OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective – MAP Peer Review Report, British Virgin Islands (Stage 2)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

OECD

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Foreword

Digitalisation and globalisation have had a profound impact on economies and the lives of people around the world, and this impact has only accelerated in the 21st century. These changes have brought with them challenges to the rules for taxing international business income, which have prevailed for more than a hundred years and created 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.

In 2013, the OECD ramped up efforts to address these challenges in response to growing public and political concerns about tax avoidance by large multinationals. The OECD and G20 countries joined forces and developed an Action Plan to address BEPS in September 2013. The Action Plan identified 15 actions aimed at 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, including those published in an interim form in 2014, were consolidated into a comprehensive package and delivered to G20 Leaders in November 2015. The BEPS package represents the first substantial renovation of the international tax rules in almost a century. As the BEPS measures are implemented, 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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

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. As a result, they created 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 its subsidiary bodies. With over 140 members, the Inclusive Framework monitors and peer reviews the implementation of the minimum standards and is completing the work on standard setting to address BEPS issues. In addition to its 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.

Although implementation of the BEPS package is dramatically changing the international tax landscape and improving the fairness of tax systems, one of the key outstanding BEPS issues – to address the tax challenges arising from the digitalisation of the economy – remained unresolved. In a major step forward on 8 October 2021, over 135 Inclusive Framework members, representing more than 95% of global GDP, joined a two-pillar solution to reform the international taxation rules and ensure that multinational enterprises pay a fair share of tax wherever they operate and generate profits in today's

digitalised and globalised world economy. The implementation of these new rules is envisaged by 2023.

This report was approved by the Inclusive Framework on 17 March 2022 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

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

Executive summary

The British Virgin Islands has a small tax treaty network with approximately ten tax treaties. The British Virgin Islands has no experience with resolving MAP cases, as it has not been involved in any cases. The British Virgin Islands reported that it has no income taxes. This specific situation makes it unlikely, under its current tax system, that the British Virgin Islands takes an action that results in taxation not in accordance with any tax treaty it has entered into. The British Virgin Islands further reported that it is however ready to resolve tax treaty-related disputes that would arise after an action being taken by its treaty partners.

Overall the British Virgin Islands meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, the British Virgin Islands worked to address some of them, which has been monitored in stage 2 of the process. In this respect, the British Virgin Islands solved some of the identified deficiencies.

All but two of the British Virgin Islands' 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:

- Approximately 35% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.
- Approximately 25% of its tax treaties do not contain the equivalent of Article 25(1) to the OECD Model Tax Convention (OECD, 2017), as two treaties do not contain any provision relating to MAP at all, and the remaining treaty does 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), because it does not grant taxpayers the right to request the initiation of a mutual agreement procedure.
- Approximately 25% of its tax treaties do not contain the equivalent of 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.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, the British Virgin Islands needs to amend and update four tax treaties. In that regard, the British Virgin Islands reported that it contacted the relevant treaty partners to update its treaties to be in line with the Action 14

Minimum Standard. The British Virgin Islands further reported that for one negotiations are envisaged, and for two communications have been initiated, while for one it is awaiting a response from the treaty partner.

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

The British Virgin Islands meets most of the requirements regarding availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 January 2017 not received any MAP requests. Furthermore, the British Virgin Islands has in place a documented bilateral notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. However, the British Virgin Islands has not yet issued MAP guidance, and its MAP profile contains only limited information.

The British Virgin Islands has not been involved in any MAP cases during the period 2017-20, but it meets in principle all the requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases.

Lastly, the British Virgin Islands in principle meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. Since the British Virgin Islands did not enter into any MAP agreements that required implementation by the British Virgin Islands in 2017-20, no problems have surfaced regarding the implementation throughout the peer review process.

References

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.

Introduction

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

The British Virgin Islands has entered into 11 tax treaties on income (and/or capital), all of which are in force.[1] These 11 treaties are being applied to 11 jurisdictions. All but two of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. Ten of the 11 treaties have a limited scope of application.

The British Virgin Islands reported that it has no income taxes. This specific situation makes it unlikely, under its current tax system, that the British Virgin Islands takes an action that results in taxation not in accordance with any tax treaty it has entered into. The British Virgin Islands further reported that it is however ready to resolve tax treaty-related disputes that would arise after an action being taken by its treaty partners.

In the British Virgin Islands, the competent authority function to conduct the mutual agreement procedure ("**MAP**") is delegated to the International Tax Authority. The British Virgin Islands reported that MAP would be considered to fall within the International Cooperation Unit.

The British Virgin Islands has not yet issued guidance on the governance and administration of the mutual agreement procedure ("**MAP guidance**").

Developments in the British Virgin Islands since 1 September 2019

Developments in relation to the tax treaty network

The stage 1 peer review report of the British Virgin Islands reported it was not conducting any new tax treaty negotiations. The British Virgin Islands clarified that this situation remains the same.

For the four treaties that are considered not to be in line with one or more elements of the Action 14 Minimum Standard, the British Virgin Islands reported it will strive to update its tax treaties via bilateral negotiations to be compliant with the Action 14 Minimum Standard. In that regard, the British Virgin Islands also reported that it contacted its treaty partners to update the relevant treaties to be in line with the Action 14 Minimum Standard. The British Virgin Islands indicated that for one negotiations are envisaged, and for two communications have been initiated, while for one it is awaiting a response from the treaty partner.

Basis for the peer review process

Outline of the peer review process

The peer review process entails an evaluation of the British Virgin Islands' implementation of the Action 14 Minimum Standard through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic legislation and regulations, as well as its MAP programme guidance (if any) and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by the British Virgin Islands, its peers and taxpayers.

The process consists of two stages: a peer review process (stage 1) and a peer monitoring process (stage 2). In stage 1, the British Virgin Islands' 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 12 May 2020. This report identifies the strengths and shortcomings of the British Virgin Islands 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.[2] 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 the British Virgin Islands. In this update report, the British Virgin Islands 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 the British Virgin Islands is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by exchange of notes, 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 the British Virgin Islands' tax treaties regarding the mutual agreement procedure.

Timing of the process and input received by peers and taxpayers

Stage 1 of the peer review process was for the British Virgin Islands launched on 30 August 2019, with the sending of questionnaires to the British Virgin Islands and its peers. The FTA MAP Forum has approved the stage 1 peer review report of the British Virgin Islands in March 2020, with the subsequent approval by the BEPS Inclusive Framework on 12 May 2020. On 12 May 2021, the British Virgin Islands submitted its update report, which initiated stage 2 of the process.

The period for evaluating the British Virgin Islands' implementation of the Action 14 Minimum Standard ranges from 1 January 2017 to 31 August 2019 and formed the basis for the stage 1 peer review report. The period of review for stage 2 started on 1 September 2019 and depicts all developments as from that date until 30 April 2021.

No peers have provided input during both stage 1 and stage 2 on the British Virgin Islands' implementation of the Action 14 Minimum Standard. This can be explained by the fact that the British Virgin Islands' competent authority has never been involved in a MAP case as it has never received a MAP request from a taxpayer or from another competent authority.

Input by the British Virgin Islands and co-operation throughout the process

During stage 1, The British Virgin Islands provided extensive answers in its questionnaire. The British Virgin Islands was responsive in the course of the drafting of the peer review report by responding to requests for additional information, and provided further clarity where necessary. In addition, the British Virgin Islands provided the following information:

- MAP profile[3]
- MAP statistics[4] for 2019 and 2020 according to the MAP Statistics Reporting Framework (see below).

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

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

Overview of MAP caseload in the British Virgin Islands

The analysis of the the British Virgin Islands' MAP caseload for stage 1 relates to the period starting on 1 January 2017 and ending on 31 December 2018. For stage 2 the period ranges from 1 January 2019 to 31 December 2020. Both periods are taken into account in this report for analysing the MAP statistics of the British Virgin Islands. The analysis of the British Virgin Islands' MAP caseload therefore relates to the period starting on 1 January 2017 and ending 31 December 2020 ("**Statistics Reporting Period**"). According to the statistics provided by the British Virgin Islands, as mentioned above, the British Virgin Islands has not been involved in any MAP cases during the Statistics Reporting Period.

General outline of the peer review report

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

A. Preventing disputes

B. Availability and access to MAP

C. Resolution of MAP cases

D. Implementation of MAP agreements.

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective ("**Terms of Reference**").[5] Furthermore, the report depicts the changes adopted and plans shared by the British Virgin Islands to implement elements of the Action 14 Minimum Standard where relevant. The conclusion of each element identifies areas for improvement

(if any) and provides for recommendations how the specific area for improvement should be addressed.

The 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 has 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 the British Virgin Islands 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 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 the British Virgin Islands should continue to act in accordance with a given element of the Action 14 Minimum Standard, even if there is no area for improvement for this specific element.

Notes

1. The tax treaties the British Virgin Islands has entered into are available at: https://bviita.vg/library/legislation/. Reference is made to Annex A for the overview of the British Virgin Islands' tax treaties.
2. Available at: https://www.oecd.org/tax/beps/making-dispute-resolution-more-effective-map-peer-review-report-the-british-virgin-islands-stage-1-dd78e294-en.htm.
3. Available at https://www.oecd.org/tax/dispute/British-Virgin-Islands-Dispute-Resolution-Profile.pdf.
4. The MAP statistics of the British Virgin Islands are included in Annexes B and C of this report.
5. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

Part A

Preventing disputes

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

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

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

Current situation of British Virgin Islands' tax treaties

2. Out of the British Virgin Islands' 11 tax treaties, eight 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. Three treaties do not contain any provision equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a).

3. No peer input was provided during stage 1.

Recent developments

Bilateral modifications

4. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element A.1.

Peer input

5. No peer input was provided.

Anticipated modifications

6. For the three treaties that do not contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), the British Virgin Islands reported that it contacted its treaty partners to update the relevant treaties to be in line with the Action 14 Minimum Standard. The British Virgin Islands indicated that for two, communications have been initiated, while for one it is awaiting a response from the treaty partner.

7. In addition, the British Virgin Islands reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a) in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[A.1]	Three out of 11 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). With respect to these three treaties: • For two, communications have been initiated. • For one, the British Virgin Islands is awaiting a response from its treaty partner on its request on the initiation of bilateral negotiations.	For the three treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), the British Virgin Islands should: • for two treaties, initiate negotiations with the treaty partners to include the required provision • for the remaining treaty, upon receipt of a response from the relevant treaty partner agreeing to engage in the process of initiating such negotiations, work towards updating the treaty to include this 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.

8. 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.

The British Virgin Islands' APA programme

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

Recent developments

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

Practical application of roll-back of bilateral APAs

Period 1 January 2017-31 August 2019 (stage 1)

11. The British Virgin Islands reported in the period 1 January 2017-31 August 2019 it received no requests for bilateral APAs.

12. No peer input was provided.

Period 1 September 2019-30 April 2021 (stage 2)

13. The British Virgin Islands reported that since 1 September 2019 it has also not received any bilateral APA requests.

14. No peer input was provided.

Anticipated modifications

15. The British Virgin Islands did not indicate that it anticipates 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.

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

Current situation of the British Virgin Islands' tax treaties

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

17. Out of the British Virgin Islands' 11 tax treaties, eight contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state. In addition, none of the British Virgin Islands' tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as changed by the Action 14 final report (OECD, 2015b) and allowing taxpayers to submit a MAP request to the competent authority of either state.

18. The remaining three treaties can be categorised as follows:

Provision	Number of tax treaties
No MAP provision	2
A provision included in the MAP article, but which does not assign specific rights to taxpayers to file a MAP request when they consider that there may or will be taxation not in accordance with the provisions of the convention and which procedure cannot be requested irrespective of domestic remedies.	1

19. The two treaties mentioned in the first row of the table above do not contain any provision relating to MAP at all. The remaining treaty mentioned in the second row in the table above is also considered not to 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), because it does not grant taxpayers the right to request the initiation of a mutual agreement procedure. This treaty is therefore also not in line with this part of element B.1.

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

20. Out of the British Virgin Islands' 11 tax treaties, seven 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.

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

Provision	Number of tax treaties
No MAP provision	2
No filing period for a MAP request	2

Peer input

22. No peer input was provided during stage 1.

Practical application

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

23. All but three of the British Virgin Islands' tax treaties contain a provision allowing taxpayers to file a MAP request irrespective of domestic remedies. As the British Virgin Islands reported that there are no direct taxes and no domestic remedies in the British Virgin Islands, there would be no cases where a taxpayer would submit the issue at stake for a potential MAP case to the British Virgin Islands' domestic remedies.

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

24. The British Virgin Islands reported that in the absence of filing period in the treaty there will be no applicable filing period.

Recent developments

Bilateral modifications

25. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element B.1.

Anticipated modifications

26. For the three tax treaties that do not contain the equivalent of the first and/or second sentence 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), the British Virgin Islands reported that it contacted its treaty partners to update its treaties to be in line with the Action 14 Minimum Standard. The British Virgin Islands indicated that for two, communications have been initiated, while for one it is awaiting a response from the treaty partner.

27. In addition, the British Virgin Islands reported it will seek to include 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), in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[B.1]	Two of 11 tax treaties do not contain a MAP provision at all, whereby there is no provision equivalent to the first and second sentence of Article 25(1) of the OECD Model Tax Convention (OECD, 2017). With respect to these two treaties: • For one, communications have been initiated. • For one, the British Virgin Islands is awaiting a response from its treaty partner on its request on the initiation of bilateral negotiations.	For the two treaties that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands should: • for one, initiate negotiations with the treaty partner to include the required provision • for one, upon receipt of a response from the relevant treaty partner agreeing to engage in the process of initiating such negotiations, work towards updating the treaty to include this provision. With respect to the first sentence, this concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2017) either: a. as amended by the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
	One out of 11 tax treaties does not contain a provision that is equivalent to the first sentence of Article 25(1) of the OECD Model Tax Convention (OECD, 2017). For this treaty, communications have been initiated.	For the treaty that does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands should initiate negotiations with the treaty partner to include the required 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).

28. 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

29. As discussed under element B.1, out of the British Virgin Islands' 11 treaties, none currently contains a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as changed by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner.

30. The British Virgin Islands has introduced a bilateral consultation or notification process that allows the other competent authority concerned to provide its views on the case when the British Virgin Islands' competent authority considers the objection raised in the MAP request not to be justified.

Recent developments

31. The British Virgin Islands reported that it has introduced a bilateral consultation or notification process for those situations where its competent authority considers an objection raised in a MAP request as being not justified, and informed staff within the International Cooperation Unit of such process.

Practical application

Period 1 January 2017-31 August 2019 (stage 1)

32. The British Virgin Islands reported that in the period 1 January 2017-31 August 2019 its competent authority has not received any MAP requests. Therefore, there were no cases where it was decided that the objection raised by taxpayers in such request was not justified.

33. No peer input was provided.

Period 1 September 2019-30 April 2021 (stage 2)

34. The British Virgin Islands reported that since 1 September 2019 it has also not received any MAP requests. Therefore, there were no cases where it was decided that the objection raised by taxpayers in such request was not justified.

35. No peer input was provided.

Anticipated modifications

36. The British Virgin Islands did not indicate that it anticipates 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.

37. 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

38. None of the British Virgin Islands' 11 tax treaties contains 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. Three of the 11 tax treaties contain a provision on associated enterprises which is the equivalent of Article 9 of the OECD Model Tax Convention (OECD, 2017), but do not contain the equivalent of Article 9(2). Furthermore, eight of the 11 treaties do not contain such a provision at all.

39. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in the British Virgin Islands' tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, the British Virgin Islands indicated that it will always provide access to MAP for transfer pricing cases, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) is contained in its tax treaties, although it further reported that it would not be in a position to give a corresponding adjustment as no income taxes are levied in the British Virgin Islands. As the British Virgin Islands has not issued MAP guidance yet, there is no public information available regarding whether it will give access to MAP in transfer pricing cases.

Recent developments

Bilateral modifications

40. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element B.3.

Application of legal and administrative framework in practice

Period 1 January 2017-31 August 2019 (stage 1)

41. The British Virgin Islands reported that in the period 1 January 2017-31 August 2019, it has not received any MAP requests and therefore has not denied access to MAP on the basis that the case concerned a transfer pricing case.

42. No peer input was provided.

Period 1 September 2019-30 April 2021 (stage 2)

43. The British Virgin Islands reported that it has also received no MAP requests for transfer pricing cases since 1 September 2019.

44. No peer input was provided.

Anticipated modifications

45. The British Virgin Islands reported that it will consult with its treaty partners as to their preference in including the equivalent of Article 9(2) and a decision will be made at the time of negotiation. The British Virgin Islands further reported in relation to any future tax treaty negotiations, it is willing to take all the elements above the requirements under the minimum standard into consideration with the negotiating party.

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.

46. 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

47. None of the British Virgin Islands' 11 tax treaties contains an anti-abuse provision and no domestic anti-abuse provision would apply as there are no income taxes in the British Virgin Islands. In that regard, no 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 can occur based on actions taken by the British Virgin Islands.

Recent developments

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

Practical application

Period 1 January 2017-31 August 2019 (stage 1)

49. The British Virgin Islands reported that in the period 1 January 2017-31 August 2019 it has not received any MAP requests from taxpayers.

50. No peer input was provided.

Period 1 September 2019-30 April 2021 (stage 2)

51. The British Virgin Islands reported that since 1 September 2019 it has also not received any MAP requests from taxpayers.

52. No peer input was provided.

Anticipated modifications

53. The British Virgin Islands did not indicate that it anticipates 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.

54. An audit settlement procedure can be valuable to taxpayers by providing certainty on their tax position. Nevertheless, as double taxation may not be fully eliminated by agreeing on such settlements, taxpayers should have access to the MAP in such cases, unless they

were already resolved via an administrative or statutory disputes settlement/resolution process that functions independently from the audit and examination function and which is only accessible through a request by taxpayers.

Legal and administrative framework

Audit settlements

55. The British Virgin Islands reported that there is no income tax in the British Virgin Islands and therefore no audit settlement process available in the British Virgin Islands.

Administrative or statutory dispute settlement/resolution process

56. The British Virgin Islands reported it does not have an administrative or statutory dispute settlement/resolution process in place, which is independent from the audit and examination functions and which can only be accessed through a request by the taxpayer.

Recent developments

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

Practical application

Period 1 January 2017-31 August 2019 (stage 1)

58. The British Virgin Islands reported that in the period 1 January 2017-31 August 2019 it has not received any MAP requests for cases where the issue presented by the taxpayer had already been resolved through an audit settlement between the taxpayer and the tax administration since audit settlements are not available in the British Virgin Islands.

59. No peer input was provided.

Period 1 September 2019-30 April 2021 (stage 2)

60. The British Virgin Islands reported that since 1 September 2019 it has also not received any MAP requests from taxpayers.

61. No peer input was provided.

Anticipated modifications

62. The British Virgin Islands did not indicate that it anticipates 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.

63. 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

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

65. The British Virgin Islands reported that it will give access to MAP in cases where taxpayers have complied with the information and documentation its CA asks the taxpayer to provide, and it will allow the taxpayer an additional 10 days to provide that information with a view to seek an extension with justification, which shall not be unreasonably withheld. It also reported that if additional information is required this will be requested directly from the taxpayer in writing.

Recent developments

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

Practical application

Period 1 January 2017-31 August 2019 (stage 1)

67. The British Virgin Islands further reported that since 1 January 2017 it has not received any MAP request from a taxpayer.

68. No peer input was provided.

Period 1 September 2019-30 April 2021 (stage 2)

69. The British Virgin Islands reported that since 1 September 2019 it has not received any MAP requests and therefore has also not denied access to MAP for cases where the taxpayer had provided the information or documentation its competent authority asks the taxpayer to provide.

70. No peer input was provided.

Anticipated modifications

71. The British Virgin Islands did not indicate that it anticipates 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.

72. 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 the British Virgin Islands' tax treaties

73. None of the British Virgin Islands' 11 tax treaties contains 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.

74. For 10 out of the 11 tax treaties, this can be clarified by the fact that 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, there is a justification not to contain Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) for those 10 treaties with a limited scope of application.

75. The remaining tax treaty does not have a limited scope of application and is therefore not in line with this requirement of the Action 14 Minimum Standard.

76. No peer input was provided during stage 1.

Recent developments

Bilateral modifications

77. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element B.7.

Peer input

78. No peer input was provided.

Anticipated modifications

79. For the treaty that does not contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands reported that it contacted its treaty partner to update the relevant treaty to be in line with the Action 14 Minimum Standard, and communications have been initiated.

80. In addition, the British Virgin Islands reported that 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]	One out of 11 tax treaties does not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). For this treaty, communications have been initiated.	For the treaty that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands should initiate negotiations with the treaty partner to include the required provision.

[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.

81. Information on a jurisdiction's MAP regime facilitates the timely initiation and resolution of MAP cases. Clear rules, guidelines and procedures on access to and use of the MAP are essential for making taxpayers and other stakeholders aware of how a jurisdiction's MAP regime functions. In addition, to ensure that a MAP request is received and will be reviewed by the competent authority in a timely manner, it is important that a jurisdiction's MAP guidance clearly and comprehensively explains how a taxpayer can make a MAP request and what information and documentation should be included in such request.

The British Virgin Islands' MAP guidance

82. Since the British Virgin Islands has not yet published MAP guidance, the information that the FTA MAP Forum agreed should be included in such guidance is not available. This concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request.[1]

Information and documentation to be included in a MAP request

83. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in a request for MAP assistance.[2] This concerns:

- identity of the taxpayer(s) covered in the MAP request
- the basis for the request
- facts of the case

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

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

Recent developments

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

Anticipated modifications

86. The British Virgin Islands indicated that it is currently drafting its MAP guidance and it intends to make it available in the near future on the British Virgin Islands' International Tax Authority website.

Conclusion

	Areas for improvement	Recommendations
[B.8]	There is no published MAP guidance.	The British Virgin Islands should, without further delay, introduce and publish guidance on access to and use of the MAP, and in particular include the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation and information that should be included in such a request.

[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.

87. 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

88. As discussed under element B.8, the British Virgin Islands has not yet published MAP guidance.

MAP profile

89. The MAP profile of the British Virgin Islands is published on the website of the OECD and was last updated in July 2021.[4] This MAP profile contains limited information, which can be clarified by the fact that the British Virgin Islands has not yet published MAP guidance and therefore does not include external links that could provide extra information and guidance where appropriate.

Recent developments

90. The British Virgin Islands has slightly updated its MAP profile in July 2021.

Anticipated modifications

91. The British Virgin Islands did not indicate that it anticipates any modifications in relation to element B.9.

Conclusion

	Areas for improvement	Recommendations
[B.9]	There is no MAP guidance publicly available.	The British Virgin Islands should make its MAP guidance publicly available and easily accessible once it has been introduced. Furthermore, the MAP profile should be updated once the British Virgin Islands' MAP guidance has been introduced.

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

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

92. 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

93. As previously discussed under B.5, audit settlements are not possible in the British Virgin Islands. In that regard, there is no need to address in its MAP guidance that such settlements do not preclude access to MAP.

94. No peer input was provided.

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

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

96. No peer input was provided.

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

97. As the British Virgin Islands does not have an internal administrative or statutory dispute settlement/resolution process in place, there is no need for notifying treaty partners of such process.

Recent developments

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

Anticipated modifications

99. The British Virgin Islands did not indicate that it anticipates any modifications in relation to element B.10.

Conclusion

	Areas for improvement	Recommendations
[B.10]	-	-

Notes

1. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
2. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

3. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm. .

4. Available at: https://www.oecd.org/tax/dispute/British-Virgin-Islands-Dispute-Resolution-Profile.pdf.

References

OECD (2015a), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264239081-en.

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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.

100. It is of critical importance that in addition to allowing taxpayers to request for a MAP, tax treaties also include the equivalent of the first sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017), which obliges competent authorities, in situations where the objection raised by taxpayers are considered justified and where cases cannot be unilaterally resolved, to enter into discussions with each other to resolve cases of taxation not in accordance with the provisions of a tax treaty.

Current situation of the British Virgin Islands' tax treaties

101. Out of the British Virgin Islands' 11 tax treaties, eight 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. Of the remaining three treaties, one does not contain such equivalent and two do not contain such a provision at all.

102. No peer input was provided during stage 1.

Recent developments

Bilateral modifications

103. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element C.1.

Peer input

104. No peer input was provided.

Anticipated modifications

105. For the three treaties that do not contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands reported that it contacted its treaty partners to update its treaties to be in line with the Action 14 Minimum Standard. The British Virgin Islands indicated that for two communications have been initiated, while for one it is awaiting a response from the treaty partner.

106. In addition, the British Virgin Islands reported it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[C.1]	Three out of 11 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these three treaties: • For two, communications have been initiated. • For one, the British Virgin Islands is awaiting a response from its treaty partner on its request on the initiation of bilateral negotiations.	For the three treaties that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands should: • for two, initiate negotiations with the relevant treaty partners to include the required provision • for one, upon receipt of a response from the relevant treaty partner agreeing to engage in the process of initiating such negotiations, work towards updating the treaty to include this 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).

107. As double taxation creates uncertainties and leads to costs for both taxpayers and jurisdictions, and as the resolution of MAP cases may also avoid (potential) similar issues for future years concerning the same taxpayers, it is important that MAP cases are resolved swiftly. A period of 24 months is considered as an appropriate time period to resolve MAP cases on average.

Reporting of MAP statistics

108. The FTA MAP Forum has agreed on rules for reporting of MAP statistics ("**MAP Statistics Reporting Framework**") for MAP requests submitted on or after 1 January 2016 ("**post-2015 cases**"). Also, for MAP requests submitted prior to that date ("**pre-2016 cases**"), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template. As the British Virgin Islands joined in the Inclusive Framework in 2017, the statistics referred to are pre-2017 cases for cases that were pending on 31 December 2016, and post-2016 cases for cases that started on or after 1 January 2017. The British Virgin Islands provided its MAP statistics for 2019 and 2020 pursuant to the MAP Statistics Reporting Framework within the given deadline. The statistics discussed below include both pre-2017 and post-2016 cases and they are attached to this report as Annex B and Annex C respectively, showing that the British Virgin Islands has not been involved in any MAP cases since 1 January 2017.

Monitoring of MAP statistics

109. The British Virgin Islands does not have a system in place with its treaty partners that communicates, monitors and manages the MAP caseload, which can be explained by the fact that it was never involved in a MAP case. In that regard, the British Virgin Islands reported that it generally monitors its statistics in other areas and if there are MAP statistics they will be monitored and statistics will be available.

Analysis of the British Virgin Islands' MAP caseload

110. The analysis of the British Virgin Islands' MAP caseload relates to the period starting on 1 January 2017 and ending on 31 December 2020.

111. The British Virgin Islands has not been involved in any MAP cases during the Review Period.

Overview of cases closed during the Statistics Reporting Period

112. The British Virgin Islands has not been involved in any MAP cases during the Statistics Reporting Period.

Average timeframe needed to resolve MAP cases

113. The British Virgin Islands has not been involved in any MAP cases during the Statistics Reporting Period.

Peer input

114. No peer input was provided during stage 1.

Recent developments

115. The British Virgin Islands was in the stage 1 peer review report under element C.2 recommended to report its MAP statistics in accordance with the MAP Statistics Reporting Framework since MAP statistics for 2017 and 2018 were not submitted. In this respect, the British Virgin Islands submitted its 2019 and 2020 MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline.

116. No peer input was provided during stage 2.

Anticipated modifications

117. The British Virgin Islands did not indicate that it anticipates any modifications in relation to element C.2.

Conclusion

	Areas for improvement	Recommendations
[C.2]	-	-

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

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

118. Adequate resources, including personnel, funding and training, are necessary to properly perform the competent authority function and to ensure that MAP cases are resolved in a timely, efficient and effective manner.

Description of the British Virgin Islands' competent authority

119. Under the British Virgin Islands' tax treaties, the competent authority function is assigned to the Financial Secretary or his or her authorised representative. This has been delegated to the International Tax Authority. The British Virgin Islands reported that MAP would be considered to fall within the International Cooperation Unit, who would consult with the Inland Revenue Department and the other relevant jurisdiction.

Monitoring mechanism

120. As discussed under element C.2, the British Virgin Islands' competent authority has not yet been involved in any MAP cases, by which there were no MAP statistics available to analyse the pursued 24-month average.

Recent developments

121. The British Virgin Islands reported that staff within the International Cooperation Unit have attended OECD meetings insofar as Action 14 is concerned.

Practical application

MAP statistics

122. As discussed under element C.2, the British Virgin Islands' competent authority has not yet been involved in any MAP cases, by which there were no MAP statistics available to analyse the pursued 24-month average.

Peer input

123. No peer input was provided during stage 1 (1 January 2017-31 August 2019) and stage 2 (1 September 2019-30 April 2021).

Anticipated modifications

124. The British Virgin Islands did not indicate that it anticipates any modifications in relation to element C.3.

Conclusion

	Areas for improvement	Recommendations
[C.3]	-	-

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

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

125. 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

126. As discussed under element C.3, the British Virgin Islands reported that MAP cases would be handled by the International Tax Authority, which is also responsible for treaty negotiations. The British Virgin Islands clarified that its competent authority will take into consideration the actual terms of a tax treaty as applicable for the relevant year and that it is committed not to be influenced by policy considerations that British Virgin Islands would like to see reflected in future amendments to the treaty.

127. In regard of the above, the British Virgin Islands reported that the staff in charge of MAP in the British Virgin Islands would have the necessary authority to resolve MAP cases as it is not dependent on the approval/direction of outside personnel and there are no impediments in the British Virgin Islands' abilities to perform its MAP functions.

Recent developments

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

Practical application

129. No peer input was provided during stage 1 (1 January 2017-31 August 2019) and stage 2 (1 September 2019-30 April 2021).

Anticipated modifications

130. The British Virgin Islands did not indicate that it anticipates 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.

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

Performance indicators used by the British Virgin Islands

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

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

133. In view of these examples, as the British Virgin Islands has not been involved in any MAP cases thus far, it did not report using any of these performance indicators to assess staff in charge of MAP cases. In that regard, the British Virgin Islands reported that it implements a performance appraisal system generally to assess staff's performance and measurement of actual work performance and a similar concept will apply to MAP processes when necessary.

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

Recent developments

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

Practical application

136. No peer input was provided during stage 1 (1 January 2017-31 August 2019) and stage 2 (1 September 2019-30 April 2021).

Anticipated modifications

137. The British Virgin Islands did not indicate that it anticipates 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.

138. 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

139. The British Virgin Islands' MAP profile clearly states that it has no domestic law limitations for including MAP arbitration in its tax treaties, while its treaty policy does not allow it to include MAP arbitration in its tax treaties.

Recent developments

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

Practical application

141. The British Virgin Islands has not incorporated an arbitration clause in any of its 11 tax treaties as a final stage to the MAP.

Anticipated modifications

142. The British Virgin Islands did not indicate that it anticipates any modifications in relation to element C.6.

Conclusion

	Areas for improvement	Recommendations
[C.6]	-	-

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.

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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.

143. 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

144. The British Virgin Islands reported that it is unlikely that it would need to implement a MAP agreement as it does not impose income taxes.

Recent developments

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

Practical application

Period 1 January 2017-31 August 2019 (stage 1)

146. As the British Virgin Islands was not involved in any MAP cases for the period under review, it was not possible to assess the implementation of MAP agreements by the British Virgin Islands.

147. No peer input was provided.

Period 1 September 2019-30 April 2021 (stage 2)

148. The British Virgin Islands was also not involved in any MAP cases since 1 September 2019.

149. No peer input was provided.

Anticipated modifications

150. The British Virgin Islands did not indicate that it anticipates any modifications in relation to element D.1.

Conclusion

	Areas for improvement	Recommendations
[D.1]	-	-

[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.

151. Delay of implementation of MAP agreements may lead to adverse financial consequences for both taxpayers and competent authorities. To avoid this and to increase certainty for all parties involved, it is important that the implementation of any MAP agreement is not obstructed by procedural and/or statutory delays in the jurisdictions concerned.

Theoretical timeframe for implementing mutual agreements

152. As discussed under element D.1, the British Virgin Islands reported that it is unlikely that it would need to implement a MAP agreement as it has no income taxes in the British Virgin Islands.

Recent developments

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

Practical application

Period 1 January 2017-31 August 2019 (stage 1)

154. As the British Virgin Islands was not involved in any MAP cases for the period under review, it was not possible to assess the timely implementation of MAP agreements by the British Virgin Islands.

155. No peer input was provided.

Period 1 September 2019-30 April 2021 (stage 2)

156. The British Virgin Islands was also not involved in any MAP cases since 1 September 2019.

157. No peer input was provided.

Anticipated modifications

158. The British Virgin Islands did not indicate that it anticipates 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.

159. In order to provide full certainty to taxpayers it is essential that implementation of MAP agreements is not obstructed by any time limits in the domestic law of the jurisdictions concerned. Such certainty can be provided by either including the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (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 the British Virgin Islands' tax treaties

160. Out of the British Virgin Islands' 11 tax treaties, seven contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. Furthermore, four do not contain such equivalent or the alternative provisions.

161. No peer input was provided during stage 1.

Recent developments

Bilateral modifications

162. There are no recent developments as to new treaties or amendments to existing treaties being signed in relation to element D.3.

Anticipated modifications

163. For the four treaties that do not contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), or both alternative provisions in Articles 9(1) and 7(2), the British Virgin Islands reported that it contacted its treaty partners to update its treaties to be in line with the Action 14 Minimum Standard. The British Virgin Islands indicated that for one negotiations are envisaged, and for two communications have been initiated, while for one it is awaiting a response from the treaty partner.

164. In addition, the British Virgin Islands reported that it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternatives in all of its future tax treaties.

Conclusion

	Areas for improvement	Recommendations
[D.3]	Four out of 11 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). With respect to these four treaties: • For one, negotiations are envisaged. • For two, communications have been initiated. • For one, the British Virgin Islands is awaiting a response from its treaty partner on its request on the initiation of bilateral negotiations.	Where treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternative provisions, the British Virgin Islands should • for one, continue with the process to request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions • for two, initiate negotiations with the relevant treaty partners to include the required provision • for one, upon receipt of a response from the relevant treaty partner agreeing to engage in the process of initiating such negotiations, work towards updating the treaty to include this provision.

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 11 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a). With respect to these three treaties: • For two, communications have been initiated. • For one, the British Virgin Islands is awaiting a response from its treaty partner on its request on the initiation of bilateral negotiations.	For the three treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017a), the British Virgin Islands should: • for two treaties, initiate negotiations with the treaty partners to include the required provision • for the remaining treaty, upon receipt of a response from the relevant treaty partner agreeing to engage in the process of initiating such negotiations, work towards updating the treaty to include this provision.
[A.2]	-	-
Part B: Availability and access to MAP		
[B.1]	Two of 11 tax treaties do not contain a MAP provision at all, whereby there is no provision equivalent to the first and second sentence of Article 25(1) of the OECD Model Tax Convention (OECD, 2017). With respect to these two treaties: • For one, communications have been initiated. • For one, the British Virgin Islands is awaiting a response from its treaty partner on its request on the initiation of bilateral negotiations.	For the two treaties that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands should: • for one, initiate negotiations with the treaty partner to include the required provision • for one, upon receipt of a response from the relevant treaty partner agreeing to engage in the process of initiating such negotiations, work towards updating the treaty to include this provision. With respect to the first sentence, this concerns a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax (OECD, 2017) Convention either: a. as amended by the Action 14 final report (OECD, 2015b); or b. as it read prior to the adoption of Action 14 final report (OECD, 2015b), thereby including the full sentence of such provision.
	One out of 11 tax treaties does not contain a provision that is equivalent to the first sentence of Article 25(1) of the OECD Model Tax Convention (OECD, 2017). For this treaty, communications have been initiated.	For the treaty that does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands should initiate negotiations with the treaty partner to include the required provision.
[B.2]	-	-
[B.3]	-	-
[B.4]	-	-
[B.5]	-	-
[B.6]	-	-

	Areas for improvement	Recommendations
[B.7]	One out of 11 tax treaties does not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). For this treaty, communications have been initiated.	For the treaty that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands should initiate negotiations with the treaty partner to include the required provision.
[B.8]	There is no published MAP guidance.	The British Virgin Islands should, without further delay, introduce and publish guidance on access to and use of the MAP, and in particular include the contact information of its competent authority as well as the manner and form in which the taxpayer should submit its MAP request, including the documentation and information that should be included in such a request.
[B.9]	There is no MAP guidance publicly available.	The British Virgin Islands should make its MAP guidance publicly available and easily accessible once it has been introduced. Furthermore, the MAP profile should be updated once the British Virgin Islands' MAP guidance has been introduced.
[B.10]	-	-
Part C: Resolution of MAP cases		
[C.1]	Three out of 11 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). With respect to these three treaties: • For two, communications have been initiated. • For one, the British Virgin Islands is awaiting a response from its treaty partner on its request on the initiation of bilateral negotiations.	For the three treaties that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), the British Virgin Islands should: • for two, initiate negotiations with the relevant treaty partners to include the required provision • for one, upon receipt of a response from the relevant treaty partner agreeing to engage in the process of initiating such negotiations, work towards updating the treaty to include this provision.
[C.2]	-	-
[C.3]	-	-
[C.4]	-	-
[C.5]	-	-
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	-	-
[D.2]	-	-
[D.3]	Four out of 11 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). With respect to these four treaties: • For one, negotiations are envisaged. • For two, communications have been initiated. • For one, the British Virgin Islands is awaiting a response from its treaty partner on its request on the initiation of bilateral negotiations.	Where treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or both alternative provisions, the British Virgin Islands should • for one, continue with the process to request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions • for two, initiate negotiations with the relevant treaty partners to include the required provision • for one, upon receipt of a response from the relevant treaty partner agreeing to engage in the process of initiating such negotiations, work towards updating the treaty to include this provision.

Annex A

Tax treaty network of the British Virgin Islands

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

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

Annex B

MAP Statistics Reporting for pre-2017 cases (1 January 2017 to 31 December 2020)

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

2018 MAP Statistics													
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2018	Number of pre-2017 cases closed during the reporting period by outcome										No. of pre-2017 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing pre-2017 cases during the reporting period
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	0	0	0	0	0	0	0	0	0	0	0	0	N/A

2019 MAP Statistics													
		Number of pre-2017 cases closed during the reporting period by outcome											
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2019	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	No. of pre-2017 cases remaining in on MAP inventory on 31 December 2019	Average time taken (in months) for closing pre-2017 cases during the reporting period
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

2020 MAP Statistics													
		Number of pre-2017 cases closed during the reporting period by outcome											
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2020	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	No. of pre-2017 cases remaining in on MAP inventory on 31 December 2020	Average time taken (in months) for closing pre-2017 cases during the reporting period
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Total	0	0	0	0	0	0	0	0	0	0	0	0	N/A

Annex C

MAP Statistics Reporting for post-2016 cases (1 January 2017 to 31 December 2020)

2017 MAP Statistics														
			Number of post-2016 cases closed during the reporting period by outcome											
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2017	No. of post-2016 cases started during the reporting period	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	No. of post-2016 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2016 cases during the reporting period
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	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

2018 MAP Statistics														
			Number of post-2016 cases closed during the reporting period by outcome											
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2018	No. of post-2016 cases started during the reporting period	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	No. of post-2016 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2016 cases during the reporting period
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	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

2019 MAP Statistics														
			Number of post-2016 cases closed during the reporting period by outcome											
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2019	No. of post-2016 cases started during the reporting period	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	No. of post-2016 cases remaining in on MAP inventory on 31 December 2019	Average time taken (in months) for closing post-2016 cases during the reporting period
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	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

2020 MAP Statistics														
			Number of post-2016 cases closed during the reporting period by outcome											
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2020	No. of post-2016 cases started 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	No. of post-2016 cases remaining in on MAP inventory on 31 December 2020	Average time taken (in months) for closing post-2016 cases during the reporting period
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Others	0	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

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
OECD Transfer Pricing Guidelines	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
Pre-2017 cases	MAP cases in a competent authority's inventory that are pending resolution on 31 December 2016
Post-2016 cases	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2017
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2017 and 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, British Virgin Islands (Stage 2)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

Under BEPS Action 14, members of the OECD/G20 Inclusive Framework on BEPS 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 BEPS 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 BEPS Action 14 Minimum Standard by the British Virgin Islands.

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