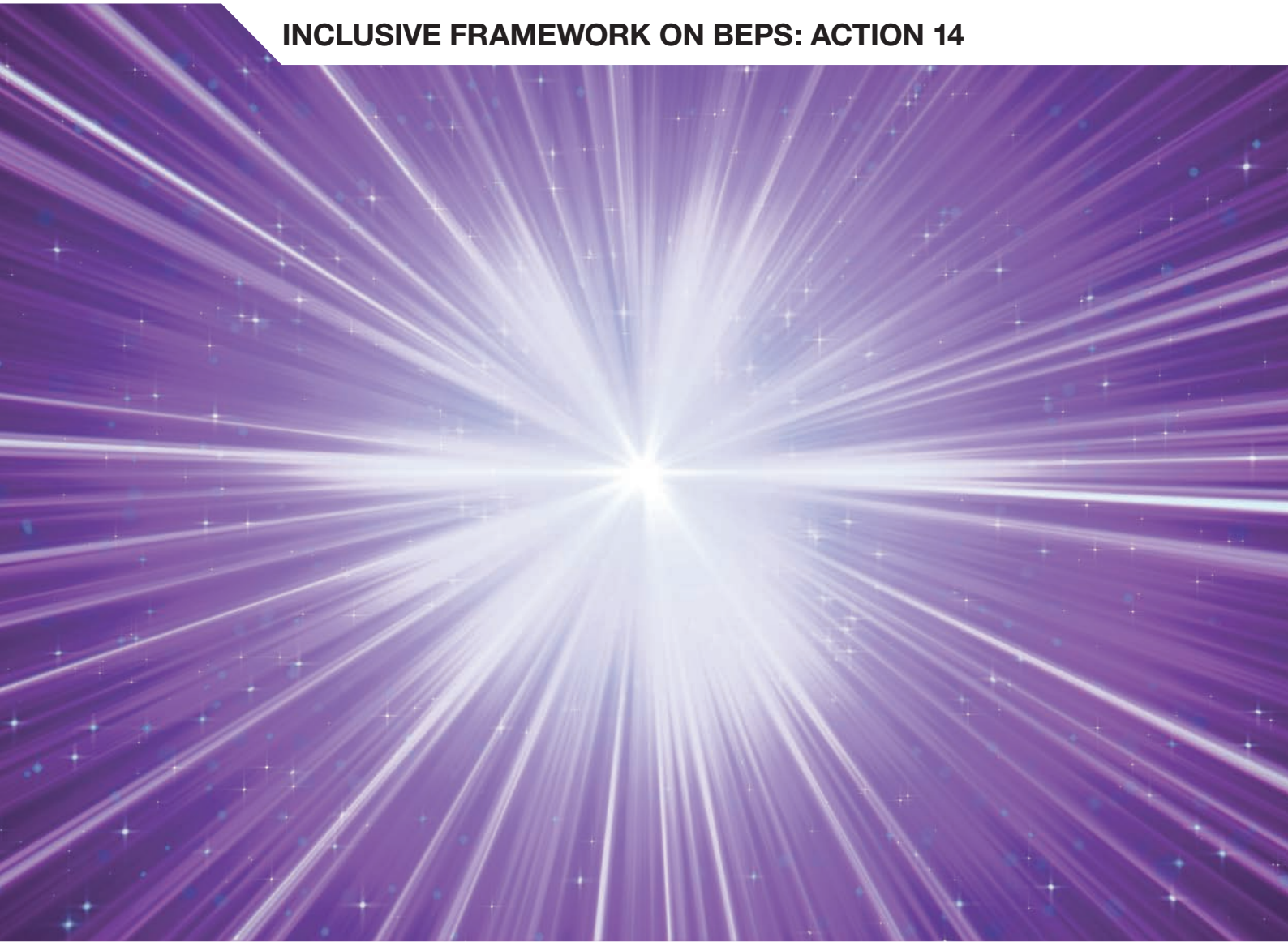


**OECD/G20 Base Erosion and Profit Shifting
Project**



Making Dispute Resolution More Effective – MAP Peer Review Report, Thailand (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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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 28 October 2020 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

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

Executive summary

Thailand has a relatively large tax treaty network with over 60 tax treaties. Thailand has an established MAP programme and has limited experience with resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and 12 cases pending on 31 December 2019, all of which concern other cases. Overall Thailand meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Thailand is working to address most of them.

All of Thailand's tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 through 3 of Article 25 of the OECD Model Tax Convention. Its treaty network is partly consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that:

- Approximately 85% 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.
- Approximately 15% of its tax treaties do not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.
- Approximately 15% of its tax treaties do not contain the equivalent of Article 25(1) to the OECD Model Tax Convention, whereby the majority of these treaties do not contain the equivalent of Article 25(1), second sentence, as the timeline in these treaties for filing MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty, or no filing period for a MAP request is contained but reference is made to the time limit in the domestic law of the Contracting States.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Thailand needs to amend and update a significant number of its tax treaties. In this respect, Thailand intends to sign and ratify the Multilateral Instrument, through which a number of its tax treaties will potentially be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force of this Multilateral Instrument for the treaties concerned, Thailand 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. In that regard, Thailand reported that it has already contacted some of its treaty partners according to its priority to amend tax treaties based on trade volume and investment relationship analysis, as well as the evidence on treaty abuse, and is in the process of renegotiation with them. However, for the treaties with other treaty partners, it reported not having in place a specific plan for bilateral negotiations, and after becoming a

party to the Multilateral Instrument it will revisit its tax treaty network and will approach the relevant tax treaty partners for such negotiations where the relevant treaties will not be modified by the Multilateral Instrument.

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

Thailand meets some requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in almost all eligible cases, although it has since 1 January 2017 not received any MAP request concerning transfer pricing cases or cases where anti-abuse provisions are applied or cases where there has been an audit settlement. The only exception here is that it does not provide access to MAP in transfer pricing cases where the relevant treaty does not contain the equivalent of Article 9(2) of the OECD Model Tax Convention. Furthermore, Thailand does not have in place a documented bilateral consultation or notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Thailand has clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice under tax treaties.

Concerning the average time needed to close MAP cases, the MAP statistics for Thailand for the period 2017-19 are as follows:

2017-19	Opening Inventory 1/1/2017	Cases started	Cases closed	End inventory 31/12/2019	Average time to close cases (in months)*
Attribution/allocation cases	0	2	2	0	9.80
Other cases	5	7	0	12	n.a.
Total	5	9	2	12	9.80

* The average time taken for resolving MAP cases for post-2016 cases follows the MAP Statistics Reporting Framework.

The number of cases Thailand closed in the period 2017-19 is less than the number of all new cases started in those years. Its MAP inventory as on 31 December 2019 increased as compared to its inventory as on 1 January 2017. During these years, MAP cases were closed on average within a timeframe of 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the average time necessary was 9.80 months which only concerns the resolution of attribution/allocation cases. In this respect, peers experienced some difficulties in resolving MAP cases, in particular in obtaining position papers in due time from Thailand's competent authority as well as responses to position papers issued by peers. Furthermore, the MAP caseload has increased substantially since 1 January 2017. It will be monitored whether the anticipated additional resources will contribute to a resolution of MAP cases in a more timely, effective and efficient manner as well as the more timely issuing of position papers and responses thereto.

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

Lastly, as there was no MAP agreement reached that required implementation in Thailand in the period 2017-19, it was not yet possible to assess whether Thailand meets

the Action 14 Minimum Standard as regards the implementation of MAP agreements. Although Thailand monitors the implementation of MAP agreements, it has a domestic statute of limitation for implementation of MAP agreements, for which there is a risk that such agreements cannot be implemented where the applicable tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Nevertheless, no problems have surfaced throughout the peer review process, which can be clarified by the fact that there was no MAP agreement reached by Thailand.

Introduction

Available mechanisms in Thailand to resolve tax treaty-related disputes

Thailand has entered into 61 tax treaties on income (and/or capital), which are all in force.¹ These 61 treaties are being applied to an equal number of jurisdictions. All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty.

In Thailand, the competent authority to conduct mutual agreement procedure (“**MAP**”) is the Minister of Finance or his duly authorised representative, and is delegated to the Director-General of the Revenue Department of Thailand. In practice the competent authority function is performed by the Tax Policy and Planning Division of the Revenue Department. The competent authority of Thailand currently employs seven employees. Three of them are responsible for non-transfer pricing MAP cases and four employees work on transfer pricing MAP cases.

Thailand issued guidance on the governance and administration of MAP, which is available at:

www.rd.go.th/publish/fileadmin/user_upload/porsor/final_MAPmanualEN.pdf

Recent developments in Thailand

Thailand reported that it is currently conducting tax treaty negotiations with some jurisdictions. Furthermore, Thailand reported that it intends to sign by 2020 the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties.

Where treaties will not be modified by the Multilateral Instrument, Thailand reported that it strives updating them through future bilateral negotiations. In that regard, Thailand reported that it has already contacted some of its treaty partners according to its priority to amend tax treaties based on trade volume and investment relationship analysis, as well as the evidence on treaty abuse, and is in the process of renegotiation with them. For the treaties with other treaty partners, it reported not having in place a specific plan for bilateral negotiations, and after becoming a party to the Multilateral Instrument it will revisit its tax treaty network and will approach the relevant tax treaty partners for such negotiations where the relevant treaties will not be modified by the Multilateral Instrument.

Basis for the peer review process

The peer review process entails an evaluation of Thailand’s implementation of the Action 14 Minimum Standard through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic

legislation and regulations, as well as its MAP programme guidance (if any) and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by Thailand, its peers and taxpayers. The questionnaires for the peer review process were sent to Thailand and the peers on 20 December 2019.

The period for evaluating Thailand’s implementation of the Action 14 Minimum Standard ranges from 1 January 2017 to 31 December 2019 (“**Review Period**”). In general, developments following the Review Period, including the subsequent introduction of MAP Guidance, have not been taken into account for the analysis in this report. However, the report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Thailand’s implementation of this minimum standard. In the update of this report, being stage 2 of the peer review process, these recent developments will be taken into account in the assessment and, if necessary, the conclusions contained in this report will be amended accordingly.

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

In total ten peers provided input: Austria, Germany, Japan, Korea, Poland, Singapore, Sweden, Switzerland, Turkey and the United Kingdom. Out of these ten peers, two had MAP cases with Thailand that started on or after 1 January 2017. Furthermore, two other peers have experiences with Thailand in handling MAP cases. Generally, all peers that have MAP experiences with Thailand indicated a good and co-operative relationship with Thailand’s competent authority, although some of them experienced administrative difficulties in communicating between the competent authorities and resolving MAP cases in a timely manner.

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

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

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

Overview of MAP caseload in Thailand

The analysis of Thailand’s MAP caseload relates to the period starting on 1 January 2017 and ending on 31 December 2019 (“**Statistics Reporting Period**”). According to the statistics provided by Thailand, its MAP caseload during this period was as follows:

2017-19	Opening Inventory 1/1/2017	Cases started	Cases closed	End inventory 31/12/2019
Attribution/allocation cases	0	2	2	0
Other cases	5	7	0	12
Total	5	9	2	12

General outline of the peer review report

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

- A. Preventing disputes
- B. Availability and access to MAP
- C. Resolution of MAP cases
- D. Implementation of MAP agreements.

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).⁴ Apart from analysing Thailand’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Thailand. Furthermore, the report depicts the changes adopted and plans shared by Thailand 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 Thailand 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 Thailand has entered into are available at: www.rd.go.th/publish/766.0.html. Reference is made to Annex A for the overview of Thailand’s tax treaties.
2. Available at <https://www.oecd.org/ctp/dispute/Thailand-Dispute-Resolution-Profile.pdf>.
3. The MAP statistics of Thailand are included in Annex B and C of this report.
4. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

Part A

Preventing disputes

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

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

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

Current situation of Thailand's tax treaties

2. Out of Thailand's 61 tax treaties, 59 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. Of the remaining two treaties, one does not contain the term "interpretation" and another one does not contain the terms "doubts" and "interpretation". For this reason, these two treaties do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention. In that regard, Thailand indicated that irrespective of whether the applicable treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention, Thailand is able to enter into general MAP agreements.

Anticipated modifications

Bilateral modifications

3. For those treaties, which do not contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention, Thailand reported it has planned to modify its tax treaties to be compliant with element A.1 by the Multilateral Instrument, as it intends to sign the Multilateral Instrument by the end of 2020. It reported not having in place a specific plan for bilateral negotiations, and further reported that after becoming a party to the Multilateral Instrument it will revisit its tax treaty network and will approach the relevant tax treaty partners for such negotiations where the relevant treaties will not be modified by the Multilateral Instrument.

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

Peer input

5. All of the peers that provided input indicated that their treaty with Thailand meets the requirements under element A.1, which conforms to the above analysis. For the two treaties identified that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention, the relevant peers did not provide input.

Conclusion

	Areas for Improvement	Recommendations
[A.1]	Two out of 61 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention.	<p>Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention in the treaties that currently do not contain such equivalent.</p> <p>Where treaties will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention following its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Thailand should put a plan in place on how it envisages updating these two treaties to include the required provision.</p> <p>In addition, Thailand should maintain its stated intention to include the required provision in all future tax treaties.</p>

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

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

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

Thailand’s APA programme

7. Thailand is authorised to enter into bilateral APAs and has implemented an APA programme since 2002 according to the Revenue Department Instruction No. Por. 113/2545 found at:

https://www.rd.go.th/publish/fileadmin/user_upload/kormor/eng/RDO_113.pdf

8. Regarding the timeline to open the APA, Thailand’s “Guidance on APA Process”² clarifies that taxpayers shall submit a written document of intent according to the form set out by the Revenue Department, as well as other required documents according to 5.3 to the Director-General of the Revenue Department prior to or within the last day of the first accounting period of the APA submission. It also describes that taxpayers who wish to apply for APA must submit a written document of intent (Pre-filing Meeting) to the Director-General of the Revenue Department at least 6 months prior to the last day of the first accounting period that APA aims to become effective, and that taxpayers must submit important Pre-filing documents according to 5.3 (1)-(6) 15 days prior to Pre-filing Meeting.

9. Typically, bilateral APAs run for a period of 3-5 years.

Roll-back of bilateral APAs

10. Thailand reported that it was not possible to obtain a roll-back of bilateral APAs during the Review Period. It however reported that it starts allowing the request of roll-back of bilateral APAs to be made from February 2020 for cases where the circumstances of the roll-back of APAs period are comparable to the circumstances of the APA period.

Practical application of roll-back of bilateral APAs

11. Thailand reported having received 32 requests for bilateral APAs during the Review Period, of which 28 have been granted and the others are under consideration. Thailand reported that since 1 January 2017 it received 5 requests for roll-back of bilateral APAs, however for such requests the roll-back period was not considered due to the statute of limitation in domestic law and the APAs were only granted for the years covered in the APA requests.

12. Three peers have provided input on this element. One peer stated that since 1 January 2017 it has received 23 requests from taxpayers asking for a roll-back of a bilateral APA between its jurisdiction and Thailand: 8 in 2017, 5 in 2018 and 10 in 2019 respectively, and the number of such inventory on 31 December 2019 is 27. The peer reported that roll-back is not permitted in Thailand and it has not provided any roll-back of APAs since January 1, 2017. Another peer reported it has received request for APAs but Thailand does not include any roll-back. The third peer reported since 1 January 2017, it has received one APA request in 2018 and the case is being discussed, but the request did not include a roll-back for Thailand.

Anticipated modifications

13. Thailand reported it starts to grant a roll-back period as part of the APA for requests filed after February 2020 where the facts and circumstances are comparable to the APA period. It also reported that it plans to include the roll-back as well as its requirements in the Guidance on APA Process.

Conclusion

	Areas for Improvement	Recommendations
[A.2]	Roll-back of bilateral APAs is not available.	Thailand should follow up on its stated intention to amend the Guidance on APA Process to clarify that roll-back of bilateral APAs are possible. It should in practice also allow for roll-back of bilateral APAs in all appropriate cases.

Notes

1. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD, 2017b).
2. Available at: www.rd.go.th/publish/fileadmin/download/GUIDANCE-ON-APA-PROCESS-EN.pdf.

References

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

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

Part B

Availability and access to MAP

[B.1] Include Article 25(1) of the OECD Model Tax Convention in tax treaties

Jurisdictions should ensure that their tax treaties contain a MAP provision which provides that when the taxpayer considers that the actions of one or both of the Contracting Parties result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty, the taxpayer, may irrespective of the remedies provided by the domestic law of those Contracting Parties, make a request for MAP assistance, and that the taxpayer can present the request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty.

14. For resolving cases of taxation not in accordance with the provisions of the tax treaty, it is necessary that tax treaties include a provision allowing taxpayers to request a mutual agreement procedure and that this procedure **can be requested** irrespective of the remedies provided by the domestic law of the treaty partners. In addition, to provide certainty to taxpayers and competent authorities on the availability of the mutual agreement procedure, a minimum period of three years for submission of a MAP request, beginning on the date of the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty, is the baseline.

Current situation of Thailand's tax treaties

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

15. Out of Thailand's 61 tax treaties, 25 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, none of Thailand's 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.

16. The remaining 36 treaties 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 34 of those 36 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 (two treaties).
- 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 (32 treaties).

17. For the remaining two treaties, the non-discrimination provision is almost identical to Article 24(1) of the OECD Model Tax Convention and applies both to nationals that are and are not resident of one of the contracting states. The omission of the full text of Article 25(1), first sentence, of the OECD Model Tax Convention is therefore not clarified by the absence of or a limited scope of the non-discrimination provision, following which these two treaties are not in line with this part of element B.1.

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

18. Out of Thailand's 61 tax treaties, 48 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.

19. Thailand reserves their position on the second sentence of Article 25(1).

20. The remaining 13 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	7
Filing period less than 3 years for a MAP request (2 years)	4
Filing period less than 3 years for a MAP request and with a different commencement date for filing a MAP request (2 years)	1
No filing period for a MAP request but reference is made to the time limit in the domestic law of the Contracting States	1

21. Thailand reported that it has under its domestic legislation and/or administrative practice no rules in place on the filing period for MAP requests, which would apply when a treaty does not include a filing deadline.

22. In the treaty mentioned in the third row in the above table, the period for filing a MAP request is two years and starts either from the date of the assessment or of the withholding of tax at the source whichever is the later. This filing period is shorter than three years and the start date for this period is different from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. Therefore, this treaty is considered not to contain the full equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention.

Practical application

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

23. In all of Thailand’s tax treaties taxpayers can file a MAP request irrespective of domestic remedies. In this respect, Thailand’s MAP guidance, in section 5 and 11, confirms that taxpayers can seek for MAP assistance irrespective of legal remedies available in Thailand. Section 11 of this guidance further clarifies that the submission of a MAP request does not preclude the opportunity for the person to benefit from domestic legal remedies (e.g. appeal against acts and actions of the tax administrations) of the contracting states to the treaty concerned. For Thailand this would concern administrative appeals that were initiated against acts and actions of the Revenue Department. In Thailand court decisions are binding and thus prevent its competent authority to reach an agreement in MAP that would deviate from this decision, even in situations where the MAP agreement would lead to taxation that is more favourable to the taxpayer. However, the fact that a court has rendered a decision for a case for which also a MAP request is submitted, that from itself does not prevent the initiation of the MAP process, but causes that Thailand’s competent authority is unable to deviate in MAP from the court decision.

24. Under the Thai Revenue Code, when taxpayers intend to object to a tax assessment, they first need to lodge an appeal with the Commission of Appeal. This commission is an independent panel established under the Thai Revenue Code, which process taxpayers need to run through before being able to present their case to the tax court. In this respect, the following three situations are possible in Thailand when the case under review follows from an adjustment made by its Revenue Department:

- a. The taxpayer does not lodge an appeal with the Commission of Appeal, after which the tax assessment becomes final.
- b. The taxpayer lodges an appeal with the Commission of Appeal, but after a decision by that commission decides not to proceed with the case to the tax court.
- c. The taxpayer lodges an appeal with the Commission of Appeal and after the decision by that commission proceeds with the case to the tax court.

25. In situation a), access to MAP would be granted and there would not be any restrictions for Thailand’s competent authority to handle and resolve the case in MAP. In situations b) and c), the decision of the Commission of Appeal or that of the tax court becomes binding. While the MAP process can continue until such decision is taken, Thailand’s competent authority would in both situations be restricted in deviating from such a decision in MAP. For situation b), the decision of the Commission of Appeal does not constitute a decision by a court. Thus in the situation that no further appeal is lodged with the tax court after this commission rendered a decision would restrict the resolution of a case in MAP. While in this situation formally access to MAP would be granted, Thailand’s competent authority would not seek to resolve the case due to the fact it considers itself to be bound by that decision. It is only when a further appeal is lodged with the tax court that Thailand’s competent authority would be able to deviate from the commission’s decision in MAP, if a MAP agreement can be reached before the tax court has rendered its decision. Such practice does not allow taxpayers to make a MAP request irrespective of the domestic remedies and therefore it is not considered to be in line with this part of element B.1.

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

26. Thailand reported that when the relevant treaty does not include a filing deadline, taxpayers have no time limit in submitting their MAP requests in Thailand, while they may be bound by the tax treaty partner's rules under its domestic legislation and/or administrative practice on the filing period for the MAP requests.

Anticipated modifications*Bilateral modifications*

27. Thailand reported that when the tax treaties that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention, as it read prior to the adoption of the Action 14 final report, it has planned to modify its tax treaties to be compliant with element A.1 by the Multilateral Instrument, as it intends to sign the Multilateral Instrument by the end of 2020. It reported not having in place a specific plan for bilateral negotiations, however after becoming a party to the Multilateral Instrument it will revisit its tax treaty network and will approach the relevant tax treaty partners for such negotiations where the relevant treaties will not be modified by the Multilateral Instrument.

28. In view of the policy and practice described above, Thailand reported that it is preparing an amendment to its domestic legislation and internal procedures that aim to prevent conflicts between the appeal decision and the MAP process. This amendment of internal procedure is planned to enter into force in July 2020. The key improvement is that in the case where the appeal process and MAP are in parallel, the appeal process will be delayed until the MAP agreement is concluded.

29. Further to the above, Thailand's MAP profile states that taxpayers are allowed to request MAP assistance in cases where the taxpayer has sought to resolve the issue under dispute via the judicial and administrative remedies provided by its domestic law. However, where such remedies have already been finalised, the profile notes that Thailand would not give access to MAP for the issue under dispute. The content of the MAP profile does not concord with the policy and practice as outlined above. Element B.9 further addresses on the need for amendment of the MAP profile in this respect.

Peer input

30. One peer provided input that for the lack of the second sentence of Article 25(1), it made the relevant notifications under Article 16 of the Multilateral Instrument and the relevant treaty would be modified once the Multilateral Instrument is signed and ratified by Thailand.

31. For the eight treaties identified that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention, one of the relevant peers provided input that in order to meet the Minimum Standard it made all necessary notifications under Article 16 of the Multilateral Instrument. Other peers provided no specific input in relation to element B.1.

Conclusion

	Areas for Improvement	Recommendations
	Two out of 61 tax treaties do not contain the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention. For one of these treaties, the relevant treaty partner has already been contacted and negotiations have been initiated.	<p>Thailand should continue with negotiations for the inclusion of the required provision to incorporate the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention in the treaty.</p> <p>In addition, Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention in the remaining treaty. Where this treaty will not be modified by the Multilateral Instrument upon its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations.</p> <p>For both treaties, this concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either:</p> <ol style="list-style-type: none"> as amended in the Action 14 final report, or as it read prior to the adoption of Action 14 final report, thereby including the full sentence of such provision. <p>To this end, Thailand should put a plan in place on how it envisages updating the treaty to include the required provision.</p>
[B.1]	Six out of 61 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline in these treaties for filing MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty, or no filing period for a MAP request is contained but reference is made to the time limit in the domestic law of the Contracting States.	<p>Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in the treaties that currently do not contain such equivalent.</p> <p>Where treaties will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention following its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Thailand should put a plan in place on how it envisages updating these six treaties to include the required provision.</p>
	Access to MAP is not provided irrespective of domestic remedies as taxpayers need to lodge an appeal with domestic courts against the decision of an administrative appeals commission in order to have full access to MAP.	Thailand should ensure that taxpayers that meet the requirements of paragraph 1 of Article 25 of the OECD Model Tax Convention can access the MAP irrespective of domestic remedies. In that regard, Thailand should follow its stated intention to amend its legislation and internal procedures that aim to prevent conflicts between the appeal decision and the MAP agreement so that taxpayers have the choice to opt for MAP irrespective of domestic remedies.
	-	In addition, Thailand should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report in all future tax treaties.
	-	Furthermore, for clarification purposes, Thailand could consider withdrawing its position on Article 25(1), second sentence, of the OECD Model Tax Convention.

[B.2] Allow submission of MAP requests to the competent authority of either treaty partner, or, alternatively, introduce a bilateral consultation or notification process

Jurisdictions should ensure that either (i) their tax treaties contain a provision which provides that the taxpayer can make a request for MAP assistance to the competent authority of either Contracting Party, or (ii) where the treaty does not permit a MAP request to be made to either Contracting Party and the competent authority who received the MAP request from the taxpayer does not consider the taxpayer's objection to be justified, the competent authority should implement a bilateral consultation or notification process which allows the other competent authority to provide its views on the case (such consultation shall not be interpreted as consultation as to how to resolve the case).

32. In order to ensure that all competent authorities concerned are aware of MAP requests submitted, for a proper consideration of the request by them and to ensure that taxpayers have effective access to MAP in eligible cases, it is essential that all tax treaties contain a provision that either allows taxpayers to submit a MAP request to the competent authority:

- i. of either treaty partner; or, in the absence of such provision,
- ii. where it is a resident, or to the competent authority of the state of which they are a national if their cases come under the non-discrimination article. In such cases, jurisdictions should have in place a bilateral consultation or notification process where a competent authority considers the objection raised by the taxpayer in a MAP request as being not justified.

Domestic bilateral consultation or notification process in place

33. As discussed under element B.1, out of Thailand's 61 treaties, none currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partner.

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

Practical application

35. Thailand reported that since 1 January 2017 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2017, 2018 and 2019 MAP statistics submitted by Thailand also show that none of its MAP cases was closed with the outcome "objection not justified".

36. All peers that provided input indicated not being aware of any cases for which Thailand's competent authority denied access to MAP. This can be explained by the fact that Thailand did not consider that an objection raised in a MAP request was not justified since 1 January 2017.

Anticipated modifications

37. Thailand indicated that it will introduce a documented bilateral consultation or notification process for those situations where its competent authority considers an objection raised in a MAP request as being not justified.

Conclusion

	Areas for Improvement	Recommendations
[B.2]	None of the 61 treaties contains 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.	Thailand should without further delay follow its stated intention to introduce a documented notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Thailand should apply its notification process for future cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.

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

Jurisdictions should provide access to MAP in transfer pricing cases.

38. Where two or more tax administrations take different positions on what constitutes arm's length conditions for specific transactions between associated enterprises, economic double taxation may occur. Not granting access to MAP with respect to a treaty partner's transfer pricing adjustment, with a view to eliminating the economic double taxation that may arise from such adjustment, will likely frustrate the main objective of tax treaties. Jurisdictions should thus provide access to MAP in transfer pricing cases.

Legal and administrative framework

39. Out of Thailand's 61 tax treaties, 24 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, 26 do not contain such equivalent. The remaining 11 treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention, but deviate from this provision for the following reasons:

- Five treaties contain a provision, but the granting of a corresponding adjustment could be read as only optional as the word "shall" is replaced by "may".
- In three treaties, the sentence "and the competent authorities of the contracting states shall, if necessary, consult each other" is not contained.
- In one treaty, the sentence "and the competent authorities of the contracting states shall, if necessary, consult each other" is not contained and corresponding adjustments can only be made through MAP.
- In two treaties, additional wording "(due regard shall be had to the other provisions of this Agreement) and the domestic taxation laws of the respective Contracting State" is included.

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

41. Thailand reported that since 1 January 2017, it has not denied access to MAP on the basis that the case concerned a transfer pricing case.

42. All peers that provided input indicated not being aware of a denial of access to MAP by Thailand since 1 January 2017 on the basis that the case concerned was a transfer pricing case. One of the peers stated that it suggested to amend its tax treaty with Thailand in October 2018 to include the aforementioned sentence, the equivalent of Article 9(2) of the OECD Model Tax Convention, however it did not receive an answer yet.

Anticipated modifications

43. Thailand reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention in its tax treaties where possible, and in updating its tax treaties it will include Article 9(2) in its tax treaties both via bilateral negotiations and the Multilateral Instrument. It further reported 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]	Access to MAP in transfer pricing cases will not be granted for jurisdictions where Article 9(2) of the OECD Model Tax Convention is not contained in the tax treaty with such jurisdictions.	Thailand should change its domestic policy to ensure that for those cases where the treaty does not contain Article 9(2) of the OECD Model Tax Convention, access to MAP will always be granted for eligible 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.

44. 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

45. None of Thailand's 61 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 Thailand do not include a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision are in conflict with the provisions of a tax treaty.

Practical application

46. Thailand reported that since 1 January 2017 it has not received a MAP request 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.

47. All peers that provided input indicated not being aware of cases that have been denied access to MAP in Thailand since 1 January 2017 in relation to the application of treaty and/or domestic anti-abuse provisions.

Anticipated modifications

48. Thailand indicated that it does not anticipate any modifications in relation to element B.4.

Conclusion

	Areas for Improvement	Recommendations
[B.4]	Thailand 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. Thailand 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.

49. 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

50. Thailand reported that under its domestic law it is not possible for the taxpayer and the tax administration to enter into a settlement agreement during the course or after ending of an audit.

Administrative or statutory dispute settlement/resolution process

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

Practical application

52. Thailand reported that since 1 January 2017 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 Thailand.

53. All peers indicated not being aware of a denial of access to MAP in Thailand since 1 January 2017 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 Thailand.

Anticipated modifications

54. Thailand 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.

55. 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

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

57. Thailand reported that there is no specific timeframe given to the taxpayer to provide the requested information or documentation. It also reported that the officer will work closely with the taxpayer if it is necessary for the taxpayer to submit additional information or documents and an extended timeframe may be given. It further reported that for non-co-operative taxpayers, that MAP request/objection shall be considered as not justified.

Practical application

58. Thailand reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements as set out in its MAP guidance. It further reported that since 1 January 2017 it has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

59. All peers that provided input indicated not being aware of a limitation of access to MAP by Thailand since 1 January 2017 in situations where taxpayers complied with information and documentation requirements.

Anticipated modifications

60. Thailand indicated that it does not anticipate any modifications in relation to element B.6.

Conclusion

	Areas for Improvement	Recommendations
[B.6]	-	As Thailand has thus far not limited access to MAP in eligible cases when taxpayers have complied with Thailand's information and documentation requirements for MAP requests, it should continue this practice

[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties

Jurisdictions should ensure that their tax treaties contain a provision under which competent authorities may consult together for the elimination of double taxation in cases not provided for in their tax treaties.

61. 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 Thailand's tax treaties

62. Out of Thailand's 61 tax treaties, 53 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The remaining eight tax treaties do not contain a provision that is based on or the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention.

63. Thailand reserves their position on the second sentence of Article 25(3) on the grounds that it has no authority under its respective laws to eliminate double taxation in cases not provided for in the Convention.

Anticipated modifications

Bilateral modifications

64. For those eight treaties, which do not contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention, Thailand reported it has planned to modify its tax treaties to be compliant with element B.7 by the Multilateral Instrument, as it intends to sign the Multilateral Instrument by the end of 2020. It reported not having in place a specific plan for bilateral negotiations, however after becoming a party to the Multilateral Instrument it will revisit its tax treaty network and will approach the relevant tax treaty partners for such negotiations where the relevant treaties will not be modified by the Multilateral Instrument.

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

Peer input

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

Conclusion

	Areas for Improvement	Recommendations
[B.7]	Eight out of 61 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention. For one of these treaties, the relevant treaty partner has already been contacted and negotiations have been initiated.	<p>Thailand should continue with negotiations for the inclusion of the required provision to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in the treaty.</p> <p>In addition, Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in the remaining treaties. Where treaties will not be modified by the Multilateral Instrument upon its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Thailand should put a plan in place on how it envisages updating these eight treaties to include the required provision.</p> <p>In addition, Thailand should maintain its stated intention to include the required provision in all future tax treaties.</p> <p>Furthermore, for clarification purposes, Thailand could consider withdrawing its position on Article 25(3), second sentence, of the OECD Model Tax Convention.</p>

[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.

67. 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.

Thailand’s MAP guidance

68. Thailand’s rules, guidelines and procedures are included in the “Mutual Agreement Procedure Guideline” and are available at:

www.rd.go.th/publish/fileadmin/user_upload/porsor/final_MAPmanualEN.pdf

69. This contains information on:

- a. contact information of the competent authority or the office in charge of MAP cases
- b. the manner and form in which the taxpayer should submit its MAP request
- c. the specific information and documentation that should be included in a MAP request (see also below)
- d. how the MAP functions in terms of timing and the role of the competent authorities
- e. relationship with domestic available remedies
- f. implementation of MAP agreements (including the steps of the process and the timing of such steps for the implementation of MAP agreements, and any actions to be taken by taxpayers)
- g. rights and role of taxpayers in the process.

70. The above-described MAP guidance of Thailand includes detailed information on the availability and the use of MAP and how its competent authority conducts the procedure in practice. This guidance includes the information that the FTA MAP Forum agreed should be included in a jurisdiction’s MAP guidance, which concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request.¹

71. Although the information included in Thailand’s MAP guidance is detailed and comprehensive, various subjects are not specifically discussed in Thailand’s MAP guidance. This concerns information on:

- information on availability of arbitration
- whether MAP is available in cases of: (i) transfer pricing cases, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments
- whether taxpayers can request for the multi-year resolution of recurring issues through MAP

- the possibility of suspension of tax collection during the course of a MAP
- the consideration of interest and penalties in the MAP.

Information and documentation to be included in a MAP request

72. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in request for MAP assistance.² This agreed guidance is shown below. Thailand's MAP guidance enumerating which items must be included in a request for MAP assistance are checked in the following list:

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

Anticipated modifications

73. Thailand indicated that it does not anticipate any modifications in relation to element B.8.

Conclusion

	Areas for Improvement	Recommendations
[B.8]	-	<p>Although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance Thailand could consider including information on:</p> <ul style="list-style-type: none"> • information on availability of arbitration • whether MAP is available in cases of: (i) transfer pricing cases, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments • whether taxpayers can request for the multi-year resolution of recurring issues through MAP • the possibility of suspension of tax collection during the course of a MAP • the consideration of interest and penalties in the MAP. <p>In addition, Thailand's MAP guidance could also provide further details regarding what timeframe taxpayers are expected to comply with requests for additional information and documentation for a consideration of their MAP request.</p>

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

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

74. 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

75. The MAP guidance of Thailand is published and can be found at:

www.rd.go.th/publish/fileadmin/user_upload/porsor/final_MAPmanualEN.pdf

76. This guidance was last updated in September 2019. As regards its accessibility, Thailand’s MAP guidance can easily be found on the website of the Revenue Department of Thailand.

MAP profile

77. The MAP profile of Thailand is published on the website of the OECD. This MAP profile is complete and often with detailed information. This profile includes external links that provide extra information and guidance where appropriate. As discussed under element B.1, Thailand reported to grant access to MAP in cases where the issue under dispute has already been decided via the judicial and administrative remedies provided by its domestic law. However, the response to question 12 of the MAP profile currently stipulates that access will not be granted in such cases. As this response does not reflect the actual state of play in Thailand, the MAP profile should be changed.

Anticipated modifications

78. Thailand indicated that it intends to clarify in its MAP profile to grant access to MAP where the issue under dispute has already been decided via the judicial and administrative remedies provided by its domestic law.

Conclusion

	Areas for Improvement	Recommendations
[B.9]	The MAP profile requires clarification.	<p>Thailand should follow its stated intention to clarify in its MAP profile that it grants access to MAP where the issue under dispute has already been decided via the judicial and administrative remedies provided by its domestic law.</p> <p>In addition, as it has thus far made its MAP guidance available and easily accessible and published its MAP profile, Thailand should ensure that its future updates to the MAP guidance continue to be publicly available and easily accessible and that its MAP profile published on the shared public platform is updated if needed.</p>

[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.

79. 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

80. As previously discussed under B.5, audit settlements are not possible in Thailand. In that regard, there is no need for Thailand to address in its MAP guidance whether taxpayers can have access to MAP in such circumstances.

81. Peers raised no issues with respect to the availability of audit settlements and the inclusion of information hereon in Thailand's MAP guidance.

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

82. As previously mentioned under element B.5, Thailand 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 Thailand's MAP guidance.

83. All peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in Thailand.

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

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

85. Peers reported being not informed of the existence of this process and its effect on MAP. Peers indicated no issues regarding element B.10 in relation to administrative or statutory dispute settlement or resolution processes.

Anticipated modifications

86. Thailand 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.

87. 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 Thailand's tax treaties

88. All of Thailand's 61 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

89. Thailand 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

90. All peers that provided input indicated that their treaty with Thailand meets the Action 14 Minimum Standard for this element.

Conclusion

	Areas for Improvement	Recommendations
[C.1]	-	Thailand 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).

91. 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

92. 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. Thailand joined in the Inclusive Framework in 2017. For this reason the statistics referred to are pre-2017 cases for cases that were pending on 31 December 2016, and post-2016 cases for cases that started on or after 1 January 2017. Thailand provided its MAP statistics for 2017-19 pursuant to the MAP Statistics Reporting Framework within the given deadline. The statistics discussed below include both pre-2017 and post-2016 cases and the full statistics are attached to this report as Annex B and Annex C respectively¹ and should be considered jointly to understand the MAP caseload of Thailand. With respect to post-2016 cases, Thailand reported having reached out to its MAP partners with a view to have their MAP statistics matching and that it could match its post-2016 MAP statistics with all of its MAP partners from which Thailand received a response.

Monitoring of MAP statistics

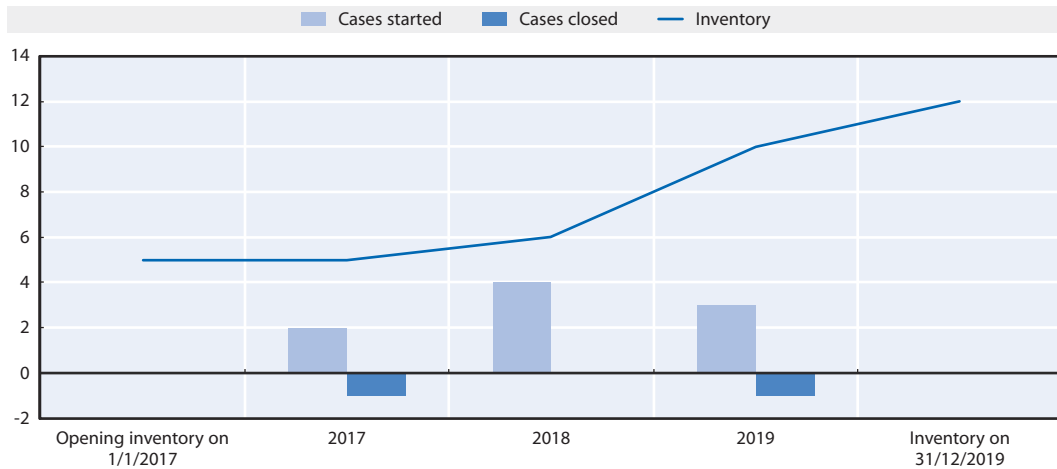
93. Thailand does not have a system in place with its treaty partners that communicates, monitors and manages the MAP caseload. It however reported that it will record the following information of all cases in the spreadsheet recording: description, type and latest status of MAP case and date it has received MAP request. It further reported that it monitors its inventory of MAP cases quarterly.

Analysis of Thailand’s MAP caseload

Global overview

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

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

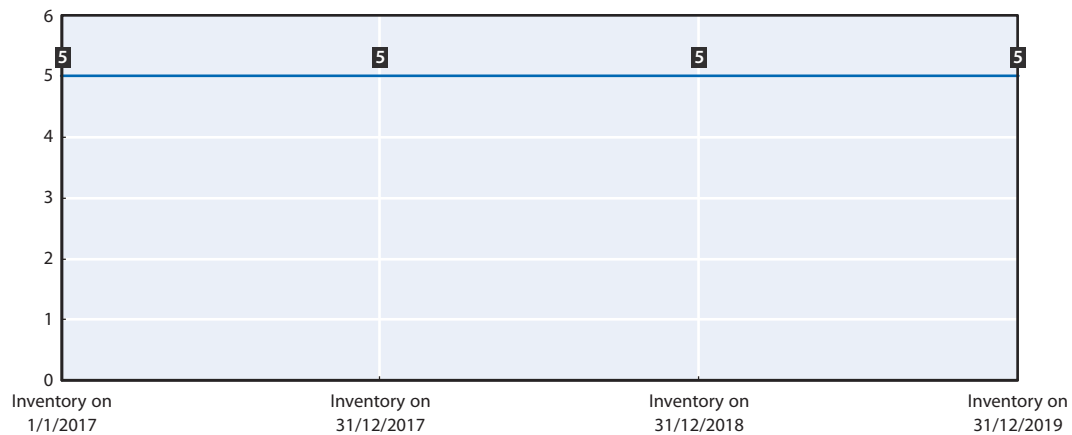


95. At the beginning of the Statistics Reporting Period Thailand had five pending MAP cases, all of which were other MAP cases.² At the end of the Statistics Reporting Period, Thailand had 12 MAP cases in its inventory, all of which are other MAP cases. Thailand's MAP caseload has increased by 140% during the Statistics Reporting Period.

Pre-2017 cases

96. Figure C.2 shows the evolution of Thailand's pre-2017 MAP cases over the Statistics Reporting Period.

Figure C.2. Evolution of Thailand's MAP inventory
Pre-2017 cases

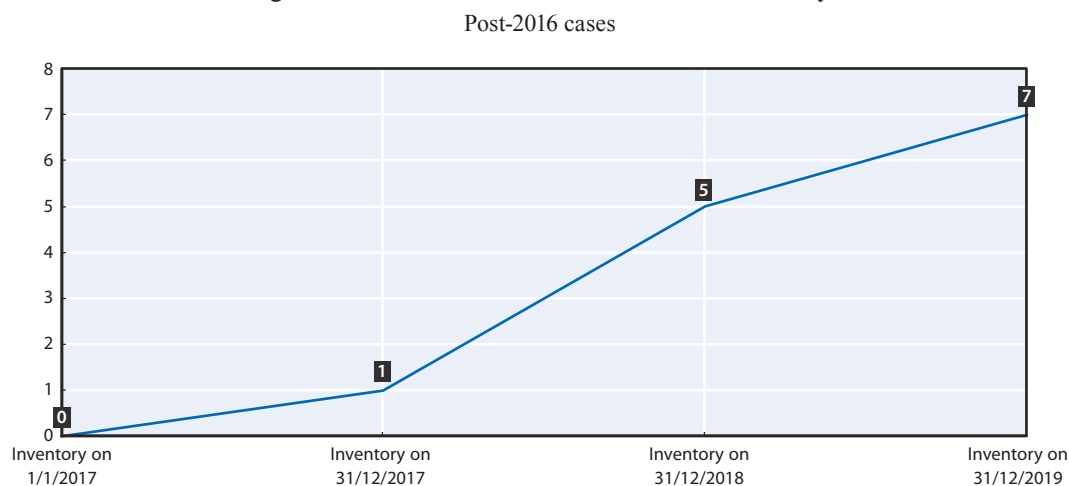


97. At the beginning of the Statistics Reporting Period, Thailand's MAP inventory of pre-2017 MAP cases consisted of five cases, all of which were other cases. At the end of the Statistics Reporting Period the total inventory of pre-2017 cases was five, just same as the inventory at the beginning.

Post-2016 cases

98. Figure C.3 shows the evolution of Thailand’s post-2016 MAP cases over the Statistics Reporting Period.

Figure C.3. Evolution of Thailand’s MAP inventory



99. In total, nine MAP cases started during the Statistics Reporting Period, two of which concerned attribution/allocation cases and seven other cases. At the end of this period the total number of post-2016 cases in the inventory was seven cases, all of which are other cases. Conclusively, Thailand closed two post-2016 case during the Statistics Reporting Period, both of which are attribution/allocation cases. The total number of closed cases represents 22 % of the total number of post-2016 cases that started during the Statistics Reporting Period.

100. The number of post-2016 cases closed as compared to the number of post-2016 cases started during the Statistics Reporting Period is shown in the table below.

	% of cases closed in 2017 compared to cases started in 2017	% of cases closed in 2018 compared to cases started in 2018	% of cases closed in 2019 compared to cases started in 2019	Cumulative % of cases closed compared to cases started over the three years (2017-19)
Attribution/allocation cases	100%	0%	(no case started)	100%
Other cases	0%	0%	0%	0%

Overview of cases closed during the Statistics Reporting Period

Reported outcomes

101. During the Statistics Reporting Period Thailand in total closed two MAP cases with the outcomes “Withdrawn by taxpayer” and “Unilateral relief granted”.

Reported outcomes for attribution/allocation cases

102. In total, two attribution/allocation cases were closed during the Statistics Reporting Period. The reported outcomes for these cases are “Withdrawn by taxpayer” and “Unilateral relief granted”.

Reported outcomes for other cases

103. There were no other cases that were closed during the Statistics Reporting Period.

*Average timeframe needed to resolve MAP cases**All cases closed during the Statistics Reporting Period*

104. The average time needed to close MAP cases during the Statistics Reporting Period was 9.80 months. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	2	9.80
Other cases	0	n.a.
All cases	2	9.80

Pre-2017 cases

105. For pre-2017 cases there were no cases that were closed during the Statistics Reporting Period.

Post-2016 cases

106. For post-2016 cases Thailand reported that on average it needed 9.80 months to close two attribution/allocation cases.

Peer input

107. One peer that has a pre-2016 case under discussion provided input that communication between the competent authorities of the contracting states should be improved with regard to the frequency of responses, and it suggested to communicate via encrypted e-mail to ensure efficient and frequent communication in the future. The peer noted that it has not received a position paper from Thailand since the initiation of the MAP in 2012, despite the fact that the peer has already sent Thailand seven letters requesting a position paper. It further noted that the MAP procedures should cover the years from 2011 to 2017. The peer concluded that due to the high amounts of money at stake and the already very long duration of the MAP, the frequency of communication, especially with respect to the issuance of position papers, should be improved.

108. Another peer that initiated one MAP case with Thailand during the Review Period reported that while the Thailand competent authority provided prompt acknowledgment of receipt of the MAP case and the peer's position paper was sent to Thailand in November 2018, the peer is still awaiting Thailand's position paper on the case.

109. A third peer reported that it is aware of one instance where an other MAP request was originally submitted on 11 February 2013. Thailand's position paper was sent on 12 September 2016. The peer provided its response on 6 January 2017 setting out its position (which did not accord with that of Thailand). To date, the peer has not received a response from Thailand despite the peer attempts to engage. In that regard, the peer considers there is scope to improve lines of communication.

110. A fourth peer reported that the peer has been late in sending a position paper due to not having all information necessary, and there have been no impediments on the side of Thailand's Competent Authority.

111. Other peers provided no specific input in relation to element C.2.

112. In response to this peer input, Thailand reported that it has improved the communication channels by having the specific email address for its MAP team and also using the encrypted emails to communicate with its tax treaty partners. Furthermore, Thailand indicated that it intends to improve the frequency of communication of MAP team with its tax treaty partners.

Anticipated modifications

113. Thailand indicated that it intends to increase the number of the staff dealing with MAP.

Conclusion

	Areas for Improvement	Recommendations
[C.2]	Thailand submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2017, 2018 and 2019.	Thailand's MAP statistics show that during the Statistics Reporting Period it closed 22% (two out of nine cases) of its post-2016 cases in 9.80 months on average. In that regard, Thailand is recommended to seek to resolve the remaining 78% of the post-2016 cases pending on 31 December 2019 (seven cases) within a timeframe that results in an average timeframe of 24 months for all post-2016 cases.

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

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

114. 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 Thailand's competent authority

115. Under Thailand's tax treaties, the competent authority function is assigned to the Minister of Finance or his duly authorised representative. This has been delegated to the Director-General of the Revenue Department of Thailand. In practice the competent authority function is performed by the Tax Policy and Planning Division of the Revenue Department. Thailand's competent authority consists of seven people, who deal exclusively with MAP cases. Three of them are responsible for non-transfer pricing MAP cases and four employees work on transfer pricing MAP cases.

116. Experience of the staff in charge of MAP varies from a couple of years to 15 years. Such staff participates in international seminars hosted by foreign tax authorities/international organisations as well as technical assistance through international organisations.

117. Thailand reported that due to the complexity of transfer pricing cases and lack of human resources the Revenue Department has set up the Committee. It is a mechanism to gather expertise from various bodies within the Revenue Department in order to provide consultation to the officers in charge of MAP concerning transfer pricing cases.

The Committee comprises of the Director-General as a chairperson, industrial analysts, transfer pricing analysts and tax economists, and the personnel who were involved in the adjustments do not join the discussion of the Committee.

Monitoring mechanism

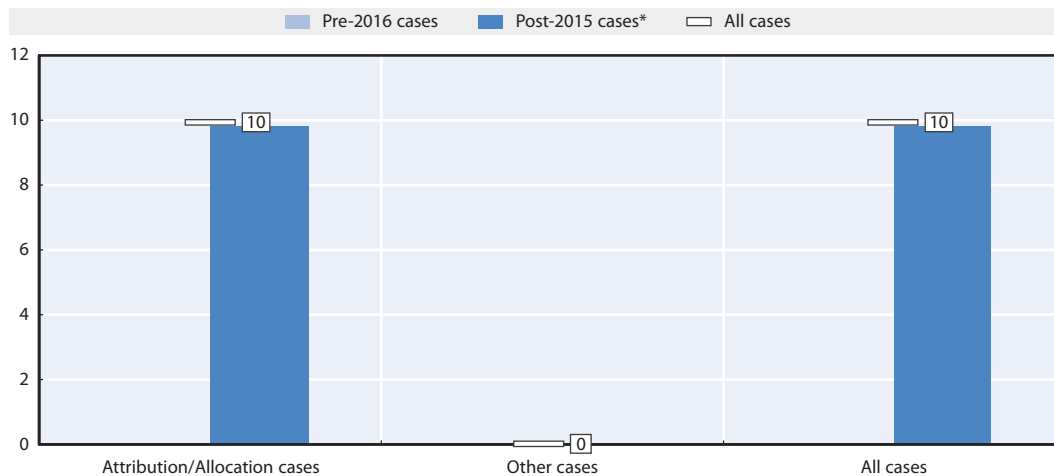
118. Thailand reported that it monitors workloads and the MAP cases in its inventory every quarter in order to check whether such resources are adequate.

Practical application

MAP statistics

119. As discussed under element C.2 Thailand closed two attribution/allocation cases during the Statistics Reporting Period within the pursued 24-month average, and all pre-2017 cases are pending. This can be illustrated by Figure C.4.

Figure C.4. Average time (in months) to close cases in 2017-19



* Note that post-2016 cases only concern cases started and closed during 2017-19.

120. On average it took Thailand 9.80 months to close MAP cases during the Statistics Reporting Period. Thailand, however, provided the following clarification for why it did not succeed in closing more MAP cases during the Statistics Reporting Period:

- There are cases where its tax treaty partner only sent an acceptance letter on a MAP request to it without providing sufficient information. In some of those cases, its treaty partner did not request the taxpayer to provide information within the time specified under the MAP standard, and therefore, the MAP process already started despite the inadequate information.
- Lack of human resources.
- With respect to transfer pricing MAP cases which are relatively more complicated compared to non-transfer pricing cases, the Revenue Department has set up a Committee which comprises of specialists in various areas such as tax treaties, transfer pricing, and industrial analysis. The operation in the form of the Committee takes time to resolve transfer pricing MAP cases.

- Language barrier. Since Thai is an official language and field officers may not be familiar with the language, translation may take time and slow down the MAP process.
121. In that regard, Thailand reported the following measures that the Revenue Department has already taken to solve the addressed four issues:
- improving channels and tracking process of formal communications with the CAs of their tax treaty partners to ensure the timeliness response in providing the additional information to proceed the MAP request.
 - investing in analysis tools such as TP Catalyst and IBFD Database to streamline and increase productivity of the MAP process.
 - sending staff in charge of the MAP process to attend the relevant MAP training.
 - recruiting more staff with English proficiency.

Peer input

122. One peer provided input that it holds face-to-face meetings (five days) with Thailand for a couple of times per year to resolve MAP cases. It reported that it has experienced delays of the MAP process for some APA cases while the number of the pending cases has been increasing. The peer therefore sees that Thailand's competent authority operates under resource constraints and suggest to ensure enough resources for resolving MAP cases in a timely and efficient manner.

123. Another peer reported enough resources seem to be employed to the MAP function in Thailand. It also reported that both competent authorities contact each other via e-mail or telephone without any difficulties and hold face-to-face meetings (normally once a year) to resolve MAP cases.

124. In addition, as discussed under element C.2, two peers provided input on delays in the provision of position papers or responses to such position papers by Thailand's competent authority.

125. In response to this peer input, Thailand mentioned that it values the input given and is truly grateful for peers' appreciation on all efforts made by Thailand to make its MAP programme becoming more efficient and effective. As regards delays in issuing position papers, Thailand indicated that it will ensure to resolve MAP cases on a timely basis.

Anticipated modifications

126. Thailand indicated that it intends to increase the number of the staff dealing with MAP.

Conclusion

	Areas for Improvement	Recommendations
[C.3]	Although MAP cases were closed within 24 months on average (which is the pursued average for resolving MAP cases received on or after 1 January 2017), peers indicated that they experienced some difficulties in resolving MAP cases, which concern obtaining positions papers in due time and receiving responses to position papers issued by peers. Furthermore, the MAP caseload has increased substantially since 1 January 2017. The peer input and the increase indicate that the competent authority may not be adequately resourced, and because of that there is a risk that pending or future MAP cases cannot be resolved in a timely, effective and efficient manner.	Thailand should ensure that adequate resources are made available for the competent authority function in order to resolve MAP cases in a timely, efficient and effective manner. In this respect, Thailand should closely monitor whether the anticipated addition of resources will enable the timely issuing of position papers and responses to such papers issued by the treaty partner on new and pending MAP cases.

[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.

127. 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

128. Thailand reported that staff in charge of MAP work independently on the resolution of MAP cases and will ensure that all MAP procedures are in line with the MAP provisions of its tax treaties, domestic MAP guideline and the international standard.

129. With respect to the relationship with the audit function, Thailand reported that the MAP process handled by the International Tax Sub-Division is independent from the audit function performed by the Large Business Tax Administration Division and Area Revenue Offices. It also reported auditors will not influence the MAP decision while the MAP officer will contact auditors to gather the necessary information if the facts are unclear and additional information is required.

130. Thailand also reported that staff in charge of MAP cases will take into consideration the actual terms of a tax treaty as applicable for the relevant year and that it is committed not to be influenced by policy considerations that Thailand would like to see reflected in future amendments to the treaty.

131. In regard of the above, Thailand considers that staff in charge of MAP have the necessary authority to resolve MAP cases and are not dependent on the approval/direction of outside personnel and that there are no impediments in Thailand's abilities to perform its MAP functions.

Practical application

132. Peers generally indicated no impediments in Thailand to perform its MAP function in the absence of approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy. One peer specifically mentioned that they are not being aware that staff in charge of the MAP in Thailand are dependent on the approval of MAP agreements by the personnel within the tax administration that made the adjustment under review.

Anticipated modifications

133. Thailand 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, Thailand 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 Thailand would like to see reflected in future amendments to the treaty.

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

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

134. For ensuring that each case is considered on its individual merits and will be resolved in a principled and consistent manner, it is essential that any performance indicators for the competent authority function and for the staff in charge of MAP processes are appropriate and not based on the amount of sustained audit adjustments or aim at maintaining a certain amount of tax revenue.

Performance indicators used by Thailand

135. 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).

136. Thailand reported that it does not have specific performance indicators for MAP cases. It however reported that it considers the staff should ensure the timeframe of 24 months to resolve MAP cases, and it regularly monitors MAP caseload. In addition, Thailand reported that there are general performance indicators that apply to all civil servants working for the Revenue Department.

137. Further to the above, Thailand 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

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

Anticipated modifications

139. Thailand indicated that once the MAP Unit is established, it may propose to have the specific performance indicators applying to MAP staff to ensure their performance.

Conclusion

	Areas for Improvement	Recommendations
[C.5]	-	Thailand 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.

140. 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

141. Thailand reported that it has domestic law limitations for including MAP arbitration in its tax treaties and its treaty policy does not allow it to include MAP arbitration in its tax treaties. This is clarified in Thailand’s MAP profile.

Practical application

142. Thailand has not incorporated an arbitration clause in any of its 61 tax treaties as a final stage to the MAP.

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

Anticipated modifications

144. Thailand indicated that it does not anticipate any modifications in relation to element C.6.

Conclusion

	Areas for Improvement	Recommendations
[C.6]	-	-

Notes

1. For post-2016 cases, if the number of MAP cases in Thailand’s inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five, Thailand reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
2. For pre-2017 and post-2016 Thailand follows the MAP Statistics Reporting Framework for determining whether a case is considered an attribution/allocation MAP case. Annex D of MAP Statistics Reporting Framework provides that “an attribution/allocation MAP case is a MAP case where the taxpayer’s MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the OECD Model Tax Convention); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the OECD Model Tax Convention), which is also known as a transfer pricing MAP case”.

References

- OECD (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.

145. 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

146. Thailand reported it will implement a MAP agreement reached notwithstanding any statute of limitation if the relevant tax treaty contains the equivalent of article 25 (2) second sentence of the OECD Model Tax Convention (OECD, 2017) while if the relevant tax treaty does not contain such equivalent, a MAP agreement will be implemented according to the statute of limitation under domestic legislation.

147. Thailand reported that in the case where the MAP agreement results in a tax refund, the MAP implementation is in accordance with the following Sections of the Revenue Code:

- For transfer pricing MAP cases, Section 71 Bis of the Revenue Code and Section 3 Octo apply. Section 71 Bis of the Revenue Code has been enacted for an accounting period started on or after 1 January 2019. Based on the provisions of Section 71 Bis, the refund can be claimed once the taxpayer is notified. The refund request must be submitted within 3 years after the date of filing, or 60 days after receiving the notification. If the taxpayer does not submit the request within the time limit, the deadline can be extended upon the Minister’s approval by applying Section 3 Octo.
- For non-transfer pricing MAP cases, Section 27 Ter and Section 3 Octo apply. The refund request must be submitted within 3 years after the date of filing. If the taxpayer does not submit the request within the time limit, the deadline can be extended upon Minister’s approval by applying Section 3 Octo.

148. No such explanation is provided in Thailand’s MAP guidance.

Practical application

149. Thailand reported that since 1 January 2017 there are no MAP agreements that needed to be implemented by Thailand and therefore it was not possible to assess the implementation of MAP agreements by Thailand.

150. All peers that provided input reported that they were not aware of any MAP agreement reached on or after 1 January 2017 that was not implemented by Thailand, whereby all the peers noted that they had not reached agreements after 1 January 2017 that needed to be implemented by Thailand's competent authority. Furthermore, one peer noted that it is concerned that the time limit of three years for refund under its domestic law could be an obstacle for the resolution of the MAP case since the equivalent of the second sentence of Article 25(2) of the OECD Model is not stipulated in the tax treaty between the peer and Thailand. The peer would expect Thailand to provide for such equivalent in the tax treaty as well as relevant domestic law.

Anticipated modifications

151. Thailand reported that the Revenue Department is in the process of proposing a legislation to have a general rule to implement a MAP agreement by applying Section 3 Octo in the case where a tax refund request is submitted after the 3 year period from the filing date.

Conclusion

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

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

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

152. 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

153. Thailand reported there is no theoretical timeframe for implementing mutual agreements, but in practice a MAP will be implemented in a couple of months.

154. Regarding the steps taken by taxpayers, Thailand reported that once a MAP outcome is reached, the taxpayer will be informed in writing within 30 days and, if the taxpayer agrees, the MAP acceptance letter on MAP agreements should be submitted to the competent

authority within 30 days. It further reported that the taxpayer must terminate all initiated domestic legal procedures (if any) and that he/she will refrain from taking any subsequent legal action for the MAP agreement to be implemented.

155. Thailand reported that upon receiving the confirmation from the taxpayer, the MAP agreement will be implemented. A copy of the MAP agreement will be sent to the office in charge of tax administration in the area where the taxpayer is located, and the responsible officer in such office will then implement the conclusions reached under the MAP agreement. Thailand further reported that throughout the process there will be close communication between the staff in charge of the MAP process and the tax administration office to ensure that the MAP agreement is smoothly implemented.

Practical application

156. As discussed under element D.1, since 1 January 2017 there are no MAP agreements that needed to be implemented by Thailand and therefore it was not possible to assess the timely implementation of MAP agreements by Thailand.

157. All peers that provided input have not indicated experiencing any problems with Thailand regarding the implementation of MAP agreements reached on a timely basis, which can be explained by the fact that there was no MAP agreement reached during the Review Period to be implemented in Thailand.

Anticipated modifications

158. Thailand indicated that it does not anticipate any modifications in relation to element D.2.

Conclusion

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

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

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

159. 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 Thailand's tax treaties

160. As discussed under element D.1, Thailand's domestic legislation includes a statute of limitations of three years for implementing MAP agreements, unless overridden by tax treaties.

161. Thailand reserves its position on the second sentence of Article 25(2) of the OECD Model Tax Convention as it considers that the implementation of reliefs and refunds following a mutual agreement ought to remain linked to time limits prescribed by their domestic laws.

162. Out of Thailand's 61 tax treaties, eight contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. Furthermore, one tax treaty contains such equivalent and also the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making adjustments. Additionally, 50 do not contain such equivalent or the alternative provisions. The remaining two treaties do not contain such equivalent but include the alternative to Article 9(1).

Anticipated modifications

Bilateral modifications

163. 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), Thailand reported it has planned to modify its tax treaties to be compliant with element D.3 by the Multilateral Instrument, as it intends to sign the Multilateral Instrument by the end of 2020. It reported not having in place a specific plan for bilateral negotiations, however after becoming a party to the Multilateral Instrument it will revisit its tax treaty network and will approach the relevant tax treaty partners for such negotiations where the relevant treaties will not be modified by the Multilateral Instrument.

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

Peer input

165. For the 52 treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention, or both alternatives, three of the relevant peers reported they have made notifications under Article 16 of the Multilateral Instrument and the relevant treaty will be modified by the Multilateral Instrument once Thailand signs and ratifies it. In addition, one of the relevant peers reported that it intends to amend or modify the relevant tax treaty through bilateral negotiation or the MLI. Another relevant peer reported that it is ready for negotiations for a corresponding amending protocol in order to bring the treaty in line with the Minimum Standard and already sent a letter to the competent authority of Thailand to show its readiness for negotiations. This peer further reported that it, however, did not receive a response to its letter yet. Other peers provided no specific input in relation to element D.3.

Conclusion

	Areas for Improvement	Recommendations
[D.3]	<p>52 out of 61 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). For five of these treaties, the relevant treaty partners have already been contacted and negotiations have been initiated.</p>	<p>Thailand should continue with negotiations for the inclusion of the required provision to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention or be willing to accept the inclusion of both alternative provisions in these five treaties.</p> <p>In addition, Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention in the remaining treaties. Where treaties will not be modified by the Multilateral Instrument upon its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>To this end, Thailand should put a plan in place on how it envisages updating the treaties to include the required provision or its alternative.</p> <p>In addition, Thailand 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> <p>Furthermore, for clarification purposes, Thailand could consider withdrawing its position on Article 25(2), second sentence, of the OECD Model Tax Convention.</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]	Two out of 61 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention.	<p>Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention in the treaties that currently do not contain such equivalent.</p> <p>Where treaties will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention following its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Thailand should put a plan in place on how it envisages updating these two treaties to include the required provision.</p> <p>In addition, Thailand should maintain its stated intention to include the required provision in all future tax treaties.</p>
[A.2]	Roll-back of bilateral APAs is not available.	Thailand should follow up on its stated intention to amend the Guidance on APA Process to clarify that roll-back of bilateral APAs are possible. It should in practice also allow for roll-back of bilateral APAs in all appropriate cases.
Part B: Availability and access to MAP		
[B.1]	Two out of 61 tax treaties do not contain the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention. For one of these treaties, the relevant treaty partner has already been contacted and negotiations have been initiated.	<p>Thailand should continue with negotiations for the inclusion of the required provision to incorporate the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention in the treaty.</p> <p>In addition, Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention in the remaining treaty. Where this treaty will not be modified by the Multilateral Instrument upon its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations.</p> <p>For both treaties, this concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either:</p> <ol style="list-style-type: none"> a. as amended in the Action 14 final report, or b. as it read prior to the adoption of Action 14 final report, thereby including the full sentence of such provision. <p>To this end, Thailand should put a plan in place on how it envisages updating the treaty to include the required provision.</p>

	Areas for Improvement	Recommendations
	Six out of 61 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline in these treaties for filing MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty, or no filing period for a MAP request is contained but reference is made to the time limit in the domestic law of the Contracting States.	Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention in the treaties that currently do not contain such equivalent. Where treaties will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention following its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations. To this end, Thailand should put a plan in place on how it envisages updating these six treaties to include the required provision.
[B.1]	Access to MAP is not provided irrespective of domestic remedies as taxpayers need to lodge an appeal with domestic courts against the decision of an administrative appeals commission in order to have full access to MAP.	Thailand should ensure that taxpayers that meet the requirements of paragraph 1 of Article 25 of the OECD Model Tax Convention can access the MAP irrespective of domestic remedies. In that regard, Thailand should follow its stated intention to amend its legislation and internal procedures that aim to prevent conflicts between the appeal decision and the MAP agreement so that taxpayers have the choice to opt for MAP irrespective of domestic remedies.
	-	In addition, Thailand should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report in all future tax treaties.
	-	Furthermore, for clarification purposes, Thailand could consider withdrawing its position on Article 25(1), second sentence, of the OECD Model Tax Convention.
[B.2]	None of the 61 treaties contains 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.	Thailand should without further delay follow its stated intention to introduce a documented notification process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Thailand 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]	Access to MAP in transfer pricing cases will not be granted for jurisdictions where Article 9(2) of the OECD Model Tax Convention is not contained in the tax treaty with such jurisdictions.	Thailand should change its domestic policy to ensure that for those cases where the treaty does not contain Article 9(2) of the OECD Model Tax Convention, access to MAP will always be granted for eligible cases.
[B.4]	Thailand 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. Thailand is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	-	-
[B.6]	-	As Thailand has thus far not limited access to MAP in eligible cases when taxpayers have complied with Thailand's information and documentation requirements for MAP requests, it should continue this practice

	Areas for Improvement	Recommendations
[B.7]	Eight out of 61 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention For one of these treaties, the relevant treaty partner has already been contacted and negotiations have been initiated.	<p>Thailand should continue with negotiations for the inclusion of the required provision to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in the treaty.</p> <p>In addition, Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention in the remaining treaties. Where treaties will not be modified by the Multilateral Instrument upon its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Thailand should put a plan in place on how it envisages updating these eight treaties to include the required provision.</p> <p>In addition, Thailand should maintain its stated intention to include the required provision in all future tax treaties.</p> <p>Furthermore, for clarification purposes, Thailand could consider withdrawing its position on Article 25(3), second sentence, of the OECD Model Tax Convention.</p>
[B.8]	-	<p>Although not required by the Action 14 Minimum Standard, in order to further improve the level of details of its MAP guidance Thailand could consider including information on:</p> <ul style="list-style-type: none"> • information on availability of arbitration • whether MAP is available in cases of: (i) transfer pricing cases, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments • whether taxpayers can request for the multi-year resolution of recurring issues through MAP • the possibility of suspension of tax collection during the course of a MAP • the consideration of interest and penalties in the MAP. <p>In addition, Thailand's MAP guidance could also provide further details regarding what timeframe taxpayers are expected to comply with requests for additional information and documentation for a consideration of their MAP request.</p>
[B.9]	The MAP profile requires clarification.	<p>Thailand should follow its stated intention to clarify in its MAP profile that it grants access to MAP where the issue under dispute has already been decided via the judicial and administrative remedies provided by its domestic law.</p> <p>In addition, as it has thus far made its MAP guidance available and easily accessible and published its MAP profile, Thailand should ensure that its future updates to the MAP guidance continue to be publicly available and easily accessible and that its MAP profile published on the shared public platform is updated if needed.</p>
[B.10]	-	-

	Areas for Improvement	Recommendations
Part C: Resolution of MAP cases		
[C.1]	-	Thailand should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	Thailand submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2017, 2018 and 2019. Thailand's MAP statistics show that during the Statistics Reporting Period it closed 22% (two out of nine cases) of its post-2016 cases in 7.88 months on average. In that regard, Thailand is recommended to seek to resolve the remaining 78% of the post-2016 cases pending on 31 December 2019 (seven cases) within a timeframe that results in an average timeframe of 24 months for all post-2016 cases.	
[C.3]	Although MAP cases were closed within 24 months on average (which is the pursued average for resolving MAP cases received on or after 1 January 2017), peers indicated that they experienced some difficulties in resolving MAP cases, which concern obtaining position papers in due time and receiving responses to position papers issued by peers. Furthermore, the MAP caseload has increased substantially since 1 January 2017. The peer input and the increase indicate that the competent authority may not be adequately resourced, and because of that there is a risk that pending or future MAP cases cannot be resolved in a timely, effective and efficient manner.	Thailand should ensure that adequate resources are made available for the competent authority function in order to resolve MAP cases in a timely, efficient and effective manner. In this respect, Thailand should closely monitor whether the anticipated addition of resources will enable the timely issuing of position papers and responses to such papers issued by the treaty partner on new and pending MAP cases.
[C.4]	-	As it has done thus far, Thailand 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 Thailand would like to see reflected in future amendments to the treaty.
[C.5]	-	Thailand 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 there was no MAP agreement reached during the Review Period that needed to be implemented in Thailand, it was not yet possible to assess whether Thailand has implemented all MAP agreements thus far. As will be discussed under element D.3 not all of Thailand's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention. Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to time limits in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention in a Thailand's relevant tax treaty, prevent the implementation of a MAP agreement, Thailand should put appropriate procedures in place to ensure that such an agreement is implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Thailand should for clarity and transparency purposes notify the treaty partner thereof without delay.
[D.2]	As there was no MAP agreement reached during the Review Period that needed to be implemented in Thailand, it was not yet possible to assess whether Thailand would have implemented all MAP agreements on a timely basis thus far.	

	Areas for Improvement	Recommendations
[D.3]	<p>52 out of 61 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). For five of these treaties, the relevant treaty partners have already been contacted and negotiations have been initiated.</p>	<p>Thailand should continue with negotiations for the inclusion of the required provision to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention or be willing to accept the inclusion of both alternative provisions in these five treaties.</p> <p>In addition, Thailand should follow its stated intention and as quickly as possible sign and ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention in the remaining treaties. Where treaties will not be modified by the Multilateral Instrument upon its entry into force, Thailand should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>To this end, Thailand should put a plan in place on how it envisages updating the treaties to include the required provision or its alternative.</p> <p>In addition, Thailand 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> <p>Furthermore, for clarification purposes, Thailand could consider withdrawing its position on Article 25(2), second sentence, of the OECD Model Tax Convention.</p>

Annex A

Tax treaty network of Thailand

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	Y = yes N = signed pending ratification	If N, date of signing	Inclusion Art. 25(1) first sentence? If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Article 9(2) of the OECD MTC B.3	Anti-abuse B.4	Article 25(2) of the OECD MTC C.1	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Article 25(3) of the OECD MTC A.1	Article 25(3) of the OECD MTC B.7	Arbitration C.6								
			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	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	
Armenia	Y	N/A	O	N/A	Y	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N
Australia	Y	N/A	O	N/A	Y	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N
Austria	Y	N/A	O	N/A	Y	ii	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N
Bahrain	Y	N/A	O	N/A	Y	ii	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11
	Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Arbitration									
Bangladesh	Y	N/A	O	Y	N/A	ii	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Belarus	Y	N/A	O	Y	N/A	Y	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Belgium	Y	N/A	O	Y	N/A	ii	i	Y	N	Y	Y	Y	Y	N	N	N	N	N	N
Bulgaria	Y	N/A	O	Y	N/A	Y	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Cambodia	Y	N/A	O	Y	N/A	ii	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Canada	Y	N/A	O	ii	2-years	ii	i	Y	ii	ii	ii	ii	ii	ii	ii	ii	ii	ii	N
Chile	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	N
China (People's Republic of)	Y	N/A	O	Y	N/A	ii	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Cyprus*	Y	N/A	O	Y	N/A	ii	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Czech Republic	Y	N/A	O	Y	N/A	ii	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Denmark	Y	N/A	O	Y	N/A	ii	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Estonia	Y	N/A	O	ii	2-years	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Finland	Y	N/A	O	Y	N/A	ii	i	Y	ii	ii	ii	ii	ii	ii	ii	ii	ii	ii	N
France	Y	N/A	O	i	N/A	ii	i	Y	N	Y	Y	Y	Y	N	N	Y	Y	Y	N
Germany	Y	N/A	O	i	N/A	ii	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Hong Kong (China)	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Hungary	Y	N/A	O	Y	N/A	ii	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
India	Y	N/A	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Indonesia	Y	N/A	O	ii	2-years	ii	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Ireland	Y	N/A	O	Y	N/A	Y	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Israel	Y	N/A	O	Y	N/A	ii	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11
	Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? (Note 1)	Inclusion Art. 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	
Italy	Y	N/A	O	iv	2-years	i	ii	ii	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?	Y	N	Y	Y	N	Y	Y	Y	Y	N
Japan	Y	N/A	O	Y	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
Korea	Y	N/A	O	Y	N/A	i	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Kuwait	Y	N/A	O	Y	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
Lao People's Democratic Republic	Y	N/A	O	Y	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	N	N
Luxembourg	Y	N/A	O	Y	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
Malaysia	Y	N/A	O	i	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
Mauritius	Y	N/A	O	Y	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
Myanmar	Y	N/A	O	Y	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
Nepal	Y	N/A	O	Y	N/A	i	Y	Y		Y	N	Y	Y	N	Y	Y	Y	Y	N
Netherlands	Y	N/A	N	i	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
New Zealand	Y	N/A	O	Y	N/A	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	N	N
Norway	Y	N/A	O	Y	N/A	Y	Y	Y		Y	N	Y	Y	N	Y	Y	Y	Y	N
Oman	Y	N/A	O	Y	N/A	Y	Y	Y		Y	N	Y	Y	N	Y	Y	Y	N	N
Pakistan	Y	N/A	O	ii	2 years	i	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Philippines	Y	N/A	O	Y	N/A	i	Y	Y		Y	iii	Y	Y	Y	Y	Y	Y	Y	N
Poland	Y	N/A	O	i	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
Romania	Y	N/A	O	Y	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
Russia	Y	N/A	N	Y	N/A	i	ii	ii		Y	N	Y	Y	N	Y	Y	Y	Y	N
Seychelles	Y	N/A	O	Y	N/A	i	Y	Y		Y	N	Y	Y	N	Y	Y	Y	Y	N
Singapore	Y	N/A	O	Y	N/A	i	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y	N

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Arbitration
	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)	Inclusion Art. 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(2) of the OECD MTC	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Arbitration			
Treaty partner	B.1	B.1	B.1	B.3	B.4	C.1	C.1	D.3	A.1	B.7	C.6								
Slovenia	Y	N/A	O	Y	N/A	ii	i	Y	Y	N	Y	N	Y	Y	N				
South Africa	Y	N/A	O	i	N/A	ii	i	Y	Y	N	Y	N	Y	Y	N				
Spain	Y	N/A	O	Y	N/A	ii	i	Y	Y	N	Y	N	Y	Y	N				
Sri Lanka	Y	N/A	O	Y	N/A	ii	i	Y	Y	N	Y	N	Y	Y	N				
Sweden	Y	N/A	O	Y	N/A	Y	i	Y	Y	N	Y	N	Y	Y	N				
Switzerland	Y	N/A	O	Y	N/A	ii	i	Y	Y	N	Y	N	Y	Y	N				
Chinese Taipei	Y	N/A	O	Y	N/A	ii	i	Y	Y	N	Y	N	Y	Y	N				
Tajikistan	Y	N/A	O	Y	N/A	Y	i	Y	Y	N	Y	N	Y	Y	N				
Turkey	Y	N/A	O	iv	Domestic law	Y	i	Y	Y	N	Y	N	Y	Y	N				
Ukraine	Y	N/A	O	Y	N/A	Y	i	Y	Y	N	Y	N	Y	Y	N				
United Arab Emirates	Y	N/A	O	Y	N/A	ii	i	Y	Y	N	Y	N	Y	Y	N				
United Kingdom	Y	N/A	O	i	N/A	ii	i	Y	Y	N	Y	N	Y	N	N				
United States	Y	N/A	O	Y	N/A	Y	i	Y	Y	N	Y	N	Y	Y	N				
Uzbekistan	Y	N/A	O	Y	N/A	Y	i	Y	Y	N	Y	N	Y	Y	N				
Viet Nam	Y	N/A	O	Y	N/A	ii	i	Y	Y	N	Y	N	Y	Y	N				

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

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

Annex B

MAP Statistics Reporting for the 2017, 2018 and 2019 Reporting Periods (1 January 2017 to 31 December 2019) for pre-2017 cases

2017 MAP Statistics													
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2016	Number of pre-2017 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in MAP inventory on 31 December 2016	Average time taken (in months) for closing pre-2017 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	-1.00
Others	5	0	0	0	0	0	0	0	0	0	0	5	-1.00
Total	5	0	0	0	0	0	0	0	0	0	0	5	n.a.

2018 MAP Statistics													
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2017	Number of pre-2017 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in MAP inventory on 31 December 2017	Average time taken (in months) for closing pre-2017 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	5	0	0	0	0	0	0	0	0	0	0	5	n.a.
Total	5	0	0	0	0	0	0	0	0	0	0	5	n.a.

Notes: There is a discrepancy between the number of pre-2017 MAP cases in Qatar's inventory as per 31 December 2016 and 1 January 2017.

- The reported number of MAP cases pending on 31 December 2016 was 23, which consists of 16 attribution/allocation cases and 7 other cases.
 - The reported number of MAP cases pending on 1 January 2017 was 31, which consists of 21 attribution/allocation cases and 10 other cases.
- In order to have matching numbers for 31 December 2016 and 1 January 2017, the number of pre-2017 cases pending on per 1 January 2016 was corrected.

2019 MAP Statistics														
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2018	Number of pre-2017 cases closed during the reporting period by outcome										No. of pre-2016 cases remaining in MAP inventory on 31 December 2018	Average time taken (in months) for closing pre-2017 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 13
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	5	0	0	0	0	0	0	0	0	0	0	5	5	n.a.
Total	5	0	0	0	0	0	0	0	0	0	0	5	5	n.a.

Notes: There is a discrepancy between the number of pre-2017 MAP cases in Qatar's inventory as per 31 December 2017 and 1 January 2018.

- The reported number of MAP cases pending on 31 December 2017 was 19, which consists of 12 attribution/allocation cases and 7 other cases.
- The reported number of MAP cases pending on 1 January 2018 was 15, which consists of 10 attribution/allocation cases and 5 other cases.

In order to have matching numbers for 31 December 2017 and 1 January 2018, the number of pre-2017 cases pending on per 1 January 2016 was corrected.

Annex C

MAP Statistics Reporting for the 2017, 2018 and 2019 Reporting Periods (1 January 2017 to 31 December 2019) for post-2016 cases

2017 MAP Statistics																	
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2016	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome										No. of post-2016 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing post-2016 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome					
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13					
Attribution/Allocation	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	5.96
Others	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	n.a.
Total	0	2	0	0	1	0	0	0	0	0	0	0	0	0	0	1	5.96

2018 MAP Statistics																	
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2017	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome										No. of post-2016 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2016 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome					
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13					
Attribution/Allocation	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	n.a.
Others	1	3	0	0	0	0	0	0	0	0	0	0	0	0	0	4	n.a.
Total	1	4	0	0	0	0	0	0	0	0	0	0	0	0	0	5	n.a.

Notes: There is a discrepancy between the number of post-2016 MAP cases in Qatar's inventory as per 31 December 2016 and 1 January 2017.

- The reported number of MAP cases pending on 31 December 2016 was 19, which consists of 11 attribution/allocation cases and 8 other cases.
 - The reported number of MAP cases pending on 1 January 2017 was 20, which consists of 12 attribution/allocation cases and 8 other cases.
- In order to have matching numbers for 31 December 2016 and 1 January 2017, the number of post-2016 cases received in 2016 was corrected.

2019 MAP Statistics															
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2018	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome								No. of post-2016 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2016 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty			No agreement, including agreement to disagree	Any other outcome	
Column 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	1	0	0	0	0	1	0	0	0	0	0	0	0	0	13.63
Others	4	3	0	0	0	0	0	0	0	0	0	0	0	7	n.a.
Total	5	3	0	0	0	1	0	0	0	0	0	0	0	7	13.63

Notes: There is a discrepancy between the number of post-2015 MAP cases in Qatar's inventory as per 31 December 2017 and 1 January 2018.

- The reported number of MAP cases pending on 31 December 2017 was 25, which consists of 15 attribution/allocation cases and 10 other cases.
 - The reported number of MAP cases pending on 1 January 2018 was 26, which consists of 16 attribution/allocation cases and 10 other cases.
- In order to have matching numbers for 31 December 2017 and 1 January 2018, the number of post-2015 cases received in 2017 was corrected.

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 Guidance	Mutual Agreement Procedure Guideline
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
Multilateral Instrument	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
OECD Transfer Pricing Guidelines	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
Pre-2017 cases	MAP cases in a competent authority’s inventory that are pending resolution on 31 December 2016
Post-2016 cases	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2017
Review Period	Period for the peer review process that started on 1 January 2017 and ended on 31 December 2019
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2017 and that ended on 31 December 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, Thailand (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 monitoring of the implementation of the Action 14 Minimum Standard by Thailand.



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