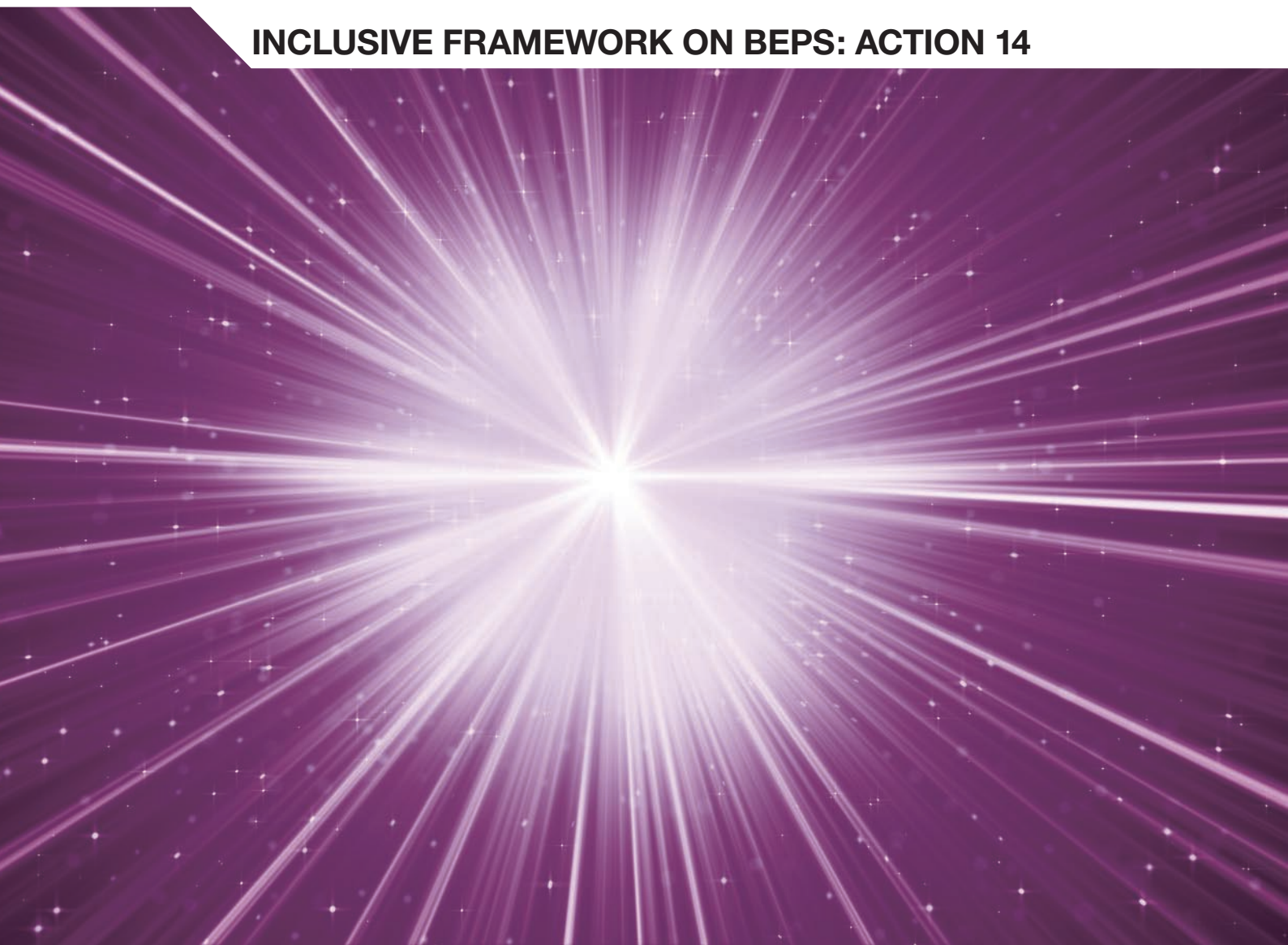


**OECD/G20 Base Erosion and Profit Shifting
Project**



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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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

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

Executive summary

The Cayman Islands has a small tax treaty network with ten tax treaties. The Cayman Islands has no experience with resolving MAP cases, as it has not been involved in any cases. The Cayman Islands reported that it has no direct tax system and does not impose income, corporate, capital or other direct taxes. This specific situation makes it unlikely, under its current tax system that the Cayman Islands takes an action that results in taxation not in accordance with any tax treaty it has entered into. The Cayman Islands further reported that it is however ready to resolve tax treaty-related disputes that would arise after an action being taken by its treaty partners.

Overall the Cayman Islands meets most of the elements of the Action 14 Minimum Standard. Where it has deficiencies, the Cayman Islands is working to address them.

All of the Cayman Islands' tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 to 3 of Article 25 of the OECD Model Tax Convention. Its treaty network is largely consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that 20% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, the Cayman Islands needs to amend and update two tax treaties. The Cayman Islands reported that it is currently reviewing the possibility to sign the Multilateral Instrument and it intends to amend the tax treaties bilaterally with its treaty partners where necessary. In that regard, it reported that it contacted the relevant treaty partners to discuss bilaterally the possibility of amending the relevant tax treaties.

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

The Cayman Islands meets some of the requirements regarding 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 2017 not received any MAP requests. However, the Cayman Islands does not have in place a documented bilateral notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. In addition, the Cayman Islands has not yet issued MAP guidance but submitted its MAP profile.

Furthermore, the Cayman Islands has not been involved in any MAP cases during the period 2017-18, 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 2017 or 2018, it was not yet possible to assess whether the Cayman Islands meets the Action 14 Minimum Standard as regards the implementation of MAP agreements.

Introduction

Available mechanisms in the Cayman Islands to resolve tax treaty-related disputes

The Cayman Islands has entered into ten tax treaties on income (and/or capital), eight of which are in force.¹ These ten treaties are being applied to ten 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. All of the Cayman Islands' ten treaties have a limited scope of application.

The Cayman Islands reported that it has no direct tax system and does not impose income, corporate, capital or other direct taxes. This specific situation makes it unlikely, under its current tax system that the Cayman Islands takes an action that results in taxation not in accordance with any tax treaty it has entered into. The Cayman Islands further reported that it is however ready to resolve tax treaty-related disputes that would arise after an action being taken by its treaty partners. It noted that there are no tax-based domestic remedies available in the Cayman Islands.

In the Cayman Islands, the competent authority function to conduct MAP is delegated to the Tax Information Authority. The Cayman Islands reported that it would allocate the existing staff to handle MAP cases where necessary. The Cayman Islands intends to issue a guidance on the governance and administration of the mutual agreement procedure (“MAP”) in the near future, which will be available on the website of the Department for International Tax Cooperation at: www.tia.gov.ky.

Recent developments in the Cayman Islands

The Cayman Islands reported it is not conducting any tax treaty negotiations currently. The Cayman Islands signed new treaties with the Faroe Islands and Greenland, which have not yet entered into force. The Cayman Islands further reported that it is currently reviewing the possibility to sign 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. The Cayman Islands also reported that it intends to amend the tax treaties bilaterally with its treaty partners where necessary. In that regard, the Cayman Islands reported that it contacted the relevant treaty partners to discuss bilaterally the possibility of amending the relevant tax treaties and comply with the Action 14 Minimum Standard. The Cayman Islands further reported that it has not initiated any formal negotiations but intends to maintain that contact and take matters forward.

Basis for the peer review process

The peer review process entails an evaluation of the Cayman Islands’ implementation of the Action 14 Minimum Standard through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic legislation and regulations, as well as its MAP programme guidance (if any) and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by the Cayman Islands, its peers and taxpayers. The questionnaires for the peer review process were sent to the Cayman Islands and the peers on 30 August 2019.

The period for evaluating the Cayman Islands’ implementation of the Action 14 Minimum Standard ranges from 1 January 2017 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 the Cayman Islands’ implementation of this minimum standard. In the update of this report, being stage 2 of the peer review process, these recent developments will be taken into account in the assessment and, if necessary, the conclusions contained in this report will be amended accordingly.

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

No peers have provided input on the Cayman Islands’ implementation of the Action 14 Minimum Standard. This can be explained by the fact that the Cayman Islands’ 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.

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

- MAP profile²
- MAP statistics³ according to the MAP Statistics Reporting Framework (see below).

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

Overview of MAP caseload in the Cayman Islands

As mentioned above, the Cayman Islands 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 the Cayman Islands’ 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**”).⁴ Furthermore, the report depicts the changes adopted and plans shared by the Cayman Islands 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 the Cayman Islands 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 the Cayman Islands has entered into are available at: www.tia.gov.ky. The treaties that are signed but have not yet entered into force are with the Faroe Islands and Greenland. Reference is made to Annex A for the overview of the Cayman Islands’ tax treaties.
2. Available at <https://www.oecd.org/tax/dispute/Cayman-Islands-Dispute-Resolution-Profile.pdf>.
3. The MAP statistics of the Cayman Islands are included in Annex B and C of this report.
4. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

Part A

Preventing disputes

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

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

1. Cases may arise concerning the interpretation or the application of tax treaties that do not necessarily relate to individual cases, but are more of a general nature. Inclusion of the first sentence of Article 25(3) of the OECD Model Tax Convention (OECD, 2017a) in tax treaties invites and authorises competent authorities to solve these cases, which may avoid submission of MAP requests and/or future disputes from arising, and which may reinforce the consistent bilateral application of tax treaties.

Current situation of the Cayman Islands' tax treaties

2. Out of the Cayman Islands' ten tax treaties, nine 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. One treaty does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention, as the scope of the provision in these treaties is limited to difficulties or doubts as regards the application of the arm's length principle regarding transfer pricing adjustments. While this limitation of the scope is logical given the fact that the MAP article only covers transfer pricing cases, the treaty itself provides for a broader scope of application, namely also to certain items of income concerning individuals. In that regard, the Cayman Islands reported that it considers itself able to enter into MAP agreements of a general nature in the absence of the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention.

Anticipated modifications

Bilateral modifications

3. For the treaty, which does not contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention, the Cayman Islands reported it will strive to update it via bilateral negotiations to be compliant with element A.1. In this regard, the Cayman Islands reported that it contacted the relevant treaty partner to discuss the possibility of amending the treaty to comply with the BEPS Action 14 Minimum Standard.

The Cayman Islands reported that it has not initiated any formal negotiations and does not have any specific timeline yet but intends to take matters forward in the near future. In addition, the Cayman Islands reported that it is currently reviewing the necessity to sign the Multilateral Instrument in order to meet the Minimum Standard. The Cayman Islands further 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

4. No peer input was provided.

Conclusion

	Areas for improvement	Recommendations
[A.1]	One out of ten tax treaties does not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention.	For the treaty that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax, the Cayman Islands should follow up on its request for the inclusion of the required provision via bilateral negotiations. In addition, the Cayman Islands should maintain its stated intention to include the required provision in all future tax treaties.

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

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

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

The Cayman Islands’ APA programme

6. The Cayman Islands does not have an APA programme, by which there is no possibility for providing roll-back of bilateral APAs to previous years.

Practical application of roll-back of bilateral APAs

7. No peer input was provided.

Anticipated modifications

8. The Cayman Islands 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.

9. 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 the Cayman Islands' tax treaties

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

10. Out of the Cayman Islands' ten tax treaties, one contains 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. In addition, one of the Cayman Islands' 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.

11. The remaining eight treaties can be categorised as follows:

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, whereby taxpayers can only submit a MAP request for transfer pricing adjustments, whereas the scope of the treaty also covers certain items of income concerning individuals.	1
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, whereby taxpayers can only submit a MAP request to the competent authority of the contracting state of which they are resident.	7

12. The treaty in the first row of the table above concerns an “agreement for the allocation of taxing rights with respect to certain income of individuals and to establish a mutual agreement procedure in respect of transfer pricing adjustments”. The scope of MAP is limited to cases concerning transfer pricing adjustments not in accordance with the arm’s length principle. However, as the scope of application of the treaty is broader than just transfer pricing cases, it is considered not to be equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention.

13. The remaining seven treaties mentioned in the second row in the table above are considered not to have the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report, since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, all of those seven treaties are considered to be in line with this part of element B.1, since the relevant tax treaties do not contain a non-discrimination provision and only apply to residents of one of the states.

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

14. Out of the Cayman Islands’ ten tax treaties, eight 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.

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

Provision	Number of tax treaties
No filing period for a MAP request	1
Treaty that has a limited scope of application, whereby the MAP is restricted to transfer pricing cases and whereby the filing period is three years as of the date of the first notification of a transfer pricing adjustment.	1

16. Although the treaty in the second row of the table above includes a three-year filing period for MAP requests, MAP is only open to transfer pricing cases whereas the scope of the treaty is broader. The limitation of the filing period to the date of transfer pricing adjustment is therefore also considered not to be in line with this element.

Practical application

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

17. The Cayman Islands’ tax treaties contain a provision allowing taxpayers to file a MAP request irrespective of domestic remedies. As the Cayman Islands reported that there are no direct taxes and no domestic remedies in the Cayman Islands, there would be no cases where a taxpayer would submit the issue at stake for a potential MAP case to the Cayman Islands’ domestic remedies.

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

18. The Cayman Islands reported that a MAP case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement in the absence of filing period in the treaty.

Anticipated modifications

Bilateral modifications

19. The Cayman Islands reported that for the treaties which do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention, as it read prior to the adoption of the Action 14 final report, it intends to update them via bilateral negotiations with a view to be compliant with element B.1. In this regard, the Cayman Islands reported that it contacted the relevant treaty partner to discuss the possibility of amending its treaty to comply with the Action 14 Minimum Standard. The Cayman Islands reported that it has not yet initiated any formal negotiations but intends to maintain the contact and take matters forward. In addition, the Cayman Islands reported it will seek to include Article 25(1) of the OECD Model Tax Convention as changed by 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]	One out of ten tax treaties does not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention.	For the treaty that does not contain the equivalent of Article 25(1) of the OECD Model Tax Convention, the Cayman Islands should follow up on its request for the inclusion of the required provision via bilateral negotiations. This concerns for the first sentence of this paragraph a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either: <ul style="list-style-type: none"> a. as amended in the Action 14 final report; or b. as it read prior to the adoption of Action 14 final report In addition, the Cayman Islands 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 the Cayman Islands' ten 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.

23. The Cayman Islands reported that in the event that it receives a MAP request it will notify the competent authority of the other treaty partner to provide its views on the case when the Cayman Islands' competent authority considers the objection raised in the MAP request not to be justified. The Cayman Islands also reported that it can confirm that the absence of an internal process and timeline would not inhibit the process. This process, however, is not documented.

Practical application

24. The Cayman Islands reported that since 1 January 2017 its competent authority has not received any MAP request.

Anticipated modifications

25. The Cayman Islands reported that a bilateral consultation or notification process is provided in its draft MAP guidance, but this does not include detailed and comprehensive instructions regarding an internal process, information that will be given and timeline within which the competent authority would make such a notification. The Cayman Islands also reported that it will consider the introduction and internal documentation of such a process.

Conclusion

	Areas for improvement	Recommendations
[B.2]	Nine of the ten 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.	The Cayman Islands should without further delay document its notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, the Cayman Islands should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.

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

Jurisdictions should provide access to MAP in transfer pricing cases.

26. 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

27. None of the Cayman Islands' ten tax treaties contains 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.

28. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in the Cayman Islands' tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B3, as translated from the Action 14 Minimum Standard, the Cayman Islands indicated that it will always provide access to MAP for transfer pricing, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention is contained in its tax treaties, although it reported that agreements reached would be implemented on a case-by-case basis as no direct taxes are levied in the Cayman Islands. As the Cayman Islands has not issued MAP guidance yet, there is no public information available regarding whether it will give access to MAP in transfer pricing cases.

Application of legal and administrative framework in practice

29. The Cayman Islands reported that since 1 January 2017 it has not received any MAP requests for a transfer pricing case during the review period and therefore has not denied access to MAP.

30. No peer input was provided.

Anticipated modifications

31. The Cayman Islands 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]	The Cayman Islands reported it will provide access to MAP in transfer pricing cases. Its competent authority, however, did not receive any MAP requests for such cases during the Review Period. The Cayman Islands 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.

32. 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

33. None of the Cayman Islands' ten tax treaties contains an anti-abuse provision and no domestic anti-abuse provision would apply as there are no income taxes in the Cayman Islands. In that regard, no 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 can occur based on actions taken by the Cayman Islands.

Practical application

34. The Cayman Islands reported that since 1 January 2017 it has not received any MAP requests and therefore 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.

35. No peer input was provided.

Anticipated modifications

36. The Cayman Islands reported that its draft MAP guidance contains examples of appropriate MAP requests and the case related to the application of an anti-abuse provision is included.

Conclusion

	Areas for improvement	Recommendations
[B.4]	-	-

[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.

37. 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***

38. The Cayman Islands reported that there is no audit settlement process available in the Cayman Islands.

Administrative or statutory dispute settlement/resolution process

39. The Cayman Islands 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

40. The Cayman Islands reported that since 1 January 2017 it has not received any MAP requests from taxpayers.

41. No peer input was provided.

Anticipated modifications

42. The Cayman Islands indicated that it does not anticipate any modifications in relation to element B.5.

Conclusion

	Areas for improvement	Recommendations
[B.5]	-	-

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

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

43. 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

44. The information and documentation the Cayman Islands requires taxpayers to include in a request for MAP assistance are discussed under element B.8.

45. The Cayman Islands reported that timelines as to when a taxpayer must submit additional supporting documentation will be decided on a case-by-case basis, and the time limit provided will be reasonable given the circumstances of the request.

Practical application

46. The Cayman Islands reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements, and there is no official form to be completed when making a MAP request as all MAP requests will have their own factual background. It further reported that since 1 January 2017 it has not received any MAP requests from a taxpayer.

47. No peer input was provided.

Anticipated modifications

48. The Cayman Islands indicated that it does not anticipate any modifications in relation to element B.6.

Conclusion

	Areas for improvement	Recommendations
[B.6]	The Cayman Islands reported it will give access to MAP in cases where taxpayers have complied with information and documentation requirements for MAP requests. Its competent authority, however, did not receive any MAP requests from taxpayers during the Review Period. The Cayman Islands is therefore recommended to follow its policy and grant access to MAP when it receives a request that contains the information and documentation its CA asks the taxpayer to provide.	

[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.

49. 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 the Cayman Islands' tax treaties

50. Out of the Cayman Islands' ten tax treaties, one contains a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The remaining nine tax treaties do not contain a provision that is based on or the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention

51. For those remaining nine treaties this can be clarified by the fact that they have limited scope of application. This concerns tax treaties that only apply to a certain category of income or a certain category of taxpayers, whereby the structure and articles of the OECD Model Tax Convention are not followed. As these treaties were intentionally negotiated with a limited scope, the inclusion of Article 25(3), second sentence, of the OECD Model Tax Convention would contradict the object and purpose of those treaties and such inclusion would also be inappropriate, as it would allow competent authorities the possibility to consult in cases that have intentionally been excluded from the scope of a tax treaty. For this reason, therefore, there is a justification not to contain Article 25(3), second sentence, of the OECD Model Tax Convention for those nine treaties with a limited scope of application.

Anticipated modifications

Bilateral modifications

52. The Cayman Islands reported that it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention in all of its future tax treaties, unless the treaties concerned are limited in scope, such that there is justification for them not to contain Article 25(3), second sentence, of the OECD Model Tax Convention.

Peer input

53. No peer input was provided.

Conclusion

	Areas for improvement	Recommendations
[B.7]	-	The Cayman Islands should maintain its stated intention to include the required provision in all its future comprehensive 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.

54. 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.

The Cayman Islands' MAP guidance

55. Since the Cayman Islands has not yet published MAP guidance, the information that the FTA MAP Forum agreed should be included in such guidance is not available. This 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 taxpayers should submit its MAP request.¹

Information and documentation to be included in a MAP request

56. 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 a request for MAP assistance.² The Cayman Islands reported that the items that must be included in a request for MAP assistance are checked in the following list:

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

57. Due to the fact that the Cayman Islands has not issued MAP guidance, there is also no guidance on any of the above in the Cayman Islands.

Anticipated modifications

58. The Cayman Islands indicated currently being in the process of drafting its MAP guidance, and that such guidance would *inter alia* address the following items:

- contact information of the competent authority
- manner and form in which the taxpayer should submit its MAP request
- the specific information and documentation that should be included in a MAP request
- how the MAP functions in terms of timing and the role of the competent authorities
- rights and role of taxpayers in the process
- whether MAP is available in: (i) transfer pricing cases and (ii) cases regarding the application of anti-abuse provisions
- where the Competent Authorities reach agreement on a case the Cayman Islands Competent Authority will ensure that this agreement is implemented on a timely basis including by making appropriate adjustments to the tax assessed e.g. in transfer pricing cases.

Conclusion

	Areas for improvement	Recommendations
[B.8]	There is no published MAP guidance.	<p>The Cayman Islands should, without further delay, introduce and publish guidance on access to and use of MAP, and in particular include the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation and information that should be included in such a request.</p> <p>Additionally, although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance the Cayman Islands could follow its stated intention to include the items identified above.</p>

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

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

59. 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.³

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

60. As discussed under element B.8, the Cayman Islands has not yet published MAP guidance.

MAP profile

61. The MAP profile of the Cayman Islands is published on the website of the OECD. This updated MAP profile is complete with some detailed information. The Cayman Islands reported that it is in line with its MAP guidance to be published.

Anticipated modifications

62. The Cayman Islands reported that its MAP guidance is under preparation and will be published in the near future.

Conclusion

	Areas for improvement	Recommendations
[B.9]	The MAP guidance is not publicly available.	The Cayman Islands should make its MAP guidance publicly available and easily accessible once it has been introduced. Furthermore, the MAP profile should be updated once the Cayman Islands' 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.

63. 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

64. As previously discussed under B.5, audit settlements are not possible in the Cayman Islands. In that regard, there is no need to address in its MAP guidance that such settlements do not preclude access to MAP.

65. No peer input was provided.

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

66. As previously mentioned under element B.5, the Cayman Islands 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 the Cayman Islands’ MAP guidance.

67. No peer input was provided.

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

68. As the Cayman Islands 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

69. The Cayman Islands indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

Notes

1. Available at: 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.
3. The shared public platform can be found at: 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.

70. 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 the Cayman Islands' tax treaties

71. Out of the Cayman Islands' ten tax treaties, nine 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. The remaining tax treaty does not contain such equivalent at all.

Anticipated modifications

Bilateral modifications

72. For the treaty that does not contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention, the Cayman Islands reported it will strive to update it via bilateral negotiations to be compliant with element C.1. In this regard, the Cayman Islands reported that it contacted the relevant treaty partner to discuss the possibility of amending its treaty to comply with the Action 14 Minimum Standard. The Cayman Islands reported that it has not yet initiated any formal negotiations but intends to maintain the contact and take matters forward. In addition, the Cayman Islands 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

73. No peer input was provided.

Conclusion

	Areas for improvement	Recommendations
[C.1]	One out of ten tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention.	For the treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax, the Cayman Islands should follow up on its request for the inclusion of the required provision via bilateral negotiations. In addition, the Cayman Islands 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).

74. 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

75. 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. The Cayman Islands joined in the Inclusive Framework in 2017. For this reason the statistics referred to are pre-2017 cases for cases that were pending on 31 December 2016, and post-2016 cases for cases that started on or after 1 January 2017. The Cayman Islands provided its MAP statistics for 2017 and 2018 pursuant to the MAP Statistics Reporting Framework within the given deadline. The statistics discussed below include both pre-2017 and post-2016 cases and they are attached to this report as Annex B and Annex C respectively, showing that the Cayman Islands has not been involved in any MAP cases since 1 January 2017.

Monitoring of MAP statistics

76. The Cayman Islands does not have a system in place with its treaty partners that communicates, monitors and manages the MAP caseload, which can be explained by the fact that the Cayman Islands was never involved in a MAP case.

Analysis of the Cayman Islands’ MAP caseload

77. The Cayman Islands was not involved in any MAP cases during the Review Period.

Overview of cases closed during the Statistics Reporting Period

78. The Cayman Islands was not involved in any MAP cases during the Review Period.

Average timeframe needed to resolve MAP cases

79. The Cayman Islands was not involved in any MAP cases during the Review Period.

Peer input

80. No peer input was provided.

Anticipated modifications

81. The Cayman Islands indicated that it does not anticipate any modifications in relation to element C.2.

Conclusion

	Areas for improvement	Recommendations
[C.2]	As there were no post-2016 MAP cases to resolve it was at this stage not possible to evaluate whether the Cayman Islands’ 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.

82. 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 the Cayman Islands’ competent authority

83. Under the Cayman Islands’ tax treaties, the competent authority function is assigned to the Minister of Finance or his authorised representative or the authority which is designated as a competent authority for the purpose of the agreement. This has been delegated to the Tax Information Authority. The Cayman Islands reported that MAP cases will be allocated to existing staff when a MAP case arises and such staff would not be in charge of, nor involved in, treaty negotiations.

Monitoring mechanism

84. As discussed under element C.2, the Cayman Islands' competent authority has not yet been involved in any MAP cases, there were no MAP statistics available to analyse the pursued 24-months average.

Practical application***MAP statistics***

85. As discussed under element C.2, the Cayman Islands has not yet received any MAP requests, there were no MAP statistics available to analyse the pursued 24-months average.

Peer input

86. No peer input was provided.

Anticipated modifications

87. The Cayman Islands indicated that it does not anticipate any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	-	The Cayman Islands 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.

88. 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

89. As discussed under element C.2, the Cayman Islands reported that MAP cases will be allocated to existing staff when a MAP case arises and such staff would not be in charge of, nor involved in, treaty negotiations. The Cayman Islands also reported that it imposes no direct taxes on companies and individuals and therefore does not provide tax assessments.

90. In regard of the above, the Cayman Islands reported that staff in charge of MAP in practice would operate independently and have 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 the Cayman Islands would like to see reflected in future amendments to the treaty.

Practical application

91. No peer input was provided.

Anticipated modifications

92. The Cayman Islands indicated that it does not anticipate any modifications in relation to element C.4.

Conclusion

	Areas for improvement	Recommendations
[C.4]	-	For future MAP cases, the Cayman Islands should ensure that its competent authority continues to have the authority, and uses that authority in practice, to resolve such 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 the Cayman Islands 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.

93. 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 the Cayman Islands

94. As The Cayman Islands has not yet received any MAP requests, it reported that at the time of review performance indicators have not yet been set for the MAP office.

95. 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).

96. Further to the above, the Cayman Islands also reported that it does not use any performance indicators for staff in charge of MAP that are related to the outcome of MAP discussions in terms of the amount of sustained audit adjustments or maintained tax revenue, since there is no direct taxes in the Cayman Islands. In other words, staff in charge of MAP is not evaluated on the basis of the material outcome of MAP discussions.

Practical application

97. No peer input was provided.

Anticipated modifications

98. The Cayman Islands indicated that it does not anticipate any modifications in relation to element C.5.

Conclusion

	Areas for improvement	Recommendations
[C.5]	-	The Cayman Islands 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.

99. 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

100. The Cayman Islands' MAP profile clearly states that they have no domestic law limitations for including MAP arbitration in their tax treaties but its treaty policy allows to include MAP arbitration in its tax treaties.

Practical application

101. The Cayman Islands has not incorporated an arbitration clause in any of its ten tax treaties as a final stage to the MAP.

Anticipated modifications

102. The Cayman Islands reported that it would be willing to add MAP arbitration clauses to existing and future treaties if required to comply with Action 14.

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.

103. 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

104. The Cayman Islands reported that it is unlikely that it would need to implement a MAP agreement as it has no direct tax system and does not impose income, corporate, capital or other direct taxes.

Practical application

105. As the Cayman Islands was not involved in any MAP cases for the period under review, it was not possible to assess the implementation of MAP agreements by the Cayman Islands.

106. No peer input was provided.

Anticipated modifications

107. The Cayman Islands indicated that it does not anticipate any modifications in relation to element D.1.

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 the Cayman Islands 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.

108. 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

109. As discussed under element D.1, the Cayman Islands reported that it is unlikely that it would need to implement a MAP agreement as it has no direct taxes in the Cayman Islands.

Practical application

110. As the Cayman Islands was not involved in any MAP cases for the period under review, it was not possible to assess the timely implementation of MAP agreements by the Cayman Islands.

111. No peer input was provide.

Anticipated modifications

112. The Cayman Islands 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 the Cayman Islands, it was not yet possible to assess whether the Cayman Islands 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.

113. In order to provide full certainty to taxpayers it is essential that implementation of MAP agreements is not obstructed by any time limits in the domestic law of the jurisdictions concerned. Such certainty can be provided by either including the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) 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 the Cayman Islands’ tax treaties

114. Out of the Cayman Islands’ ten tax treaties, eight contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. The remaining two treaties do not contain such equivalent or the alternative provisions.

Anticipated modifications

Bilateral modifications

115. For those treaties which do not contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention, or both alternative provisions in Articles 9(1) and 7(2), the Cayman Islands reported they will strive to update them via bilateral negotiations to be compliant with element D.3. In this regard, the Cayman Islands reported that it contacted the relevant treaty partners to discuss the possibility of amending treaties to comply with the Action 14 Minimum Standard. The Cayman Islands reported that it has not yet initiated any formal negotiations but intends to maintain the contact and take matters forward. In addition, the Cayman Islands reported they 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

116. No peer input was provided.

Conclusion

	Areas for improvement	Recommendations
[D.3]	Two out of ten tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2).	Where treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax or both alternative provisions, the Cayman Islands should follow up on its requests for the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions. In addition, the Cayman Islands 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
Part A. Preventing disputes		
[A.1]	One out of ten tax treaties does not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention.	<p>For the treaty that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax, the Cayman Islands should follow up on its request for the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, the Cayman Islands should maintain its stated intention to include the required provision in all future tax treaties.</p>
[A.2]	-	-
Part B. Availability and access to MAP		
[B.1]	One out of ten tax treaties does not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention.	<p>For the treaty that does not contain the equivalent of Article 25(1) of the OECD Model Tax Convention, the Cayman Islands should follow up on its request for the inclusion of the required provision via bilateral negotiations. This concerns for the first sentence of this paragraph a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either:</p> <ul style="list-style-type: none"> a. as amended in the Action 14 final report; or b. as it read prior to the adoption of Action 14 final report <p>In addition, the Cayman Islands 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.</p>
[B.2]	Nine of the ten 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.	<p>The Cayman Islands should without further delay document its notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps.</p> <p>Furthermore, the Cayman Islands should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.</p>
[B.3]	The Cayman Islands reported it will provide access to MAP in transfer pricing cases. Its competent authority, however, did not receive any MAP requests for such cases during the Review Period. The Cayman Islands is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.4]	-	-
[B.5]	-	-

	Areas for improvement	Recommendations
[B.6]	The Cayman Islands reported it will give access to MAP in cases where taxpayers have complied with information and documentation requirements for MAP requests. Its competent authority, however, did not receive any MAP requests from taxpayers during the Review Period. The Cayman Islands is therefore recommended to follow its policy and grant access to MAP when it receives a request that contains the information and documentation its CA asks the taxpayer to provide.	
[B.7]	-	The Cayman Islands should maintain its stated intention to include the required provision in all its future comprehensive tax treaties.
[B.8]	There is no published MAP guidance.	The Cayman Islands should, without further delay, introduce and publish guidance on access to and use of MAP, and in particular include the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation and information that should be included in such a request. Additionally, although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance the Cayman Islands could follow its stated intention to include the items identified above.
[B.9]	The MAP guidance is not publicly available.	The Cayman Islands should make its MAP guidance publicly available and easily accessible once it has been introduced. Furthermore, the MAP profile should be updated once the Cayman Islands' MAP guidance has been introduced.
[B.10]	-	-
Part C. Resolution of MAP cases		
[C.1]	One out of ten tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention.	For the treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax, the Cayman Islands should follow up on its request for the inclusion of the required provision via bilateral negotiations. In addition, the Cayman Islands should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	As there were no post-2016 MAP cases to resolve it was at this stage not possible to evaluate whether the Cayman Islands' competent authority seeks to resolve MAP cases within an average time frame of 24 months.	
[C.3]	-	The Cayman Islands 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]	-	For future MAP cases, the Cayman Islands should ensure that its competent authority continues to have the authority, and uses that authority in practice, to resolve such 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 the Cayman Islands would like to see reflected in future amendments to the treaty.
[C.5]	-	The Cayman Islands 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]	-	-

	Areas for improvement	Recommendations
Part D. Implementation of MAP agreements		
[D.1]	As there was no MAP agreement reached during the Review Period, it was not yet possible to assess whether the Cayman Islands 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 the Cayman Islands, it was not yet possible to assess whether the Cayman Islands would have implemented all MAP agreements on a timely basis thus far.	
[D.3]	Two out of ten tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2).	<p>Where treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax or both alternative provisions, the Cayman Islands should follow up on its requests for the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>In addition, the Cayman Islands should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.</p>

Annex A

Tax treaty network of the Cayman Islands

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Y = yes N = signed pending ratification	If N, date of signing	Inclusion Art. 25(1) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) of the OECD MTC second sentence? (Note 4) If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no
Denmark	Y	N/A	O	Y	N/A	i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes N = no	Y = yes N = no	Y	Y	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no
Faroe Islands	N	6/17/2009	O	Y	N/A	i = no and access will not be given to TP cases	Y = yes N = no	Y	Y	Y	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no
Finland	Y	N/A	O	Y	N/A	ii = no and access will not be given to TP cases	Y = yes N = no	Y	Y	Y	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Arbitration	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	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)	A.1	B.7	C.6		
Greenland	N	6/17/2009	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y					
Iceland	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y					
Japan	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y					
New Zealand	Y	N/A	N	iv	N/A	i	N	N	N	N	N	N	N	N	N					
Norway	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y					
Sweden	Y	N/A	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y					
United Kingdom	Y	N/A	E	i	N/A	i	Y	Y	Y	Y	Y	N	N	Y	Y					

Annex B

MAP statistics reporting for the 2017 and 2018 Reporting Periods (1 January 2017 to 31 December 2018) for pre-2017 cases

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	
		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 tax 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	
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

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 tax 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	
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 the 2017 and 2018 Reporting Periods (1 January 2017 to 31 December 2018) for post-2016 cases

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

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
Multilateral Instrument	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
OECD Transfer Pricing Guidelines	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
Pre-2017 cases	MAP cases in a competent authority’s inventory that are pending resolution on 31 December 2016
Post-2016 cases	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2017
Review Period	Period for the peer review process that started on 1 January 2017 and ended on 31 August 2019
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2017 and that ended on 31 December 2018
Terms of Reference	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective

OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective - MAP Peer Review Report, the Cayman Islands (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 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 the Cayman Islands.



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