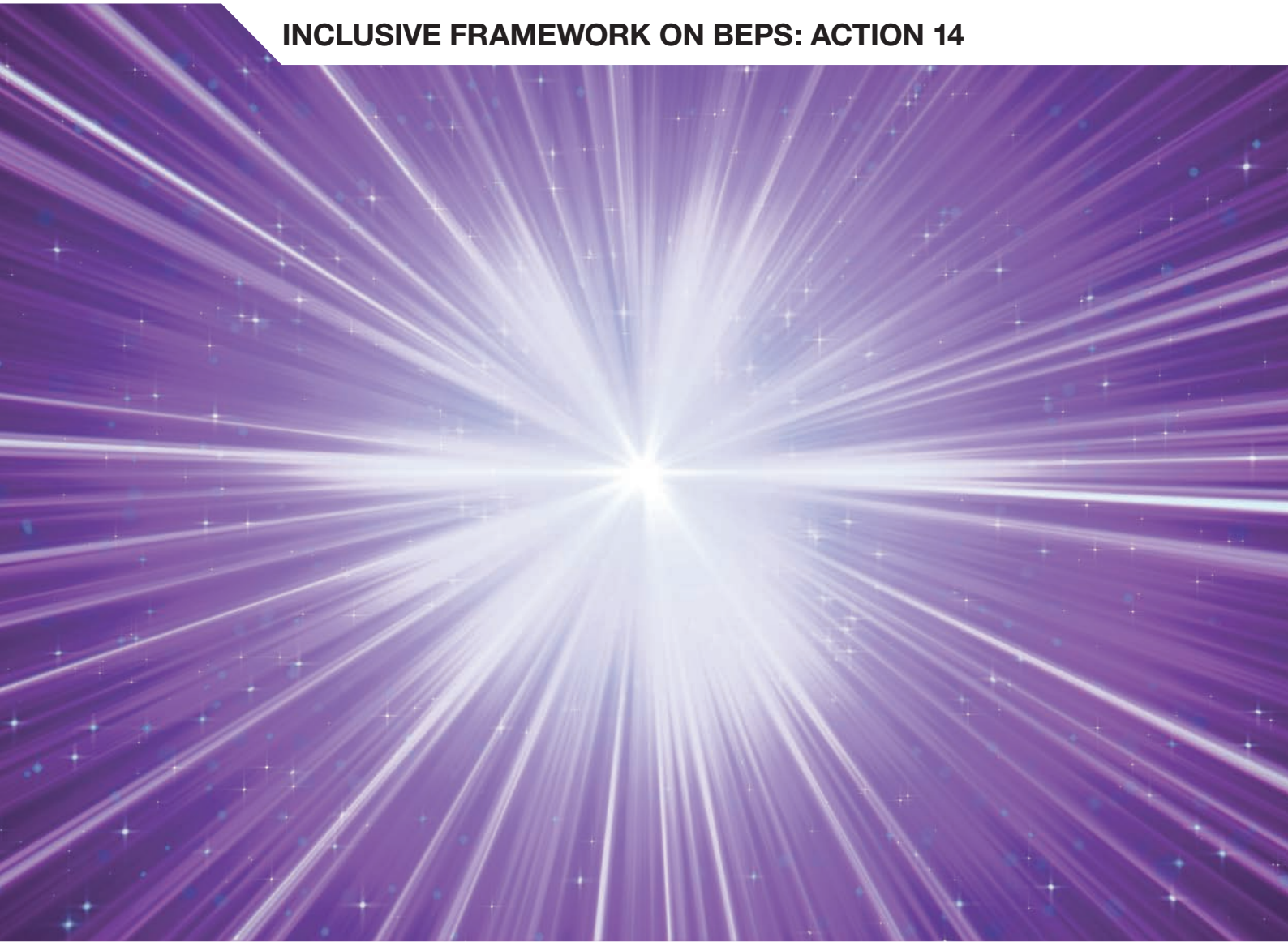


**OECD/G20 Base Erosion and Profit Shifting
Project**



Making Dispute Resolution More Effective – MAP Peer Review Report, Trinidad and Tobago (Stage 1)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14



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Please cite this publication as:

OECD (2021), *Making Dispute Resolution More Effective – MAP Peer Review Report, Trinidad and Tobago (Stage 1): Inclusive Framework on BEPS: Action 14*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/def5f134-en>.

ISBN 978-92-64-67876-7 (print)

ISBN 978-92-64-86601-0 (pdf)

OECD/G20 Base Erosion and Profit Shifting Project

ISSN 2313-2604 (print)

ISSN 2313-2612 (online)

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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.

Table of contents

Abbreviations and acronyms	7
Executive summary	9
Introduction	11
Part A. Preventing disputes	15
[A.1] Include Article 25(3), first sentence, of the OECD Model Tax Convention in tax treaties	15
[A.2] Provide roll-back of bilateral APAs in appropriate cases	16
References	17
Part B. Availability and access to MAP	19
[B.1] Include Article 25(1) of the OECD Model Tax Convention in tax treaties	19
[B.2] Allow submission of MAP requests to the competent authority of either treaty partner, or, alternatively, introduce a bilateral consultation or notification process	22
[B.3] Provide access to MAP in transfer pricing cases	23
[B.4] Provide access to MAP in relation to the application of anti-abuse provisions	24
[B.5] Provide access to MAP in cases of audit settlements	25
[B.6] Provide access to MAP if required information is submitted	26
[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties	27
[B.8] Publish clear and comprehensive MAP guidance	28
[B.9] Make MAP guidance available and easily accessible and publish MAP profile	30
[B.10] Clarify in MAP guidance that audit settlements do not preclude access to MAP	31
References	32
Part C. Resolution of MAP cases	33
[C.1] Include Article 25(2), first sentence, of the OECD Model Tax Convention in tax treaties	33
[C.2] Seek to resolve MAP cases within a 24-month average timeframe	34
[C.3] Provide adequate resources to the MAP function	36
[C.4] Ensure staff in charge of MAP has the authority to resolve cases in accordance with the applicable tax treaty	37
[C.5] Use appropriate performance indicators for the MAP function	38
[C.6] Provide transparency with respect to the position on MAP arbitration	39
References	40
Part D. Implementation of MAP agreements	41
[D.1] Implement all MAP agreements	41
[D.2] Implement all MAP agreements on a timely basis	42

[D.3] Include Article 25(2), second sentence, of the OECD Model Tax Convention in tax treaties or alternative provisions in Article 9(1) and Article 7(2)	43
Reference	44
Summary	45
Annex A. Tax treaty network of Trinidad and Tobago	49
Annex B. MAP Statistics Reporting for the 2017, 2018 and 2019 Reporting Periods (1 January 2017 to 31 December 2019) for pre-2016 cases.	52
Annex C. MAP Statistics Reporting for the 2017, 2018 and 2019 Reporting Periods (1 January 2017 to 31 December 2019) for post-2016 cases	54
Glossary	57
Figures	
Figure C.1 Evolution of Trinidad and Tobago’s MAP caseload	35
Figure C.2 Evolution of Trinidad and Tobago’s MAP inventory – Post-2016 cases	35

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

Trinidad and Tobago has a modest tax treaty network with 17 tax treaties. Trinidad and Tobago has a newly established MAP programme and has no experience with resolving MAP cases as it has only been involved in one MAP case, which has not been closed yet. Overall Trinidad and Tobago meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Trinidad and Tobago is working to address some of them.

All of Trinidad and Tobago'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 partially consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that:

- more than half (52%) 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
- almost 18% of its tax treaties do not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard Trinidad and Tobago needs to amend and update a significant number of its tax treaties.

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

Trinidad and Tobago also meets some requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 January 2017 not received any MAP request concerning transfer pricing cases, cases where anti-abuse provisions are applied or cases where there has been an audit settlement. However, Trinidad and Tobago 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. Trinidad and Tobago also has no published guidance on the availability of MAP and how it applies this procedure in practice under tax treaties.

The MAP Statistics submitted by Trinidad and Tobago 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	0	0	0	n.a.
Other cases	0	1	0	1	n.a.
Total	0	1	0	1	n.a.

Furthermore, Trinidad and Tobago has not resolved any MAP cases since 1 January 2017, but it meets in principle almost all the requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Trinidad and Tobago'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. However, it did not match its statistics according to the Statistics Reporting Framework within the deadline for all the relevant years.

As there were no MAP agreements reached that required implementation since 1 January 2017, it was not yet possible to assess whether Trinidad and Tobago meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. However, since Trinidad and Tobago has a domestic statute of limitation for implementation of MAP agreements, there is a risk that future MAP 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 (OECD, 2017).

Introduction

Available mechanisms in Trinidad and Tobago to resolve tax treaty-related disputes

Trinidad and Tobago has entered into 17 tax treaties on income (and/or capital), which are all in force.¹ These 17 treaties are being applied to 26 jurisdictions.² 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 Trinidad and Tobago, the competent authority function to conduct MAP is delegated to the Ministry of Finance, which assigned the Minister’s authorised representative, the Chairman of the Board of Inland Revenue. The competent authority of Trinidad and Tobago currently employs approximately three full time employees in charge of mutual agreement procedure matters.

Trinidad and Tobago reports that guidance on the governance and administration of the mutual agreement procedure (MAP) has been drafted and will be approved and published in English on the website of the Ministry of Finance as soon as possible.

Recent developments in the assessed jurisdiction

Trinidad and Tobago reported it is currently conducting tax treaty negotiations with two jurisdictions.

For those treaties that do not contain all provisions in line with the requirements of the Action 14 Minimum Standard, Trinidad and Tobago reported it will strive to update them via bilateral negotiations. Trinidad and Tobago further reported that it recognises the strategic importance of each of its treaty partners and therefore does not have a criterion to prioritise its relevant treaty partners.

Basis for the peer review process

The peer review process entails an evaluation of Trinidad and Tobago’s implementation of the Action 14 Minimum Standard through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic legislation and regulations, as well as its MAP programme guidance and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by Trinidad and Tobago, its peers and taxpayers. The questionnaires for the peer review process were sent to Trinidad and Tobago and the peers on 16 December 2019.

The period for evaluating Trinidad and Tobago’s implementation of the Action 14 Minimum Standard ranges from 1 January 2017 to 31 December 2019 (“**Review Period**”).

Furthermore, this report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Trinidad and Tobago’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 Trinidad and Tobago is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty.

The treaty analysis also takes into account the multilateral tax treaty entered into between Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines and Trinidad and Tobago (“Caribbean Community [CARICOM]”) (1994). This treaty is counted as one treaty, even though they are applicable to multiple jurisdictions. Reference is made to Annex A for the overview of Trinidad and Tobago’s tax treaties regarding the mutual agreement procedure.

In total one peer provided input: Germany. This peer had no MAP cases with Trinidad and Tobago that started on or after 1 January 2017.

Trinidad and Tobago provided informative answers in its questionnaire, which was submitted on time. Trinidad and Tobago was 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, Trinidad and Tobago provided the following information:

- MAP profile³
- MAP statistics⁴ according to the MAP Statistics Reporting Framework (see below).

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

Overview of MAP caseload in Trinidad and Tobago

As mentioned above, Trinidad and Tobago has only been involved in one MAP case during the Review Period, which has not been closed yet.

General outline of the peer review report

This report includes an evaluation of Trinidad and Tobago’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**”).⁵ Apart from analysing Trinidad and Tobago’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Trinidad and Tobago. Furthermore, the report depicts the changes adopted and plans shared by Trinidad and Tobago 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 Trinidad and Tobago 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 Trinidad and Tobago has entered into are available at: www.ird.gov.tt/double_taxation_treaties. Reference is made to Annex A for the overview of Trinidad and Tobago’s tax treaties.
2. Trinidad and Tobago is a signatory to the Caribbean Community (CARICOM) Convention that for Trinidad and Tobago applies to Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines.
3. Available at <https://www.oecd.org/tax/dispute/Trinidad-and-Tobago-Dispute-Resolution-Profile.pdf>.
4. The MAP statistics of Trinidad and Tobago are included in Annex B and C of this report.
5. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

Part A

Preventing disputes

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

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

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

Current situation of Trinidad and Tobago's tax treaties

2. All of Trinidad and Tobago's 17 tax treaties¹ 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.

Anticipated modifications

Bilateral modifications

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

Peer input

4. No peer input was provided.

Conclusion

	Areas for Improvement	Recommendations
[A.1]	-	Trinidad and Tobago should maintain its stated intention to include the required provision in all future tax treaties.

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

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

5. An APA is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustment thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time.² The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The “roll-back” of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

Trinidad and Tobago’s APA programme

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

Practical application of roll-back of bilateral APAs

7. No peer input was provided.

Anticipated modifications

8. Trinidad and Tobago indicated that it intends to introduce bilateral APAs in the future.

Conclusion

	Areas for Improvement	Recommendations
[A.2]	-	-

Notes

1. These 17 treaties include the CARICOM Convention that for Trinidad and Tobago applies to Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines.
2. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD, 2017b).

References

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

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

Part B

Availability and access to MAP

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

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

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

Current situation of Trinidad and Tobago’s tax treaties

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

10. Out of Trinidad and Tobago’s 17 tax treaties, 16¹ 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 Trinidad and Tobago’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.

11. The remaining treaty only allows to submit a MAP request in cases of double taxation contrary to the provisions of the tax treaty and whereby the taxpayer cannot submit a MAP request irrespective of the remedies provided by the domestic laws of the Contracting States. It is therefore considered not to contain the equivalent of article 25(1) first sentence, of the OECD Model Tax Convention.

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

12. Out of Trinidad and Tobago’s 17 tax treaties, seven 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.

13. The remaining 10 tax treaties can be categorised as follows:

Provision	Number of tax treaties
No filing period for a MAP request	8*
Filing period less than 3 years for a MAP request (02 years)	2

* These eight treaties include the CARICOM Convention that for Trinidad and Tobago applies to Antigua and Barbuda, Barbados Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines.

Practical application

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

14. As indicated in paragraph 11 above, all but one of Trinidad and Tobago’s tax treaties allow taxpayers to file a MAP request irrespective of domestic remedies. Trinidad and Tobago reported that pursuing remedies available under their respective domestic tax law does not prevent a taxpayer to present a MAP case. Trinidad and Tobago noted that it is recommended that MAP be pursued first, leaving the option of domestic recourse open to the taxpayer in the event that the taxpayer is not in agreement with the outcome of the MAP or competent authorities are unable to agree on a resolution of the tax matter. If a domestic remedy is pursued, a deadline suspension may be granted in order to wait for the outcome of the MAP. In this respect, Trinidad and Tobago also reported that its competent authority cannot deviate from court decisions rendered in Trinidad and Tobago.

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

15. Trinidad and Tobago has reported that for treaties that do not include a filing period for a MAP request, it will follow the OECD commentary to the OECD Model Tax Convention, granting three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.

Anticipated modifications

Bilateral modifications

16. Trinidad and Tobago reported that when tax treaties 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 intends to update them via bilateral negotiations with a view to be compliant with element B.1. Trinidad and Tobago reported it will strive to update them via bilateral negotiations. Trinidad and Tobago further reported that it recognises the strategic importance of each of its treaty partners and therefore does not have a criterion to prioritise its relevant treaty partners. Trinidad and Tobago therefore does not have in place a specific plan for such negotiations.

17. With respect to the first sentence of Article 25(1), Trinidad and Tobago reported that it will in those bilateral negotiations propose to include the equivalent as it read prior to the adoption of the Action 14 final report. For those treaties, which do not contain a filing period for MAP requests or a period of less than three years, Trinidad and Tobago reported it will strive to update them via bilateral negotiations. In addition, Trinidad and Tobago reported it will seek 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 of its future tax treaties.

Peer input

18. The peer that provided input confirmed that their treaty with Trinidad and Tobago meets the requirements under this element of the Action 14 Minimum Standard.

Conclusion

	Areas for Improvement	Recommendations
	One out of 17 tax treaties does not contain the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention and the timeline to file a 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.	With respect to Article 25(1), first sentence, of the OECD Model Tax Convention, Trinidad and Tobago should request the inclusion of the required provision via bilateral negotiations. This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either: <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. To this end, Trinidad and Tobago should put a plan in place on how it envisages updating this treaty to include the required provision.
[B.1]	Two out of 17 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to file a 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.	Where treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, Trinidad and Tobago should request for the inclusion of the required provision via bilateral negotiations. This concerns a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. To this end, Trinidad and Tobago should put a plan in place on how it envisages updating this treaty to include the required provision.
		In addition, Trinidad and Tobago 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.

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

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

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

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

Domestic bilateral consultation or notification process in place

20. As discussed under element B.1, out of Trinidad and Tobago's 17 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.

21. Trinidad and Tobago 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 Trinidad and Tobago's competent authority considers the objection raised in the MAP request not to be justified.

Practical application

22. Trinidad and Tobago reported that since 1 January 2017 its competent authority has not received any MAP requests. Therefore, there were no cases where it was decided that the objection raised by taxpayers in such request was not justified.

23. No peer input was provided.

Anticipated modifications

24. Trinidad and Tobago indicated that it intends to introduce a bilateral consultation 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 17 treaties contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Trinidad and Tobago should without further delay follow its stated intention to introduce a documented notification and/or consultation 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, Trinidad and Tobago should apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b).

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

Jurisdictions should provide access to MAP in transfer pricing cases.

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

Legal and administrative framework

26. Out of Trinidad and Tobago's 17 tax treaties, seven 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, 10 do not contain such equivalent.²

27. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Trinidad and Tobago'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, Trinidad and Tobago indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention is contained in its tax treaties.

Application of legal and administrative framework in practice

28. Trinidad and Tobago reported that since 1 January 2017, it has not denied access to MAP on the basis that the case concerned a transfer pricing case during the Review Period.

29. No peer input was provided.

Anticipated modifications

30. Trinidad and Tobago reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention in its tax treaties where possible and that it will seek to include Article 9(2) of the OECD Model Tax Convention in all of its future tax treaties.

Conclusion

	Areas for Improvement	Recommendations
[B.3]	Trinidad and Tobago reported it will give access to MAP in transfer pricing cases. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Trinidad and Tobago is therefore recommended to follow its policy and grant access to MAP when such cases surface.	

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

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

31. There is no general rule denying access to MAP in cases of perceived abuse. In order to protect taxpayers from arbitrary application of anti-abuse provisions in tax treaties and in order to ensure that competent authorities have a common understanding on such application, it is important that taxpayers have access to MAP if they consider the interpretation and/or application of a treaty anti-abuse provision as being incorrect. Subsequently, to avoid cases in which the application of domestic anti-abuse legislation is in conflict with the provisions of a tax treaty, it is also important that taxpayers have access to MAP in such cases.

Legal and administrative framework

32. None of Trinidad and Tobago's 17 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 Trinidad and Tobago do not include a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

Practical application

33. Trinidad and Tobago reported that since 1 January 2017 it has not denied access to MAP in any cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. However, its competent authority has not received any MAP request from a taxpayer since that date.

34. No peer input has been provided.

Anticipated modifications

35. Trinidad and Tobago indicated that it does not anticipate any modifications in relation to element B.4.

Conclusion

	Areas for Improvement	Recommendations
[B.4]	Trinidad and Tobago 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. Trinidad and Tobago is therefore recommended to follow its policy and grant access to MAP in such cases.	

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

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

36. An audit settlement procedure can be valuable to taxpayers by providing certainty on their tax position. Nevertheless, as double taxation may not be fully eliminated by agreeing on such settlements, taxpayers should have access to the MAP in such cases, unless they were already resolved via an administrative or statutory disputes settlement/resolution process that functions independently from the audit and examination function and which is only accessible through a request by taxpayers.

*Legal and administrative framework**Audit settlements*

37. Under Trinidad and Tobago's domestic law, it is possible for taxpayers and the tax administration to enter into an audit settlement. However, Trinidad and Tobago reported that when an audit settlement is entered into, the taxpayer can still access the MAP. However, its competent authority cannot deviate from the agreement reached in the audit settlement.

Administrative or statutory dispute settlement/resolution process

38. Trinidad and Tobago reported it has an administrative or statutory dispute settlement/resolution process in place, which is independent from the audit and examination functions and which can only be accessed through a request by the taxpayer. Trinidad and Tobago reported that this process takes place in the Tax Appeal Board. Trinidad and Tobago mentioned that the taxpayer has the possibility of requesting the opening of a MAP in parallel with the introduction of this dispute settlement process and that its competent authority can deviate from any decision taken in such process.

Practical application

39. Trinidad and Tobago reported that since 1 January 2017 it has not denied access to MAP in any cases where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration.

40. No peer input was provided.

Anticipated modifications

41. Trinidad and Tobago indicated that it does not anticipate any modifications in relation to element B.5.

Conclusion

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

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

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

42. To resolve cases where there is taxation not in accordance with the provisions of the tax treaty, it is important that competent authorities do not limit access to MAP when taxpayers have complied with the information and documentation requirements as provided in the jurisdiction's guidance relating hereto. Access to MAP will be facilitated when such required information and documentation is made publicly available.

Legal framework on access to MAP and information to be submitted

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

44. Trinidad and Tobago reported that its draft MAP guidance lists the minimum information and documentation that the taxpayer is required to provide. Trinidad and Tobago noted that when its competent authority receives a MAP request that does not include all the information and documentation required to be submitted pursuant to Trinidad and Tobago's MAP guidance, it will request such information and documentation after the receipt of the MAP submission. However, there is no stated deadline for this process.

Practical application

45. Trinidad and Tobago 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.

46. No peer input was provided.

Anticipated modifications

47. Trinidad and Tobago indicated that it does not anticipate any modifications in relation to element B.6.

Conclusion

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

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

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

48. For ensuring that tax treaties operate effectively and in order for competent authorities to be able to respond quickly to unanticipated situations, it is useful that tax treaties include the second sentence of Article 25(3) of the OECD Model Tax Convention, enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

Current situation of Trinidad and Tobago's tax treaties

49. Out of Trinidad and Tobago's 17 tax treaties, 14³ 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 other three treaties do not contain such provision at all.

*Anticipated modifications**Bilateral modifications*

50. For those treaties, which do not contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention, Trinidad and Tobago reported it will strive to update them via bilateral negotiations to be compliant with element B.7. Trinidad and Tobago further reported that it recognises the strategic importance of each of its treaty partners and therefore does not have a criterion to prioritise its relevant treaty partners. Trinidad and Tobago therefore does not have in place a specific plan for such negotiations. In addition, Trinidad and Tobago 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

51. For the three 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]	Three out of 17 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention.	Where treaties do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Trinidad and Tobago should request the inclusion of the required provision via bilateral negotiations. To this end, Trinidad and Tobago should put a plan in place on how it envisages updating these three treaties to include the required provision.
		In addition, Trinidad and Tobago should maintain its stated intention to include the required provision in all future tax treaties.

[B.8] Publish clear and comprehensive MAP guidance

Jurisdictions should publish clear rules, guidelines and procedures on access to and use of the MAP and include the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance.

52. 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.

Trinidad and Tobago's MAP guidance

53. As Trinidad and Tobago has not yet published MAP guidance, the information that the FTA MAP Forum agreed should be included in a jurisdiction's guidance is not publicly available. This information includes: (i) the 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 a MAP request.⁴

Information and documentation to be included in a MAP request

54. 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.⁵ This agreed guidance is shown below. Trinidad and Tobago's draft MAP guidance enumerating which items must be included in a request for MAP assistance (if available) 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) 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

55. Trinidad and Tobago reported that its MAP guidance is currently in draft form and that it contains the following basic information:

- a. contact information for the competent authority or the office in charge of MAP cases
- b. the manner and form in which the taxpayer should submit a MAP request
- c. the specific information and documentation that should be included in a MAP request
- d. how the MAP functions in terms of timing and the role of the competent authorities
- e. access to the MAP in transfer pricing cases
- f. relationship with domestic remedies
- g. implementation of MAP agreements
- h. rights and role of taxpayers in the process
- i. suspension of tax collection
- j. interest charges, refunds and penalties.

56. Although the information included in Trinidad and Tobago's MAP guidance is detailed and comprehensive, some subjects are not specifically discussed, including:

- whether MAP is available in cases of bona fide foreign-initiated self-adjustments
- whether taxpayers can request for the multi-year resolution of recurring issues through MAP.

57. The above-described MAP guidance of Trinidad and Tobago 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.⁶ The information included in Trinidad and Tobago's MAP guidance is detailed and comprehensive.

Conclusion

	Areas for Improvement	Recommendations
[B.8]	The MAP guidance has not been published.	Trinidad and Tobago should follow up on its stated intention and publish guidance on access to and use of the MAP as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation/information that it should include in such a request.
	-	Recommendations for guidance on the relationship between access to the MAP and audit settlements in the MAP guidance are discussed under element B.10.

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

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

58. The public availability and accessibility of a jurisdiction’s MAP guidance increases public awareness on access to and the use of the MAP in that jurisdiction. Publishing MAP profiles on a shared public platform further promotes the transparency and dissemination of the MAP programme.⁷

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

59. As stated under element B.8, Trinidad and Tobago has not yet published its MAP guidance.

MAP profile

60. The MAP profile of Trinidad and Tobago is published on the website of the OECD and last updated in November 2018. This MAP profile is complete and often with detailed information. This profile includes external links that provide extra information and guidance where appropriate.

61. No peer input was provided.

Anticipated modifications

62. Trinidad and Tobago stated its intention to publish the MAP guidance as soon as possible.

Conclusion

	Areas for Improvement	Recommendations
[B.9]	Trinidad and Tobago’s MAP guidance is not publically available.	Trinidad and Tobago should make its MAP guidance available and easily accessible. Furthermore, Trinidad and Tobago’s MAP profile should be updated once its MAP guidance has been introduced.

[B.10] Clarify in MAP guidance that audit settlements do not preclude access to MAP

Jurisdictions should clarify in their MAP guidance that audit settlements between tax authorities and taxpayers do not preclude access to MAP. If jurisdictions have an administrative or statutory dispute settlement/resolution process independent from the audit and examination functions and that can only be accessed through a request by the taxpayer, and jurisdictions limit access to the MAP with respect to the matters resolved through that process, jurisdictions should notify their treaty partners of such administrative or statutory processes and should expressly address the effects of those processes with respect to the MAP in their public guidance on such processes and in their public MAP programme guidance.

63. As explained under element B.5, an audit settlement can be valuable to taxpayers by providing certainty to them on their tax position. Nevertheless, as double taxation may not be fully eliminated by agreeing with such settlements, it is important that a jurisdiction's MAP guidance clarifies that in case of audit settlement taxpayers have access to the MAP. In addition, for providing clarity on the relationship between administrative or statutory dispute settlement or resolution processes and the MAP (if any), it is critical that both the public guidance on such processes and the public MAP programme guidance address the effects of those processes, if any. Finally, as the MAP represents a collaborative approach between treaty partners, it is helpful that treaty partners are notified of each other's MAP programme and limitations thereto, particularly in relation to the previously mentioned processes.

MAP and audit settlements in the MAP guidance

64. As previously mentioned under B.5, audit settlements are available in Trinidad and Tobago. While Trinidad and Tobago specifies that entering into an audit settlement does not prevent the taxpayer from having access to MAP, the relationship between access to MAP and audit settlements can be found in section 9 of the draft MAP guidance.

65. Peers stated that they were not aware of any audit settlements or their effects on the MAP. Peers raised no issues with element B.10 in respect of this process.

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

66. As previously mentioned under B.5, Trinidad and Tobago has 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, but Trinidad and Tobago specified that this process has no impact on MAP, as its competent authority can deviate from the decision taken in such process.

67. No peer input was provided.

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

68. Trinidad and Tobago did not notify its treaty partners of this process. Trinidad and Tobago intends to put a system in place to notify treaty partners about existing administrative or statutory dispute settlement/resolution processes in place.

69. Peers indicated no issues regarding element B.10 in relation to administrative or statutory dispute settlement or resolution processes.

Anticipated modifications

70. Trinidad and Tobago indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for Improvement	Recommendations
[B.10]	There is no published MAP guidance.	Trinidad and Tobago should introduce and publish its MAP guidance without delay, stating that the conclusion of transactions between tax authorities and taxpayers does not exclude the opening of a MAP procedure.

Notes

1. These 16 treaties include the CARICOM Convention that for Trinidad and Tobago applies to Antigua and Barbuda, Barbados Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines.
2. These 10 treaties include the CARICOM Convention that for Trinidad and Tobago applies to Antigua and Barbuda, Barbados Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines.
3. These 14 treaties include the CARICOM Convention that for Trinidad and Tobago applies to Antigua and Barbuda, Barbados Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines.
4. See: <https://www.oecd.org/ft/fiscalite/beps/beps-action-14-accroitre-l-efficacite-des-mecanismes-de-reglement-des-differends-documents-pour-l-examen-par-les-pairs.pdf>.
5. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
6. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
7. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.

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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.

71. 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 Trinidad and Tobago’s tax treaties

72. All but one of Trinidad and Tobago’s 17 tax treaties¹ 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. One treaty lacks the full language of Article 25(2), first sentence and is considered not to be equivalent.

Anticipated modifications

Bilateral modifications

73. For the treaty which does not contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention, Trinidad and Tobago reported it will strive to update it via bilateral negotiations to be compliant with element C.1. Trinidad and Tobago further reported that it recognises the strategic importance of each of its treaty partners and therefore does not have a criterion to prioritise its relevant treaty partners. Trinidad and Tobago therefore does not have in place a specific plan for such negotiations. In addition, Trinidad and Tobago 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

74. For the treaty identified that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, the relevant peer did not provide input.

Conclusion

	Areas for Improvement	Recommendations
[C.1]	One out of 17 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention.	Where the treaty does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention, Trinidad and Tobago should request the inclusion of the required provision via bilateral negotiations. To this end, Trinidad and Tobago should put a plan in place on how it envisages updating this treaty to include the required provision.
		In addition, Trinidad and Tobago 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).

75. 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

76. 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.

77. Trinidad and Tobago 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. Trinidad and Tobago provided its MAP statistics for 2018 pursuant to the MAP Statistics Reporting Framework within the given deadline. The statistics discussed below include both pre-2017 and post-2016 cases and they are attached to this report as Annex B and Annex C respectively and should be considered jointly for an understanding of the MAP caseload of Trinidad and Tobago. With respect to post-2016 cases, Trinidad and Tobago reported having not yet reached out to its MAP partner with a view to have their MAP statistics matching. In that regard, based on the information provided by Trinidad and Tobago’s MAP partner, its post-2016 MAP statistics actually do match those of its treaty partner as reported by the latter.

Monitoring of MAP statistics

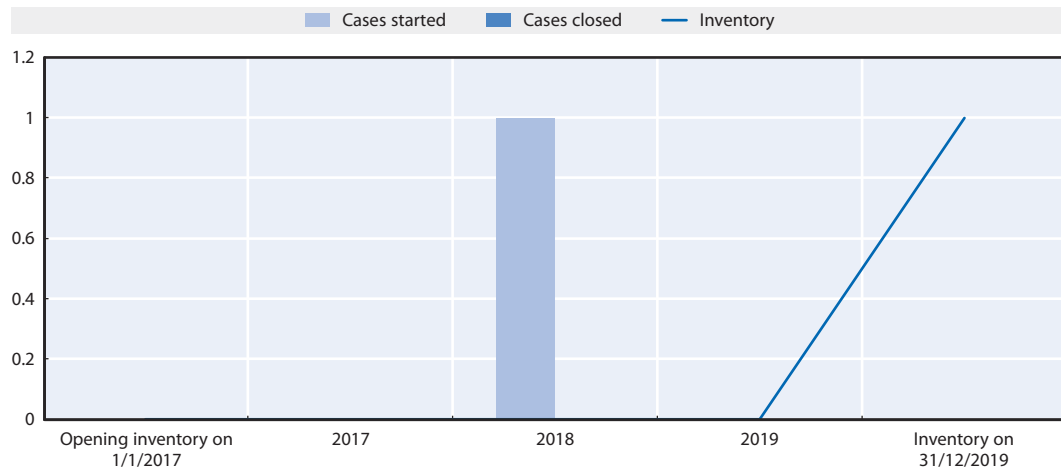
78. Trinidad and Tobago does not have a system in place with its treaty partners that communicates, monitors and manages the MAP caseload.

Analysis of Trinidad and Tobago’s MAP caseload

Global overview

79. Figure C.1 shows Trinidad and Tobago’s MAP caseload over the Statistics Reporting Period.

Figure C.1. Evolution of Trinidad and Tobago’s MAP caseload



80. As of 1 January 2017 Trinidad and Tobago had no pending MAP cases in its inventory. At the end of the Statistics Reporting Period, Trinidad and Tobago had one MAP case in its inventory, which are “other” MAP cases.

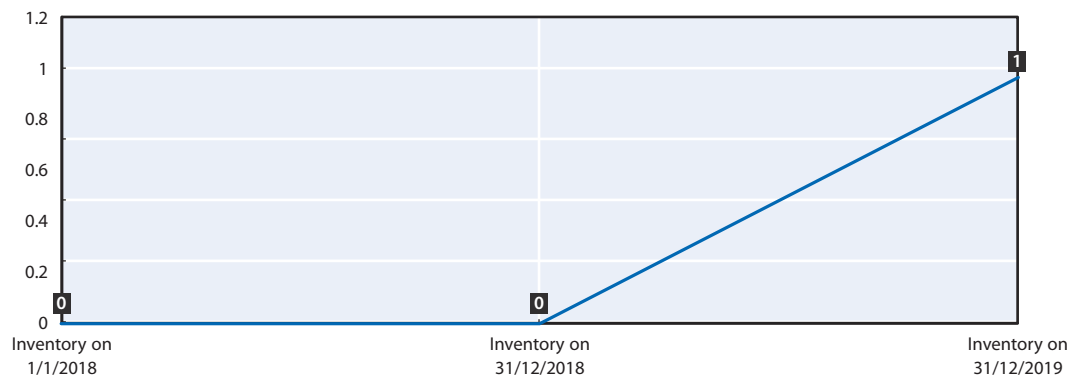
Pre-2017 cases

81. Trinidad and Tobago did not have any pre-2017 MAP cases during the Statistics Reporting Period.

Post-2016 cases

82. Figure C.2 shows the evolution of Trinidad and Tobago’s post-2016 MAP cases over the Statistics Reporting Period.

Figure C.2. Evolution of Trinidad and Tobago’s MAP inventory – Post-2016 cases



83. One case started during the Statistics Reporting Period, which concerned other cases. At the end of this period the total number of post-2017 cases in the inventory was one other case. Conclusively, Trinidad and Tobago closed no post-2016 cases during the Statistics Reporting Period.

Overview of cases closed during the Statistics Reporting Period

Reported outcomes

84. During the Statistics Reporting Period, Trinidad and Tobago closed no cases.

Average timeframe needed to resolve MAP cases

All cases closed during the Statistics Reporting Period

85. As mentioned above, Trinidad and Tobago closed no cases during the Statistics Reporting Period.

Peer input

86. No peer input was provided.

Anticipated modifications

87. Trinidad and Tobago reported that future MAP statistics will be compiled by the Minister of Finance or his authorised representative. Trinidad and Tobago indicated that the competent authority will be responsible for monitoring MAP cases inventory, new MAP requests, the outcomes as well as the time needed to resolve MAP cases.

Conclusion

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

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

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

88. 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 Trinidad and Tobago's competent authority

89. Under Trinidad and Tobago's tax treaties, the competent authority function is assigned to the Minister of Finance or his authorised representative. This has been delegated to the Chairman of the Board of Inland Revenue. Trinidad and Tobago's competent authority

consists of three people, who deal partly with MAP cases along with other tasks such as tax treaty negotiations, among others international tax matters.

90. Trinidad and Tobago further reported that any necessary adjustments to the level of resources available in its competent authority will be discussed when necessary. Trinidad and Tobago further noted that relevant staff have been exposed to MAP training.

Monitoring mechanism

91. Trinidad and Tobago reported that it considers the current resources available are sufficient and is willing to increase them when needed.

Practical application

MAP statistics

92. As discussed under element C.2, Trinidad and Tobago closed no MAP cases during the Statistics Reporting Period, by which there were no MAP statistics available to analyse the pursued 24-month average.

Peer input

93. No peer input was provided.

Anticipated modifications

94. Trinidad and Tobago indicated that it does not anticipate any modifications in relation to element C.3.

Conclusion

	Areas for Improvement	Recommendations
[C.3]	-	Trinidad and Tobago should continue to monitor whether it has adequate resources in place to resolve MAP cases in a timely, efficient and effective manner.

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

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

95. Ensuring that staff in charge of MAP can and will resolve cases, absent any approval/direction by the tax administration personnel directly involved in the adjustment and absent any policy considerations, contributes to a principled and consistent approach to MAP cases.

Functioning of staff in charge of MAP

96. As mentioned under element C.3, Trinidad and Tobago’s competent authority would be exercised by the Chairman, Board of Inland Revenue. Trinidad and Tobago clarified that its competent authority is also responsible for policy work. Trinidad and Tobago further noted that this structure appears to be adequate at this point due to the absence of a considerable number of MAP requests at this point.

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

Practical application

98. No peer input was provided.

Anticipated modifications

99. Trinidad and Tobago indicated that it does not anticipate any modifications in relation to element C.4.

Conclusion

	Areas for Improvement	Recommendations
[C.4]	-	Trinidad and Tobago 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 Trinidad and Tobago 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.

100. 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 Trinidad and Tobago

101. As Trinidad and Tobago has only received a few MAP requests, it reported that at the time of review performance indicators have not yet been set for the MAP office.

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

- number of MAP cases resolved
- consistency (i.e. a treaty should be applied in a principled and consistent manner to MAP cases involving the same facts and similarly-situated taxpayers)
- time taken to resolve a MAP case (recognising that the time taken to resolve a MAP case may vary according to its complexity and that matters not under the control of a competent authority may have a significant impact on the time needed to resolve a case).

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

Practical application

104. No peer input was provided.

Anticipated modifications

105. Trinidad and Tobago indicated that it does not anticipate any modifications in relation to element C.5.

Conclusion

	Areas for Improvement	Recommendations
[C.5]	-	Trinidad and Tobago 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.

106. 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

107. As clarified in Trinidad and Tobago's MAP profile, Trinidad and Tobago reported that although it has no domestic law limitations for including MAP arbitration in its tax treaties and that none of the tax treaties currently in force include a MAP provision. As mentioned in B.8, Trinidad and Tobago's draft MAP guidance mentions its position on MAP arbitration.

Practical application

108. Up to date, Trinidad and Tobago has incorporated an arbitration clause in none of its 17 treaties as a final stage to the MAP.

109. No peer input was provided.

Anticipated modifications

110. Trinidad and Tobago indicated that it does not anticipate any modifications in relation to element C.6.

Conclusion

	Areas for Improvement	Recommendations
[C.6]	-	-

Note

1. These 16 treaties include the CARICOM Convention that for Trinidad and Tobago applies to Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines.

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.

111. 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

112. In Trinidad and Tobago, the request for restitution of undue payments must be made within a maximum of six years from the date on which the tax became refundable. Trinidad and Tobago indicated that all MAP agreements will be implemented notwithstanding time limits in its domestic laws, and that this would apply even in the absence of the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017).

113. Trinidad and Tobago included information on the process of implementing MAP agreements in its draft MAP guidance. Trinidad and Tobago noted that when an outcome is reached between the competent authorities, the taxpayer will be informed in writing within a certain period to discuss the details and implementation of the agreement. Trinidad and Tobago further noted that the taxpayer will have to inform in writing whether the agreed outcome is acceptable. Trinidad and Tobago indicated that it will take the necessary action to put into effect the results as required by the agreement, in accordance with the applicable tax treaty, but timelines applicable are still to be determined.

Practical application

114. As Trinidad and Tobago closed no MAP cases during the Review Period, it also did not reach any mutual agreements during that period.

115. No peer input was provided.

Anticipated modifications

116. Trinidad and Tobago indicated that it does not anticipate any modifications in relation to element D.1.

Conclusion

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

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

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

117. 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

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

119. Information on the implementation is available on Trinidad and Tobago's MAP profile and its draft MAP guidance. Reference is also made to element B.8.

Practical application

120. As Trinidad and Tobago closed no MAP cases during the Review Period, it also did not reach any mutual agreements during that period.

121. No peer input was provided.

Anticipated modifications

122. Trinidad and Tobago 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 Trinidad and Tobago, it was not yet possible to assess whether Trinidad and Tobago 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.

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

Legal framework and current situation of Trinidad and Tobago’s tax treaties

124. As discussed under element D.1, Trinidad and Tobago’s domestic legislation includes a statute of limitations of six years for implementing MAP agreements, unless overridden by tax treaties.

125. Out of Trinidad and Tobago’s 17 tax treaties, seven 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. Additionally, nine do not contain such equivalent or the alternative provisions.¹

126. The remaining tax treaty does not contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention, but it contains the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making adjustments.

Anticipated modifications

Bilateral modifications

127. 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), Trinidad and Tobago reported it will strive to update them via bilateral negotiations to be compliant with element D.3. Trinidad and Tobago further reported that it recognises the strategic importance of each of its treaty partners and therefore does not have a criterion to prioritise its relevant treaty partners. Trinidad and Tobago therefore does not have in place a specific plan for such negotiations. In addition, Trinidad and Tobago 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

128. For the nine treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention or both alternative provisions in Articles 9(1) and 7(2), one peer confirmed that the treaty does not contain the provision. The remaining relevant peers did not provide input.

Conclusion

	Areas for Improvement	Recommendations
[D.3]	Nine out of 17 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2).	Where treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or both alternative provisions, Trinidad and Tobago should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions. To this end, Trinidad and Tobago should put a plan in place on how it envisages updating these seven treaties to include the required provision or its alternative.
		In addition, Trinidad and Tobago 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.

Note

1. These nine treaties include the CARICOM Convention that for Trinidad and Tobago applies to Antigua and Barbuda, Barbados Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines.

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]	-	Trinidad and Tobago should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	One out of 17 tax treaties does not contain the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention and the timeline to file a 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.	<p>With respect to Article 25(1), first sentence, of the OECD Model Tax Convention, Trinidad and Tobago should request the inclusion of the required provision via bilateral negotiations. This concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention either:</p> <ul style="list-style-type: none"> 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, Trinidad and Tobago should put a plan in place on how it envisages updating this treaty to include the required provision.</p>
	Two out of 17 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, as the timeline to file a 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.	Where treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention, Trinidad and Tobago should request for the inclusion of the required provision via bilateral negotiations. This concerns a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. To this end, Trinidad and Tobago should put a plan in place on how it envisages updating this treaty to include the required provision.
		In addition, Trinidad and Tobago 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.
[B.2]	None of the 17 treaties contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention as changed by the Action 14 final report, allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Trinidad and Tobago should without further delay follow its stated intention to introduce a documented notification and/or consultation process and apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention as amended by the Action 14 final report.

	Areas for Improvement	Recommendations
[B.3]	Trinidad and Tobago reported it will give access to MAP in transfer pricing cases. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Trinidad and Tobago is therefore recommended to follow its policy and grant access to MAP when such cases surface.	
[B.4]	Trinidad and Tobago 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. Trinidad and Tobago is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	Trinidad and Tobago reported it will give access to MAP in cases where the tax authority and the taxpayer have entered into an audit settlement. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Trinidad and Tobago is therefore recommended to follow its policy and grant access to MAP when such cases surface.	
[B.6]	Trinidad and Tobago reported it will give access to MAP in cases where taxpayers have complied with Trinidad and Tobago's information and documentation requirements for MAP requests. Its competent authority, however, did not receive any MAP requests from taxpayers during the Review Period. Trinidad and Tobago is therefore recommended to follow its policy and grant access to MAP when it receives a request that includes the required information and documentation.	
[B.7]	Three out of 17 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention.	Where treaties do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention, Trinidad and Tobago should request the inclusion of the required provision via bilateral negotiations. To this end, Trinidad and Tobago should put a plan in place on how it envisages updating these three treaties to include the required provision.
		In addition, Trinidad and Tobago should maintain its stated intention to include the required provision in all future tax treaties.
[B.8]	The MAP guidance has not been published.	Trinidad and Tobago should follow up on its stated intention and publish guidance on access to and use of the MAP as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation/information that it should include in such a request.
	-	Recommendations for guidance on the relationship between access to the MAP and audit settlements in the MAP guidance are discussed under element B.10.
[B.9]	Trinidad and Tobago's MAP guidance is not publically available.	Trinidad and Tobago should make its MAP guidance available and easily accessible. Furthermore, Trinidad and Tobago's MAP profile should be updated once its MAP guidance has been introduced.
[B.10]	There is no published MAP guidance.	Trinidad and Tobago should introduce and publish its MAP guidance without delay, stating that the conclusion of transactions between tax authorities and taxpayers does not exclude the opening of a MAP procedure.

	Areas for Improvement	Recommendations
Part C: Resolution of MAP cases		
[C.1]	One out of 17 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention.	Where the treaty does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention, Trinidad and Tobago should request the inclusion of the required provision via bilateral negotiations. To this end, Trinidad and Tobago should put a plan in place on how it envisages updating this treaty to include the required provision.
		In addition, Trinidad and Tobago should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	MAP statistics for 2017 were not submitted.	Trinidad and Tobago should report its MAP statistics in accordance with the MAP Statistics Reporting Framework
	As Trinidad and Tobago closed no cases during the Statistics Reporting Period, it was at this stage not possible to evaluate whether Trinidad and Tobago's competent authority seeks to resolve MAP cases within an average time frame of 24 months.	
[C.3]	-	Trinidad and Tobago should continue to monitor whether it has adequate resources in place to resolve MAP cases in a timely, efficient and effective manner.
[C.4]	-	Trinidad and Tobago 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 Trinidad and Tobago would like to see reflected in future amendments to the treaty.
[C.5]	-	Trinidad and Tobago 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, it was not yet possible to assess whether Trinidad and Tobago would have implemented all MAP agreements thus far.	
[D.2]	As there was no MAP agreement reached during the Review Period that needed to be implemented in Trinidad and Tobago, it was not yet possible to assess whether Trinidad and Tobago would have implemented all MAP agreements on a timely basis thus far.	
[D.3]	Nine out of 17 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention nor both alternative provisions provided for in Article 9(1) and Article 7(2).	Where treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention or both alternative provisions, Trinidad and Tobago should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions. To this end, Trinidad and Tobago should put a plan in place on how it envisages updating these seven treaties to include the required provision or its alternative.
		In addition, Trinidad and Tobago should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.

Annex A

Tax treaty network of Trinidad and Tobago

Treaty partner	Column 1		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)?	Inclusion Art. 25(1) second sentence?	Inclusion Art. 9(2)? If no, will your CA provide access to MAP in TP cases?	Existence of a provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	
Brazil	Y	N/A	E = yes, either CAs O = yes, only one CA N = No	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different iv = no, other reasons	Y = yes i = no, 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 N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary	Y = yes if yes i-Art. 25(5) yes N = ii-mandatory other no iii- voluntary
Canada	Y	N/A	O	ii	Y	i	Y	Y	Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
CARICOM	Y	N/A	O	i	i	i	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
China (People's Republic of)	Y	N/A	O	Y	Y	i	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Denmark	Y	N/A	O	i	i	i	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
France	Y	N/A	O	Y	i	i	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Column 1	Action 25(1) of the OECD Model Tax Convention ("MTC")		Article 25(2) of the OECD MTC			Article 25(3) of the OECD MTC		Arbitration											
	B.1	B.1	B.3	B.4	C.1	D.3	A.1		B.7										
	Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
Treaty partner	DTC in force?	Inclusion Art. 25(1)?	Inclusion Art. 25(1) second sentence?	Inclusion Art. 9(2)? If no, will your CA provide access to MAP in TP cases?	Existence of a provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(3) second sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?										
Germany	Y	O	i	i	i	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N/A
India	Y	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Italy	Y	O	ii	2-years	i	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N/A
Luxembourg	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Norway	Y	O	i	N/A	i	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N/A
Spain	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Sweden	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Switzerland	Y	O	i	N/A	i	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N/A
United Kingdom	Y	O	i	N/A	i	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N/A
United States	Y	N	i	N/A	i	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N/A
Venezuela	Y	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A

Legend

- E* The provision contained in this treaty was already in line with the requirements under this element of the Action 14 Minimum Standard, but has been modified by the Multilateral Instrument to allow the filing of a MAP request in either contracting state.
- E** The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this standard.
- O* The provision contained in this treaty is already in line with the requirements under this element of the Action 14 Minimum Standard, but will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then allow the filing of a MAP request in either contracting state.
- Y* The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this element of the Action 14 Minimum Standard.
- Y** The provision contained in this treaty already included an arbitration provision, which has been replaced by part VI of the Multilateral Instrument containing a mandatory and binding arbitration procedure.
- Y*** The provision contained in this treaty did not include an arbitration provision, but part VI of the Multilateral Instrument applies, following which a mandatory and binding arbitration procedure is included in this treaty

i*/i1*/iv*/N*

The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then be in line with this element of the Action 14 Minimum Standard.

i**/iv**/N**

The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be superseded by the Multilateral Instrument upon entry into force for this specific treaty only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.

i***

The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.

Annex B

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

2017 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 tax in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2018 MAP Statistics													
Category of cases	No. of pre-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 tax in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

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

Annex C

MAP Statistics Reporting for the 2017, 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 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 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2018 MAP Statistics															
Category of cases	No. of post-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	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	1	0	0	0	0	0	0	0	0	0	0	0	1	n.a.
Total	0	1	0	0	0	0	0	0	0	0	0	0	0	1	n.a.

2019 MAP Statistics															
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2019	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 2019	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	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

Glossary

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



PRINT ISBN 978-92-64-67876-7
PDF ISBN 978-92-64-86601-0



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