

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



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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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

Table of contents

Abbreviations and acronyms	7
Executive summary	9
Introduction	11
Part A. Preventing disputes	15
[A.1] Include Article 25(3), first sentence, of the OECD Model Tax Convention in tax treaties	15
[A.2] Provide roll-back of bilateral APAs in appropriate cases	16
References	16
Part B. Availability and access to MAP	17
[B.1] Include Article 25(1) of the OECD Model Tax Convention in tax treaties	17
[B.2] Allow submission of MAP requests to the competent authority of either treaty partner, or, alternatively, introduce a bilateral consultation or notification process	19
[B.3] Provide access to MAP in transfer pricing cases	21
[B.4] Provide access to MAP in relation to the application of anti-abuse provisions	22
[B.5] Provide access to MAP in cases of audit settlements	23
[B.6] Provide access to MAP if required information is submitted	24
[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties	25
[B.8] Publish clear and comprehensive MAP guidance	26
[B.9] Make MAP guidance available and easily accessible and publish MAP profile	28
[B.10] Clarify in MAP guidance that audit settlements do not preclude access to MAP	29
References	30
Part C. Resolution of MAP cases	31
[C.1] Include Article 25(2), first sentence, of the OECD Model Tax Convention in tax treaties	31
[C.2] Seek to resolve MAP cases within a 24-month average timeframe	32
[C.3] Provide adequate resources to the MAP function	34
[C.4] Ensure staff in charge of MAP has the authority to resolve cases in accordance with the applicable tax treaty	36
[C.5] Use appropriate performance indicators for the MAP function	37
[C.6] Provide transparency with respect to the position on MAP arbitration	38
References	39
Part D. Implementation of MAP agreements	41
[D.1] Implement all MAP agreements	41
[D.2] Implement all MAP agreements on a timely basis	42

[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)	43
Reference	44
Summary	45
Annex A. Tax treaty network of the Faroe Islands	49
Annex B. MAP statistics reporting for the 2019 Reporting Periods (1 January 2019 to 31 August 2019) for pre-2019 cases	51
Annex C. MAP statistics reporting for the 2019 Reporting Periods (1 January 2019 to 31 August 2019) for post-2018 cases	52
Glossary	53

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 Faroe Islands has a small tax treaty network with about ten tax treaties. The Faroe Islands has limited experience with resolving MAP cases. It has currently one case in its inventory and this case is not an allocation/attribution case. Overall the Faroe Islands meets most of the elements of the Action 14 Minimum Standard. Where it has deficiencies, the Faroe Islands is working to address them.

All of the Faroe 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 for the fact that approximately 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 Faroe Islands needs to amend and update two tax treaties. The Faroe Islands reported that it intends to update all of its tax treaties via bilateral negotiations to be compliant with the requirements under the Action 14 Minimum Standard. The Faroe Islands further reported that it has already contacted one treaty partner in that respect and that it will contact the other one afterwards.

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

The Faroe 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 2019 not received any MAP request concerning transfer pricing cases, cases where anti-abuse provisions are applied or cases where there has been an audit settlement. Furthermore, the Faroe 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 Faroe Islands has not yet issued MAP guidance but submitted its MAP profile.

Concerning the average time needed to close MAP cases, the MAP statistics for the Faroe Islands for the period starting on 1 January 2019 and ending on 31 August 2019 are as follows:

2019 January-August	Opening inventory 01/01/2019	Cases started	Cases closed	End inventory 31/08/2019	Average time to close cases (in months)*
Attribution/allocation cases	0	0	0	0	N/A
Other cases	3	1	3	1	10.12
Total	3	1	3	1	10.12

*The average time taken for resolving MAP cases for pre-2019 and post-2018 cases follows the MAP Statistics Reporting Framework.

The number of cases the Faroe Islands closed in the period above is more than the number of new cases started in the year. Its MAP inventory as per 31 August 2019 is less than its inventory as per 1 January 2019. During that period, MAP cases were closed on average within a timeframe of 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the average time necessary was 10.12 months following which the Faroe Islands' competent authority is considered to be adequately resourced.

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

Lastly, the Faroe Islands also meets almost all of the Action 14 Minimum Standard as regards the implementation of MAP agreements.

Introduction

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

The Faroe Islands has entered into 11 tax treaties on income (and/or capital), ten of which are in force.¹ These 11 treaties are being applied to 15 jurisdictions. All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. In addition, one of the 11 treaties contains an arbitration provision as a final stage to the mutual agreement procedure.² Furthermore, six of the 11 treaties have a limited scope of application.

In the Faroe Islands, the competent authority function to conduct MAP is delegated to the Faroe Tax Agency. The competent authority of the Faroe Islands currently employs one person who belongs to the legal department.

Recent developments in the Faroe Islands

The Faroe Islands reported it is currently not conducting any tax treaty negotiations. The Faroe Islands signed a new treaty with the Cayman Islands, the amendment to the treaty with Greenland and the amendment to the Nordic Convention, which have not yet entered into force.

The Faroe Islands reported it will strive to update its tax treaties via bilateral negotiations in order to comply with the Action 14 Minimum Standard. The Faroe Islands further reported that it has already started the renegotiation with one of its treaty partners and intends to contact the other relevant treaty partner after it concludes the current treaty negotiation.

Basis for the peer review process

The peer review process entails an evaluation of the Faroe 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 Faroe Islands, its peers and taxpayers. The questionnaires for the peer review process were sent to the Faroe Islands and the peers on 30 August 2019.

The period for evaluating the Faroe Islands' implementation of the Action 14 Minimum Standard ranges from 1 January 2019 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 Faroe 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 Faroe 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. Furthermore, the treaty analysis also takes into account the multilateral tax treaty between Denmark, Finland, the Faroe Islands, Iceland, Norway and Sweden (“Nordic convention”) that is only counted as one treaty for this purpose even if it applies to several jurisdictions. Reference is made to Annex A for the overview of the Faroe Islands’ tax treaties regarding the mutual agreement procedure.

In total two peers provided input: Denmark and Sweden. Out of these two peers, one had MAP cases with the Faroe Islands that started on or after 1 January 2019. Generally, all peers indicated that the CA of the Faroe Islands was co-operative to resolve cases. One peer commented that it had some problems establishing contact with the Faroe Islands CA, since it could not find any public information. The peer however also reported that once contact was established, the Faroe Islands CA responded quickly and was pragmatic and solution orientated. Another peer commented that the Faroe Islands’ case handling seemed to take a long time.

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

- MAP profile³
- Tentative MAP statistics⁴ for 2019 (see below).

Finally, the Faroe 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 Faroe Islands

According to the tentative statistics provided by the Faroe Islands, its MAP caseload during the period starting on 1 January 2019 and ending on 31 August 2019 was as follows:

2019 January-August	Opening inventory 01/01/2019	Cases started	Cases closed	End inventory 31/08/2019
Attribution/allocation cases	0	0	0	0
Other cases	3	1	3	1
Total	3	1	3	1

General outline of the peer review report

This report includes an evaluation of the Faroe Islands’ implementation of the Action 14 Minimum Standard. The report comprises the following four sections:

- Preventing disputes
- Availability and access to MAP
- Resolution of MAP cases
- 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**”).⁵ Apart from analysing the Faroe Islands’ legal framework and its administrative practice, the report also incorporates peer input and responses to such input by the Faroe Islands. Furthermore, the report depicts the changes adopted and plans shared by the Faroe 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 Faroe 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 Faroe Islands has entered into are available at: <https://www.taks.fo/fo/log/altjoda-skattaavtalur/tviskattasattmalar/>. The treaty that is signed but has not yet entered into force is with the Cayman Islands. The Faroe Islands has in 2018 signed an amending protocol to the multilateral tax treaty with the Nordic countries, to which also Denmark, Finland, Iceland, Norway and Sweden are signatories (“Nordic convention”). This protocol has not yet entered into force. Reference is made to Annex A for the overview of the Faroe Islands’ tax treaties. Furthermore, the 11 tax treaties the Faroe Islands has entered into include treaties with Bermuda, Guernsey and Jersey. With these three jurisdictions, the Faroe Islands has entered into separate treaties that have a limited scope of application, one of which relates to transfer pricing and one to certain categories of income of individuals. In this situation, the number of such treaties is regarded as one for each treaty partner jurisdiction for the purpose of this peer review report and Annex A.
2. It concerns the treaty with Switzerland although arbitration is not available for the resolution of tax treaty related disputes for the moment due to the domestic legislation. Reference is made to Annex A for the overview of the Faroe Islands’ tax treaties.
3. Available at <https://www.oecd.org/tax/dispute/Faroe-Islands-Dispute-Resolution-Profile.pdf>.
4. The MAP statistics of the Faroe Islands are included in Annex B and C of this report.
5. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

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 Faroe Islands' tax treaties

2. All of the Faroe Islands' 11 tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty.¹

Anticipated modifications

Bilateral modifications

3. As all of the Faroe Islands' 11 tax treaties contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention there is no need for modifications. Regardless the Faroe Islands reported that it will continue to seek to include Article 25(3), first sentence in all of its future tax treaties.

Peer input

4. Peers provided no specific input in relation to element A.1.

Conclusion

	Areas for improvement	Recommendations
[A.1]	-	The Faroe 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.² 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 Faroe Islands’ APA programme

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

7. Peers provided no specific input in relation to element A.2.

Anticipated modifications

8. The Faroe Islands reported that it will implement APA programmes when it sees the need for such a programme, and that it is possible to allow for roll-back of APAs.

Conclusion

	Areas for improvement	Recommendations
[A.2]	-	-

Notes

1. The nine treaties include the treaty signed with the Cayman Islands (2009) that is not yet in force.
2. 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 Faroe Islands' tax treaties

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

10. Out of the Faroe Islands' 11 tax treaties, two contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state. In addition, two of the Faroe Islands' tax treaties contain 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 seven 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 to the competent authority of the contracting state of which they are resident.	7

12. The remaining seven treaties mentioned 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, for the following reasons all of the six treaties are considered to be in line with this part of element B.1:

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

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

13. Out of the Faroe Islands' 11 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.

14. The remaining three 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	2
Filing period more than 3 years for a MAP request (5 years)	1

Practical application

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

15. As indicated above, all of the Faroe Islands' tax treaties allow the filing of a MAP request irrespective of domestic remedies. In this respect, the Faroe Islands reported that its competent authority would be bound by a court decision, if the circumstances, facts or documentation, are the same as was the basis under the court decision. The Faroe Islands also reported that if in the MAP process new information or documentation can appear this can lead to a different conclusion than that of a court decision. The Faroe Islands further reported that the same will be the case regarding an administrative appeal.

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

16. The Faroe Islands reported that in the absence of filing period in the treaty there will be no applicable filing period, and the competent authority can open a MAP case even if the domestic time limits have already expired.

Anticipated modifications*Bilateral modifications*

17. For those treaties which do not contain a filing period for MAP requests, the Faroe Islands reported that it has already contacted all its treaty partners to comply with the Action 14 Minimum Standards. In addition, the Faroe Islands reported it will seek to include Article 25(1) of the OECD Model Tax Convention, as amended in the Action 14 final report, in all of its future tax treaties.

Peer input

18. Peers provided no specific input in relation to element B.1.

Conclusion

	Areas for improvement	Recommendations
[B.1]	-	The Faroe 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).

19. 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

20. As discussed under element B.1, out of the Faroe Islands' 11 treaties, two currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partner.

21. The Faroe Islands reported that it would notify the competent authority in the other contracting state about the request and give the Faroe Islands' position to the request. The Faroe Islands further reported that it would give the competent authority in the other contracting state the opportunity to give its position on the request, and would share facts and necessary information, so that the competent authority of the other contracting state can make a position on the request. The Faroe Islands reported that it has not yet documented its notification process.

Practical application

22. The Faroe Islands reported that since 1 January 2019 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified.

23. All peers that provided input indicated not being aware of any cases for which the Faroe Islands' competent authority considered the objection raised in a MAP request as not justified. They also reported not having been consulted/notified in such cases, which can be explained by the fact that no such cases occurred since this date.

Anticipated modifications

24. The Faroe Islands indicated that it will document its notification process for those situations where its competent authority considers an objection raised in a MAP request as being not justified. The Faroe Islands also indicated that it intends to include in its guidance that the communication should be sent within 4 weeks after it received a MAP request.

Conclusion

	Areas for improvement	Recommendations
[B.2]	Nine of the 11 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 Faroe Islands should follow its stated intention to document its notification process and provide in that documented process 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 Faroe 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.

25. 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

26. Out of the Faroe Islands' 11 tax treaties, six contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner. Furthermore, three do not contain such equivalent. The remaining two do not contain at all the provision on associated enterprises which is the equivalent to Article 9 of the OECD Model Tax Convention.

27. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in the Faroe Islands' tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, the Faroe Islands indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention is contained in its tax treaties.

Application of legal and administrative framework in practice

28. The Faroe Islands reported that since 1 January 2019, it has not received MAP requests concerning a transfer pricing case and therefore has not denied access to MAP in transfer pricing cases.

29. All peers that provided input indicated not being aware of a denial of access to MAP by the Faroe Islands since date on the basis that the case concerned was a transfer pricing case.

Anticipated modifications

30. The Faroe 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 Faroe Islands reported that 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 Faroe 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.

31. 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

32. None of the Faroe Islands' 11 tax treaties allow competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, also the domestic law and/or administrative processes of the Faroe Islands do not include a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

Practical application

33. The Faroe Islands reported that since 1 January 2019 it has not received any MAP requests for cases concerning the application of anti-abuse provisions 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.

34. All peers that provided input indicated not being aware of cases that have been denied access to MAP in the Faroe Islands since 1 January 2019 in relation to the application of treaty and/or domestic anti-abuse provisions.

Anticipated modifications

35. The Faroe Islands indicated that it does not anticipate any modifications in relation to element B.4.

Conclusion

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

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

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

36. 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

37. The Faroe Islands reported that there is no audit settlement process available in the Faroe Islands.

Administrative or statutory dispute settlement/resolution process

38. The Faroe 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. In that regard, the Faroe Islands reported that the administrative appeal process provided by domestic legislation does not affect the rights of the taxpayer to submit a MAP request. It further reported that its competent authority would be bound by an administrative decision, if the circumstances, facts or documentation are the same as the basis under the administrative appeal case, however new information can be provided during the MAP, and in such a case, the competent authority can deviate from the conclusion of the administrative appeal decision.

Practical application

39. The Faroe Islands reported that since 1 January 2019 it has not received any MAP requests for cases where the issue presented by the taxpayer had already been resolved through an audit settlement between the taxpayer and the tax administration since audit settlements are not available in the Faroe Islands.

40. All peers indicated not being aware of a denial of access to MAP in the Faroe Islands since 1 January 2019 in cases where there was an audit settlement between the taxpayer and the tax administration, which can be explained by the fact that such settlements are not possible in the Faroe Islands.

Anticipated modifications

41. The Faroe 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.

42. 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

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

44. The Faroe Islands reported that when not all required information/documentation is provided by the taxpayer, it usually provides a 2-4-week timeline to taxpayers to submit additional information after a MAP request has been submitted, which depends on the information or documentation required. The Faroe Islands also reported that it would give a second timeline of 2-4 weeks or more if the taxpayer does not provide the required additional information.

Practical application

45. The Faroe Islands reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements. It further reported that since 1 January 2019 it has received one MAP request from a taxpayer which included the required information or documentation.

46. All peers that provided input indicated not being aware of a limitation of access to MAP by the Faroe Islands since 1 January 2019 in situations where taxpayers complied with information and documentation requirements.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[B.6]	No rules are in place regarding what information taxpayers need to include in a MAP request nor are any rules and timelines in place for requesting additional information by the competent authority and for taxpayers to provide such information. This bears the risk that access to MAP may not be granted or that access is only granted with substantial delays.	<p>The Faroe Islands should put in place clear procedures and timelines for requesting additional information from taxpayers when such information is not included in the initial MAP request and also provide for timelines within which taxpayers should comply with requests for additional information to ensure that eligible cases are dealt with in MAP and that no unnecessary delays occur. Such information could be included in the forthcoming published MAP guidance (see element B.8).</p> <p>Furthermore, as the Faroe Islands has thus far not limited access to MAP in eligible cases when taxpayers have complied with the Faroe Islands' information and documentation requirements for MAP requests, it should continue this practice.</p>

[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.

48. 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 Faroe Islands' tax treaties

49. Out of the Faroe Islands' 11 tax treaties, five contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties.

50. The remaining six treaties have a limited scope of application and do not contain such provision at all. The Faroe Islands reported that it does not intend to include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties with a limited scope as such inclusion would contradict the purpose of those treaties. When states agree on a comprehensive treaty, the intention is to cover all or close to all cases. Against this background, it is the Faroe Islands' understanding that Article 25(3), second sentence, of the OECD Model Tax Convention should enable the competent authorities to deal with rare and exceptional cases, i.e. function as a backup-clause. The opposite applies for treaties with a limited scope. The intention here is only to cover a certain type of situations. Accordingly, in the Faroe Islands' view it is inappropriate to give the competent authorities the possibility to consult in cases that have been intentionally excluded from the scope of the treaty.

Anticipated modifications

Bilateral modifications

51. The Faroe 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

52. Peers provided no specific input in relation to element B.7.

Conclusion

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

53. 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 Faroe Islands' MAP guidance

54. Since the Faroe 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

55. 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 This concerns:

- 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.

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

Anticipated modifications

57. The Faroe 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
- relationship with domestic available remedies
- access to MAP in transfer pricing cases, anti-abuse provisions, multilateral disputes and for multi-year resolution of cases
- the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any)
- rights and role of taxpayers in the process
- suspension of tax collection
- interest charges, refunds and penalties.

Conclusion

	Areas for improvement	Recommendations
[B.8]	There is no published MAP guidance.	<p>The Faroe Islands should, without further delay, introduce and publish guidance on access to and use of the MAP, and in particular include the contact information of its competent authority.</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 Faroe Islands could consider follow its stated intention to include the items identified above as well as information on:</p> <ul style="list-style-type: none"> • information on availability of arbitration • whether MAP is available in cases of bona fide foreign-initiated self-adjustments.

	Areas for improvement	Recommendations
[B.8]	No guidance is available on what information taxpayers should include in their MAP request.	<p>The Faroe Islands should introduce in its MAP guidance more detailed guidance on the manner and form in which taxpayers should submit their MAP request. In particular, the following items could be included:</p> <ul style="list-style-type: none"> • 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.

[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.

58. 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

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

MAP profile

60. The Faroe Islands' MAP profile is published. This MAP profile contains only minimal information, which can be clarified by the fact that the Faroe Islands has not yet published MAP guidance.

Anticipated modifications

61. The Faroe Islands indicated that it intends to introduce and publish its MAP guidance.

Conclusion

	Areas for improvement	Recommendations
[B.9]	There is no MAP guidance publicly available.	The Faroe 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 Faroe 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.

62. 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

63. As previously discussed under B.5, audit settlements are not possible in the Faroe Islands.

64. Peers raised no issues with respect to the availability of audit settlements and the inclusion of information hereon in the Faroe Islands' MAP guidance.

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

65. As previously mentioned under element B.5, the Faroe 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 Faroe Islands' MAP guidance.

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

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

67. As the Faroe 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

68. The Faroe 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.

69. 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 Faroe Islands' tax treaties

70. All of the Faroe Islands' 11 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.

Anticipated modifications

Bilateral modifications

71. As all of the Faroe Islands' 11 tax treaties contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention there is no need for modifications. In addition, the Faroe 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

72. All peers that provided input confirmed that their treaty with the Faroe Islands meets the Action 14 Minimum Standard for this element.

Conclusion

	Areas for improvement	Recommendations
[C.1]	-	The Faroe 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).

73. 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

74. 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. As the Faroe Islands joined in the Inclusive Framework in 2019, the Faroe Islands has not yet reported any MAP statistics pursuant to the MAP Statistics Reporting Framework. The Faroe Islands, however, did provide its tentative MAP statistics for 2019 for this peer review. In addition the statistics referred to are pre-2019 cases for cases that were pending on 31 December 2018, and post-2018 cases for cases that started on or after 1 January 2019. The statistics discussed below include both pre-2019 and post-2018 cases and the full statistics are attached to this report as Annex B and C respectively and should be considered jointly for an understanding of the MAP caseload of the Faroe Islands.

Monitoring of MAP statistics

75. The Faroe Islands does not have a system in place with its treaty partners that communicates, monitors and manages the MAP caseload. The Faroe Islands however reported that it makes statistics according to the OECD MAP Statistics Reporting Framework and registers all the MAP cases in its own template, which includes the contracting party, date of the request received, the issue of the case, the outcome of the discussions, date of agreement, and outcome of the agreement, date when the taxpayer accepted the agreement and date of implementation of the agreement. The Faroe Islands also reported that the Head of the legal department monitors those statistics.

Analysis of the Faroe Islands’ MAP caseload

Global overview

76. The following table shows the Faroe Islands’ MAP caseload over the Review Period.

2019 January-August	Opening inventory 01/01/2019	Cases started	Cases closed	End inventory 31/08/2019
Attribution/allocation cases	0	0	0	0
Other cases	3	1	3	1
Total	3	1	3	1

77. As of 1 January 2019 the Faroe Islands had three pending MAP cases, all other MAP cases. At the end of the review period, the Faroe Islands had one MAP case in its inventory, which is an other MAP case.

Pre-2019 cases

78. At the beginning of 2019, the Faroe Islands’ MAP inventory of pre-2019 MAP cases consisted of three other cases. At the end of the Review Period the total inventory of pre-2019 cases had decreased to one other case.

Post-2018 cases

79. The Faroe Islands had one other case that started in 2019 and that was closed in the same year.

Overview of cases closed during the Review period

Reported outcomes

80. During the Review Period the Faroe Islands closed two other pre-2019 MAP cases and one other post-2018 case with the outcome of “an agreement that fully eliminated double taxation or fully resolved taxation not in accordance with the tax treaty”.

Average timeframe needed to resolve MAP cases

All cases closed during the Review Period

81. The average time needed to close MAP cases during the Review Period was 10.12 months. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	0	N/A
Other cases	3	10.12
All cases	3	10.12

Pre-2019 cases

82. For pre-2019 cases the Faroe Islands reported that on average it needed 12.53 months to close two other cases.

Post-2018 cases

83. For post-2018 cases the Faroe Islands reported that on average it needed 5.29 months to close one other case.

Peer input

84. One peer commented that its experience in resolving cases with the Faroe Islands has been positive and that the Faroe Islands' CA responded quickly and was pragmatic and solution oriented.

85. Another peer commented that the Faroe Islands' case handling seems to take a long time although the Faroe Islands' CA is co-operative.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[C.2]	The Faroe Islands submitted tentative MAP statistics for 2019 for this peer review on the basis of the MAP Statistics Reporting Framework. The Faroe Islands' tentative MAP statistics show that in 2019 it closed all of its post-2018 cases (one case) in 5.29 months on average. In that regard, the Faroe Islands is recommended to seek to resolve future post-2018 cases within a timeframe that results in an average timeframe of 24 months.	

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

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

87. 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 Faroe Islands' competent authority

88. Under the Faroe 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. The Faroe Islands reported that this function has been further delegated to the Faroe Tax Authority. The Faroe Islands' competent authority consists of one person, who deals partly with MAP cases along with other tasks such as treaty negotiations.

89. The Faroe Islands reported that the person in charge of MAP is a legal adviser, and has been working many years with taxation and double taxation issues. The Faroe Islands

also reported that the training is mostly by the use of the commentary on the MTC and other OECD publications, in-house sessions and discussions, and by attending the annual meetings with administrations in the other Nordic countries.

90. In terms of resources, the Faroe Islands reported that its competent authority considers that resources available for MAP are currently sufficient. The Faroe Islands commented that there is no funding accrued directly to the MAP authority function but there is funding to the tax administration as a whole, where the MAP authority function is one of many. The Faroe Islands noted that it has not yet had any face-to-face meetings regarding MAP cases, but if this were necessary, it would not be a problem to fund such meetings.

Monitoring mechanism

91. The Faroe Islands reported that the Head of the legal department is regularly monitoring if cases are handled in a timely manner, including MAP cases. The Faroe Islands noted that if the resources are not sufficient to handle the cases, the Head of the legal department will prioritise the different cases, as it considers that MAP cases have high priority.

Practical application

MAP statistics

92. As discussed under element C.2, the Faroe Islands closed three cases during the Review Period within the pursued 24-month average. The cases concerned two other pre-2019 cases which were closed within 12.53 months, and one other post-2018 case which was closed within 5.29 months.

Peer input

93. One peer commented that it had some problems establishing contact with the Faroe Islands CA, since it could not find any public information. The Faroe Islands responded that it has submitted its MAP profile to clarify its contact information and it is published on the OECD website. The peer also commented that once contact was established, the Faroe Islands' CA responded quickly and was pragmatic and solution oriented. Another peer commented that the Faroe Islands' case handling seems to take a long time although the Faroe Islands' CA is cooperative.

Anticipated modifications

94. The Faroe Islands indicated that it does not anticipate any other modifications in relation to element C.3.

Conclusion

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

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

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

95. 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

96. The Faroe Islands reported that in the resolution of MAP cases, the person in charge of MAP processes has to get approval from the Head of the legal department both regards to the objection by the taxpayer and on the policy aspect of the issue under MAP. The person in charge of MAP processes is part of the legal department.

97. The Faroe Islands also reported that its competent authority will handle a MAP-request as any other MAP request, regardless whether an adjustment was made in the Faroes or not. The Faroe Islands further reported that the authority to make the agreement lies within the treaties, which are implemented as law in the Faroes and when an agreement is reached the department in charge of the adjustment therefor has to make the adjustments according to the agreement, regardless whether they already made an adjustment before the MAP agreement. The Faroe Islands noted that the departments in charge of making the adjustments will be either “Taxes (persons)” or “Businesses”.

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

Practical application

99. Peers provided no specific input in relation to element C.4.

Anticipated modifications

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

Conclusion

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

101. 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 Faroe Islands

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

- 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).

103. The Faroe Islands reported that it does not have specific performance indicators for MAP cases and MAP cases are processed as prompt as possible since they have high priority.

104. Further to the above, the Faroe 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. In other words, staff in charge of MAP is not evaluated on the basis of the material outcome of MAP discussions.

Practical application

105. Peers provided no specific input in relation to element C.5.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[C.5]	-	The Faroe 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.

107. 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

108. The Faroe Islands' MAP profile clearly states that its treaty policy allows it to include MAP arbitration in its tax treaties although arbitration is not available for the resolution of tax treaty related disputes for the moment due to the domestic legislation.

Practical application

109. Up to date, the Faroe Islands has incorporated an arbitration clause based on Article 25(5) of the OECD Model Tax Convention in one of its 11 treaties as a final stage to the MAP. The Faroe Islands reported that the arbitration clause will enter into force, upon notice given by the Faroe Islands that it has put into place its internal basis and procedures for the implementation, or from the date on which a convention for avoidance of double taxation between the Faroe Islands and a third state which includes a similar arbitration clause becomes effective, whichever is the earlier.

110. Peers provided no specific input in relation to element C.6.

Anticipated modifications

111. The Faroe Islands indicated that it does not anticipate any modifications in relation to element C.6.

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.

112. 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

113. The Faroe Islands reported that its domestic statute of limitations for amending tax assessments is three years from the time limit for filing the tax return and it applies for both upward and downward adjustments. The Faroe Islands also reported that the limitation rules are general but can be waived e.g. in cases of abuse. In practice, the Faroe Islands indicated that it will implement all the MAP agreements reached, including making appropriate adjustments to the tax assessed in transfer pricing cases. In that regard, the Faroe Islands' MAP profile clearly states that all mutual agreements reached through MAP are implemented notwithstanding any time limits in the Faroe Islands even in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017) in the Faroe Islands' relevant tax treaties.

114. The Faroe Islands also reported that if the agreements are not fully in favour of the taxpayer's position, the taxpayer has to give his consent to the agreement as a prerequisite for implementation. The Faroe Islands further reported that the timelines for consent are usually 4 weeks, which can be extended, and if a taxpayer gives his consent after the time limit, the Faroe Islands would still be able to implement the agreement.

Practical application

115. The Faroe Islands reported that one MAP agreement reached in 2019 needed to be implemented by the Faroe Islands. It further reported that all MAP agreements that were reached on or after 1 January 2019 have been implemented.

116. All peers that provided input reported that they were not aware of any MAP agreement reached on or after 1 January 2019 that was not implemented by the Faroe Islands.

Anticipated modifications

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

Conclusion

	Areas for improvement	Recommendations
[D.1]	-	As it has done thus far, the Faroe Islands should continue to implement all MAP agreements reached if the conditions for such implementation are fulfilled. To ensure that all MAP agreements continue to be implemented if the conditions for such implementation are fulfilled, the Faroe Islands could introduce a tracking system.

[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.

118. 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

119. The Faroe Islands reported that it does not have a set timeframe for implementing MAP agreements, but the concerned departments will be informed about an agreement as soon as the agreement is reached, and the taxpayer has given his consent if needed. The Faroe Islands also reported that the relevant department will be instructed to make the appropriate adjustments to the tax assessment and it will make the adjustment as soon as possible.

Practical application

120. The Faroe Islands reported that one MAP agreement reached in 2019 needed to be implemented by the Faroe Islands. It further reported that all MAP agreements that were reached on or after 1 January 2019 have been timely implemented and that no cases of noticeable delays have occurred, noting that it took three months on average to implement the agreements reached.

121. All peers that provided input have not indicated experiencing any problems with the Faroe Islands regarding the implementation of MAP agreements reached on a timely basis. One peer commented that the competent authority of the Faroe Islands is co-operative and willing to accept suggestions for quicker implementation. The other peer commented that the agreement reached has been implemented timely and that the Nordic countries use the Trekk agreement, so that taxes can be transferred directly between the tax authorities.

Anticipated modifications

122. The Faroe Islands indicated that it does not anticipate any modifications in relation to element D.2.

Conclusion

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

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

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

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

Legal framework and current situation of the Faroe Islands' tax treaties

124. As discussed under element D.1, the Faroe Islands' domestic legislation includes a statute of limitations of three years for implementing MAP agreements.

125. Out of the Faroe Islands' 11 tax treaties, nine 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. Furthermore, the remaining two do not contain such equivalent or the alternative provisions.

*Anticipated modifications**Bilateral modifications*

126. 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 Faroe Islands reported it will strive to update them via bilateral negotiations to be compliant with element D.3. The Faroe Islands reported that it contacted both relevant treaty partners to discuss the possibility of amending treaties to comply with the Action 14 Minimum Standard and that one partner agreed to enter into a protocol and the other partner informed the Faroe Islands that it would agree but that it would not be a

quick process. In addition, the Faroe Islands reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention or would be willing to accept both alternatives in all of its future comprehensive tax treaties.

Peer input

127. Peers provided no specific input in relation to element C.6.

128. For the two treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, or both alternatives the relevant peers did not provide input.

Conclusion

	Areas for improvement	Recommendations
[D.3]	Two out of 11 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 Faroe Islands should follow up on its request to include the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>In addition, the Faroe 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>

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]	-	The Faroe Islands should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	-	-
Part B. Availability and access to MAP		
[B.1]	-	The Faroe 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]	Nine of the 11 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 Faroe Islands should follow its stated intention to document its notification process and provide in that documented process 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 Faroe 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]	The Faroe Islands reported that 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 Faroe Islands is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.4]	The Faroe Islands reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. The Faroe Islands is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	-	-
[B.6]	No rules are in place regarding what information taxpayers need to include in a MAP request nor are any rules and timelines in place for requesting additional information by the competent authority and for taxpayers to provide such information. This bears the risk that access to MAP may not be granted or that access is only granted with substantial delays.	The Faroe Islands should put in place clear procedures and timelines for requesting additional information from taxpayers when such information is not included in the initial MAP request and also provide for timelines within which taxpayers should comply with requests for additional information to ensure that eligible cases are dealt with in MAP and that no unnecessary delays occur. Such information could be included in the forthcoming published MAP guidance (see element B.8). Furthermore, as the Faroe Islands has thus far not limited access to MAP in eligible cases when taxpayers have complied with the Faroe Islands' information and documentation requirements for MAP requests, it should continue this practice.

	Areas for improvement	Recommendations
[B.7]	-	The Faroe Islands should maintain its stated intention to include the required provision in all future comprehensive tax treaties.
[B.8]	There is no published MAP guidance.	The Faroe Islands should, without further delay, introduce and publish guidance on access to and use of the MAP, and in particular include the contact information of its competent authority. Additionally, although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance the Faroe Islands could consider follow its stated intention to include the items identified above as well as information on: <ul style="list-style-type: none"> • information on availability of arbitration • whether MAP is available in cases of bona fide foreign-initiated self-adjustments.
	No guidance is available on what information taxpayers should include in their MAP request.	The Faroe Islands should introduce in its MAP guidance more detailed guidance on the manner and form in which taxpayers should submit their MAP request. In particular, the following items could be included: <ul style="list-style-type: none"> • 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.
[B.9]	There is no MAP guidance publicly available.	The Faroe 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 Faroe Islands' MAP guidance has been introduced.
[B.10]	-	-
Part C. Resolution of MAP cases		
[C.1]	-	The Faroe Islands should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	The Faroe Islands submitted tentative MAP statistics for 2019 for this peer review on the basis of the MAP Statistics Reporting Framework. The Faroe Islands' MAP statistics show that in 2019 it closed all of its post-2018 cases (one case) in 5.29 months on average. In that regard, the Faroe Islands is recommended to seek to resolve future post-2018 cases within a timeframe that results in an average timeframe of 24 months.	

	Areas for improvement	Recommendations
[C.3]	-	The Faroe Islands should continue to monitor whether it has adequate resources in place to ensure that MAP cases are resolved in a timely, efficient and effective manner.
[C.4]	-	As it has done thus far, the Faroe Islands should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that the Faroe Islands would like to see reflected in future amendments to the treaty.
[C.5]	-	The Faroe 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]	-	-
Part D. Implementation of MAP agreements		
[D.1]	-	As it has done thus far, the Faroe Islands should continue to implement all MAP agreements reached if the conditions for such implementation are fulfilled. To ensure that all MAP agreements continue to be implemented if the conditions for such implementation are fulfilled, the Faroe Islands could introduce a tracking system.
[D.2]	-	As it has done thus far, the Faroe Islands should continue to implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.
[D.3]	Two out of 11 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 Faroe Islands should follow up on its request to include the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>In addition, the Faroe 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 Faroe Islands

		Article 25(1) of the OECD Model Tax Convention (“MTC”)		Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration		
		B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6		
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? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4) If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?		
	Y = yes N = signed pending ratification	If N, date of signing	E = yes, either CAs O = yes, only one CA N = No	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different iv = no, other reasons	if ii, specify period	Y = yes i = no, but access will be given to TP cases ii = no and access will not be given to TP cases	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes N = no	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y = yes N = no
Bermuda	Y	N/A	O	Y	N/A	i	i	Y	Y	Y	N	N
British Virgin Islands	Y	N/A	O	Y	N/A	i	i	Y	Y	Y	N	N
Cayman Islands	N	6/17/2009	O	Y	N/A	N/A	i	Y	Y	Y	N	N
Denmark	Y	N/A	E	ii	five years	Y	i	Y	Y	Y	Y	N

		Article 25(1) of the OECD Model Tax Convention (“MTC”)			Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration	
		B.1	B.1		B.3	B.4	C.1	D.3	A.1	B.7	C.6	
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? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons		Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4) If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?	
Finland	Y	N/A	E	ii	five years	Y	i	Y	Y	Y	Y	N
Greenland	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Guernsey	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	N	N
Iceland	Y	N/A	E	ii	five years	Y	i	Y	Y	Y	Y	N
India	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Isle of Man	Y	N/A	O	Y	N/A	N/A	i	Y	Y	Y	N	N
Jersey	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	N	N
Norway	Y	N/A	E	ii	five years	Y	i	Y	Y	Y	Y	N
Sweden	Y	N/A	E	ii	five years	Y	i	Y	Y	Y	Y	N
Switzerland	Y	N/A	O	i	N/A	i	i	Y	N	Y	Y	Y
United Kingdom	Y	N/A	O	i	N/A	Y	i	Y	N	Y	Y	N

Annex B

MAP statistics reporting for the 2019 Reporting Periods (1 January 2019 to 31 August 2019) for pre-2019 cases

2019 MAP Statistics													
Category of cases	No. of pre-2019 cases in MAP inventory on 1 January 2019	Number of pre-2019 cases closed during the reporting period by outcome										No. of pre-2019 cases remaining in on MAP inventory on 31 August 2019	Average time taken (in months) for closing pre-2019 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
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	3	0	0	0	0	0	2	0	0	0	0	1	12.53
Total	3	0	0	0	0	0	2	0	0	0	0	1	12.53

Annex C

MAP statistics reporting for the 2019 Reporting Periods (1 January 2019 to 31 August 2019) for post-2018 cases

2019 MAP Statistics														
Category of cases	No. of post-2018 cases in MAP inventory on 1 January 2019	No. of post-2018 cases started during the reporting period	Number of post-2018 cases closed during the reporting period by outcome										No. of post-2018 cases remaining in on MAP inventory on 31 August 2019	Average time taken (in months) for closing post-2018 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	N/A
Others	0	1	0	0	0	0	0	1	0	0	0	0	0	5.29
Total	0	1	0	0	0	0	0	1	0	0	0	0	0	5.29

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
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-2019 cases	MAP cases in a competent authority’s inventory that are pending resolution on 31 December 2018
Post-2018 cases	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2019
Review Period	Period for the peer review process that started on 1 January 2019 and ended on 31 August 2019
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 Faroe 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 Faroe Islands.



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