

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



# **Making Dispute Resolution More Effective – MAP Peer Review Report, Iceland (Stage 2)**

**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, Iceland (Stage 2): Inclusive Framework on BEPS: Action 14*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris,  
<https://doi.org/10.1787/8b1deca3-en>.

ISBN 978-92-64-58516-4 (print)

ISBN 978-92-64-96759-5 (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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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 11 January 2021 and prepared for publication by the OECD Secretariat.

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*Abbreviations and acronyms*

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



## Executive summary

Iceland has a modest tax treaty network with around 50 tax treaties. It has a MAP programme with a small MAP inventory and a small number of new cases submitted each year and one other MAP case pending on 31 December 2018. The outcome of the stage 1 peer review process was that overall Iceland met more than half of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Iceland has worked to address them, which has been monitored in stage 2 of the process. In this respect, Iceland has solved almost all of the identified deficiencies.

All of Iceland's tax treaties include a provision relating to MAP, which mostly follow paragraphs 1 through 3 of Article 25 of the OECD Model Tax Convention. Its treaty network is mostly consistent with the requirements of the Action 14 Minimum Standard, except for the fact that approximately 10% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Iceland signed and ratified the Multilateral Instrument. Through this instrument a number of its tax treaties have been or will be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force and entry into effect of the Multilateral Instrument, Iceland reported that it intends to update all of its tax treaties to be compliant with the requirements under the Action 14 Minimum Standard via bilateral negotiations. However, apart from the fact that Iceland has planned to initiate negotiations with one treaty partner, Iceland does not have a specific plan in place nor has it taken or planned any specific actions for such negotiations.

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

Furthermore, Iceland meets almost all the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 May 2018 not received any MAP request concerning the application of anti-abuse provisions. However, it 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. Iceland has clear and comprehensive guidance on the availability of MAP and how it applies this procedure in practice under tax treaties.

Concerning the average time needed to close MAP cases, the MAP statistics for Iceland for the period 2016-18 are as follows:

2016-18	Opening inventory 1/1/2016	Cases started	Cases closed	End inventory 31/12/2018	Average time to close cases (in months)
Attribution/allocation cases	0	0	0	0	n.a.
Other cases	0	5	4	1	6.05
Total	0	5	4	1	6.05

The number of cases Iceland closed in 2016-18 is 80% of the number of all cases started in those years. During these years, MAP cases were on average closed within a timeframe of 24 months (which is the pursued average for resolving MAP cases received on or after 1 January 2016), as the average time necessary was 6.05 months. Therefore, Iceland's competent authority is considered to be adequately resourced.

Furthermore, Iceland meets all other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Iceland's competent authority operates fully independently from the audit function of the tax authorities and adopts a co-operative approach to resolve MAP cases in an effective and efficient manner. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function.

Lastly, Iceland almost meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. Iceland monitors the implementation of such agreements. However, it has a domestic statute of limitation, for which there is a risk that such agreements cannot be implemented where the applicable tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), albeit that no problems have surfaced regarding implementation throughout the peer review process.

## *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>.

## *Introduction*

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

Iceland has entered into 49 tax treaties on income (and/or capital), all of which are in force.<sup>1</sup> These 49 treaties apply to 55 jurisdictions.<sup>2</sup> All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. In addition, seven of the 49 treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.<sup>3</sup>

Under Iceland’s tax treaties, the competent authority function is assigned to the Minister of Finance and Economic Affairs, which is delegated to the Iceland Revenue and Customs. The competent authority of Iceland currently employs one person from the International Taxation Division, part of the Department of Tax Assessment, who is responsible for both attribution/allocation cases and other cases. This staff member occasionally draws upon the expertise of other experts located within the Iceland Revenue and Customs in the Individual or Corporate Taxation Departments, in order to assist with particularly complex MAP cases.

Iceland has issued guidance on the governance and administration of the mutual agreement procedure (“MAP”) in October 2019, which is available (in Icelandic) at:

<https://www.skatturinn.is/einstaklingar/skattskylda/tviskottunarsamningar/#tab5>

### **Developments in Iceland since 1 May 2018**

#### ***Developments in relation to the tax treaty network***

The stage 1 peer review report of Iceland noted that it had signed a new tax treaty with Japan, which had not yet entered into force. Iceland reported that this treaty has now entered into force. Further, Iceland signed, together with Denmark, the Faroe Islands, Finland, Norway and Sweden an amending protocol to the multilateral Nordic Convention (2018), which amends the MAP provision to allow taxpayers to file a MAP request to the competent authorities of either contracting state involved in the case. This protocol has also entered into force in 2019.

Furthermore, Iceland signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”) on 7 June 2017, to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. On 26 September 2019, Iceland deposited its instrument of ratification, following which the Multilateral Instrument has for Iceland entered into force on 1 January 2020. With the depositing of the instrument of ratification, Iceland also submitted its list of notifications and reservations to the Multilateral Instrument.<sup>4</sup> In relation to the Action 14 Minimum Standard, Iceland has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

Where treaties will not be modified by the Multilateral Instrument to be in line with the requirements under the Action 14 Minimum Standard, Iceland reported that it intends to update them via bilateral negotiations. Apart from the fact that Iceland has planned to initiate negotiations with one treaty partner, Iceland reported that it does not have a specific plan in place nor has it taken or planned any specific actions for such negotiations.

### *Other developments*

Further to the above, Iceland reported that it has published guidance on the governance and administration of the MAP in October 2019.

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

The peer review process entails an evaluation of Iceland’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 the assessed jurisdiction, its peers and taxpayers. The questionnaires for the peer review process were sent to Iceland and the peers on 10 April 2018.

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, Iceland’s implementation of the Action 14 Minimum Standard as outlined above is evaluated, which has been reflected in a peer review report that has been adopted by the BEPS Inclusive Framework on 19 October 2018. This report identifies the strengths and shortcomings of Iceland in relation to the implementation of this standard and provides for recommendations on how these shortcomings should be addressed. The stage 1 report is published on the website of the OECD.<sup>5</sup> Stage 2 is launched within one year upon the adoption of the peer review report by the BEPS Inclusive Framework through an update report by Iceland. In this update report, Iceland reflected (i) what steps it has already taken, or are to be taken, to address any of the shortcomings identified in the peer review report and (ii) any plans or changes to its legislative and/or administrative framework concerning the implementation of the Action 14 Minimum Standard. The update report forms the basis for the completion of the peer review process, which is reflected in this update to the stage 1 peer review report.

### *Outline of the treaty analysis*

For the purpose of this report and the statistics below, in assessing whether Iceland 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 were taken into account, even if it concerns a modification or a replacement of an existing treaty. Furthermore, the treaty analysis also takes into account the tax treaty with former Netherlands Antilles Islands, which Iceland continues to apply to Curacao, St. Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius). As it concerns the same tax treaty that is applicable to multiple jurisdictions, it is only counted as one treaty for this purpose. The same applies to the multilateral tax treaty between Denmark, Finland, the Faroe Islands, Iceland, Norway and Sweden (“**Nordic convention**”). Reference is made to Annex A for the overview of Iceland’s tax treaties regarding the mutual agreement procedure.

### *Timing of the process and input received from peers and taxpayers*

Stage 1 of the peer review process for Iceland was launched on 10 April 2018, with the sending of questionnaires to Iceland and its peers. The FTA MAP Forum has approved the stage 1 peer review report of Iceland in September 2018, with the subsequent approval by the BEPS Inclusive Framework on 19 October 2018. On 19 October 2019, Iceland submitted its update report, which initiated stage 2 of the process.

The period for evaluating Iceland’s implementation of the Action 14 Minimum Standard for stage 1 ranged from 1 January 2016 to 30 April 2018 and formed the basis for the stage 1 peer review report. The period of review for stage 2 started on 1 May 2018 and depicts all developments as from that date until 31 October 2019.

In total six peers provided input during stage 1: Canada, Belgium, Germany, Portugal, Sweden and Switzerland. Out of these six peers, three had MAP cases with Iceland that started in 2016 or 2017. These three peers represented all of the post-2015 MAP cases in Iceland’s inventory that started in 2016 or 2017. During stage 2, the same peers provided input. In addition, Norway also provided input during stage 2. For this stage, these peers represent all of the post-2015 MAP cases in Iceland’s MAP inventory that started in 2016, 2017 or 2018.<sup>6</sup> Generally, most peers indicated having a good experience in their limited MAP relationship with Iceland’s competent authority. Specifically with respect to stage 2, all peers that provided input reported that the update report of Iceland fully reflects the experiences these peers have had with Iceland since 1 May 2018 and/or that there was no addition to previous input given. The only peer that provided additional input voiced positive experiences with Iceland in the handling and resolving of MAP cases.

### *Input by Iceland and co-operation throughout the process*

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

- MAP profile<sup>7</sup>
- MAP statistics<sup>8</sup> according to the MAP Statistics Reporting Framework (see below).

Concerning stage 2 of the process, Iceland submitted its update report on time and the information included therein was extensive. Iceland was very co-operative during stage 2 and the finalisation of the peer review process.

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

## Overview of MAP caseload in Iceland

The analysis of Iceland’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2018 (“**Statistics Reporting Period**”). According to the statistics provided by Iceland, its MAP caseload during this period was as follows:

2016-18	Opening inventory 1/1/2016	Cases started	Cases Closed	End inventory 31/12/2018
Attribution/allocation cases	0	0	0	0
Other cases	0	5	4	1
Total	0	5	4	1

## General outline of the peer review report

This report includes an evaluation of Iceland’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 implementation of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).<sup>9</sup> Apart from analysing Iceland’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Iceland during stage 1 and stage 2. Furthermore, the report depicts the changes adopted and plans shared by Iceland 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 basis of this report is the outcome of the stage 1 peer review process, which has identified in each element areas for improvement (if any) and provides for recommendations how the specific area for improvement should be addressed. Following the outcome of the peer monitoring process of stage 2, each of the elements have been updated with a recent development section to reflect any actions taken or changes made on how recommendations have been addressed, or to reflect other changes in the legal and administrative framework of Iceland relating to the implementation of the Action 14 Minimum Standard. Where it concerns changes to MAP guidance or statistics, these changes are reflected in the analysis sections of the elements, with a general description of the changes included in the recent development sections.

The objective of the Action 14 Minimum Standard is to make dispute resolution mechanisms more effective and concerns a continuous effort. Where recommendations have been fully implemented, this has been reflected and the conclusion section of the relevant element has been modified accordingly, but Iceland should continue to act in accordance with a given element of the Action 14 Minimum Standard, even if there is no area for improvement and recommendation for this specific element.

## Notes

1. The tax treaties Iceland has entered into are available at: <https://www.skatturinn.is/einstaklingar/skattskylda/tviskottunarsamningar/#tab2>. Reference is made to Annex A for the overview of Iceland’s tax treaties.
2. Iceland is a signatory to the Nordic Convention that for Iceland applies to Denmark, the Faroe Islands, Finland, Norway and Sweden. Furthermore, Iceland continues to apply the treaty with the former Netherlands Antilles to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius).



3. This concerns the treaties with Canada, the Netherlands, Italy, Japan, Liechtenstein, Switzerland, and the United Kingdom. Reference is made to Annex A for the overview of Iceland's tax treaties.
4. Available at: [www.oecd.org/tax/treaties/beps-mli-position-iceland-instrument-deposit.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-iceland-instrument-deposit.pdf).
5. Available at: [www.oecd.org/tax/beps/making-dispute-resolution-more-effective-map-peer-review-report-iceland-stage-1-9789264309968-en.htm](http://www.oecd.org/tax/beps/making-dispute-resolution-more-effective-map-peer-review-report-iceland-stage-1-9789264309968-en.htm).
6. The breakdown of treaty partners on a jurisdiction-by-jurisdiction basis is only available for post-2015 cases under the MAP Statistics Reporting Framework. All cases falling within the *de minimis* rule do not fall in this percentage.
7. Available at: [www.oecd.org/tax/dispute/country-map-profiles.htm](http://www.oecd.org/tax/dispute/country-map-profiles.htm).
8. The MAP statistics of Iceland are included in Annex B and C of this report.
9. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).



## *Part A*

### Preventing disputes

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

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

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

#### *Current situation of Iceland's tax treaties*

2. Out of Iceland's 49 tax treaties, 46 contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) 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.<sup>1</sup> The remaining three treaties are considered not to have the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) since two treaties<sup>2</sup> do not contain the term "doubts" and the remaining treaty does not contain the term "interpretation."

3. Iceland reported that irrespective of whether the applicable tax treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), there are under its domestic legislation and/or administrative practices no obstructions to resolve any difficulties or doubts regarding the interpretation or application of its tax treaties.

4. Generally, peers that provided input reported that their treaty with Iceland meets the requirements under the Action 14 minimum standard or will be modified by the Multilateral Instrument or is currently under bilateral discussion. For the three treaties identified above that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), the relevant peers did not provide input.

## ***Recent developments***

### ***Multilateral Instrument***

5. Iceland signed the Multilateral Instrument and has deposited its instrument of ratification on 26 September 2019. The Multilateral Instrument has for Iceland entered into force on 1 January 2020.

6. Article 16(4)(c)(i) of that instrument stipulates that Article 16(3), first sentence – containing the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). In other words, in the absence of this equivalent, Article 16(4)(c)(i) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(i), the depositary that this treaty does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

7. With regard to the three tax treaties identified above that are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), Iceland listed one of them as a covered tax agreement under the Multilateral Instrument but did not make, pursuant to Article 16(6)(d)(i), a notification that it does not contain a provision described in Article 16(4)(c)(i). Therefore, at this stage, none of the treaties identified above will be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

### ***Peer input***

8. Of the peers that provided input during stage 2, only one provided input in relation to its tax treaty with Iceland. However, this peer does not concern one of the three treaties identified above that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

### ***Anticipated modifications***

9. Iceland reported that when the tax treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element A.1. Iceland, however, reported not having a specific plan in place for such negotiations. In addition, Iceland reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) in all of its future tax treaties.

10. As one of these treaties that do not contain the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017a) and which will not be modified by the Multilateral Instrument concerns the treaty with the former Netherlands Antilles that Iceland continues to apply to three treaty partners, renegotiations are not necessary for this treaty.

## Conclusion

	Areas for improvement	Recommendations
[A.1]	<p>Three out of 49 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).</p> <p>These treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken.</p>	<p>As two of the three treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) will at this time not be modified via the Multilateral Instrument, Iceland should request the inclusion of the required provision via bilateral negotiations.</p> <p>As the remaining treaty that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) is the treaty with the former Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius), Iceland should ensure that, once it enters into negotiations with these treaty partners, it includes the required provision.</p>

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

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

11. An APA is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustment thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time.<sup>3</sup> The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The “roll-back” of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

#### *Iceland’s APA programme*

12. Iceland does not have a bilateral APA programme.

#### *Roll-back of bilateral APAs*

13. Since Iceland does not have an APA programme in place, there is no possibility for providing roll-back of bilateral APAs to previous years.

#### *Recent developments*

14. There are no recent developments with respect to element A.2.

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

##### *Period 1 January 2016-30 April 2018 (stage 1)*

15. Iceland reported not having received any requests for bilateral APAs in the period 1 January 2016-30 April 2018, which is logical given that Iceland does not have such a programme in place.

16. All peers that provided input indicated that they have not received a request for a roll-back of bilateral APAs concerning Iceland in the period 1 January 2016-30 April 2018.

*Period 1 May 2018-31 October 2019 (stage 2)*

17. Iceland reported also not having received any requests for a bilateral APA since 1 May 2018, which is logical given that Iceland does not have such a programme in place.

18. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. The same input was given by the one peer that only provided input during stage 2.

***Anticipated modifications***

19. Iceland indicated that it does not anticipate any modifications in relation to element A.2.

***Conclusion***

	Areas for improvement	Recommendations
[A.2]	-	-

## Notes

1. These 46 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, Faroe Islands, Norway and Sweden.
2. These two treaties include the treaty with the former Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius).
3. 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.

20. 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 Iceland's tax treaties***

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

21. Out of Iceland's 49 tax treaties, four contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to submit a MAP request to the competent authority of either state 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.<sup>1</sup> Furthermore, 40 tax treaties 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.

22. In addition, Iceland has five tax treaties that are initially considered not to be compliant with this element, as shown in the table below.

Provision	Number of tax treaties
A variation of 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), whereby taxpayers can only submit a MAP request to the competent authorities of the contracting state of which they are resident.	4
A variation of 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), whereby taxpayers can only submit a MAP request to the competent authorities of the contracting state of which they are resident and a MAP request is limited only to actions taken by a competent authority	1

23. The four treaties in the first row do not contain the full equivalent of 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), since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, for the following reasons all four treaties are considered to be in line with this part of element B.1:

- the relevant tax treaty does not contain a non-discrimination provision and only applies to residents of one of the states (two treaties)<sup>2</sup>
- the non-discrimination provision of the relevant tax treaty only covers nationals that are resident of one of the contracting states. Therefore, it is logical to only allow for the submission of MAP requests to the state of which the taxpayer is a resident (two treaties).

24. Similarly, although the treaty in the second row of the table does not allow taxpayers to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article, the non-discrimination provision of the relevant tax treaty only covers nationals that are resident of one of the contracting states and thus, it is logical for this treaty as well to only allow for the submission of MAP requests to the state of which the taxpayer is a resident

25. Further, the treaty in the second row of the table is initially considered not to have the full equivalent of 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), since it contains a provision that reads:

Where a person who is a resident of a Contracting State considers that the actions of the competent authority of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which that person is a resident.

26. The language above is additional language that limits MAP requests to actions taken only by a “competent authority” as opposed to actions taken by a “contracting state.” In this respect, Iceland reported that the words “of the competent authority” in this treaty does not mean to limit the access to MAP as it considers the competent authorities as representatives of the State and thus, this does not indicate the action of an individual competent authority. Therefore, Iceland clarified that the reference to a competent authority in this treaty is merely for clarification purposes and that it was not intended to materially deviate from the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). Accordingly, it is considered that Iceland will accept MAP requests even if actions are taken outside of its competent authority and therefore, this treaty is considered to be in line with this part of element B.1.



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

27. Out of Iceland’s 49 tax treaties, 44 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.<sup>3</sup>

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

Provision	Number of tax treaties
No filing period for a MAP request	2
Filing period less than 3 years for a MAP request (2-years)	2
Filing period more than 3 years for a MAP request (5-years)	1*

\* This treaty concerns the Nordic Convention that Iceland applies to Denmark, Finland, Faroe Islands, Norway and Sweden.

### ***Practical application***

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

29. All of Iceland’s tax treaties allow taxpayers to file a MAP request irrespective of domestic remedies. Iceland reported that access to MAP is available regardless of whether for the relevant case under review domestic available remedies are still pending or have already been concluded. This is confirmed in Iceland’s MAP guidance in the section titled “Samspil gagnkvæms samkomulags og annarra innlendra réttarfarslegra úrræða” (Interplay of the MAP and other domestic remedies).

30. However, Iceland further clarified that its competent authority cannot derogate from a final court decision in MAP and therefore it will only seek to resolve the MAP case by having the treaty partner providing for correlative relief in line with the final court decision.

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

31. For the two treaties in paragraph 28 that do not contain a filing period for a MAP request, Iceland reported that its domestic time limit would apply. In this respect, Iceland reported that according to Article 101(2) of its Income Tax Act 90/2003 its domestic statute of limitation expires six years after the relevant fiscal year. In this situation, since the starting point is the end of the relevant fiscal year and not the date of first notification of the action resulting in taxation not in accordance with the provisions of the treaty, it is possible that this time-period is shorter than the time-period prescribed under Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017).

32. Therefore, Iceland’s approach leads to the situation that where a tax treaty does not contain the equivalent of Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017) and a MAP request has been filed within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the treaty, but after the expiration of Iceland’s domestic time limit, Iceland would deny access to MAP for such a case.

## *Recent developments*

### *Bilateral modifications*

33. Iceland signed an amending protocol to an existing treaty, adding the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to file a MAP request to either competent authority. This treaty previously included the equivalent of the first sentence as it read prior to the adoption of the Action 14 final report (OECD, 2015b). This protocol has already entered into force.

34. The effects of this amending protocol have been reflected in the analysis above where they have relevance.

### *Multilateral Instrument*

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

35. Iceland signed the Multilateral Instrument and has deposited its instrument of ratification on 26 September 2019. The Multilateral Instrument has entered into force on 1 January 2020 for Iceland.

36. Article 16(4)(a)(i) of that instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) and allowing the submission of MAP requests to the competent authority of either contracting state – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). However, this shall only apply if both contracting parties to the applicable tax treaty have listed this tax treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified the depositary, pursuant to Article 16(6)(a)(i), that this treaty contains the equivalent of 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). Article 16(4)(a)(i) will for a tax treaty not take effect if one of the treaty partners has, pursuant to Article 16(5)(a), reserved the right not to apply the first sentence of Article 16(1) of that instrument to all of its covered tax agreements.

37. With the signing of the Multilateral Instrument, Iceland opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Iceland's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which it is a resident, Iceland opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Iceland listed 35 of its 49 treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for 33 of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention as it read prior to the adoption of the Action 14 final report (OECD, 2015b).

38. In total, two of the 33 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas all other treaty partners have listed their treaty with Iceland as a covered tax agreement under that instrument and 11 reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state. The remaining 20 treaty partners listed their treaty with Iceland as having a provision that is equivalent of 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).

39. Of these 20 treaty partners, 14 already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Iceland and these treaty partners, and therefore has modified these treaties to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b). For the remaining six treaty partners, the instrument will, upon entry into force for these treaties, modify the concerned treaties to include this equivalent.

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

40. With respect to the period of filing of a MAP request, Article 16(4)(a)(ii) of the Multilateral Instrument stipulates that Article 16(1), second sentence – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply where such period is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(b)(i), the depositary that this treaty does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017).

41. With regard to the two tax treaties identified in paragraph 28 above that contain a filing period for MAP requests of less than three years, Iceland listed both treaties as a covered tax agreement under the Multilateral Instrument and made for both of them, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). Both tax treaty partners also made such notification.

42. Of these two treaty partners, one already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Iceland and this treaty partner, and therefore has modified this treaty to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017). For the remaining treaty, the instrument will, upon entry into force for this treaty, modify it to include this equivalent.

#### *Peer input*

43. Of the peers that provided input during stage 2, only one provided input in relation to its tax treaty with Iceland. This peer noted that the Nordic Convention applicable, inter alia, with Iceland has been modified by an amending protocol to allow submission of MAP requests to either competent authority, which is indeed the case.

### Conclusion

	Areas for improvement	Recommendations
[B.1]]	Where tax treaties do not contain a time limit for submission of a MAP request, applicable rules under domestic legislation may lead to a filing period of less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.	Iceland should ensure that where its domestic time limits apply for filing of MAP requests, in the absence of a provision hereon in its tax treaties, such time limits do not prevent taxpayers from being granted access to MAP if a request thereto is made within a period of three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.

### [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).

44. 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*

45. As discussed under element B.1, out of Iceland's 49 treaties, four currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. Furthermore, as was also discussed under element B.1, 20 of these 49 treaties has been or will be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

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

### ***Recent developments***

47. There are no recent developments with respect to element B.2.

### ***Practical application***

#### ***Period 1 January 2016-30 April 2018 (stage 1)***

48. Iceland reported that in the period 1 January 2016-30 April 2018 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such requests was not justified. The 2016 and 2017 MAP statistics submitted by Iceland also show that none of its MAP cases were closed with the outcome “objection not justified”.

49. All peers that provided input indicated not being aware of any cases for which Iceland’s competent authority denied access to MAP in the period 1 January 2016-30 April 2018, which can be clarified by the fact that no such instances have occurred in Iceland during this period.

#### ***Period 1 May 2018-31 October 2019 (stage 2)***

50. Iceland reported that since 1 May 2018 its competent authority also has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was being not justified. The 2018 MAP statistics submitted by Iceland also show that none of its MAP cases was closed with the outcome “objection not justified”.

51. All peers that provided input during stage 1 also indicated in stage 2 that since 1 May 2018 they are not being aware of any cases for which Iceland’s competent authority denied access to MAP. They also reported not having been consulted/notified in such cases, which can be clarified by the fact that no such instances have occurred in Iceland since that date. The same input was given by the one peer that only provided input during stage 2.

### ***Anticipated modifications***

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

### ***Conclusion***

	<b>Areas for improvement</b>	<b>Recommendations</b>
[B.2]	45 of the 49 treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), 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.	Iceland should, without further delay, introduce a 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, Iceland 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.

53. 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***

54. Out of Iceland's 49 tax treaties, 35 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner.<sup>4</sup> Furthermore, 12 do not contain a provision based or equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017), eight of which do not contain in its entirety a provision that is based on Article 9 of the OECD Model Tax Convention (OECD, 2017) with regard to associated enterprises.<sup>5</sup> The remaining two treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but deviate from this provision for the following reasons:

- One tax treaty contains a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but whereby a corresponding adjustment is only optional, as the phrase "... shall make an appropriate adjustment" is replaced by "may make an appropriate adjustment".
- One treaty contains a provision that is based on Article 9(2), but stipulates that corresponding adjustments can only be made as a result of a mutual agreement procedure.

55. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Iceland's tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B3, as translated from the Action 14 Minimum Standard, Iceland indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments. This is confirmed in Iceland's MAP guidance, under the section titled "Hvenær er hægt að óska eftir málsmeðferð um framkvæmd á grundvelli gagnkvæms samkomulags?" (When can a MAP be requested?).

***Recent developments***

56. Iceland signed the Multilateral Instrument and has deposited its instrument of ratification on 26 September 2019. The Multilateral Instrument has entered into force on 1 January 2020 for Iceland.

57. Article 17(2) of that instrument stipulates that Article 17(1) – containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument. Article 17(2) of the Multilateral Instrument does for a tax

treaty not take effect if one or both of the treaty partners to the tax treaty have, pursuant to Article 17(3), reserved the right to not apply Article 17(2) for those tax treaties that already contain the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), or not to apply Article 17(2) in the absence of such equivalent under the condition that: (i) it shall make appropriate corresponding adjustments or (ii) its competent authority shall endeavour to resolve the case under mutual agreement procedure of the applicable tax treaty. Where neither treaty partner has made such a reservation, Article 17(4) of the Multilateral Instrument stipulates that both have to make a notification whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). Where such a notification is made by both of them, the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017)).

58. Iceland has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument for those tax treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). With regard to the six treaties identified in paragraph 54 above that are considered not to contain such equivalent (disregarding the eight treaties that do not contain Article 9 at all), Iceland listed five as a covered tax agreement under the Multilateral Instrument and included two of them in the list of treaties for which Iceland has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument. For the remaining three treaties, Iceland did not make, pursuant to Article 17(4), a notification that these treaties do contain such equivalent. Of the relevant three treaty partners, one is not a signatory to the Multilateral Instrument and two have, on the basis of Article 17(3), reserved the right not to apply Article 17(2) as they considered that their treaty with Iceland already contains the equivalent of Article 9(2).

59. The remaining treaty partner has already deposited its instruments of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaty between Iceland and this treaty partner, and therefore has superseded the relevant treaty provision to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but only to the extent that the provision contained in this treaty relating to the granting of corresponding adjustments are incompatible with Article 17(1).

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

#### *Period 1 January 2016-30 April 2018 (stage 1)*

60. Iceland reported that in the period 1 January 2016-30 April 2018, it has not denied access to MAP on the basis that the case concerned a transfer pricing case.

61. Peers indicated not being aware of a denial of access to MAP by Iceland on the basis that the case concerned was a transfer pricing case in the period 1 January 2016-30 April 2018.

*Period 1 May 2018-31 October 2019 (stage 2)*

62. Iceland reported that since 1 May 2018 for none of the MAP requests it received it has denied access to MAP on the basis that the case concerned was a transfer pricing case.

63. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. The same input was given by the one peer that only provided input during stage 2.

***Anticipated modifications***

64. Iceland reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention (OECD, 2017) in its tax treaties where possible and that it will seek to include this provision in all of its future tax treaties. Other than this, Iceland did not indicate that it anticipates any modifications in relation to element B.3.

***Conclusion***

	Areas for improvement	Recommendations
[B.3]	-	-

**[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.

65. 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***

66. None of Iceland's 49 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, the domestic law and/or administrative processes of Iceland do not contain 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.

67. This is confirmed in Iceland's MAP guidance, under the section titled "Hvenær er hægt að óska eftir málsmeðferð um framkvæmd á grundvelli gagnkvæms samkomulags?" (When can a MAP be requested?).



**Recent developments**

68. There are no recent developments with respect to element B.4.

**Practical application***Period 1 January 2016-30 April 2018 (stage 1)*

69. Iceland reported that in the period 1 January 2016-30 April 2018 it did not deny 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.

70. Peers indicated not being aware of cases that have been denied access to MAP in Iceland in the period 1 January 2016-30 April 2018 in relation to the application of treaty and/or domestic anti-abuse provisions.

*Period 1 May 2018-31 October 2019 (stage 2)*

71. Iceland reported that since 1 May 2018, it has also not denied access to MAP in 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, no such cases in relation hereto were received since that date.

72. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. The same input was given by the one peer that only provided input during stage 2.

**Anticipated modifications**

73. Iceland indicated that it does not anticipate any modifications in relation to element B.4.

**Conclusion**

	Areas for improvement	Recommendations
[B.4]	-	-

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

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

74. 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*

75. Under Iceland’s domestic law there is no audit settlement process available.

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

76. Iceland reported that it does not have an administrative or statutory dispute settlement/resolution process in place, which is independent from the audit and examination functions and which can only be accessed through a request by the taxpayer.<sup>6</sup>

### ***Recent developments***

77. There are no recent developments with respect to element B.5.

### ***Practical application***

#### *Period 1 January 2016-30 April 2018 (stage 1)*

78. Iceland reported that in the period 1 January 2016-30 April 2018 it has not denied access to MAP in any case 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, which is explained by the fact that such settlements are not possible in Iceland.

79. All peers indicated not being aware of a denial of access to MAP in Iceland in the period 1 January 2016-30 April 2018 in cases where there was an audit settlement between the taxpayer and the tax administration.

#### *Period 1 May 2018-31 October 2019 (stage 2)*

80. Iceland reported that since 1 May 2018 it has also not denied access to MAP for cases where the issue presented by the taxpayer has already been dealt with in an audit settlement between the taxpayer and the tax administration since such settlements are still not possible in Iceland.

81. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. The same input was given by the one peer that only provided input during stage 2.

### ***Anticipated modifications***

82. Iceland indicated that it does not anticipate any modifications in relation to element B.5.

### ***Conclusion***

	Areas for improvement	Recommendations
[B.5]	-	-

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

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

83. 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 publically available.

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

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

85. Iceland reported that if more documentation or information is needed from a taxpayer, its competent authority sends a request for these materials as soon as possible after the MAP request has been submitted by the taxpayer. Iceland further reported that the timeframe to provide such documentation and information is usually two to three weeks. If the taxpayer still does not respond to this request, Iceland reported that its tax authorities would reiterate their request for additional information and give the taxpayer 20 days to comply with this request. Iceland noted that this follow-up letter would also warn the taxpayer that if the requested information or documents are not provided within this timeframe, the case would be closed. Iceland reported that, if necessary, the deadline may be extended further in special circumstances.

86. Iceland's MAP guidance, under the section titled "Hvernig skal óskað eftir gagnkvæmu samkomulagi?" (How should a MAP be requested?), notes in this regard that a MAP request must contain all the necessary documents for its competent authority to accept it. It is further stated that before a request is rejected for not containing sufficient information, a reasonable period of time is granted to the taxpayer to improve the submission. The guidance further clarifies that the deadline for such additional information would take into account the complexity of the case and the type of documents requested i.e. whether they need to be obtained from abroad or whether it is likely that the taxpayer will have them.

***Recent developments***

87. There are no recent developments with respect to element B.6.

***Practical application******Period 1 January 2016-30 April 2018 (stage 1)***

88. Iceland 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 in the period 1 January 2016-30 April 2018 its competent authority has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

89. All peers that provided input indicated not being aware of a limitation of access to MAP by Iceland in the period 1 January 2016-30 April 2018 in situations where taxpayers complied with information and documentation requirements.

*Period 1 May 2018-31 October 2019 (stage 2)*

90. Iceland reported that since 1 May 2018 its competent authority has also not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

91. All peers that provided input during stage 1 stated during stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. The same input was given by the one peer that only provided input during stage 2.

***Anticipated modifications***

92. Iceland indicated that it does not anticipate any modifications in relation to element B.6.

***Conclusion***

	Areas for improvement	Recommendations
[B.6]	-	-

**[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.

93. 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 (OECD, 2017), enabling them to consult together for the elimination of double taxation in cases not provided for in these treaties.

***Current situation of Iceland's tax treaties***

94. Out of Iceland's 49 tax treaties, 38 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties.<sup>7</sup>

95. None of the remaining 11 treaties contain a provision that is based on or equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Eight of these 11 treaties have a limited scope of application.<sup>8</sup> This concerns tax treaties that only apply to a certain category of income or a certain category of taxpayers, whereby the structure and articles of the OECD Model Tax Convention (OECD, 2017) are not followed. As these treaties were intentionally negotiated with a limited scope, the inclusion of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017)

would contradict the object and purpose of those treaties and such inclusion would also be inappropriate, as it would allow competent authorities the possibility to consult in cases that have intentionally been excluded from the scope of a tax treaty. For this reason, therefore, there is a justification not to contain Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) for those eight treaties with a limited scope of application.

96. Generally, peers that provided input reported that their treaty with Iceland meets the requirements under the Action 14 minimum standard or will be modified by the Multilateral Instrument or is currently under bilateral discussion. For the 11 treaties identified above that do not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2017), two peers provided input and reported that their treaty will be modified by the Multilateral Instrument, which is in line with the below analysis.

### ***Recent developments***

#### *Multilateral Instrument*

97. Iceland signed the Multilateral Instrument and has deposited its instrument of ratification on 26 September 2019. The Multilateral Instrument has for Iceland entered into force on 1 January 2020.

98. Article 16(4)(c)(ii) of that instrument stipulates that Article 16(3), second sentence – containing the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). In other words, in the absence of this equivalent, Article 16(4)(c)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(ii), the depositary that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

99. With regard to the three comprehensive tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Iceland listed all of them as a covered tax agreement under the Multilateral Instrument and made for all, pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). All three treaty partners made such notification as well.

100. All three treaty partners have already deposited their instrument of ratification, following which the Multilateral Instrument has entered into force for the treaty between Iceland and these treaty partners. Therefore, at this stage, the Multilateral Instrument has modified three treaties to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

#### *Peer input*

101. Of the peers that provided input during stage 2, only one provided input in relation to its tax treaty with Iceland. However, this peer does not concern one of the three treaties identified above that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

*Anticipated modifications*

102. Iceland reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

*Conclusion*

	Areas for improvement	Recommendations
[B.7]	-	-

**[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.

103. 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.

*Iceland's MAP guidance*

104. Iceland has issued guidance on the governance and administration of the MAP in October 2019, which is available (in Icelandic) at:

<https://www.skatturinn.is/einstaklingar/skattskylda/tviskottunarsamningar/#tab5>

105. The MAP guidance provides that taxpayers may access MAP if they believe that they are being or will be taxed not in accordance with a tax treaty. The MAP guidance also provides details with respect to the MAP in a simple and accessible manner. Specifically, the guidance includes the following items:

01. general outline of the MAP process, including the legal basis for MAP, the deadline applicable for submitting a request and the aim and scope of the MAP
02. situations that are eligible for a MAP request, including transfer pricing cases
03. the manner and form for the submission of a MAP request, including the contact details of the competent authority
04. the specific information and documentation that should be included in a MAP request (see also below)
05. how the MAP functions in terms of timing and the role of the competent authorities
05. the steps of the process and the timing of such steps for the implementation of MAP agreements, including actions to be taken by taxpayers
05. rights and role of taxpayers in the process
06. relationship with domestic available remedies
07. the possibility of suspension of tax collection during the course of a MAP
08. the consideration of interest and penalties in MAP

106. The above-described MAP guidance of Iceland 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.

107. Although the information included in Iceland’s MAP guidance is detailed and comprehensive, a few subjects are not specifically discussed. This concerns information on:

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

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

108. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in request for MAP assistance.<sup>9</sup> This agreed guidance is shown below. Iceland’s 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) requested to be resolved via MAP
- whether the MAP request was also submitted to the competent authority of the other treaty partner
- whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes
- whether the issue(s) involved were dealt with previously
- A statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the competent authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the competent authority in a timely manner.

### ***Recent developments***

109. As detailed above, Iceland reported that it has issued its MAP guidance in October 2019. Since the guidance includes the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation/information that it should include in such a request, the recommendation made in stage 1 has been addressed.

### ***Anticipated modifications***

110. Iceland indicated that it intends to publish its MAP guidance in English in the near future.

**Conclusion**

	Areas for improvement	Recommendations
[B.8]	-	-

**[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.

111. The public availability and accessibility of a jurisdiction’s MAP guidance increases public awareness on access to and the use of the MAP in that jurisdiction. Publishing MAP profiles on a shared public platform further promotes the transparency and dissemination of the MAP programme.<sup>10</sup>

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

112. Iceland has issued guidance on the governance and administration of the MAP in October 2019, which is available (in Icelandic) at:

<https://www.skatturinn.is/einstaklingar/skattskylda/tviskottunarsamningar/#tab5>

113. As regards its accessibility, Iceland’s MAP guidance can easily be found on the website of the Internal Revenue (<https://www.skatturinn.is/>) under the section “Skattskylda” (Tax Liability) in the sub-section “Tviskottunarsamningar” (Double Taxation Agreements). It can also be easily found by searching on that website for “double taxation” or “mutual agreement procedure” in Icelandic. However, as mentioned above, this information is not available in English to date.

**MAP profile**

114. The MAP profile of Iceland is published on the website of the OECD and was last updated in October 2019. This MAP profile is complete and often with detailed information. This profile includes external links which provide extra information and guidance where appropriate.

**Recent developments**

115. As mentioned above, Iceland has introduced MAP guidance in October 2019 and has made it publicly available on the website of its Internal Revenue. Further, Iceland has updated its MAP profile in October 2019 to provide more detailed information, including links to such guidance where appropriate. Therefore, the recommendation made in stage 1 has been addressed.

**Anticipated modifications**

116. Iceland indicated that it intends to publish its MAP guidance in English and to make it publicly available on the website of the Internal Revenue in the near future.

**Conclusion**

	Areas for improvement	Recommendations
[B.9]	-	-



## [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.

117. 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*

118. As previously discussed under B.5, it is not possible under Iceland's domestic law that taxpayers and the tax administration enter into audit settlements.

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

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

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

121. All peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process that limits access to MAP in Iceland, which can be clarified by the fact that such process is not in place in Iceland.

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

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

### *Recent developments*

123. It was noted in the stage 1 report that Iceland’s MAP guidance did not specifically address its administrative dispute settlement process does not address the effects of that process on MAP since there was no MAP guidance available at the time. However, as noted above, since Iceland’s administrative dispute settlement process is part of its regular appellate chain, it does not have an administrative or statutory dispute settlement/resolution process in place, which is independent from the audit and examination functions and which can only be accessed through a request by the taxpayer. Irrespective, Iceland has introduced information on the relationship between domestic remedies in Iceland and the MAP and has stated that access to MAP is granted whether such remedies are ongoing or have been finalised.

124. Therefore, the recommendation made in stage 1 has been addressed.

### *Anticipated modifications*

125. Iceland indicated that it does not anticipate any modifications in relation to element B.10.

### *Conclusion*

	Areas for improvement	Recommendations
[B.10]	-	-

## Notes

1. These four treaties include the Nordic Convention that Iceland applies to Denmark, Finland, the Faroe Islands, Norway and Sweden.
2. These two treaties include the treaty with the former Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius).
3. These 44 treaties include the treaty with the former Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius).
4. These 35 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, the Faroe Islands, Norway and Sweden.
5. These eight treaties include the treaty with the former Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius).
6. In the stage 1 peer review report it was reported that Iceland had in place an administrative/statutory dispute settlement/resolution process. However, as this process is part of the regular appellate chain in Iceland’s tax dispute resolution framework, it is considered not to be such process and therefore the report has on this point been modified.
7. These 38 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, Faroe Islands, Norway and Sweden.

8. These seven treaties concern treaties with Aruba, Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, Isle of Man, Jersey, and the treaty with the former Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius).
9. Available at: [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf).
10. The shared public platform can be found at: [www.oecd.org/ctp/dispute/country-map-profiles.htm](http://www.oecd.org/ctp/dispute/country-map-profiles.htm).

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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.

126. 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 Iceland's tax treaties***

127. Out of Iceland's 49 tax treaties, 48 contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) 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.<sup>1</sup>

128. The one remaining treaty contains a provision that is based on Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), but also includes additional language that sets a condition that consists of a notification from the competent authority that received the MAP request within a time limit of four and a half years from the due date or the date of filing the return in the treaty partner's jurisdiction. Such an obligation may prevent that cases are effectively dealt with in MAP. This provision is therefore considered not being the equivalent of Article 25(2), first sentence.

129. Generally, peers that provided input reported that their treaty with Iceland meets the requirements under the Action 14 minimum standard or will be modified by the Multilateral Instrument or is currently under bilateral discussion. For the one treaty identified above that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), the relevant peer did not provide input.

### ***Recent developments***

#### *Multilateral Instrument*

130. Iceland signed the Multilateral Instrument and has deposited its instrument of ratification on 26 September 2019. The Multilateral Instrument has entered into force on 1 January 2020 for Iceland.

131. Article 16(4)(b)(i) of that instrument stipulates that Article 16(2), first sentence – containing the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). In other words, in the absence of this equivalent, Article 16(4)(b)(i) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(c)(i), the depositary that this treaty does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

132. With regard to the tax treaty identified above that is considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Iceland listed it as a covered tax agreement under the Multilateral Instrument but did not make, pursuant to Article 16(6)(c)(i), a notification that it does not contain a provision described in Article 16(4)(b)(i). Therefore, at this stage, the tax treaty identified above will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

#### *Other developments*

133. Iceland reported that for the tax treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument, it intends to update it via bilateral negotiations with a view to be compliant with element C.1. In relation to this treaty partner, Iceland reported that negotiations are being initiated.

#### *Peer input*

134. Of the peers that provided input during stage 2, only one provided input in relation to its tax treaty with Iceland. However, this peer does not concern the treaty identified above that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

#### *Anticipated modifications*

135. Iceland reported it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

## Conclusion

	Areas for improvement	Recommendations
[C.1]	<p>One out of 49 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).</p> <p>This treaty will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, negotiations are envisaged, scheduled or pending.</p>	<p>As the one treaty will, at this time, not be modified via the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Iceland should continue (the initiation of) negotiations with the treaty partner with a view to including the required provision</p>

### [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).

136. 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*

137. Statistics regarding all tax treaty related disputes concerning Iceland are published on the website of the OECD as of 2006.<sup>2</sup>

138. The FTA MAP Forum has agreed on rules for the 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. Iceland provided MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Iceland and of which its competent authority was aware. The statistics discussed below only include post-2015 cases, as Iceland has no pre-2016 MAP cases in its inventory.<sup>3</sup> The statistics are attached in the Annexes to this report.

139. With respect to post-2015 cases, Iceland reported that for the years 2016-18, it has reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, Iceland reported that it could match its statistics with all of its MAP partners.

140. One peer provided input on the matching of MAP statistics with Iceland and confirmed that they were able to match their statistics.

#### *Monitoring of MAP statistics*

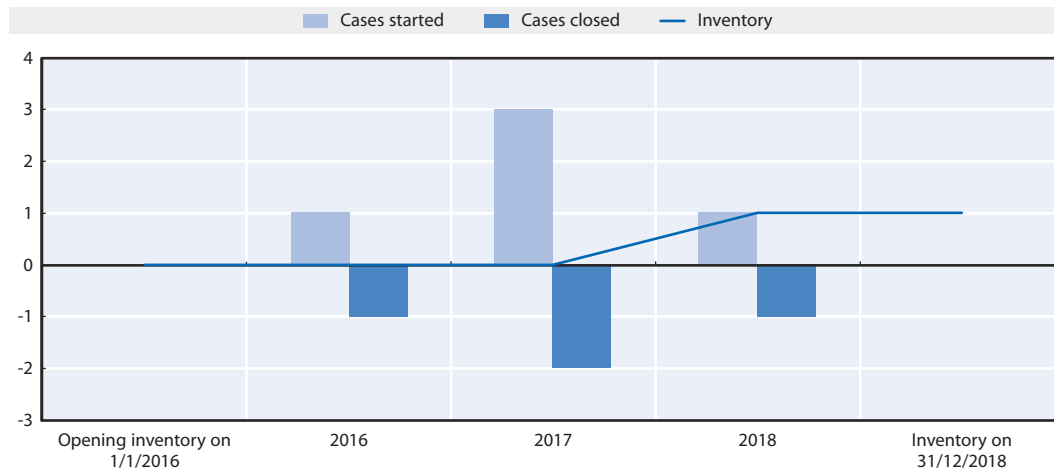
141. Iceland reported that due to its very small MAP caseload it does not have a system in place that monitors, communicates, and manages with its treaty partners the MAP caseload. However, Iceland noted that the person responsible for MAP cases monitors the progress of each MAP case manually.

## Analysis of Iceland's MAP caseload

### Global overview

142. The following graph shows the evolution of Iceland's MAP caseload over the Statistics Reporting Period.

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



143. At the beginning of the Statistics Reporting Period, Iceland had no pending MAP cases. At the end of the Statistics Reporting Period, Iceland had one MAP case in its inventory, which is an other MAP case. During the Statistics Reporting Period, five other MAP cases were started, four of which were closed.

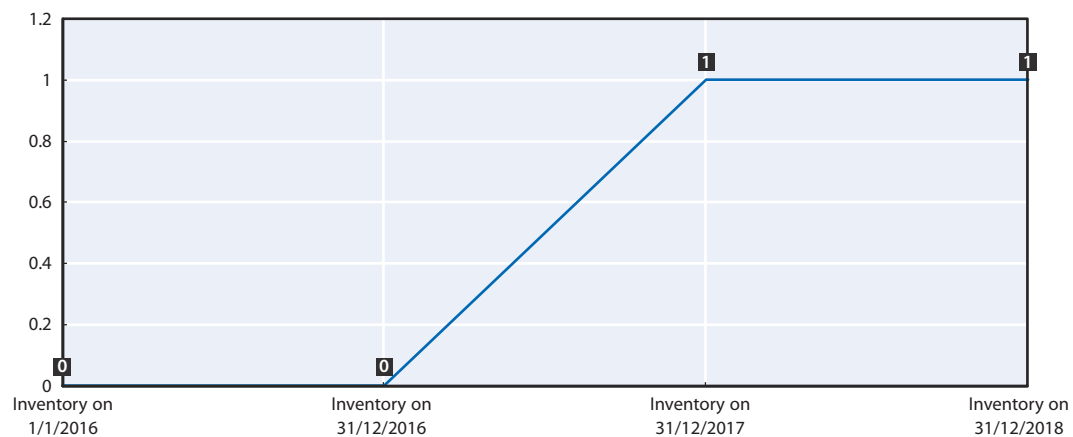
### Pre-2016 cases

144. As mentioned previously, Iceland did not have any pre-2016 cases in its inventory.

### Post-2015 cases

145. Figure C.2 shows the evolution of Iceland's post-2015 MAP cases over the Statistics Reporting Period.

Figure C.2. Evolution of Iceland's MAP inventory  
Post-2015 cases





146. In total, five other MAP cases were started during the Statistics Reporting Period, all of which were other cases. At the end of this period, the total number of post-2015 cases in the inventory was one other case. Accordingly, Iceland closed four post-2015 cases during the Statistics Reporting Period, all of which were other cases. The total number of closed cases represents 80% of the total number of post-2015 cases that started during the Statistics Reporting Period.

147. The number of post-2015 cases closed as compared to the number of post-2015 cases started during the Statistics Reporting Period is shown in the table below.

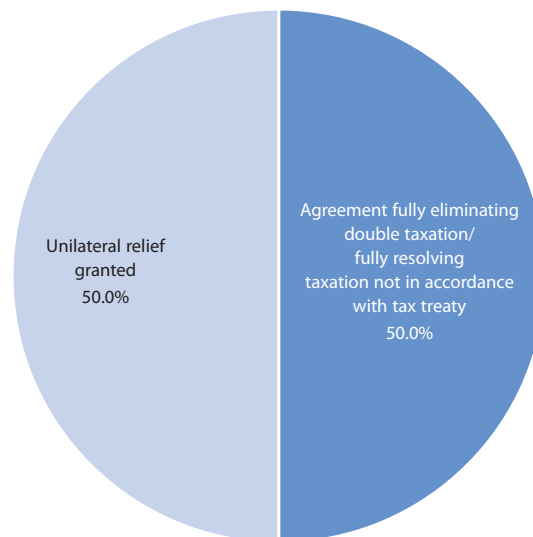
Post-2015 cases	% of cases closed in 2016 compared to cases started in 2016	% of cases closed in 2017 compared to cases started in 2017	% of cases closed in 2018 compared to cases started in 2018	Cumulative evolution of total MAP caseload over the three years (2016-18)
Other cases	100%	67%	100%	80%

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

#### *Reported outcomes*

148. During the Statistics Reporting Period Iceland closed four MAP cases in total for which the outcomes shown in Figure C.3 were reported.

Figure C.3. Cases closed in 2016, 2017 or 2018 (Four cases)



149. This chart shows that during the Statistics Reporting Period, half of the four cases that were closed during the Statistics Reporting Period were reported with the outcome “agreement fully eliminating double taxation/fully resolving taxation not in accordance with the tax treaty”.

#### *Reported outcomes for attribution/allocation cases*

150. No attribution/allocation cases were started or closed in the Statistics Reporting Period.

*Reported outcomes for other cases*

151. In total, four other cases were closed during the Statistics Reporting Period. Two of these cases were closed with the outcome “agreement fully eliminating double taxation/fully resolving taxation not in accordance with the tax treaty” and the remaining two cases were closed with the outcome “unilateral relief granted”.

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

152. The average time needed to close MAP cases during the Statistics Reporting Period was 6.05 months.

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	n.a.	n.a.
Other cases	4	6.05
All cases	4	6.05

*Pre-2016 cases*

153. As previously mentioned, Iceland did not have any pre-2016 cases in its inventory.

*Post-2015 cases*

154. For post-2015 cases, Iceland reported that on average it needed 6.05 months to close four other MAP cases. As there were no attribution/allocation cases for Iceland, this resulted in an average time needed of 6.05 months to close four post-2015 cases.

*Peer input*

155. Peers generally reported that their experience with Iceland is limited. They indicated as not having experiencing any difficulties in resolving MAP cases with Iceland in a timely manner. One peer specifically reported that it did not observe any impediments which led to unnecessary delays in finding a resolution to a MAP case and another mentioned that Iceland’s competent authority is efficient.

*Recent developments*

156. There are no recent developments with respect to element C.2.

157. All peers that provided input during stage 1 confirmed that this input holds equally relevance for the period starting on 1 May 2018.

*Anticipated modifications*

158. Iceland indicated that it does not anticipate any modifications in relation to element C.2.

*Conclusion*

	Areas for improvement	Recommendations
[C.2]	-	-

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

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

159. 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 Iceland’s competent authority*

160. Under Iceland’s tax treaties, the competent authority function is assigned to the Minister of Finance and Economic Affairs, which is delegated to the Iceland Revenue and Customs. Iceland further reported that the Iceland Revenue and Customs is the only tax authority in Iceland that levies taxes covered by double tax treaties and is therefore the only tax authority that can amend previously levied taxes in Iceland.

161. Iceland noted that due to its limited MAP caseload, there is just one person in charge of MAP cases in its competent authority and this person is placed within the International Taxation Division, part of the Department of Tax Assessment. According to Iceland, this staff member has been working on MAP cases for the past few years and receives training from personnel who were previously responsible for handling MAP. Iceland reported that this staff member can draw upon the expertise of others within the Iceland Revenue and Customs who provide help in resolving complex cases. These other employees are placed within other departments of the Iceland Revenue and Customs, such as “Einstaklingsdeild” (Individual Taxation), “Lögaðiladeild” (Corporate Taxation) or “Eftirlitssvið” (Tax Control) where the transfer pricing team is placed.<sup>4</sup>

162. Iceland reported that funds are made available for face-to-face competent authority meetings when necessary but that no specific, itemised budget is allocated to MAP as there are so few cases annually in Iceland.

#### *Monitoring mechanism*

163. Iceland noted that the Director General of Iceland Revenue and Customs is responsible for decisions on whether or not resources provided to the competent authority are considered adequate. Iceland stated that up until now it considers the resources provided to its competent authority to be adequate.

#### *Recent developments*

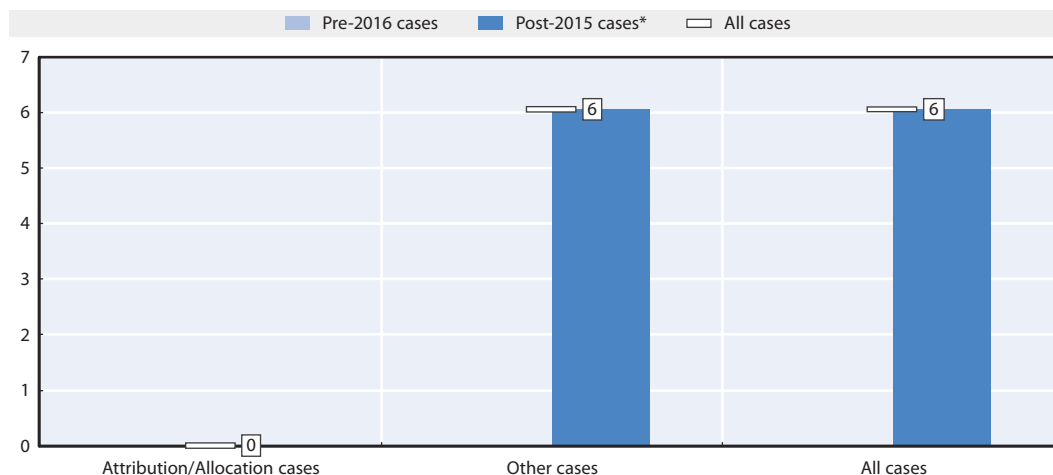
164. There are no recent developments with respect to element C.3, other than that Iceland reported the staff member of its competent authority attended MAP trainings organised by the OECD.

#### *Practical application*

##### *MAP statistics*

165. As discussed under element C.2, Iceland closed its MAP cases during the Statistics Reporting Period within the pursued 24-month average, as it needed 6.05 months to close MAP cases. The average time to resolve MAP cases in 2016, 2017 and 2018 can be illustrated by Figure C.4.

Figure C.4. Average time (in months) to close cases in 2016-18



\* Note that post-2015 cases only concern cases started and closed during 2016, 2017 or 2018.

166. The stage 1 peer review report of Iceland analysed the 2016-17 MAP statistics and showed an average of 3.23 months, which concerns only other MAP cases. It was on that basis, concluded that as the overall average was well below the pursued average of 24 months, Iceland was considered to be adequately resourced.

167. The 2018 statistics of Iceland show that the average completion time of MAP cases slightly increased from 3.23 to 6.05 months, which is still well below the pursued average of 24 months.

168. Furthermore – as analysed in element C.2 – the MAP inventory of Iceland decreased substantially since 1 January 2016 and Iceland has managed to close 80% of all cases started since this date. Only one other MAP case remained in Iceland's MAP inventory on 31 December 2018. Like is concluded in its stage 1 peer review report, also during stage 2, Iceland is considered to be adequately resourced.

### *Peer input*

#### Period 1 January 2016-30 April 2018 (stage 1)

169. Peers indicated that, although limited, their experience with Iceland's competent authority has been positive. One peer in particular noted that it had a good relationship with Iceland regarding the resolution of MAP cases. Another peer also noted that in its experience Iceland's competent authority works in a very efficient and pragmatic manner and facilitates MAP for taxpayers. A third peer noted that there were no impediments observed which led to unnecessary delays in finding a resolution for MAP cases. A fourth peer noted that it only had one case with Iceland where communication was limited to an acknowledgement letter and had no suggested areas for improvement for Iceland. It further mentioned that no meetings took place with Iceland's competent authority. Two other peers clarified that they did not have any cases with Iceland during the Review period.

#### Period 1 May 2018-31 October 2019 (stage 2)

170. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. One peer that provided input only during

stage 2, stated in its experience from three MAP cases with Iceland that the contact between the Icelandic and the peer’s competent authority is good and that it is very easy to get in contact with Iceland’s competent authority.

### *Anticipated modifications*

171. Iceland indicated that it does not anticipate any modifications in relation to element C.3.

### *Conclusion*

	Areas for improvement	Recommendations
[C.3]	-	-

## **[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.

172. 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*

173. Iceland reported that in most of its MAP cases the staff member of its competent authority in charge of the case is authorised to resolve cases on their own. For particularly complex MAP cases, Iceland reported that such staff could ask for technical assistance from tax experts in order to resolve the case. Iceland noted that these tax experts are chosen based on their expertise in order to match the subject matter of the case in question, but that usually, such experts are drawn from the Corporation Taxation department or the Transfer Pricing team. However, Iceland clarified that none of the experts would be staff from the audit function that were involved in the adjustment in question.

174. With regard to the above, Iceland reported that staff in charge of MAP in practice 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.

### *Recent developments*

175. There are no recent developments with respect to element C.4.

***Practical application****Period 1 January 2016-30 April 2018 (stage 1)*

176. Peers generally reported no impediments in Iceland to perform its MAP function in the absence of approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy in the period 1 January 2016-30 April 2018.

*Period 1 May 2018-31 October 2019 (stage 2)*

177. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. The same input was given by the one peer that only provided input during stage 2.

***Anticipated modifications***

178. Iceland indicated that it does not anticipate any modifications in relation to element C.4.

***Conclusion***

	Areas for improvement	Recommendations
[C.4]	-	-

**[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.

179. 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 Iceland***

180. Iceland reported that it conducts annual reviews of its staff members. Although the reviews are held annually, Iceland reported that any issues that arise before a year will be brought to the attention of the Director General of Iceland Revenue and Customs sooner if necessary. Iceland further reported that during these annual reviews, the overall performance of staff is assessed using performance indicators. This assessment includes checking how quickly MAP cases are resolved as well as whether or not cases are resolved in accordance with guidelines and procedures that are agreed upon. Iceland noted that due to its relatively small MAP caseload, it endeavours to resolve cases within a three-month target timeframe.

181. The Action 14 final report (OECD, 2015b) includes examples of performance indicators that are considered appropriate. These indicators are shown below and presented in the form of a checklist:

- 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).

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

### ***Recent developments***

183. There are no recent developments with respect to element C.5.

### ***Practical application***

#### *Period 1 January 2016-30 April 2018 (stage 1)*

184. Peers generally reported no impediments in Iceland to perform its MAP function in the absence of approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy in the period 1 January 2016-30 April 2018.

#### *Period 1 May 2018-31 October 2019 (stage 2)*

185. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. The same input was given by the one peer that only provided input during stage 2.

### ***Anticipated modifications***

186. Iceland indicated that it does not anticipate any modifications in relation to element C.5.

### ***Conclusion***

	Areas for improvement	Recommendations
[C.5]	-	-

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

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

187. 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***

188. Iceland reported that it has no domestic law limitations for including MAP arbitration in its tax treaties. Its MAP profile also notes that an arbitration mechanism is currently available for the resolution of tax treaty related disputes in some of Iceland's tax treaties. Iceland further reported that it is of the view that mandatory binding arbitration could be considered on a case-by-case basis, when negotiating a new tax treaty or a protocol to an existing tax treaty.

189. In that regard, Iceland reported that it did not opt for part VI of the Multilateral Instrument, which includes a mandatory and binding arbitration provision.<sup>5</sup>

***Recent developments***

190. There are no recent developments with respect to element C.6.

***Practical application***

191. To date, Iceland has incorporated an arbitration clause in seven of 49 treaties as a final stage to the MAP. These clauses can be specified as follows:

- equivalent of Article 25(5) of the OECD Model Tax Convention (OECD, 2017): four treaties
- voluntary and binding arbitration: three treaties.

***Anticipated modifications***

192. Iceland indicated that it does not anticipate any modifications in relation to element C.6.

***Conclusion***

	Areas for improvement	Recommendations
[C.6]	-	-



## Notes

1. These 48 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, Faroe Islands, Norway and Sweden as well as the treaty with the former Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius).
2. Available at: [www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm](http://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm). These statistics are up to and include fiscal year 2019.
3. For post-2015 cases, if the number of MAP cases in Iceland’s inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five, Iceland reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
4. Available at: <https://www.skatturinn.is/um-rsk/embaettid/skipurit-rikisskattstjora/>.
5. An overview of Iceland’s position on the Multilateral Instrument is available at: [www.oecd.org/tax/treaties/beps-mli-position-iceland.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-iceland.pdf).

## 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>.



## *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.

193. 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*

194. Iceland reported that when Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017) is not contained in a tax treaty, its domestic time limit of six years applies for the implementation of MAP agreements. However, according to Article 101(2) of Iceland's Income Tax Act, Iceland's Directorate of Internal Revenue is allowed to take into consideration a request from a taxpayer to change a final tax assessment six years after the relevant fiscal year. Iceland reported that in the case of downward adjustments, this time period can be extended in special circumstances, which is determined on a discretionary basis with respect to the extent of the taxpayer's interest. Iceland indicated that such an extension is rarely requested for in practice but that in such cases, a taxpayer must be able to demonstrate the importance of an extension of this six year time period.

195. Iceland further reported that in the case of upward adjustments the Directorate of Internal Revenue is not able to make an amendment further than the six year time limit according to Article 101(2). Furthermore, Iceland reported that a shorter statute of limitation could apply as Article 97(2) of its Income Tax Act states that tax authorities may not make an adjustment further back than two years in cases where the tax authorities might, or should have known, about certain documents or information that should have been taken into consideration when the tax return was originally assessed the first time.

196. Irrespective, in practice, Iceland stated that all MAP agreements will be implemented notwithstanding the time limits in its domestic laws when it is in favour of the taxpayer.

197. Iceland further reported that after reaching a MAP agreement it notifies the taxpayer in a letter of the outcome and also sends a letter to the other competent authority. Iceland further reported that if the MAP agreement results in an upward adjustment, the Director of Internal Revenue gives the taxpayer 15 days to object, which is stipulated under Article 96(4) of the Income Tax Act 90/2003. If the taxpayer does not object, the MAP agreement is implemented. Iceland reported that the implementation of a MAP agreement is normally completed within 30 days, but that this timeframe can fluctuate depending on the workload of the staff member in charge of the MAP case or if the taxpayer objects to the implementation of the MAP agreement. Iceland's MAP guidance, under the section

titled “Gagnkvæmu samkomulagi hrundið í framkvæmd” (Implementation of mutual agreements) clarifies that the mutual agreement will be implemented as soon as possible, and usually within 30 days.

### ***Recent developments***

198. There are no recent developments with respect to element D.1.

### ***Practical application***

#### *Period 1 January 2016-30 April 2018 (stage 1)*

199. Iceland reported that in the period 1 January 2016-30 April 2018 it has reached the following number of MAP agreements:

Year	MAP agreements
2016	0
2017	2
2018 (Until 30 April 2018)	0

200. Iceland reported that one of these required an implementation by Iceland. In this respect, Iceland clarified that such an agreement was implemented the day when this agreement was reached.

201. All peers that provided input reported that they were not aware of any MAP agreement reached in the period 1 January 2016-30 April 2018 that was not implemented by Iceland.

#### *Period 1 May 2018-31 October 2019 (stage 2)*

202. Iceland reported that all MAP agreements that were reached on or after 1 May 2018 have also been implemented.

203. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. The same input was given by the one peer that only provided input during stage 2.

### ***Anticipated modifications***

204. Iceland indicated that it does not anticipate any modifications in relation to element D.1.

### ***Conclusion***

	Areas for improvement	Recommendations
[D.1]	As will be discussed under element D.3 not all of Iceland's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to time limits of six years in its domestic law that can only be overridden by discretionary authority in certain circumstances.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017) in Iceland's relevant tax treaty, prevent the implementation of a MAP agreement when the adjustment is made at the level of the treaty partner, Iceland should put appropriate procedures in place to ensure that such an agreement is implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Iceland should for clarity and transparency purposes continue its practice to notify the treaty partner thereof without delay.

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

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

205. 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***

206. As discussed under element D.1, Iceland reported that MAP agreements are implemented as soon as an agreement has been reached, and that the person in charge of implementation in Iceland is the same person who handled the MAP case. Iceland noted that notification letters are sent to taxpayers for both downwards and upwards adjustments informing them of the outcome. As stated under element D.1, for MAP agreements that result in upwards adjustments, the Directorate of Internal Revenue is required to give the taxpayer 15 days to object, as required by Article 96(4) of Iceland's Income Tax Act 90/2003. If the taxpayer does not object, Iceland reported that the agreement will be implemented and typically takes around 30 days to finalise. This is also clarified under Iceland's MAP guidance, under the section titled "Gagnkvæmu samkomulagi hrundið í framkvæmd" (Implementation of Mutual Agreements).

***Recent developments***

207. There are no recent developments with respect to element D.2.

***Practical application******Period 1 January 2016-30 April 2018 (stage 1)***

208. As discussed under element D.1, in the period 1 January 2016-30 April 2018, Iceland entered into two MAP agreements, one of which required implementation by Iceland. In this respect, Iceland reported that this MAP agreement was implemented on the same day the agreement was reached.

209. All peers that provided input have not indicated experiencing any problems with Iceland regarding the implementation of MAP agreements reached on a timely basis in the period 1 January 2016-30 April 2018.

***Period 1 May 2018-31 October 2019 (stage 2)***

210. Iceland reported that all MAP agreements that were reached on or after 1 May 2018 have also been implemented on a timely basis.

211. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Iceland fully reflects their experience with Iceland since 1 May 2018 and/or there are no additions to the previous input given. The same input was given by the one peer that only provided input during stage 2.

*Anticipated modifications*

212. Iceland indicated that it does not anticipate any modifications in relation to element D.2.

*Conclusion*

	Areas for improvement	Recommendations
[D.2]	-	-

**[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.

213. In order to provide full certainty to taxpayers it is essential that implementation of MAP agreements is not obstructed by any time limits in the domestic law of the jurisdictions concerned. Such certainty can be provided by either including the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in tax treaties, or alternatively, setting a time limit in Article 9(1) and Article 7(2) for making adjustments to avoid that late adjustments obstruct granting of MAP relief.

*Legal framework and current situation of Iceland's tax treaties*

214. As discussed under element D.1, Iceland's domestic legislation includes a statute of limitations of 2/6 years for implementing MAP agreements, unless overridden by tax treaties.

215. Out of Iceland's 49 tax treaties, 43 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law.<sup>1</sup> In addition, one tax treaty does not contain such equivalent, but contains both alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making adjustments. Furthermore, four tax treaties neither contain a provision based on or equivalent to Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017), nor the alternative provisions in Article 9(1) and Article 7(2).

216. The remaining treaty contains a provision that is based on Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), but it also includes wording that a MAP agreement must be implemented within ten years from the due date or the date of filing of the return in that other state. As this bears the risk that MAP agreements cannot be implemented due to this time constraint, this treaty therefore, is considered not being equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

217. Generally, peers that provided input reported that their treaty with Iceland meets the requirements under the Action 14 minimum standard or will be modified by the Multilateral Instrument or is currently under bilateral discussion. For the five treaties identified above that do not contain the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017), three of the relevant peers provided input.

One peer noted that its treaty with Iceland will be modified by the Multilateral Instrument which is in line with the below analysis. A second peer reported that it is currently negotiating an amendment to its existing treaty with Iceland. The third peer noted it is willing to accept the alternative provisions.

### *Recent developments*

#### *Multilateral Instrument*

218. Iceland signed the Multilateral Instrument and has deposited its instrument of ratification on 26 September 2019. The Multilateral Instrument has for Iceland entered into force on 1 January 2020.

219. Article 16(4)(b)(ii) of that instrument stipulates that Article 16(2), second sentence – containing the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). In other words, in the absence of this equivalent, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both, pursuant to Article 16(6)(c)(ii), notified the depositary that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Article 16(4)(b)(ii) of the Multilateral Instrument will for a tax treaty not take effect if one or both of the treaty partners has, pursuant Article 16(5)(c), reserved the right not to apply the second sentence of Article 16(2) of that instrument for all of its covered tax agreements under the condition that: (i) any MAP agreement shall be implemented notwithstanding any time limits in the domestic laws of the contracting states, or (ii) the jurisdiction intends to meet the Action 14 Minimum Standard by accepting in its tax treaties the alternative provisions to Article 9(1) and 7(2) concerning the introduction of a time limit for making transfer pricing profit adjustments.

220. With regard to the five tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternative provisions for Articles 9(1) and 7(2), Iceland listed four treaties as covered tax agreements under the Multilateral Instrument but only for two treaties did it make, pursuant to Article 16(6)(c)(ii), a notification that it does not contain a provision described in Article 16(4)(b)(ii). One of these two treaty partners made a reservation on the basis of Article 16(5)(c). The remaining treaty partner also made such notification.

221. This treaty partner has already deposited its instrument of ratification, following which the Multilateral Instrument has entered into force for the treaty between Iceland and this treaty partner. Therefore, at this stage, the Multilateral Instrument has modified this treaty to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

#### *Peer input*

222. Of the peers that provided input during stage 2, only one provided input in relation to its tax treaty with Iceland. However, this peer does not concern the treaty identified above that does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

### *Anticipated modifications*

223. Iceland reported that for the tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element D.3. Iceland, however, reported not having a specific plan in place for such negotiations.

224. In addition, Iceland reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

### *Conclusion*

	Areas for improvement	Recommendations
[D.3]	<p>Five out of 49 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor any of the alternative provisions provided for in Article 9(1) and Article 7(2). Of these five treaties:</p> <ul style="list-style-type: none"> <li>• One has been modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• Four will not be modified by the Multilateral Instrument to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). For these four treaties, no actions have been taken nor are any actions planned to be taken.</li> </ul>	<p>For the remaining four treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), Iceland should, without further delay, request via bilateral negotiations the inclusion of the required provision or be willing to accept the inclusion of both alternative provisions.</p>

### *Note*

1. These 43 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, Faroe Islands, Norway and Sweden as well as the treaty with the former Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius).

### *Reference*

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



## Summary

	Areas for improvement	Recommendations
<b>Part A: Preventing disputes</b>		
[A.1]	<p>Three out of 49 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017).</p> <p>These treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, no actions have been taken nor are any actions planned to be taken.</p>	<p>As two of the three treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) will at this time not be modified via the Multilateral Instrument, Iceland should request the inclusion of the required provision via bilateral negotiations.</p> <p>As the remaining treaty that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) is the treaty with the former Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Saba and St. Eustatius), Iceland should ensure that, once it enters into negotiations with these treaty partners, it includes the required provision.</p>
[A.2]	-	-
<b>Part B: Availability and access to MAP</b>		
[B.1]	<p>Where tax treaties do not contain a time limit for submission of a MAP request, applicable rules under domestic legislation may lead to a filing period of less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.</p>	<p>Iceland should ensure that where its domestic time limits apply for filing of MAP requests, in the absence of a provision hereon in its tax treaties, such time limits do not prevent taxpayers from being granted access to MAP if a request thereto is made within a period of three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.</p>
[B.2]	<p>45 of the 49 treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties, no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.</p>	<p>Iceland should, without further delay, introduce a 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, Iceland 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).</p>
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-
[B.7]	-	-
[B.8]	-	-

	Areas for improvement	Recommendations
[B.9]	-	-
[B.10]	-	-
<b>Part C: Resolution of MAP cases</b>		
[C.1]	<p>One out of 49 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).</p> <p>This treaty will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, negotiations are envisaged, scheduled or pending.</p>	As the one treaty will, at this time, not be modified via the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Iceland should continue (the initiation of) negotiations with the treaty partner with a view to including the required provision
[C.2]	-	-
[C.3]	-	-
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-
<b>Part D: Implementation of MAP agreements</b>		
[D.1]	<p>As will be discussed under element D.3 not all of Iceland's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to time limits of six years in its domestic law that can only be overridden by discretionary authority in certain circumstances.</p>	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017) in Iceland's relevant tax treaty, prevent the implementation of a MAP agreement when the adjustment is made at the level of the treaty partner, Iceland should put appropriate procedures in place to ensure that such an agreement is implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Iceland should for clarity and transparency purposes continue its practice to notify the treaty partner thereof without delay.
[D.2]	-	-
[D.3]	<p>Five out of 49 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor any of the alternative provisions provided for in Article 9(1) and Article 7(2). Of these five treaties:</p> <ul style="list-style-type: none"> <li>• One has been modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• Four will not be modified by the Multilateral Instrument to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). For these four treaties, no actions have been taken nor are any actions planned to be taken.</li> </ul>	For the remaining four treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), Iceland should, without further delay, request via bilateral negotiations the inclusion of the required provision or be willing to accept the inclusion of both alternative provisions.

## Annex A

### Tax treaty network of Iceland

		Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration	
		B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6	
Column 1	Column 2	Column 3	Column 4		Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?  If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)  If no, please state reasons	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?  If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)  If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?	
	Y = yes N = signed pending ratification	E = yes, either CAs O = yes, only one CA N = No	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different iv = no, other reasons	if ii, specify period	Y = yes i = no, but access will be given to TP cases ii = no and access will not be given to TP cases	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes N = no	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y = yes N = no	Y = yes N = no	Y = yes N = no
Albania	Y	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Aruba	Y	O	Y	N/A	i	i	Y	Y	N	N	N
Austria	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Barbados	Y	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Belgium	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y*	N
Bermuda	Y	O	Y	N/A	i	i	Y	Y	Y	N	N
British Virgin Islands	Y	O	Y	N/A	i	i	Y	Y	Y	N	N

		Article 25(1) of the OECD Model Tax Convention ("MTC")			Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration
		B.1	B.1		B.3	B.4	C.1	D.3	A.1	B.7	C.6
Column 1	Column 2	Column 3	Column 4		Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?  If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)  If no, please state reasons		Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?  If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)  If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?
Canada	Y	O	E*	N/A	Y	i	Y	iii	Y	Y	Y
Caribbean part of the Netherlands	Y	O	Y	N/A	i	i	Y	Y	N	N	N
Cayman Islands	Y	O	Y	N/A	i	i	Y	Y	Y	N	N
China (People's Republic of)	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Croatia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Cyprus <sup>a</sup>	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y	N
Curacao	Y	O	Y	N/A	i	i	Y	Y	N	N	N
Czech Republic	Y	E*	Y	N/A	i	i	Y	Y	Y	Y	N
Denmark	Y	E	ii	5-years	Y	i	Y	Y	Y	Y	N
Estonia	Y	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Faroe Islands	Y	E	ii	5-years	Y	i	Y	Y	Y	Y	N
Finland	Y	E	ii	5-years	Y	i	Y	Y	Y	Y	N
France	Y	E*	Y	N/A	i***	i	Y	Y	Y	Y	N
Georgia	Y	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Germany	Y	O	i	N/A	i	i	Y	N	Y	Y	N
Greece	Y	O*	Y	N/A	Y	i	Y	Y	Y	Y	N
Greenland	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Guernsey	Y	O	Y	N/A	i	i	Y	Y	Y	N	N
Hungary	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N
India	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N

		Article 25(1) of the OECD Model Tax Convention ("MTC")			Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration
		B.1	B.1		B.3	B.4	C.1	D.3	A.1	B.7	C.6
Column 1	Column 2	Column 3	Column 4		Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?  If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)  If no, please state reasons		Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?  If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)  If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?
Ireland	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y*	N
Isle of Man	Y	O	Y	N/A	i	i	Y	Y	Y	N	N
Italy	Y	O	ii*	2-years	i	i	Y	Y	Y	Y	Y
Japan	Y	E	Y	N/A	Y	i	Y	Y	Y	Y	Y
Jersey	Y	O	Y	N/A	i	i	Y	Y	Y	N	N
Korea	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y	N
Latvia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Liechtenstein	Y	E	Y	N/A	Y	i	Y	Y	Y	Y	Y
Lithuania	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y	N
Luxembourg	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y	N
Malta	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y	N
Mexico	Y	O*	Y	N/A	Y	i	N	N	Y	Y	N
Netherlands	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y	Y
Norway	Y	E	ii	5-years	Y	i	Y	Y	Y	Y	N
Poland	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Portugal	Y	O	Y	N/A	Y	i	Y	Y*	Y	Y*	N
Romania	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Sint Maarten	Y	O	Y	N/A	i	i	Y	Y	N	N	N
Russia	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y	N
Slovak Republic	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N
Slovenia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N
Spain	Y	O	Y	N/A	i	i	Y	Y	Y	Y	N

		Article 25(1) of the OECD Model Tax Convention (“MTC”)			Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration
		B.1	B.1		B.3	B.4	C.1	D.3	A.1	B.7	C.6
Column 1	Column 2	Column 3	Column 4		Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?  If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1)  If no, please state reasons		Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law?  If no, will your CA accept a taxpayer’s request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4)  If no, alternative provision in Art. 7 & 9 OECD MTC? (Note 4)	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?
Sweden	Y	E	ii	5-years	Y	i	Y	Y	Y	Y	N
Switzerland	Y	E*	Y	N/A	Y	i	Y	N	Y	Y	Y
Ukraine	Y	E*	Y	N/A	Y	i	Y	Y	Y	Y	N
United Kingdom	Y	E*	Y	N/A	Y	l	Y	Y	Y	Y	Y
United States	Y	E	i	N/A	Y	i	Y	Y	Y	Y	N
Viet Nam	Y	N	Y	N/A	i	i	Y	Y	N	Y	N

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

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

*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\*/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 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 was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.





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

## Annex C

### MAP statistics reporting for the 2016, 2017 and 2018 Reporting Periods (1 January 2016 to 31 December 2018) for post-2015 cases

2016 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	Average time taken (in months) for closing post-2015 cases during the reporting period
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	1	0	0	0	1	0	0	0	0	0	0	0	n.a.
Total	0	1	0	0	0	1	0	0	0	0	0	0	0	n.a.

2017 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										No. of post-2015 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2015 cases during the reporting period
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	3	0	0	0	1	0	1	0	0	0	0	1	4.85
Total	0	3	0	0	0	1	0	1	0	0	0	0	1	4.85

2018 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2018	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome										No. of post-2015 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2015 cases during the reporting period
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	1	1	0	0	0	0	0	1	0	0	0	0	1	14.5
Total	1	1	0	0	0	0	0	1	0	0	0	0	1	14.5



## *Glossary*

<b>Action 14 Minimum Standard</b>	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
<b>MAP</b>	Mutual Agreement Procedure
<b>MAP Statistics Reporting Framework</b>	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
<b>Multilateral Instrument</b>	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
<b>OECD Model Tax Convention</b>	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
<b>OECD Transfer Pricing Guidelines</b>	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
<b>Pre-2016 cases</b>	MAP cases in a competent authority’s inventory pending resolution on 31 December 2015
<b>Post-2015 cases</b>	MAP cases received by a competent authority from the taxpayer on or after 1 January 2016
<b>Statistics Reporting Period</b>	Period for reporting MAP statistics that started on 1 January 2016 and ended on 31 December 2018
<b>Terms of Reference</b>	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective



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



# **Making Dispute Resolution More Effective – MAP Peer Review Report, Iceland (Stage 2)**

**INCLUSIVE FRAMEWORK ON BEPS: ACTION 14**

