

## The Netherlands Dispute Resolution Profile

(Last updated: 17 December 2019)

### General Information

- **The Netherlands tax treaties are available at:**

<https://verdragenbank.overheid.nl/nl> (in Dutch/English)

- **MAP request should be made to:**

*[English]* Attn. Mr. Harry Roodbeen, Ministry of Finance, the Director International Tax and Consumer Tax  
PO Box 20201, 2500 EE The Hague  
t: +31-70 342 8260/ f: +31-70 342 8366 / e: [h.g.roodbeen@minfin.nl](mailto:h.g.roodbeen@minfin.nl)

*[Dutch]* T.a.v. de heer Harry Roodbeen, Ministerie van Financiën, de directeur voor Internationale Zaken en Verbruiksbelastingen  
Postbus 20201, 2500 EE Den Haag  
t: +31-70 342 8260/ f: +31-70 342 8366 / e: [h.g.roodbeen@minfin.nl](mailto:h.g.roodbeen@minfin.nl)

**Competence to handle MAP requests relating to the residence of taxpayers for corporate tiebreaker procedures** (*cases where a person other than an individual is a resident of both Contracting States and the Competent Authorities of the Contracting States shall determine by mutual agreement the Contracting State of which that person shall be deemed to be a resident for the purposes of the convention*) is mandated to the Dutch Tax and Customs Administration by Decree of the Netherlands State Secretary of Finance of November 12, 2015 (IZV/2015/832). These requests should be made to:

*[English]* Attn. National Director Large Businesses, Dutch Tax and Customs Administration  
Large Businesses, Behandelteam IFZ, PO Box 30206, 2500 GE The Hague

*[Dutch]* T.a.v. Landelijk directeur Belastingdienst/Grote ondernemingen, Behandelteam IFZ,  
Postbus 30206, 2500 GE Den Haag

- **APA request should be made to:**

*[English]* Attn. Behandelteam IFZ  
Dutch Tax and Customs Administration Large Businesses  
PO Box 30206, 2500 The Hague

*[Dutch]* T.a.v. Behandelteam IFZ  
Belastingdienst/Grote Ondernemingen  
Postbus 30206, 2500 GE Den Haag

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>A. Preventing Disputes</b>				
1.	Are agreements reached by your competent authority to resolve difficulties or doubts arising as to the interpretation or application of your tax treaties in relation to issues of a general nature which concern, or which may concern, a category of taxpayers published?	Yes	Competent authority agreements that are of a general nature are published in the Netherlands Government Gazette. This may also concern agreements that regard a category of taxpayers. The outcome of a mutual agreement procedure for individual cases are not published.	Available at: <a href="https://zoek.officielebekendmakingen.nl/zoeken/staatscourant">https://zoek.officielebekendmakingen.nl/zoeken/staatscourant</a> (only available in Dutch)
2.	Are bilateral APA programmes implemented? If yes:	Yes	The Netherlands has implemented an APA programme by Decree of the Netherlands State Secretary of Finance of June 3, 2014 (DGB2014/3098). The assignment of competence for granting APA's is provided by Decree of the Netherlands State Secretary of Finance of June 3, 2014 (DGB 2014/296M).	Available at: <a href="https://www.rijksoverheid.nl/documenten/besluiten/2014/06/13/besluit-dgb-2014-3098">https://www.rijksoverheid.nl/documenten/besluiten/2014/06/13/besluit-dgb-2014-3098</a> (only available in Dutch) <a href="https://www.rijksoverheid.nl/documenten/besluiten/2014/06/13/besluit-dgb-2014-296m">https://www.rijksoverheid.nl/documenten/besluiten/2014/06/13/besluit-dgb-2014-296m</a> (only available in Dutch)
a.	Are roll-back of APAs provided for in the bilateral APA programmes?	Yes	The Netherlands has not entered into bilateral APA programmes as such, but negotiates and enters into bilateral and multilateral APA's under the equivalent of article 25(3) OECD Model Convention, as included in the applicable double tax convention. Paragraph 5 of the Decree of the Netherlands State Secretary of Finance of June 3, 2014 (DGB2014/3098) allows for roll-back of APA's (unilateral, bilateral and multilateral). For	Available at: <a href="https://www.rijksoverheid.nl/documenten/besluiten/2014/06/13/besluit-dgb-2014-3098">https://www.rijksoverheid.nl/documenten/besluiten/2014/06/13/besluit-dgb-2014-3098</a> (only available in Dutch)

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			bilateral and multilateral APA's the actual possibility of a roll-back is dependent on the acceptance in the other Contracting State(s).	
b.	Are there specific timeline for the filing of an APA request?	No	-	-
c.	Are rules, guidelines and procedures on how taxpayers can access and use bilateral APAs, including the specific information and documentation that should be submitted in a taxpayer's request for bilateral APA assistance, publicly available?	Yes	The Decree of the Netherlands State Secretary of Finance of June 3, 2014 (DGB2014/3098) includes rules, guidelines and procedures how taxpayers can request for APA's (unilateral, bilateral and multilateral) and the process from request up to the conclusion of an APA.	Available at: <a href="https://www.rijksoverheid.nl/documenten/besluiten/2014/06/13/besluit-dgb-2014-3098">https://www.rijksoverheid.nl/documenten/besluiten/2014/06/13/besluit-dgb-2014-3098</a> (only available in Dutch)
d.	Are there any fees charged to taxpayers for a bilateral APA request?	No	-	-
e.	Are statistics relating to bilateral APAs publicly available?	Yes	APA statistics of the Netherlands are published on an annual basis on the website of the EU Joint Transfer Pricing Forum. This does not only concern (bilateral) APAs with other EU Member States, but APAs on a worldwide basis.	Available at: <a href="http://ec.europa.eu/taxation_customs/taxation/company_tax/transfer_pricing/forum/index_en.htm">http://ec.europa.eu/taxation_customs/taxation/company_tax/transfer_pricing/forum/index_en.htm</a>
3.	Is training provided to your officials involved in the auditing /examination of taxpayers to ensure that any assessments made by them are in accordance with the provisions of your tax treaties?	Yes	Tax inspectors can request training at the Tax Academy, part of the curriculum are issues related to interpretation and application of tax treaties. The Netherlands tax authorities further provides for training on the job, through inter alia the Coordination Group for Transfer Pricing or the	-

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			Knowledge Centre for International and European Tax Law.	
4.	Is other information available on preventing tax treaty-related disputes?	Yes	<p>Taxpayers are, pursuant to paragraph 15 of the Decree of the Netherlands State Secretary of Finance of November 14, 2013 (IFZ2013/184M), allowed to request the Dutch tax authorities, prior to the occurrence of double taxation, to enter into discussions with the other involved tax authorities with a view to avoid such occurrence of double taxation. Conditions for application are:</p> <p>a) The cause of possible double taxation lies in actions of a foreign tax authority and regards transfer pricing; and</p> <p>b) The tax authority is of a state with which the Netherlands has entered into a double tax convention that includes a provision concerning the exchange of information.</p>	<p>Available at:  <a href="https://zoek.officielebekendmakingen.nl/stcrt-2013-32854.html">https://zoek.officielebekendmakingen.nl/stcrt-2013-32854.html</a> (in Dutch)  <a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-arm's-length-principle-2013.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-arm's-length-principle-2013.pdf</a> (in English)</p>

**Notes:**

1. An APA is an “arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time”. (see definition of APA in the **OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations** (“Transfer Pricing Guidelines”).)

2. Situations may arise in which the issues resolved through an APA are relevant with respect to previous filed tax years not included within the original scope of the APA. The concept of “roll-back” is further elaborated in paragraph 4.136 of Section F (Advance pricing arrangement) of Chapter IV of the Transfer Pricing Guidelines and in paragraph 69 of Section D.4.2 (Possible retrospective application (“Roll back”)) of the Annex to Chapter IV (Guidelines for Conducting Advance Pricing Arrangements under the Mutual Agreement Procedure (“MAP APAs”)) of the Transfer Pricing Guidelines. Simply put, the “roll-back” of the APA is understood to mean that the outcome of the APA is applied to previous filed tax years not included

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<b>B. Availability and Access to MAP</b>				
5.	Are transfer pricing cases covered within the scope of MAP?	Yes	The Netherlands holds the view that article 25 OECD Model Convention, or its equivalent incorporated in double tax conventions the Netherlands has entered into, covers transfer pricing cases. This is explicated in paragraphs 1.1, 2.4.1 and 3 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M).	Available at: <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch) <a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	-	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	Generally, the Netherlands believes that (criminal) offenses should be dealt with by domestic legislation and not leaving double taxation in existence. The Netherlands competent authority holds the view that the presence of a punishable act should, in principle, not block a taxpayer's access to the mutual agreement procedure or the continuation of this procedure.  However, pursuant to article 8 of the EU Arbitration Convention, EU Member States may refuse to refer a case to the mutual agreement procedure/arbitration procedure if a taxpayer	Paragraph 4.2.2 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008(IFZ2008/248M).  Available at: <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch) <a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a>

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			<p>and/or its associated enterprises are liable to a serious penalty in relation to the profit adjustment. The Netherlands defined the term 'serious penalty' as:</p> <p><i>'the term 'a serious penalty' means a penalty imposed by a court due to intentionally committing an offence as listed in Article 68(2), or Article 69(1) or (2) of the General Tax Act.'</i></p>	<p><a href="#">agreement-procedure-2008.pdf</a> (unofficial translation in English)</p>
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	-	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	-	-
10.	Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP?	No	-	-
11.	Are taxpayers allowed to request MAP assistance in cases where the taxpayer has sought to resolve the issue under dispute via the judicial and administrative remedies provided by the domestic law of your jurisdiction?	Yes	<p>Paragraph 3 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M) allows taxpayers to, in line with the wording of article 25(1) of the OECD Model Convention, simultaneously request for the mutual agreement procedure while domestic</p>	<p>Available at:  <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderlinge-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderlinge-overlegprocedures</a> (in Dutch)  <a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-</a></p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			<p>available remedies (judicial/administrative) are pending.</p> <p>The formal initiation of the MAP, with certain exceptions, is dependent on the finalization of domestic judicial/administrative proceedings. In practice, however, the Netherlands initiates the mutual agreement procedure simultaneously with pending domestic available remedies.</p>	<p><a href="#">agreement-procedure-2008.pdf</a> (unofficial translation in English)</p>
12.	<p>Are taxpayers allowed to request for MAP assistance in cases where the issue under dispute has already been decided via the judicial and administrative remedies provided by the domestic law of your jurisdiction?</p>	Yes	<p>Paragraph 3 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M) allows taxpayers to, in line with the wording of article 25(1) of the OECD Model Convention, simultaneously request for the mutual agreement procedure while domestic available remedies (judicial/administrative) are pending.</p> <p>The formal initiation of the MAP, with certain exceptions, is dependent on the finalization of domestic judicial/administrative proceedings. In practice, however, the Netherlands initiates the mutual agreement procedure simultaneously with pending domestic available remedies.</p>	<p>Available at:  <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch)  <a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)</p>
13.	<p>Are rules, guidelines and procedures on how taxpayers can access and use MAP, including the specific information and documentation that should be submitted in a taxpayer's request</p>	Yes	<p>Paragraph 2.5 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M) includes a detailed list of information a taxpayer should include in its request for a mutual agreement procedure.</p>	<p>Available at:  <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch)</p>



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	for MAP assistance, publicly available?			<a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)
14.	Are there specific timeline for the filing of a MAP request?	Yes	<p>The double tax conventions the Netherlands has entered into generally adhere to the three-year filing deadline for a request for a mutual agreement procedure, as provided in article 25(1) of the OECD Model Convention. Some treaties, however, use a deviating filing deadline. This concerns:</p> <ul style="list-style-type: none"> <li>• <i>2-year term</i>: Canada, Italy, Malaysia, Qatar, Philippines and Venezuela;</li> <li>• <i>5-year term</i>: Brazil, New-Zealand, and Former Republic of Yugoslavia; and</li> <li>• <i>6-year term</i>: the United States.</li> </ul> <p>In the double tax conventions with Austria, the Czech Republic, Ireland, Israel, Korea, Morocco, Singapore, the Slovak Republic, Spain, Surinam, Thailand, Turkey and Zambia no filing deadline is included.</p>	-
15.	Are guidance on multilateral MAPs publicly available?	No	The Netherlands allows multilateral mutual agreement procedures under the equivalent of article 25 of the OECD Model Convention, but has no specific guidance available on this subject.	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes	Paragraph 8.1 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M) stipulates that upon request by the taxpayer, deferral of tax collection will be granted from the moment of submission of the request up to the date the mutual agreement procedure (and possibly arbitration procedure) has been completed. This, however, only if it is the Netherlands that caused the (potential) double taxation.	Article 25.2.4 of the Guidance on the collection of taxes. Available at: <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch) <a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)
17.	Are there any fees charged to taxpayers for a MAP request?	No	-	-
18.	Is there any other information available on availability and access to MAP?	Yes	-	Available at: <a href="https://www.rijksoverheid.nl/onderwerpen/inkomstenbelasting/vraag-en-antwoord/er-is-een-belastingverdrag-maar-ik-betaal-toch-dubbele-belasting-wat-moet-ik-doen">https://www.rijksoverheid.nl/onderwerpen/inkomstenbelasting/vraag-en-antwoord/er-is-een-belastingverdrag-maar-ik-betaal-toch-dubbele-belasting-wat-moet-ik-doen</a> (only available in Dutch)

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<b>C. Resolution of MAP Cases</b>				
19.	Are there any model timeframes for the steps taken by your competent authority from the receipt of a MAP case to the resolution of the case provided to taxpayers?	Yes	<p>Paragraph 5 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M) sets a targeted timeframe to conduct a mutual agreement procedure within a two-year period, including the steps to be taken.</p> <p>Further, the Netherlands follows the rules incorporated in the Code of Conduct to the EU Arbitration Convention, which in paragraph 6.4 also sets a detailed timeline, including procedural steps, for the two-year deadline of the mutual agreement procedure</p>	<p><a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch)</p> <p><a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)</p> <p>Revised Code of Conduct for the effective implementation of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (2009/C 322/01).</p> <p>Available at: <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:322:0001:0010:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:322:0001:0010:EN:PDF</a></p>
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	<p>MAP statistics specifically concerning the application of the EU Arbitration Convention are on an annual basis published on the website of the EU Joint Transfer Pricing Forum.</p> <p>MAP statistics concerning double tax conventions as well as the EU Arbitration Convention are also</p>	<p>Available at: <a href="http://ec.europa.eu/taxation_customs/taxation/company_tax/transfer_pricing/forum/index_en.htm">http://ec.europa.eu/taxation_customs/taxation/company_tax/transfer_pricing/forum/index_en.htm</a></p> <p>Available at:</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			on an annual basis published on the website of the OECD. This includes information on the average time taken to resolve MAP cases.	<a href="http://www.oecd.org/ctp/dispute/map-statistics-2006-2014.htm#netherlands">http://www.oecd.org/ctp/dispute/map-statistics-2006-2014.htm#netherlands</a>
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	See detailed explanation	<p>The Netherlands competent authority is, pursuant to its domestic legislation, allowed to deviate from its domestic legislation regarding interest charges and refunds in case of a mutual agreement procedures. As set out in paragraph 8.2 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M), the intention of the Netherlands' competent authority is to seek to ensure that the assessment and collection of interest charged and paid by the other state match each other. The Netherlands aims at including a provision in its double tax conventions dealing with interest charges and refunds in relation to the mutual agreement procedure. So far the Netherlands has included provisions relating hereto in double tax conventions with Albania, Bahrain, Barbados, Ethiopia, Ghana, Poland, Slovenia, Switzerland, Uganda and United Arab Emirates. Such provision generally reads:</p> <p><i>The competent authorities of the Contracting States may also agree, with respect to any agreement reached as a result of a mutual agreement procedure as meant in Article 25, if</i></p>	<p>Article 30(k) General Tax Act and article 31(a) Tax Collection Act 1990.</p> <p>Available at:  <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch)  <a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)  Administrative Arrangements for the Implementation of the Mutual Agreement Procedure (Article 29) of the Convention Between the Kingdom of the Netherlands and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains (Signed on December</p>

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			<p><i>necessary contrary to their respective national legislation, that the State in which there is an additional tax charge as a result of the aforementioned agreement shall not impose any increases, surcharges, interest and costs with respect to this additional tax charge, if the other State in which there is a corresponding reduction of tax as a result of the agreement refrains from the payment of any interest due with respect to such a reduction of tax.</i></p> <p>It further entered into a competent authority agreement with France and the United States, inter alia relating to interest charges and refunds as part of the mutual agreement procedure.</p>	<p>18, 1992, as Amended by Protocols). Available at: <a href="https://zoek.officielebekendmakingen.nl/stcrt-2003-196-p12-SC61525.html">https://zoek.officielebekendmakingen.nl/stcrt-2003-196-p12-SC61525.html</a> (only available in Dutch)</p> <p>Mutual agreement between competent authorities of France and the Netherlands under article 27 of the double tax conventions – September 21, 2010. Available at: <a href="https://www.rijksoverheid.nl/onderwerpen/belastingen-voor-ondernemers/documenten/richtlijnen/2010/12/08/administratieve-afspraken-onderlinge-overlegprocedure-met-frankrijk">https://www.rijksoverheid.nl/onderwerpen/belastingen-voor-ondernemers/documenten/richtlijnen/2010/12/08/administratieve-afspraken-onderlinge-overlegprocedure-met-frankrijk</a> (only available in Dutch)</p>
22.	Are the roles and responsibility of the MAP office publicly available, for example, is the mission statement of the MAP office available in the <i>annual</i> report of the organisation?	Yes	Paragraphs 1.2, 4.1 and 5 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M) describe the competent authority function and the role to be played during the mutual agreement procedure.	<p>Available at: <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderlinge-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderlinge-overlegprocedures</a> (in Dutch)</p> <p><a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)</p>

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23.	<p>Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of your tax treaties?</p> <p>If not:</p>	Yes	<p>Pursuant to paragraph 2.17 of the Memorandum Dutch tax treaty policy of February 11, 2011, as also paragraph 1.2.2 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M), the policy of the Netherlands is to incorporate an arbitration clause – based on article 25(5) of the OECD Model Convention – in all of its double tax convention.</p> <p>The Netherlands has included in 41 double tax conventions an arbitration clause. Most of them are included prior to 2008 and concern:</p> <ul style="list-style-type: none"> <li>• <i>At the request of a single competent authority:</i> Albania, Bahrain, Barbados, Bermuda, Egypt, Estonia, Georgia, Ghana, Jordan, Kuwait, Latvia, Lithuania, Macedonia, Moldova, Poland, Slovenia, South Africa, Uganda, United Arab Emirates and Uzbekistan;</li> <li>• <i>Subject to the agreement of both competent authorities:</i> Armenia, Canada, Croatia, Russia and the Ukraine;</li> <li>• <i>Subject to the agreement of both competent authorities and the taxpayer:</i> Iceland, Kazakhstan and the United States; and</li> <li>• <i>Other:</i> Azerbaijan and Venezuela.</li> </ul>	<p>Available at:</p> <p><a href="https://www.eerstekamer.nl/behandeling/20110211/notitie_fiscaal_verdrag_sbeleid_nfv">https://www.eerstekamer.nl/behandeling/20110211/notitie_fiscaal_verdrag_sbeleid_nfv</a> (only available in Dutch)</p> <p><a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch)</p> <p><a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			Further, the Netherlands has entered into seven double tax conventions that include an arbitration provision that is based on article 25(5) of the OECD Model Convention. This concerns conventions with: Germany, Hong Kong, Japan, Malawi (not yet in force), Norway, Qatar, Switzerland, the United Kingdom and Zambia (not yet in force).	
a.	Are there any legal limitations in your domestic law (for example in your constitution) to include MAP arbitration in your tax treaties?	-	-	-
b.	Does your treaty policy allow you to include MAP arbitration in your tax treaties?	-	-	-
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available? If yes:	Yes	Reference is made to the answer to section 11.	Reference is made to the answer to section 11.
a.	Does the guidance specifically address whether the competent authority considers that it is legally bound to follow a domestic court decision in the MAP or will not deviate from a domestic court decision as a matter of administrative policy or practice?	Yes	The Netherlands is allowed to deviate from decisions of its domestic courts. As stated in paragraph 2.17 of the Memorandum Dutch tax treaty policy of February 11, 2011, the Netherlands is in favour of deleting the sentence relating hereto, as provided in article 25(5) OECD Model Convention, in its double tax conventions.	Available at: <a href="https://www.eerstekamer.nl/behandeling/20110211/notitie_fiscaal_verdrag_sbeleid_nfv">https://www.eerstekamer.nl/behandeling/20110211/notitie_fiscaal_verdrag_sbeleid_nfv</a> (only available in Dutch)

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	Paragraph 2.5 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M) defines what information needs to be included a request for the initiation of the mutual agreement procedure. This specifically mentions that it may concern multiple tax years.	Available at: <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch) <a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)
26.	Do all your jurisdiction's tax treaties contain a provision which would oblige your jurisdiction to make corresponding adjustments or to grant access to the MAP with respect to the economic double taxation that may otherwise result from a primary transfer pricing adjustment (i.e. is paragraph 2 of Article 9 of the OECD Model Tax Convention or the UN Model Double Taxation Convention included in all of your jurisdiction's tax treaties)?	No	The tax treaty policy of the Netherlands is to incorporate the equivalent of article 9(2) OECD Model Convention in all its double tax convention. However, some relatively older conventions do not include this provision. This concerns conventions with Austria, Bermuda, Brazil, Bulgaria, the Czech Republic, France, Ireland, Israel, Italy, Korea, Luxembourg, Malaysia, Morocco, Philippines, Singapore, the Slovak Republic, Spain, Thailand, Former Republic of Yugoslavia and Zambia. Even in the absence equivalent of article 9(2) OECD Model Convention, the Netherlands believes that corresponding adjustments should be granted following the application of the mutual agreement procedure of article 25 OECD Model Convention.	-
27.	Is there any other information available on resolution of MAP cases?	No	-	-



s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>D. Implementation of MAP Agreements</b>				
28.	Where the agreement reached by your competent authority through the MAP process leads to additional tax to be paid by your taxpayer, is there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for the additional tax to be paid?	No	-	-
29.	Where the agreement reached by your competent authority through the MAP process leads to a refund of the tax due or paid by your taxpayer, are there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for a refund of the tax paid?	No	-	-
30.	Are all mutual agreements reached through MAP	Yes	Not all double tax conventions the Netherlands has entered into include the equivalent of the	Available at:

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	implemented notwithstanding any time limits in your domestic law?		<p>second sentence of article 25(2) OECD Model Convention, dealing with the implementation of a mutual agreement reached notwithstanding any time limits in the domestic law of the contracting states. This concerns conventions with Austria, Brazil, Canada, the Czech Republic, Indonesia, Ireland, Israel, Italy, Korea, Luxembourg, Malaysia, Mexico, Morocco, Nigeria, Philippines, Singapore, the Slovak Republic, Spain, Surinam, Thailand, Former Republic of Yugoslavia and Zambia.</p> <p>The Netherlands, however, is not bound to domestic time limits for implementing mutual agreements. If the tax assessment concerned already have become final after the mutual agreement procedure has been finalized, the Netherlands Tax and Custom Administration is pursuant to paragraph 6(2) of the Decree of the Netherlands State Secretary of Finance of December 10, 2009 (CPP2009/2461M) allowed to implement a mutual agreement reached notwithstanding the domestic time limits. So even in the absence of the last sentence of the equivalent of article 25(2) OECD Model Convention, a mutual agreement is implemented in the Netherlands notwithstanding domestic time limits.</p>	<p><a href="https://zoek.officielebekendmakingen.nl/stcrt-2009-19523.html">https://zoek.officielebekendmakingen.nl/stcrt-2009-19523.html</a> (only available in Dutch)</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
31.	Is there any other information available on the implementation of MAP agreements?	Yes	Paragraph 6 and 7 of the Decree of the Netherlands State Secretary of Finance of September 29, 2008 (IFZ2008/248M) stipulates that the taxpayer holds a right of acceptance of the outcome of the mutual agreement procedure. He should inform the competent authority to which he submitted his request for a mutual agreement procedure whether he accepts the outcome. However, specifically with respect to the EU Arbitration Convention: the taxpayer is bound to the outcome of the mutual agreement procedure if such outcome follows from the establishment of an advisory commission.	Available at: <a href="https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures">https://www.rijksoverheid.nl/documenten/besluiten/2009/07/21/internationaal-belastingrecht-onderling-overlegprocedures</a> (in Dutch) <a href="http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf">http://www.oecd.org/ctp/transfer-pricing/netherlands-decree-mutual-agreement-procedure-2008.pdf</a> (unofficial translation in English)