

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



Making Dispute Resolution More Effective – MAP Peer Review Report, Jersey (Stage 2)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

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Note 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 the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note 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.

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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 19 November 2021 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

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

Executive summary

Jersey has a modest tax treaty network with around 30 tax treaties. It has a MAP programme with a small MAP inventory and a small number of new cases submitted each year and no MAP cases pending on 31 December 2020. The outcome of the stage 1 peer review process was that overall Jersey met almost all the elements of the Action 14 Minimum Standard. Where it has deficiencies, Jersey has worked to address them, which has been monitored in stage 2 of the process. In this respect, Jersey has solved most of the identified deficiencies.

All but one of Jersey's tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 through 3 of Article 25 of the OECD Model Tax Convention (OECD, 2017). Its treaty network is largely consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that:

- More than 10% of its tax treaties do not contain the equivalent of Article 25(2), first sentence of the OECD Model Tax Convention (OECD, 2017) that requires the competent authority who received the MAP request from a taxpayer to endeavour, if the objection of the taxpayer appears to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the MAP case by mutual agreement.
- More than 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, Jersey 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, Jersey 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. Such bilateral negotiations have already been initiated for all of those treaties.

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

Furthermore, Jersey meets 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 April 2019 not received any MAP request concerning the application of anti-abuse provisions. Furthermore, Jersey has in place a documented bilateral consultation process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Jersey 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 Jersey for the period 2016-20 are as follows:

2016-20	Opening inventory 1/1/2016	Cases started	Cases closed	End Inventory 31/12/2020	Average time to close cases (in months)
Attribution/allocation cases	0	0	0	0	n.a.
Other cases	0	2	2	0	10.85
Total	0	2	2	0	10.85

Although Jersey resolved all of its pending MAP cases from 2016-20, Jersey faced resource constraints that did not allow it to report MAP statistics, match such statistics with treaty partners or participate actively in stage 2 of the peer review process. Therefore, Jersey should closely monitor whether the resources available for the competent authority function remain adequate in order to resolve future MAP cases in a timely, efficient and effective manner. In particular, Jersey should ensure that at least one person is available to perform the functions that are required of the competent authority.

Furthermore, Jersey meets almost all other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Jersey'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. However, Jersey did not submit MAP statistics in accordance with the MAP Statistics Reporting Framework for all applicable years and did not seek to match its MAP statistics with all its treaty partners.

Lastly, Jersey almost meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. Jersey 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 Jersey to resolve tax treaty-related disputes

Jersey has entered into 29 tax treaties on income (and/or capital), all of which are in force.¹ These 29 treaties are being applied to the same number of jurisdictions. All but one of these treaties provide for a mutual agreement procedure (“**MAP**”) for resolving disputes on the interpretation and application of the provisions of the tax treaty. In addition, eight of the 29 treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.²

Under Jersey’s tax treaties, the competent authority function is assigned to the Treasury and Resources Minister. This function is further delegated to four staff members in Jersey’s tax administration: the Comptroller of Revenue, the Deputy Comptroller of Revenue, the Assistant Comptroller of Revenue (International) and a Deputy Director (International). These staff members act as the competent authority for Jersey along with other tasks, such as treaty negotiations and exchange of information.

Jersey issued guidance on the governance and administration of the mutual agreement procedure (“**MAP guidance**”) on the webpage of the government of Jersey in April 2019, which is available at:

<https://www.gov.je/TaxesMoney/InternationalTaxAgreements/DoubleTaxationProcedure/Pages/TreatyDisputes.aspx#anchor-1>

Developments in Jersey since 1 April 2019

Developments in relation to the tax treaty network

The stage 1 peer review report of Jersey noted that it was conducting tax treaty negotiations with 14 jurisdictions. This situation has remained the same.

Furthermore, Jersey 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 15 December 2017, Jersey deposited its instrument of ratification, following which the Multilateral Instrument has for Jersey entered into force on 1 July 2018. With the deposit of the instrument of ratification, Jersey also submitted its list of notifications and reservations to the Multilateral Instrument.³ In relation to the Action 14 Minimum Standard, Jersey has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

For the six treaties that are considered not to be in line with one or more elements of the Action 14 Minimum Standard and that will not be modified by the Multilateral Instrument, Jersey reported that it intends to update them via bilateral negotiations. In this respect,

Jersey reported that negotiations are ongoing with all six treaty partners to make these treaties in line with the Action 14 Minimum Standard.

Other developments

Jersey reported that since 1 April 2019, it has changed its position regarding treaties that do not contain a filing period for MAP requests. Jersey noted that its domestic statutory time limit of five years from the end of the relevant fiscal year would not apply in such cases and that its competent authority will follow the time limits specified in Article 25 of the OECD Model Tax Convention (OECD, 2017), which is within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the treaty.

Basis for the peer review process

The peer review process entails an evaluation of Jersey'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 Jersey, its peers and taxpayers. The questionnaires for the peer review process were sent to Jersey and the peers on 27 March 2019.

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, Jersey'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 11 December 2019. This report identifies the strengths and shortcomings of Jersey 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.⁴ 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 Jersey. In this update report, Jersey 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 Jersey is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, as described above, were taken into account, even if it concerned a modification or a replacement of an existing treaty. Reference is made to Annex A for the overview of Jersey'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 Jersey was launched on 27 March 2019, with the sending of questionnaires to Jersey and its peers. The FTA MAP Forum has approved the stage 1 peer review report of Jersey in September 2019, with the subsequent approval by the BEPS Inclusive Framework on 11 December 2019. Jersey submitted its update report only on 30 April 2021, which initiated stage 2 of the process.

The period for evaluating Jersey’s implementation of the Action 14 Minimum Standard for stage 1 ranged from 1 January 2016 to 31 March 2019 and formed the basis for the stage 1 peer review report. The period of review for stage 2 started on 1 April 2019 and depicts all developments as from that date until 31 December 2020.

In total two peers provided input: Australia and the United Kingdom. Out of these two peers, one had a MAP case with Jersey that started on or after 1 January 2016. This latter peer represents all of post-2015 MAP cases in Jersey’s inventory that started in 2016, 2017 or 2018. During stage 2, the same peers provided input. In addition, Japan also provided input during stage 2. For this stage, these peers represent 50% of post-2015 MAP cases in Jersey’s MAP inventory that started in 2016, 2017, 2018 or 2019. Generally, peers reported having had limited interactions with Jersey. Specifically with respect to stage 2, all peers that provided input reported that the update report of Jersey fully reflects the experiences these peers have had with Jersey since 1 April 2019 and/or that there was no addition to previous input given.

Input by Jersey and co-operation throughout the process

Jersey provided informative answers in its questionnaire, which was submitted with significant delay. Jersey was responsive in the course of the drafting of the peer review report by responding to requests for additional information with some delay. In addition, Jersey provided the following information:

- MAP profile⁵
- MAP statistics⁶ according to the MAP Statistics Reporting Framework (see below), but only for 2016, 2018 and 2020.

Concerning stage 2 of the process, Jersey submitted its update report after a significant delay. Finally, Jersey is a member of the FTA MAP Forum and has shown limited co-operation during stage 2 and the finalisation of the peer review process.

Overview of MAP caseload in Jersey

The analysis of Jersey’s MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2020 (“**Statistics Reporting Period**”). According to the statistics provided by Jersey, its MAP caseload during this period was as follows:

2016-20	Opening inventory 1/1/2016	Cases started	Cases Closed	End Inventory 31/12/2020
Attribution/allocation cases	0	0	0	0
Other cases	0	2	2	0
Total	0	2	2	0

General outline of the peer review report

This report includes an evaluation of Jersey’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**”).⁷ Apart from analysing Jersey’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Jersey during stage 1 and stage 2. Furthermore, the report depicts the changes adopted and plans shared by Jersey 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 Jersey 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 Jersey 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 Jersey has entered into are available at: <https://www.gov.je/taxsmoney/internationaltaxagreements/doubletaxation/Pages/index.aspx>. Reference is made to Annex A for the overview of Jersey’s tax treaties regarding the mutual agreement procedure.

2. This concerns the treaties with Cyprus*, Guernsey, Hong Kong, China, Isle of Man, Liechtenstein, Luxembourg, Rwanda and the United Kingdom.
*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.
3. Available at: www.oecd.org/tax/treaties/beps-mli-position-jersey-instrument-deposit.pdf.
4. Available at: <https://www.oecd.org/tax/beps/making-dispute-resolution-more-effective-map-peer-review-report-jersey-stage-1-5c130270-en.htm>.
5. Available at: www.oecd.org/tax/dispute/country-map-profiles.htm.
6. The MAP statistics of Jersey are included in Annex B and C of this report.
7. 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.

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 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 Jersey's tax treaties

2. Out of Jersey's 29 tax treaties, 26 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. One of the remaining three treaties does not include a provision that is based on or equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). The remaining two treaties only cover any difficulties or doubts arising as to the "application" of the treaty and not its "interpretation" and are thus, considered as not containing the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

3. Jersey reported that irrespective of whether the applicable treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), there is nothing in its domestic legislation and/or administrative practices that limits it from entering into an interpretive MAP agreement.

4. For the three tax treaties identified that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), one peer reported during stage 1 that Jersey approached this peer regarding tax treaty negotiations in the first half of 2018. The other peers did not provide input.

Recent developments

Multilateral Instrument

5. Jersey signed the Multilateral Instrument and deposited its instrument of ratification on 15 December 2017. The Multilateral Instrument for Jersey entered into force on 1 July 2018.

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), Jersey listed none of them as covered tax agreements under the Multilateral Instrument. Therefore, at this stage, none of the three tax 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).

Other developments

8. Jersey reported that for the three tax treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), and will not be modified by the Multilateral Instrument, negotiations are pending to make these treaties in line with the Action 14 minimum standard.

Peer input

9. Of the peers that provided input during stage 2, only one provided input in relation to its tax treaty with Jersey. 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

10. Jersey reported that it will continue to seek to include Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[A.1]	Three out of 29 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). None of these treaties will be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, negotiations are pending	As the three 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 via the Multilateral Instrument, Jersey should continue negotiations with the treaty partners concerned with a view to including the required provision.

[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.¹ The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The “roll-back” of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

Jersey’s APA programme

12. Jersey reported that it has not put in place an APA programme.

Roll-back of bilateral APAs

13. Since Jersey does not have an APA programme in place, there is no possibility to provide 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 2016-31 March 2019 (stage 1)

15. Jersey reported not having received any requests for bilateral APAs in the period 1 January 2016-31 March 2019, which is logical given that Jersey 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 Jersey in the period 1 January 2016-31 March 2019.

Period 1 April 2019-31 December 2020 (stage 2)

17. Jersey reported also not having received any requests for a bilateral APA since 1 April 2019, which is logical given that Jersey still 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 Jersey fully reflects their experience with Jersey since 1 April 2019 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. Jersey indicated that it does not anticipate any modifications in relation to element A.2.

Conclusion

	Areas for improvement	Recommendations
[A.2]	-	-

Note

1. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD, 2017b).

References

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

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

Part B

Availability and access to MAP

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

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

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 Jersey's tax treaties

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

21. Out of Jersey's 29 tax treaties, two 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. Furthermore, 14 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. The remaining 13 treaties can be categorised as follows:

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (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 authority of the contracting state of which they are resident.	10
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 for transfer pricing adjustments, whereas the scope of the treaty also covers certain items of income concerning individuals.	2
No MAP provision	1

23. The ten treaties in the first row are considered as not having 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, all of these ten treaties are considered to be in line with this part of element B.1, since they do not contain a non-discrimination provision and only apply to residents of one of the states.

24. The two treaties in the second row of the table are 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 the scope of the MAP provision is limited to one type of dispute, whereas the treaty has a broader scope of application. These treaties are therefore not in line with this part of element B.1.

25. Finally, the one treaty mentioned in the last row of the table does not contain a provision based on Article 25 of the OECD Model Tax Convention (OECD, 2017) that allows taxpayers to file a MAP request and thus, this treaty is considered not to be in line with this part of element B.1.

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

26. Out of Jersey's 29 tax treaties, 25 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) 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.

27. The remaining four tax treaties that do not contain this provision can be categorised as follows:

Provision	Number of tax treaties
No MAP provision	1
Filing period less than 3 years for a MAP request (2 years)	1
Treaties that have a limited scope of application, where the MAP is restricted to transfer pricing cases and where the filing period is three years, however, as of the date of the first notification of a transfer pricing adjustment	2

Peer input

28. For the four treaties identified that do not contain 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), one of the relevant peers reported during stage 1 that Jersey approached this peer to regarding tax treaty negotiations in the first half of 2018. The other peers did not provide input.

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

29. As indicated in paragraphs 21-25 above, all of Jersey’s tax treaties that contain a MAP provision allow the filing of a MAP request irrespective of domestic remedies. In this respect, Jersey indicated that nothing in its domestic tax law prevents a taxpayer from requesting MAP assistance where the taxpayer has sought to resolve the issue under dispute via the judicial and administrative remedies provided by the domestic law of Jersey. Further, Jersey reported that it would grant access to MAP even in cases where there is a pending administrative or judicial proceeding or if an administrative or court decision has been issued regarding the same subject matter.

30. Sections 2.7-2.9 of Jersey’s MAP guidance clarifies that the submission of a MAP request does not prevent the taxpayer from pursuing domestic remedies and appeals. The guidance further notes that where the taxpayer submits a MAP request, but the taxpayer is pursuing domestic tax remedies in either Jersey or the other jurisdiction, the MAP process will only be regarded as starting when domestic remedies are abandoned, suspended or concluded, and that its competent authority would accept a protective MAP request whilst the taxpayer is pursuing domestic remedies.

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

31. As noted in paragraph 27 above, one of Jersey’s tax treaties does not contain a filing period, which is the treaty that does not contain a provision that is based on or equivalent to Article 25 of the OECD Model Tax Convention (OECD, 2017) and two of Jersey’s tax treaties contain a filing period that applies to transfer pricing cases but no filing period relating to other cases, while the scope of application of the treaty is broader than transfer pricing cases. In this respect, the stage 1 report noted that Jersey’s domestic time limits of five years after the end of the relevant tax year would apply for the submission of MAP cases under these treaties. Jersey reported that since 1 April 2019, Jersey has revised its position and would now follow the time limits specified in Article 25 of the OECD Model Tax Convention (OECD, 2017), which is within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this treaty. Therefore, the recommendation made in stage 1 has been addressed.

32. With regard to the one treaty that provides a shorter period to submit a MAP request than Article 25(1), second sentence of the OECD Model Tax Convention (OECD, 2017), section 2.14 of Jersey’s MAP guidance clarifies that in such cases Jersey would accept the MAP requests until the end of the three years as from the first notification of the action resulting in taxation not in accordance with the tax treaty. However, Jersey noted that its MAP guidance will be revised to say the time limit will be as set out in the relevant tax treaty.

Recent developments

Multilateral Instrument

33. Jersey signed the Multilateral Instrument and deposited its instrument of ratification on 15 December 2017. The Multilateral Instrument for Jersey entered into force on 1 July 2018.

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

34. 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 article 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), 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.

35. With the deposit of its instrument of ratification, Jersey 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 the Jersey's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which he is a resident, Jersey opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Jersey listed ten of its 29 treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for all of them the notification they contain a provision 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). None of these ten treaties concern the two treaties mentioned in paragraph 21 above that already allows the submission of a MAP request to either competent authority.

36. One of the ten relevant treaty partners is not a signatory to the Multilateral Instrument, whereas the remaining nine treaty partners have listed their treaty with Jersey as a covered tax agreement under that instrument. One of these nine treaty partners 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. Out of remaining eight treaty partners, seven listed their treaty with Jersey 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).

37. With respect to these seven treaties, six treaty partners have already deposited their instrument of ratification of the Multilateral Instrument, following which the Multilateral Instrument has entered into force for the treaties between Jersey 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 treaty, the instrument will, upon entry into force for this treaty, modify it to include this equivalent.

38. Furthermore, for the one remaining treaty partner that did not list its treaty with Jersey on the basis of Article 16(6)(a), the Multilateral Instrument will only supersede this treaty to the extent that the provisions contained therein are incompatible with the first sentence of Article 16(1). Since the provisions of these covered tax agreements do not contain 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), they are considered to be incompatible with the first sentence of Article 16(1). Therefore, for this treaty, the Multilateral Instrument will, upon entry into force for this treaty, supersede this treaty 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).

39. In view of the above and in relation to the three treaties identified in paragraphs 23-25 that are considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as it read prior to the adoption of the final Action 14 final report (OECD, 2015b), none of the three treaties will be modified via the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either contracting state.

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 three tax treaties identified in paragraph 27 above, Jersey listed one of these three treaties as a covered tax agreement under the Multilateral Instrument and for this treaty, and it made, pursuant to Article 16(6)(b)(i), a notification that it does not contain a provision described in Article 16(4)(a)(ii). The relevant treaty partner is a signatory to the Multilateral Instrument, listed its treaty with Jersey as a covered tax agreement under that instrument and also made such notification.

42. This 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 Jersey 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).

Other developments

43. Jersey reported that for the three tax treaties do not contain the equivalent of Article 25(1), first and/or second sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), and will not be modified by the Multilateral Instrument, negotiations are pending to make these treaties in line with the Action 14 minimum standard.

Peer input

44. Of the peers that provided input during stage 2, only one provided input in relation to its tax treaty with Jersey. However, this peer does not concern one of the four treaties identified above that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b)

Anticipated modifications

45. Jersey reported it will seek to include Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
	Two out of 29 tax treaties do not contain a provision 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), or as amended by that final report, and also the timeline to submit a MAP request is less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. These treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, negotiations are pending.	For the two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2017), Jersey should continue negotiations with the treaty partners concerned with a view to including the required provision. This concerns a provision that is equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention either: a. as amended by the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
[B.1]	One out of 29 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the Action 14 final report or as amended by that report (OECD, 2015b). This treaty will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, negotiations are pending.	As the treaty that does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) will not be modified by the Multilateral Instrument to include such equivalent, Jersey should continue negotiations with the treaty partner concerned with a view to including the required provision. This concerns a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention, either: a. as amended in the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.

[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).

46. 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

47. As discussed under element B.1, two out of Jersey's 29 treaties 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. As was also discussed under element B.1, eight of the remaining 27 treaties have been or will be modified or superseded by the Multilateral Instrument to include such equivalent to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

48. Jersey reported that it has introduced a bilateral consultation process that allows the other competent authority concerned to provide its views on the case when Jersey's competent authority considers the objection raised in the MAP request not to be justified. Section 3.4 of Jersey's MAP guidance contains a reference to the existence of such a bilateral consultation process and Jersey reported that the process is documented in its internal guidance, which specifies the steps of the process and the timing of these steps as well as the information that is provided to the other competent authority.

Recent developments

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

Practical application*Period 1 January 2016-31 March 2019 (stage 1)*

50. Jersey reported that in the period 1 January 2016-31 March 2019 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2016 and 2018 MAP statistics submitted by Jersey show that none of its MAP cases was closed with the outcome “objection not justified”.

51. All peers that provided input indicated not being aware of any cases for which Jersey’s competent authority denied access to MAP in the period 1 January 2016-31 March 2019. They also reported not having been consulted/notified of a case where Jersey’s competent authority considered the objection raised in a MAP request as not justified since that date, which can be clarified by the fact that no such instances have occurred in Jersey during this period.

Period 1 April 2019-31 December 2020 (stage 2)

52. Jersey reported that since 1 April 2019, 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 2020 MAP statistics submitted by Jersey also show that none of its MAP cases was closed with the outcome “objection not justified”.

53. All peers that provided input during stage 1 also indicated in stage 2 that since 1 April 2019 they are not aware of any cases for which Jersey’s competent authority considered an objection in a MAP request not justified. They also reported not having been consulted/notified in such cases. The same input was given by the one peer that only provided input during stage 2.

Anticipated modifications

54. Jersey indicated that it does not anticipate any modifications in relation to element B.2.

Conclusion

	Areas for improvement	Recommendations
[B.2]	-	-

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

Jurisdictions should provide access to MAP in transfer pricing cases.

55. 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

56. Out of Jersey’s 29 tax treaties, 13 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. Furthermore, 12 do not contain a provision that is based on Article 9 of the OECD Model Tax Convention (OECD, 2017) with regard to associated enterprises.

57. For the remaining four treaties, the following analysis is made:

- One treaty does not contain a provision that is based on or equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017).
- One treaty contains a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but does not contain the last part of the sentence stating that the competent authorities “shall if necessary consult each other”.
- 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 because the granting of a corresponding adjustment could be read as only optional as the word “shall” is replaced by “may”.

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

59. Sections 1.5 and 2.10 of Jersey’s MAP guidance indicate that transfer pricing cases are considered cases that are eligible for MAP in Jersey.

Recent developments

Multilateral Instrument

60. Jersey signed the Multilateral Instrument, and ratified it on 15 of December 2017. The Multilateral Instrument for Jersey entered into force on 1 July 2018.

61. 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 not take effect for a tax treaty if one or both of the treaty partners have, pursuant to Article 17(3), reserved the right not to 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 notify the depositary 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)).

62. With regard to the four treaties identified in paragraph 57 above that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (excluding the 12 treaties that do not contain Article 9 at all), Jersey listed two as a covered tax agreement under the Multilateral Instrument and included none of them in the list of treaties for which Jersey has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument.

63. Both relevant treaty partners are signatories to the Multilateral Instrument and listed their treaties with Jersey under that instrument. However, both treaty partners have, on the basis of Article 17(3), reserved the right not to apply Article 17(2) for its covered tax agreements. Therefore, at this stage, none of these four tax treaties identified above will be modified by the Multilateral Instrument to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017).

Application of legal and administrative framework in practice

Period 1 January 2016-31 March 2019 (stage 1)

64. Jersey reported that in the period 1 January 2016-31 March 2019, it has not denied access to MAP on the basis that the case concerned a transfer pricing case.

65. All peers that provided input indicated that they are not aware of a denial of access to MAP by Jersey in the period 1 January 2016-31 March 2019 on the basis that the case concerned was a transfer pricing case.

Period 1 April 2019-31 December 2020 (stage 2)

66. Jersey reported that also since 1 April 2019, it has for none of the MAP requests it received denied access to MAP on the basis that the case concerned was a transfer pricing case.

67. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Jersey fully reflects their experience with Jersey since 1 April 2019 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. This peer further noted that its treaty with Jersey does not contain the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), which is in line with the above analysis since this treaty does not contain a provision that is based on Article 9 of the OECD Model Tax Convention (OECD, 2017) with regard to associated enterprises.

Anticipated modifications

68. Jersey 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 Article 9(2) in all of its future tax treaties. Other than this, Jersey 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.

69. 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

70. None of Jersey's 29 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 Jersey do not include a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

71. Section 1.5 of Jersey's MAP guidance clarifies that MAP may be appropriate when a taxpayer considers the application of a domestic law anti-abuse provision is in conflict with the provisions of the relevant tax treaty and that the mutual agreement procedure will determine what is appropriate in the circumstances. However, the MAP guidance is silent on access to MAP concerning treaty anti-abuse provisions.

Recent developments

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

Practical application

Period 1 January 2016-31 March 2019 (stage 1)

73. Jersey reported that in the period 1 January 2016-31 March 2019, Jersey's competent authority has 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 were received during this period.

74. All peers that provided input indicated not being aware of cases where Jersey has denied access to MAP in the period 1 January 2016-31 March 2019 in relation to the application of treaty and/or domestic anti-abuse provisions.

Period 1 April 2019-31 December 2020 (stage 2)

75. Jersey reported that since 1 April 2019, 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 were received since that date.

76. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Jersey fully reflects their experience with Jersey since 1 April 2019 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

77. Jersey 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.

78. 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 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

79. Jersey reported that it is possible in Jersey for a taxpayer and the tax administration to enter into an audit settlement. Jersey reported that access to MAP will not be denied in cases where a taxpayer has entered into an audit settlement with the tax administration.

80. The guidance that explains the relationship between access to MAP and audit settlements is discussed in element B.10.

Administrative or statutory dispute settlement/resolution process

81. Jersey does not have an administrative or statutory dispute settlement/resolution process in place, which is independent from the audit and examination functions, which would allow Jersey to deny access to MAP for issues resolved through that process.

Recent developments

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

*Practical application**Period 1 January 2016-31 March 2019 (stage 1)*

83. Jersey reported that in the period 1 January 2016-31 March 2019 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.

84. All peers indicated not being aware of a denial of access to MAP in Jersey in the period 1 January 2016-31 March 2019 in cases where there was an audit settlement between the taxpayer and the tax administration.

Period 1 April 2019-31 December 2020 (stage 2)

85. Jersey reported that since 1 April 2019 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.

86. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Jersey fully reflects their experience with Jersey since 1 April 2019 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

87. Jersey 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.

88. To resolve cases where there is taxation not in accordance with the provisions of the tax treaty, it is important that competent authorities do not limit access to MAP when taxpayers have complied with the information and documentation requirements as provided

in the jurisdiction's guidance relating hereto. Access to MAP will be facilitated when such required information and documentation is made publicly available.

Legal framework on access to MAP and information to be submitted

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

90. If not all required information/documentation is provided by the taxpayer, Jersey reported that the taxpayer would be asked to provide further information within a period of two months. Jersey clarified that if the taxpayer does not provide the requested information within this period, the case will be closed and its competent authority would inform the other competent authority. If an incomplete submission of information is made, Jersey reported that it would allow the taxpayer a further period of two weeks to provide the missing information. If the information provided is considered incomplete and the case is denied access to MAP, Jersey reported that it would allow the other competent authority the chance to review what has been provided and to challenge Jersey's conclusion that insufficient information had been provided. Finally, Jersey clarified that the taxpayer would also be at liberty to submit a new MAP request if the time limit in the relevant tax treaty has not expired. However, this information has not been provided in Jersey's MAP guidance.

Recent developments

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

Practical application

Period 1 January 2016-31 March 2019 (stage 1)

92. Jersey 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 2016-31 March 2019 its competent authority has not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

93. All peers that provided input indicated not being aware of a limitation of access to MAP by Jersey in the period 1 January 2016-31 March 2019 in situations where taxpayers complied with information and documentation requirements.

Period 1 April 2019-31 December 2020 (stage 2)

94. Jersey reported that since 1 April 2019 its competent authority has also not denied access to MAP for cases where the taxpayer had provided the required information or documentation.

95. All peers that provided input during stage 1 stated during stage 2 that the update report provided by Jersey fully reflects their experience with Jersey since 1 April 2019 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

96. Jersey 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.

97. 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 by these treaties.

Current situation of Jersey's tax treaties

98. Out of Jersey's 29 tax treaties, 16 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.

99. The remaining 13 treaties do not contain such equivalent, and they have a limited scope of application. This concerns tax treaties that only apply to a certain category of income or a certain category of taxpayers, whereby the structure and articles of the OECD Model Tax Convention (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 include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in those 13 treaties with a limited scope of application.

100. No peer input was provided in relation to this element in stage 1.

Recent developments

Peer input

101. Of the peers that provided input during stage 2, only one provided input in relation to its tax treaty with Jersey. This peer noted that its treaty with Jersey does not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), which is in line with the above analysis.

Anticipated modifications

102. Jersey 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.

Jersey's MAP guidance

104. Jersey's published rules, guidelines and procedures in April 2019, which are available at:

<https://www.gov.je/TaxesMoney/InternationalTaxAgreements/DoubleTaxationProcedure/Pages/TreatyDisputes.aspx>

105. Jersey's MAP guidance comprises three parts dealing with an introduction to the MAP process, initiating a MAP request and resolving the MAP request respectively. These parts include the following information:

Part	Content
PART 1: Introduction	<ul style="list-style-type: none"> • Introduction to the MAP process • Examples of cases that are eligible for MAP
PART 2: Initiating a MAP request	<ul style="list-style-type: none"> • Who can make a MAP request • Circumstances where a request will be accepted by Jersey • Relationship with domestic remedies • Protective MAP requests • Access to MAP in transfer pricing cases, domestic anti-abuse cases, audit settlements multilateral cases, cases involving bona fide foreign-initiated self-adjustments • Time-limits for filing a MAP request • Form and content of the request, including the manner and form in which the taxpayer should submit its MAP request • The specific information and documentation that should be included in a MAP request (see also below) • Contact details of Jersey's competent authority • Rights and role of taxpayers in the process

Part	Content
PART 3: Resolving the MAP request	<ul style="list-style-type: none"> • How the MAP functions in terms of timing and the role of the competent authorities • Information on the availability of arbitration • Suspension of tax collection during MAP • Implementation of MAP agreements (steps and timing of the steps including actions to be taken by the taxpayers); • Consideration of penalties in MAP

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

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

- availability of MAP in cases involving treaty anti-abuse provisions
- whether taxpayers can request for the multi-year resolution of recurring issues through MAP
- the consideration of interest charges in the 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.² This agreed guidance is shown below. Jersey'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.

109. In addition, Jersey’s MAP guidance requires taxpayers to specify whether the MAP request being filed is a protective MAP request or not.

Recent developments

110. There are no recent developments with respect to element B.8.

Anticipated modifications

111. Jersey noted that its domestic legislation does not allow the application of interest charges as of now. However, Jersey reported that interest charges will become part of Jersey’s tax law from 2023 onwards and that it will consider revising its MAP guidance to include this topic.

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.

112. The public availability and accessibility of a jurisdiction’s MAP guidance increases public awareness on access to and the use of the MAP in that jurisdiction. Publishing MAP profiles on a shared public platform further promotes the transparency and dissemination of the MAP programme.³

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

113. The MAP guidance of Jersey was published in April 2019 and can be found at:

<https://www.gov.je/TaxesMoney/InternationalTaxAgreements/DoubleTaxationProcedure/Pages/TreatyDisputes.aspx>

114. As regards its accessibility, Jersey’s MAP guidance can easily be found on the website of Jersey’s public services under the sub-section “International Tax Agreements” in the section “Taxes and your money”. It is also easily accessible by searching for “double taxation” or “mutual agreement procedure” on such website.

MAP profile

115. The MAP profile of Jersey is published on the website of the OECD and was last updated in July 2021. This MAP profile is complete and often with detailed information. This profile includes external links that provide extra information and guidance.

Recent developments

116. There are no recent developments with respect to element B.9.

Anticipated modifications

117. Jersey indicated that it does not anticipate any modifications in relation to element B.9.

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.

118. 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

119. As previously discussed under B.5, the Jersey tax administration is allowed to enter into audit settlements with taxpayers.

120. Section 2.5 of Jersey's MAP guidance clarifies that its competent authority does not prevent access to MAP where double taxation has arisen as a consequence of a tax audit (or enquiry) settlement between the taxpayer and Jersey's tax authority or the tax authority of the other jurisdiction.

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

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

122. As previously mentioned under element B.5, Jersey 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. There is therefore no need to address the effects of such process in Jersey's MAP guidance.

123. Peers raised no issues with respect to an administrative or statutory dispute settlement/resolution process in Jersey, which can be clarified by the fact that such process is not in place in Jersey.

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

124. As Jersey has no internal administrative or statutory dispute settlement/resolution process in place, there is therefore no need to notify treaty partners of it.

Recent developments

125. There are no recent developments with respect to element B.10.

Anticipated modifications

126. Jersey indicated that it does not anticipate any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

Notes

1. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
2. Ibid. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
3. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.

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- OECD (2015a), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>.
- OECD (2015b), “Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report”, in *OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241633-en>.
- 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 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.

127. 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 Jersey’s tax treaties

128. Out of the Jersey’s 29 tax treaties, 25 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. Furthermore, three treaties do not contain a provision that is based on or equivalent to 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). The remaining treaty contains a provision that is based on 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), but the phrase “with a view to the avoidance of taxation which is not in accordance with the treaty” is missing and is thus considered to not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

129. For the four treaties identified that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), one of the relevant peers reported during stage 1 that Jersey approached this peer regarding tax treaty negotiations in the first half of 2018. The other peers did not provide input.

Recent developments

Multilateral Instrument

130. Jersey signed the Multilateral Instrument and deposited its instrument of ratification on 15 December 2017. The Multilateral Instrument for Jersey entered into force on 1 July 2018.

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 four tax treaties identified above that are considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Jersey listed none of them as a covered tax agreement under the Multilateral Instrument. Therefore, at this stage, these four treaties 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. Jersey reported that for the four tax treaties that do 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, negotiations are pending to make these treaties in line with the Action 14 minimum standard.

Peer input

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

Anticipated modifications

135. Jersey reported that it will continue to 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]	Four out of 29 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). None of these treaties will be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, negotiations are pending.	As the four treaties that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) will not be modified via the Multilateral Instrument, Jersey should continue negotiations with the treaty partners concerned with a view to including the required provision.

[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 an appropriate time period to resolve MAP cases on average.

Reporting of MAP statistics

137. The FTA MAP Forum has agreed on rules for reporting of MAP statistics (“**MAP Statistics Reporting Framework**”) for MAP requests submitted on or after 1 January 2016 (“**post-2015 cases**”). Also, for MAP requests submitted prior to that date (“**pre-2016 cases**”), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template.

138. For the years 2016, 2018 and 2020, Jersey provided its MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline. For the years 2017 and 2019, MAP statistics were only submitted after the commencement of the peer review process for Jersey. Jersey clarified as regards the 2017 MAP Statistics that it only concerned one case for the year 2017 and that the delay in reporting was principally due to a significant delay by its MAP partner in notifying Jersey of this case. Further, Jersey reported that staff changes within its competent authority along with the COVID-19 crisis prevented it from filing the 2019 MAP Statistics on time. The statistics discussed below include both pre-2016 and post-2015 cases and the full statistics are attached to this report as Annex B and Annex C respectively and should be considered jointly to understand the MAP caseload of Jersey.¹

139. Jersey reported that it had only two MAP partners and that it had agreed with the respective treaty partners on statistical reporting for these cases. No peer input was provided with respect to the matching of MAP statistics with Jersey. Based on the information provided by Jersey’s MAP partners, its post-2015 MAP statistics for the years 2016-20 do not match those of its treaty partners as reported by the latter since one of its treaty partners has not reported a MAP case with Jersey.

Monitoring of MAP statistics

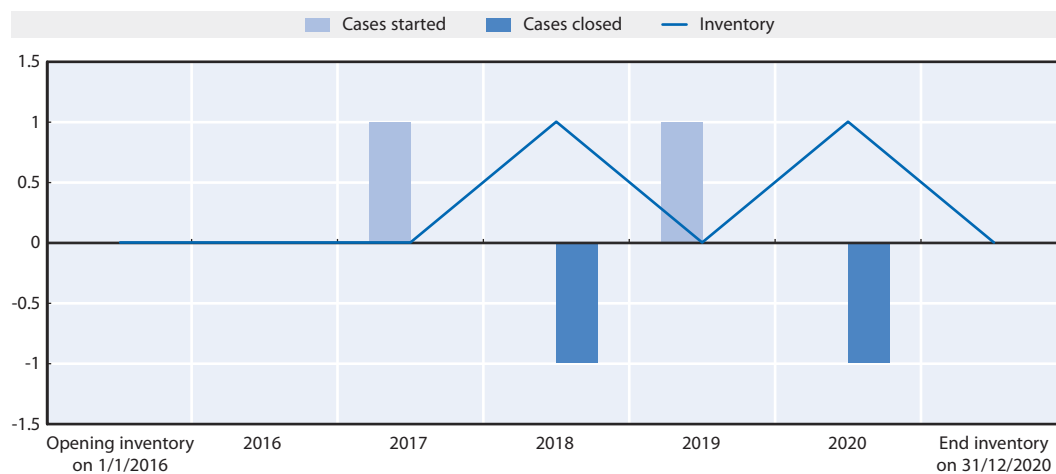
140. Due to the small number of cases, Jersey reported that it has no system in place for monitoring and managing its MAP caseload.

Analysis of Jersey’s MAP caseload

Global overview

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

Figure C.1. Evolution of Jersey’s MAP caseload



142. At the beginning of the Statistics Reporting Period Jersey had no pending MAP cases. One other MAP case was started in 2017 which was closed in 2018 and another other case was started in 2019 which was closed in 2020. At the end of the Statistics Reporting Period, Jersey had no MAP cases left in its inventory.

Pre-2016 cases

143. Jersey did not have any pre-2016 MAP case over the Statistics Reporting Period.

Post-2015 cases

144. As mentioned above, Jersey had one other MAP case started in 2017 that was closed in 2018 and another other MAP case that was started in 2019 which was closed in 2020.

Overview of cases closed during the Statistics Reporting Period

Reported outcomes

145. During the Statistics Reporting Period Jersey closed two post-2015 MAP cases, both of them being other MAP cases. One case was closed with the outcome “resolved via domestic remedy” and the other was closed with the outcome “agreement fully eliminating double taxation/fully resolving taxation not in accordance with the tax treaty.”

Average timeframe needed to resolve MAP cases

All cases closed during the Statistics Reporting Period

146. The average time needed to close two MAP cases during the Statistics Reporting Period was 10.85 months. This average can be broken down as follows:

	Number of cases	Start date to End date (in months)
Attribution/Allocation cases	0	N/A
Other cases	2	10.85
All cases	2	10.85

Peer input

147. The peer that had a case with Jersey reported during stage 1 that this case involved an individual and that there was limited discussion with Jersey as the case was resolved by domestic remedies by this peer.

Recent developments

148. Jersey was in the stage 1 peer review report under element C.2 recommended to seek to resolve future MAP cases within a timeframe that results in an average timeframe of 24 months. In this regard, Jersey reported that there are no recent developments with respect to element C.2 as the one case that was closed since 1 April 2019 was closed within this timeframe.

149. All peers that provided input during stage 1 confirmed that this input holds equally relevance for the period starting on 1 April 2019. The same input was given by the one peer that only provided input during stage 2.

Anticipated modifications

150. Jersey indicated that it does not anticipate any modifications in relation to element C.2.

Conclusion

	Areas for improvement	Recommendations
[C.2]	MAP statistics for 2019 were not submitted.	Jersey should report its MAP statistics in accordance with the MAP Statistics Reporting Framework.
	MAP statistics was not sought with all of the treaty partners.	Jersey should endeavour to match its MAP statistics with all of its treaty partners.

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

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

151. 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 Jersey's competent authority

152. Under Jersey's tax treaties, the competent authority function is assigned to the Treasury and Resources Minister or his authorised representative. Jersey reported that this function has been delegated four staff members within the Jersey tax administration: the Comptroller of Revenue, the Deputy Comptroller of Revenue, the Assistant Comptroller of Revenue (International) and a Deputy Director (International). Due to the very small MAP caseload in Jersey, these staff members are primarily concerned with other tasks, such as treaty negotiations and exchanging information.

153. With respect to the experience of the people in charge of MAP cases in Jersey, Jersey reported that (i) the Assistant Comptroller of Revenue (International) has 18 years' experience in Jersey and international tax matters, and (ii) the deputy director was formerly a senior officer/team leader at the competent authority in Canada. Jersey further reported that the deputy director has attended the OECD's MAP training course.

154. With respect to the funds available to the MAP function, Jersey reported that senior management of its tax authority has guaranteed that a budget would be made available if needed for dealing with MAP cases, for instance to be able to attend to face-to-face meetings.

Monitoring mechanism

155. Jersey reported that the monitoring and assessment of the adequacy of resources assigned to MAP is done through weekly management meetings with the international tax unit, fortnightly and monthly management meetings with senior management and bi-monthly updates to ministers. Jersey further reported that the metrics used to assess the adequacy of resources are the timeliness of responding to and resolving requests and whether sufficient technical resources exist to deal with individual requests.

156. Jersey further reported that in the past, this process has allowed rapid identification where further resources were required in order to respond to increasing international workload and swift allocation of additional funding and/or staff, for instance when Jersey experienced a marked increase in the number of requests for exchange of information on request. Jersey concluded that it is confident that the same model will prove effective for MAP.

Recent developments

157. Jersey reported that it faced a resource constraint between late 2019 and late 2020 since the deputy director that was handling MAP cases departed from the team and the appointed replacement in early 2020 could not join till late 2020 owing to COVID-19 restrictions. Jersey further reported that all the staff members in Jersey's competent authority have attended MAP trainings organised by the OECD since 1 April 2019.

Practical application

MAP statistics

158. As discussed under element C.2, Jersey closed two other MAP cases in an average of 10.85 months during the Statistics Reporting Period.

Peer input

Period 1 January 2016-31 March 2019 (stage 1)

159. Peers did not provide input in relation to element C.3.

Period 1 April 2019-31 December 2020 (stage 2)

160. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Jersey fully reflects their experience with Jersey since 1 April 2019 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

161. Jersey indicated that it does not anticipate any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	While Jersey closed MAP cases on an average of 10.85 months (which is within the pursued average for resolving MAP cases received on or after 1 January 2016), Jersey reported resource constraints during the Statistics Reporting Period that did not allow it to report MAP statistics, match such statistics with treaty partners or participate actively in stage 2 of the peer review process.	Jersey should closely monitor whether the resources available for the competent authority function remain adequate in order to resolve future MAP cases in a timely, efficient and effective manner. In particular, Jersey should ensure that at least one person is available to perform the functions that are required of the competent authority.

[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.

162. 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

163. Jersey reported that staff in charge of MAP are not involved in tax audit work and that both streams of work remain completely independent. Jersey further clarified that if a MAP request was in respect of an adjustment made further to an audit performed in Jersey, the facts would be sought from the tax audit department. In other instances, Jersey reported that its competent authority may consult the tax technical unit of its tax administration who are also not involved in tax audits. Finally, Jersey reported that independent professional advice could be obtained if there would be a need for an expertise that is not available in its tax administration.

164. Despite the fact that there is some overlap between the competent authority and the people in charge of treaty negotiation, Jersey reported that, in practice, staff involved in negotiating MAP agreements are not influenced by policy considerations reflecting what Jersey would like to see in future treaty amendments.

Recent developments

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

Practical application

Period 1 January 2016-31 March 2019 (stage 1)

166. Peers generally reported no impediments in Jersey 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 2016-31 March 2019.

Period 1 April 2019-31 December 2020 (stage 2)

167. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Jersey fully reflects their experience with Jersey since 1 April 2019 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

168. Jersey 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.

169. 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 Jersey

170. Jersey reported that staff in charge of MAP cases would be expected to be effective in their work and that any assessment of performance would take into account (i) technical judgement, (ii) whether internal procedures have been followed, (iii) the form and content of position papers and (iv) completion of cases within a reasonable period.

171. Jersey reported that it has set targets for staff in charge of MAP process to evaluate their work performance and these targets relate to the timeliness of resolving the MAP case within the framework set out in the Action 14 final report (OECD, 2015) and compliance with all necessary notification obligations. Jersey reported that it follows these indicators on a weekly basis at management meetings within the international tax unit, at fortnightly and monthly senior management meetings and bi-monthly with ministers. Jersey further noted that the performance of its staff against targets are then used for quarterly performance reviews.

172. The Action 14 final report (OECD, 2015) includes examples of performance indicators that are considered appropriate. These indicators are shown below and presented in the form of a checklist when they are indirectly used by Jersey:

- 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).

173. Further to the above, Jersey 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

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

Practical application

Period 1 January 2016-31 March 2019 (stage 1)

175. All peers that provided input indicated not being aware that Jersey used performance indicators based on the amount of sustained audit adjustments or maintaining tax revenue in the period 1 January 2016-31 March 2019.

Period 1 April 2019-31 December 2020 (stage 2)

176. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Jersey fully reflects their experience with Jersey since 1 April 2019 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

177. Jersey 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.

178. 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

179. Jersey reported that it has no domestic law limitations for including MAP arbitration in its tax treaties. However, Jersey reported that its model tax agreement does not include an article on arbitration, owing to the fact that arbitration is not widely used by other jurisdictions and by the potential high costs of this process.

180. Jersey reported that it did not opt for part VI of the Multilateral Instrument, which includes a mandatory and binding arbitration provision.² Jersey's MAP guidance contains a reference to arbitration, section 3.10 of which notes that if at the end of two years the matter has not been resolved, the taxpayer may request the matter be resolved by arbitration if the relevant tax treaty allows the same.

Recent developments

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

Practical application

182. To date, Jersey has incorporated an arbitration clause in eight of 29 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): six treaties.
- Voluntary and binding arbitration: two treaties.

Anticipated modifications

183. Jersey indicated that it does not anticipate any modifications in relation to element C.6.

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

Notes

1. For post-2015 cases, if the number of MAP cases in Jersey’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, Jersey reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
2. An overview of the Jersey’s position on the Multilateral Instrument is available at: www.oecd.org/tax/treaties/beps-mli-position-jersey-instrument-deposit.pdf.

References

- OECD (2015), “Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report”, in *OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241633-en>.
- 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.

184. 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

185. Jersey reported that its domestic time limits expire five years after the end of the relevant year of assessment. However, Jersey noted that MAP agreements would be implemented notwithstanding such time limits provided this is permitted by the relevant tax treaty. Section 3.7 of Jersey’s MAP guidance states that Jersey will give effect to any adjustment and penalties notwithstanding any time limits under Jersey’s domestic law. In the absence of a provision equivalent to Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017), Jersey reported that its domestic time limits would apply.

186. Sections 3.7 and 3.8 of Jersey’s MAP guidance clarifies that the taxpayer’s consent is requested after a mutual agreement is reached by Jersey’s competent authority. It is further noted that if the taxpayer does not agree, it will be given an opportunity to explain why the proposed agreement is inappropriate. If after further bilateral discussions, the competent authorities conclude the original proposed agreement remains the most appropriate in the circumstances, the taxpayer would have to choose between accepting the proposed terms and pursuing suspended domestic remedies.

Recent developments

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

Practical application

Period 1 January 2016-31 March 2019 (stage 1)

188. Jersey reported that no MAP agreements requiring implementation in Jersey were reached in the period 1 January 2016-31 March 2019.

189. All peers that provided input reported that they were not aware of any MAP agreement reached in the period 1 January 2016-31 March 2019.

Period 1 April 2019-31 December 2020 (stage 2)

190. Jersey reported that no MAP agreements requiring implementation in Jersey were reached since 1 April 2019 as well.

191. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Jersey fully reflects their experience with Jersey since 1 April 2019 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

192. Jersey 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 Jersey'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 the time limit of five years in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017) in an assessed jurisdiction's relevant tax treaty, prevent the implementation of a MAP agreement, Jersey 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, Jersey should for clarity and transparency purposes notify the treaty partner thereof without delay.

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

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

193. Delays in implementing 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

194. Jersey reported that its competent authority would inform the office responsible for implementing the agreement and require implementation to be made within two months. However, this information is not provided in Jersey's MAP guidance.

Recent developments

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

Practical application*Period 1 January 2016-31 March 2019 (stage 1)*

196. Jersey reported that no MAP agreements requiring implementation in Jersey were reached in the period 1 January 2016-31 March 2019.

197. All peers that provided input reported that they were not aware of any delays in reaching MAP agreements in the period 1 January 2016-31 March 2019.

Period 1 April 2019-31 December 2020 (stage 2)

198. Jersey reported that no MAP agreements requiring implementation in Jersey were reached since 1 April 2019 as well.

199. All peers that provided input during stage 1 stated in stage 2 that the update report provided by Jersey fully reflects their experience with Jersey since 1 April 2019 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

200. Jersey 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.

201. 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 Jersey's tax treaties

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

203. Out of Jersey's 29 tax treaties, 26 treaties 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 domestic law. The remaining three treaties do not contain a provision that is based on or equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

204. For the three tax treaties identified that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternatives, one of the relevant peers reported during stage 1 that Jersey approached this peer regarding tax treaty negotiations in the first half of 2018. The other peers did not provide input.

Recent developments

Multilateral Instrument

205. Jersey signed the Multilateral Instrument and deposited its instrument of ratification on 15 December 2017. The Multilateral Instrument for Jersey entered into force on 1 July 2018.

206. 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 to 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.

207. With regard to the three 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 the alternative provisions for Articles 9(1) and 7(2), Jersey listed none of these treaties as covered tax agreements under the Multilateral Instrument. Therefore, at this stage, none of these treaties will be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

Other development

208. Jersey reported that for the three 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, negotiations are pending to make these treaties in line with the Action 14 minimum standard.

Peer input

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

Anticipated modifications

210. Jersey reported that it will continue to 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]	Three out of 29 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). None of these treaties will be modified by the Multilateral Instrument. With respect to these treaties, negotiations are pending.	As the three treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternative provisions will not be modified via the Multilateral Instrument, Jersey should continue negotiations with the treaty partners concerned with a view to including the required provision or be willing to accept the inclusion of both alternative provisions.

Reference

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

Summary

	Areas for improvement	Recommendations
Part A: Preventing disputes		
[A.1]	Three out of 29 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017). None of these treaties will be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, negotiations are pending	As the three treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) will not be modified via the Multilateral Instrument, Jersey should continue negotiations with the treaty partners concerned with a view to including the required provision.
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	Two out of 29 tax treaties do not contain a provision 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), or as amended by that final report, and also the timeline to submit a MAP request is less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. These treaties will not be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, negotiations are pending.	For the two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(1), first and second sentence, of the OECD Model Tax Convention (OECD, 2017), Jersey should continue negotiations with the treaty partners concerned with a view to including the required provision. This concerns a provision that is equivalent to Article 25(1), first and second sentence, of the OECD Model Tax Convention either: a. as amended by the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
[B.1]	One out of 29 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the Action 14 final report or as amended by that report (OECD, 2015b). This treaty will not be modified by the Multilateral Instrument to include the required provision. With respect to this treaty, negotiations are pending.	As the treaty that does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) will not be modified by the Multilateral Instrument to include such equivalent, Jersey should continue negotiations with the treaty partner concerned with a view to including the required provision. This concerns a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention, either: a. as amended in the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of the Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
[B.2]	-	-
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-

	Areas for improvement	Recommendations
[B.6]	-	-
[B.7]	-	-
[B.8]	-	-
[B.9]	-	-
[B.10]	-	-
Part C: Resolution of MAP cases		
[C.1]	Four out of 29 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). None of these treaties will be modified by the Multilateral Instrument to include the required provision. With respect to these treaties, negotiations are pending.	As the four treaties that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) will not be modified via the Multilateral Instrument, Jersey should continue negotiations with the treaty partners concerned with a view to including the required provision.
[C.2]	MAP statistics for 2019 were not submitted.	Jersey should report its MAP statistics in accordance with the MAP Statistics Reporting Framework.
	MAP statistics was not sought with all of the treaty partners.	Jersey should endeavour to match its MAP statistics with all of its treaty partners.
[C.3]	While Jersey closed MAP cases on an average of 10.85 months (which is within the pursued average for resolving MAP cases received on or after 1 January 2016), Jersey reported resource constraints during the Statistics Reporting Period that did not allow it to report MAP statistics, match such statistics with treaty partners or participate actively in stage 2 of the peer review process.	Jersey should closely monitor whether the resources available for the competent authority function remain adequate in order to resolve future MAP cases in a timely, efficient and effective manner. In particular, Jersey should ensure that at least one person is available to perform the functions that are required of the competent authority.
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	As will be discussed under element D.3, not all of Jersey'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 the time limit of five years in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017) in an assessed jurisdiction's relevant tax treaty, prevent the implementation of a MAP agreement, Jersey 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, Jersey should for clarity and transparency purposes notify the treaty partner thereof without delay.
[D.2]	-	-
[D.3]	Three out of 29 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). None of these treaties will be modified by the Multilateral Instrument. With respect to these treaties, negotiations are pending.	As the three treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternative provisions will not be modified via the Multilateral Instrument, Jersey should continue negotiations with the treaty partners concerned with a view to including the required provision or be willing to accept the inclusion of both alternative provisions.

Annex A

Tax treaty network of Jersey

Treaty partner	Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC	Arbitration			
	B.1	B.1		C.1	D.3			A.1	B.7	C.6
	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11
		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?	Inclusion Art. 9(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?	Inclusion Art. 25(2) second sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	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	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
Australia	Y	N	iv	N/A	i	N	N	N	N	N
Cyprus	Y	E*	Y	Y	i	Y	Y	Y	Y	Y
Denmark	Y	O	Y	N/A	i	Y	Y	Y	N	N
Estonia	Y	E*	Y	Y	i	Y	Y	Y	Y	N
Faroe Islands	Y	O	Y	N/A	i	Y	Y	Y	N	N
Finland	Y	O	Y	N/A	i	Y	Y	Y	N	N

Treaty partner	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			C.1	D.3	A.1	B.7	
	Column 4				Column 7		Column 8		
Column 3		Column 5		Column 6		Column 11			
DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence?	Inclusion Art. 9(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?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?
	If yes, submission to either competent authority? (new Art. 25(1), first sentence)	If no, please state reasons		If no, will your CA accept a taxpayer's request for MAP in relation to such cases?		If no, alternative provision in Art. 7 & 9 OECD MTC?			
France	Y	N	N/A	i	N/A	N	Y	N	N
Germany	Y	O	N/A	i	N/A	Y	N	N	N
Greenland	Y	O	N/A	i	N/A	Y	Y	N	N
Guernsey	Y	O	N/A	i	Y	Y	Y	Y	Y
Hong Kong (China)	Y	O*	N/A	i	Y	Y	Y	Y	Y
Iceland	Y	O	N/A	i	N/A	Y	Y	N	N
Ireland	Y	O	N/A	i	N/A	Y	Y	N	N
Isle of Man	Y	O	N/A	i	Y	Y	Y	Y	Y
Japan	Y	O	N/A	i	N/A	Y	Y	N	N
Liechtenstein	Y	E	N/A	i	Y	Y	Y	Y	Y
Luxembourg	Y	E*	N/A	i	Y	Y	Y	Y	Y
Malta	Y	E*	N/A	i	Y	Y	Y	Y	N
Mauritius	Y	O	N/A	i	Y	Y	Y	Y	N
New Zealand	Y	N	N/A	i	N/A	N	N	N	N
Norway	Y	O	N/A	i	N/A	Y	Y	N	N
Poland	Y	O	N/A	i	N/A	Y	Y	Y	N
Qatar	Y	E*	N/A	i	N/A	Y	Y	Y	N
Rwanda	Y	O	N/A	i	Y	Y	Y	Y	Y
Seychelles	Y	O**	N/A	i	Y	Y	Y	Y	N
Singapore	Y	O	N/A	i	Y	Y	Y	Y	N
Sweden	Y	O	N/A	i	N/A	Y	Y	N	N

Treaty partner	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
	Column 1	Column 2		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	
	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6	
		Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence?	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?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Inclusion arbitration provision?	
		If yes, submission to either competent authority? (new Art. 25(1), first sentence)	If no, please state reasons	If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 9(2) if no, will your CA provide access to MAP in TP cases?	If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?		
United Arab Emirates	Y	E*	Y	i	Y	Y	Y	Y	Y	N
United Kingdom	Y	E	Y	i	Y	Y	Y	Y	Y	Y

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.
- O**/E*** 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 or 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.
- 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*/II*/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**/ii**/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**/ij*** 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.

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 superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.

Annex B

MAP statistics reporting for the 2016, 2017, 2018, 2019 and 2020 Reporting Periods (1 January 2016 to 31 December 2020) for pre-2016 cases

2016 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2016	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 2016	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
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

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

2018 MAP Statistics													
Category of cases	No. of pre-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
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	0	0	0	0	0	0	0	0	0	0	0	0	N/A

2019 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2019	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 2019	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
	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

2020 MAP Statistics													
Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2020	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 2020	Average time taken (in months) for closing pre-2016 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
	Column 2	Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	Column 13	Column 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, 2018, 2019 and 2020 Reporting Periods (1 January 2016 to 31 December 2020) for post-2015 cases

2016 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2016	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			
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
		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			
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A

2017 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2017	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			
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
		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			
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	0	0	0	0	0	0	0	0	0	0	0	1	N/A
Total	0	0	0	0	0	0	0	0	0	0	0	0	1	N/A

2018 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2018	No. of post-2015 cases started during the reporting period	Number of post-2015 cases closed during the reporting period by outcome							No. of post-2015 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
	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	0	0	0	0	0	1	0	0	0	0	0	0	6.5
Total	1	0	0	0	0	0	1	0	0	0	0	0	0	6.5

2019 MAP Statistics														
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2019	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 2019	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10			Column 11	Column 12	Column 13
	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	1	0	0	0	0	0	0	0	0	0	0	1	N/A
Total	0	1	0	0	0	0	0	0	0	0	0	0	1	N/A

2020 MAP Statistics															
Category of cases	No. of post-2015 cases in MAP inventory on 1 January 2020	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 2020	Average time taken (in months) for closing post-2015 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty			No agreement, including agreement to disagree	Any other outcome	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	1	0	0	0	0	0	0	1	0	0	0	0	0	0	15.19
Total	1	0	0	0	0	0	0	1	0	0	0	0	0	0	15.19

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
Multilateral Instrument	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
OECD Transfer Pricing Guidelines	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
Pre-2016 cases	MAP cases in a competent authority’s inventory that are pending resolution on 31 December 2015
Post-2015 cases	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2016
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2016 and that ended on 31 December 2020
Terms of Reference	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective

OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective – MAP Peer Review Report, Jersey (Stage 2)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

Under Action 14, countries have committed to implement a minimum standard to strengthen the effectiveness and efficiency of the mutual agreement procedure (MAP). The MAP is included in Article 25 of the OECD Model Tax Convention and commits countries to endeavour to resolve disputes related to the interpretation and application of tax treaties. The Action 14 Minimum Standard has been translated into specific terms of reference and a methodology for the peer review and monitoring process. The peer review process is conducted in two stages. Stage 1 assesses countries against the terms of reference of the minimum standard according to an agreed schedule of review. Stage 2 focuses on monitoring the follow-up of any recommendations resulting from jurisdictions' stage 1 peer review report. This report reflects the outcome of the stage 2 peer monitoring of the implementation of the Action 14 Minimum Standard by Jersey.



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