OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective - MAP Peer Review Report, Iceland (Stage 1)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14



OECD

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Please cite this publication as:
OECD (2019), *Making Dispute Resolution More Effective - MAP Peer Review Report, Iceland (Stage 1): Inclusive Framework on BEPS: Action 14*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.
https://doi.org/10.1787/9789264309968-en

ISBN 978-92-64-30995-1 (print)
ISBN 978-92-64-30996-8 (pdf)

Series: OECD/G20 Base Erosion and Profit Shifting Project
ISSN 2313-2604 (print)
ISSN 2313-2612 (online)

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Foreword

The integration of national economies and markets has increased substantially in recent years, putting a strain on the international tax rules, which were designed more than a century ago. Weaknesses in the current rules create opportunities for base erosion and profit shifting (BEPS), requiring bold moves by policy makers to restore confidence in the system and ensure that profits are taxed where economic activities take place and value is created.

Following the release of the report Addressing Base Erosion and Profit Shifting in February 2013, OECD and G20 countries adopted a 15-point Action Plan to address BEPS in September 2013. The Action Plan identified 15 actions along three key pillars: introducing coherence in the domestic rules that affect cross-border activities, reinforcing substance requirements in the existing international standards, and improving transparency as well as certainty.

After two years of work, measures in response to the 15 actions were delivered to G20 Leaders in Antalya in November 2015. All the different outputs, including those delivered in an interim form in 2014, were consolidated into a comprehensive package. The BEPS package of measures represents the first substantial renovation of the international tax rules in almost a century. Once the new measures become applicable, it is expected that profits will be reported where the economic activities that generate them are carried out and where value is created. BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

Implementation is now the focus of this work. The BEPS package is designed to be implemented via changes in domestic law and practices, and in tax treaties. With the negotiation of a multilateral instrument (MLI) having been finalised in 2016 to facilitate the implementation of the treaty related BEPS measures, over 80 jurisdictions are covered by the MLI. The entry into force of the MLI on 1 July 2018 paves the way for swift implementation of the treaty related measures. OECD and G20 countries also agreed to continue to work together to ensure a consistent and co-ordinated implementation of the BEPS recommendations and to make the project more inclusive. Globalisation requires that global solutions and a global dialogue be established which go beyond OECD and G20 countries.

A better understanding of how the BEPS recommendations are implemented in practice could reduce misunderstandings and disputes between governments. Greater focus on implementation and tax administration should therefore be mutually beneficial to governments and business. Proposed improvements to data and analysis will help support ongoing evaluation of the quantitative impact of BEPS, as well as evaluating the impact of the countermeasures developed under the BEPS Project.

As a result, the OECD established the Inclusive Framework on BEPS, bringing all interested and committed countries and jurisdictions on an equal footing in the Committee on Fiscal Affairs and all its subsidiary bodies. The Inclusive Framework,

which already has more than 120 members, is monitoring and peer reviewing the implementation of the minimum standards as well as completing the work on standard setting to address BEPS issues. In addition to BEPS members, other international organisations and regional tax bodies are involved in the work of the Inclusive Framework, which also consults business and the civil society on its different work streams.

This report was approved by the Inclusive Framework on BEPS on 19 October 2018 and prepared for publication by the OECD Secretariat.

Table of contents

Foreword **3**

Abbreviations and Acronyms **7**

Executive summary **9**

Introduction **11**

Available mechanisms in Iceland to resolve tax treaty-related disputes 11
Recent developments in Iceland 11
Basis for the peer review process 11
Overview of MAP caseload in Iceland 12
General outline of the peer review report 12
Notes 13

Part A: Preventing disputes **15**

[A.1] Include Article 25(3), first sentence, of the OECD Model Tax Convention in tax treaties 15
[A.2] Provide roll-back of bilateral APAs in appropriate cases 17
Notes 18

Part B: Availability and access to map **19**

[B.1] Include Article 25(1) of the OECD Model Tax Convention in tax treaties 19
[B.2] Allow submission of MAP requests to the competent authority of either treaty partner, or, alternatively, introduce a bilateral consultation or notification process 24
[B.3] Provide access to MAP in transfer pricing cases 26
[B.4] Provide access to MAP in relation to the application of anti-abuse provisions 28
[B.5] Provide access to MAP in cases of audit settlements 29
[B.6] Provide access to MAP if required information is submitted 30
[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties 31
[B.8] Publish clear and comprehensive MAP guidance 33
[B.9] Make MAP guidance available and easily accessible and publish MAP profile 35
[B.10] Clarify in MAP guidance that audit settlements do not preclude access to MAP 36
Notes 37
References 38

Part C: Resolution of MAP cases **39**

[C.1] Include Article 25(2), first sentence, of the OECD Model Tax Convention in tax treaties 39
[C.2] Seek to resolve MAP cases within a 24-month average timeframe 41
[C.3] Provide adequate resources to the MAP function 46

[C.4] Ensure staff in charge of MAP has the authority to resolve cases in accordance with the applicable tax treaty 48
[C.5] Use appropriate performance indicators for the MAP function 49
[C.6] Provide transparency with respect to the position on MAP arbitration 50
Notes 51
References 51

Part D: Implementation of MAP agreements 53

[D.1] Implement all MAP agreements 53
[D.2] Implement all MAP agreements on a timely basis 54
[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) 55
Notes 58
References 58

Summary 59

Annex A. Tax treaty network of Iceland 63

Annex B. MAP Statistics Reporting for the 2016 and 2017 Reporting Periods (1 January 2016 to 31 December 2017) for Pre-2016 Cases 69

Annex C. MAP Statistics Reporting for the 2016 and 2017 Reporting Periods (1 January 2016 to 31 December 2017) for Post-2015 Cases 71

Glossary 73

Figures

Figure C.1. Evolution of Iceland's MAP caseload 42
Figure C.2. Evolution of Iceland's MAP inventoryPost-2015 cases 43
Figure C.3. Cases closed during the Statistics Reporting Period (three cases) 44
Figure C.4. Average time (in months) to close cases in 2016 or 2017 47

Abbreviations and Acronyms

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

Executive summary

Iceland has a modest tax treaty network with just under 50 tax treaties. Iceland has limited experience with resolving MAP cases. It has a small MAP inventory, with a small number of new cases submitted each year and two cases pending on 31 December 2017. One of these cases concerns an allocation/attribution case. Overall Iceland meets more than half of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Iceland is working to address them.

All of Iceland's tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 through 3 of Article 25 of the *Model Tax Convention on Income and on Capital 2014* (OECD Model Tax Convention, (OECD, 2015[1]). Its treaty network is largely consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that:

- Almost 25% of its tax treaties do not contain the equivalent to Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2015[1]) stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty
- 10% of its tax treaties contain neither a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Iceland needs to amend and update a certain number of its tax treaties. In this respect, Iceland signed the Multilateral Instrument, through which a number of its tax treaties will potentially be modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force of this Multilateral Instrument for the treaties concerned, Iceland reported that it intends to update all of its tax treaties to be compliant with the requirements under the Action 14 Minimum Standard via bilateral negotiations, but that it does not yet have a plan in place for that purpose.

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

Iceland meets some requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. Iceland's policy is to provide access to MAP in all eligible cases although it has since 1 January 2016 not received any MAP requests concerning transfer pricing cases or the application of anti-abuse provisions. It does not yet have in place a documented bilateral consultation or notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Iceland also has not published guidance on the availability of MAP and how it applies this procedure in practice but Iceland is in the process of drafting such guidance.

Concerning the average time needed to close MAP cases, the MAP statistics for Iceland for the period 2016-2017 are as follows:

2016-2017	Opening Inventory 1/1/2016	Cases started	Cases closed	End Inventory 31/12/2017	Average time to close cases (in months)(*)
Attribution/allocation cases	0	0	0	0	N/A
Other cases	0	4	3	1	3.23
Total	0	4	3	1	3.23

(*) The average time taken for resolving MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. It should be noted that there were no pre-2016 cases in Iceland's inventory.

The number of cases Iceland closed in 2016 or 2017 is slightly lower than the number of all new cases started in those years. Its MAP inventory as per 31 December 2017 slightly increased as compared to its inventory as per 1 January 2016 although it remains limited. During the Statistics Reporting Period, Iceland's competent authority closed MAP cases on average within a timeframe that is significantly shorter than 24 months (which is the pursued average for closing MAP cases received on or after 1 January 2016), as the average time necessary was 3.23 months.

Furthermore, Iceland meets all the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Iceland's competent authority operates fully independently from the audit function of the tax authorities, resolves MAP cases in an effective and efficient manner and the performance indicators used are appropriate to perform the MAP function.

Lastly, Iceland also meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. Although the implementation of these agreements is not monitored by Iceland, no issues have surfaced regarding the implementation throughout the peer review process. Even though Iceland has a domestic statute of limitation for implementation of MAP agreements, for which there is a risk that such agreements cannot be implemented where the applicable tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]), no problems have arisen in practice.

Introduction

Available mechanisms in Iceland to resolve tax treaty-related disputes

Iceland has entered into 49 tax treaties on income (and/or capital), 48 of which are in force.1 These 49 treaties apply to 55 jurisdictions.[2] All of these treaties provide for a mutual agreement procedure for resolving disputes on the interpretation and application of the provisions of the tax treaty. In addition, seven of the 49 treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.[3]

In Iceland the competent authority function to conduct MAP is delegated by the Ministry of Finance to the Directorate of Internal Revenue. The competent authority of Iceland currently employs one person from the Control/Compliance Department who is responsible for both attribution/allocation cases and other cases. This person occasionally draws upon the expertise of other experts located within the Directorate of Internal Revenue in the Individual or Corporate Taxation Departments, or from the Administration Department, in order to assist with particularly complex MAP cases.

Iceland has not yet issued guidance on the governance and administration of the mutual agreement procedure ("**MAP**") but indicated it is in the process of developing guidance which it expects to be published in 2018.

Recent developments in Iceland

Iceland recently signed a new tax treaty with Japan, which has not yet entered into force.

Furthermore, Iceland signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("**Multilateral Instrument**") on 7 June 2017, to adopt, where necessary, modifications to the MAP article under its tax treaties with a view to be compliant with the Action 14 Minimum Standard in respect of all the relevant tax treaties. Where treaties will not be modified by the Multilateral Instrument, Iceland reported that it will strive to update them through future bilateral negotiations. Iceland, however, reported that it does not have a specific plan in place for such negotiations. With the signing of the Multilateral Instrument, Iceland also submitted its list of notifications and reservations to that instrument.[4]

Basis for the peer review process

The peer review process entails an evaluation of Iceland's implementation of the Action 14 Minimum Standard through an analysis of its legal and administrative framework relating to the mutual agreement procedure, as governed by its tax treaties, domestic legislation and regulations, as well as its MAP programme guidance (if any) and the practical application of that framework. The review process performed is desk-based and conducted through specific questionnaires completed by the assessed jurisdiction, its peers and taxpayers. The questionnaires for the peer review process were sent to Iceland and the peers on 10 April 2018.

The period for evaluating Iceland's implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 30 April 2018 ('**Review Period**'). Furthermore, this report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Iceland's implementation of this minimum standard. In the update of this report, being stage 2 of the peer review process, these recent developments will be taken into account in the assessment and, if necessary, the conclusions contained in this report will be amended accordingly.

For the purpose of this report and the statistics below, in assessing whether Iceland is compliant with the elements of the Action 14 Minimum Standard that relate to a specific treaty provision, the newly negotiated treaties or the treaties as modified by a protocol, 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 Iceland's tax treaties regarding the mutual agreement procedure.

In total six peers provided input: Canada, Belgium, Germany, Portugal, Sweden and Switzerland. Out of these six peers, three had MAP cases with Iceland that started on or after 1 January 2016. These three peers represent all of post-2015 MAP cases in Iceland's inventory that started in 2016 or 2017.The peers generally indicated having a good but limited MAP experience with Iceland's competent authority.

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

- MAP profile[5]; and
- MAP statistics[6] according to the MAP Statistics Reporting Framework (see below).

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

Overview of MAP caseload in Iceland

The analysis of Iceland's MAP caseload relates to the period starting on 1 January 2016 and ending on 31 December 2017 ('**Statistics Reporting Period**'). According to the statistics provided by Iceland, its MAP caseload during this period was as follows:

2016-2017	Opening Inventory 1/1/2016	Cases started	Cases closed	End Inventor 31/12/2017
Attribution/allocation cases	0	0	0	0
Other cases	0	4	3	1
Total	0	4	3	1

General outline of the peer review report

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

A. Preventing Disputes;

B. Availability and Access to MAP;

C. Resolution of MAP cases; and

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**").[7] Apart from analysing Iceland's legal framework and its administrative practice, the report also incorporates peer input. Furthermore, the report depicts the changes adopted and plans shared by Iceland to implement elements of the Action 14 Minimum Standard where relevant. The conclusion of each element identifies areas for improvement (if any) and provides for recommendations how the specific area for improvement should be addressed.

The objective of the Action 14 Minimum Standard is to make dispute resolution mechanisms more effective and concerns a continuous effort. Therefore, this peer review report includes recommendations that Iceland continues to act in accordance with a given element of the Action 14 Minimum Standard, even if there is no area for improvement for this specific element.

Notes

1. The tax treaties Iceland has entered into are available at: https://www.rsk.is/einstaklingar/skattskylda/tviskottunarsamningar/#tab2. The treaty that is signed but has not yet entered into force is with Japan. Reference is made to Annex A for the overview of Iceland's tax treaties.

2. Iceland has entered into a multilateral tax treaty with the Nordic countries, which are: Denmark, Finland, Faroe Islands, Norway and Sweden ("Nordic convention"). For purposes of this peer review report, this treaty is considered as one tax treaty that applies to multiple jurisdictions. Furthermore, Iceland continues to apply the former treaty with the Netherlands Antilles to Curacao, Sint Maarten and the Caribbean part of the Netherlands. For purposes of this peer review report, this treaty is also considered as one tax treaty that applies to multiple jurisdictions.

3. This concerns the treaties with Canada, the Netherlands, Italy, Japan, Liechtenstein, Switzerland, and the United Kingdom. Reference is made to Annex A for the overview of Iceland's tax treaties.

4. Available at: http://www.oecd.org/tax/treaties/beps-mli-position-iceland.pdf.

5. Available at: http://www.oecd.org/tax/dispute/country-map-profiles.htm.

6. The MAP statistics of Iceland are included in Annex B and C of this report.

7. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

Part A: Preventing disputes

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

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

1. Cases may arise concerning the interpretation or the application of tax treaties that do not necessarily relate to individual cases, but are more of a general nature. Inclusion of the first sentence of Article 25(3) of the OECD Model Tax Convention (OECD, 2015[1]) in tax treaties invites and authorises competent authorities to solve these cases, which may avoid submission of MAP requests and/or future disputes from arising, and which may reinforce the consistent bilateral application of tax treaties.

Current situation of Iceland's tax treaties

2. Out of Iceland's 49 tax treaties, 46 contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention 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.[1] Two treaties[2] are missing the words "or doubts" and a third treaty misses the word "interpretation." For these reasons, those three treaties do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

3. Iceland reported that irrespective of whether the applicable tax treaty contains a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), there are no obstructions in its domestic legislation and/or administrative practices for entering into interpretative MAP agreements.

Anticipated modifications

Multilateral Instrument

4. Iceland signed the Multilateral Instrument. Article 16(4)(c)(i) of that instrument stipulates that Article 16(3), first sentence – containing the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]). In other words, in the absence of this equivalent, Article 16(4)(c)(i) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(i), the depositary that this treaty does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

5. In regard of the three tax treaties identified above that are considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland listed one of them as a covered tax agreement under the Multilateral Instrument but did not make, pursuant to Article 16(6)(d)(i), a notification that it does not contain a provision described in Article 16(4)(c)(i). Therefore, at this stage, none of the treaties identified above will be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

Bilateral modifications

6. Iceland reported that when the tax treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element A.1. Iceland, however, reported not having a specific plan in place for such negotiations. In addition, Iceland reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) in all of its future tax treaties.

Peer input

7. Generally peers that provided input reported their treaty with Iceland either meets the requirements under element A.1 or will be modified by the Multilateral Instrument or is currently under bilateral discussion. The treaties with the relevant peers are in line with element A.1 as per the above analysis.

8. For the three treaties identified that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), the relevant peers did not provide input.

Conclusion

	Areas for Improvement	Recommendations
[A.1]	Three out of 49 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]).	As the three treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) will at this time not be modified via the Multilateral Instrument, Iceland should request the inclusion of the required provision via bilateral negotiations. To this end, Iceland should put a plan in place on how it envisages updating these three treaties to include the required provision. In addition, Iceland should maintain its stated intention to include the required provision in all future tax treaties.

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

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

9. 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.[3] The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The "roll-back" of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

Iceland's APA programme

10. Iceland does not have a bilateral APA programme, by which there is no possibility for providing roll-back of bilateral APAs to previous years.

11. Peers confirmed they did not have any experience with Iceland regarding roll-back of bilateral APAs since 1 January 2016, which is logical given that Iceland does not have such a programme in place.

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[A.2]	-	-

Notes

[1] These 46 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, Faroe Islands, Norway and Sweden.

[2] These two treaties include the former treaty with the Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands.

[3] This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.

References

OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264239081-en. [1]

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.

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

Current situation of Iceland's tax treaties

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

14. Out of Iceland's 49 tax treaties, 41 contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as it read prior to the adoption of the *Making Dispute Resolution Mechanisms More Effective, Action 14 - 2015 Final Report* (Action 14 final report, (OECD, 2015[2]), 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 the domestic law of either state.[1] In addition, three of Iceland's tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), as changed by the Action 14 final report (OECD, 2015[2]) and allowing taxpayers to submit a MAP request to the competent authority of either state.

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

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) whereby taxpayers are only allowed to submit a MAP request when they consider that the actions of the competent authority (instead of the contracting states) result or will result in taxation not in accordance with the provisions of the treaty.	1
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as it read prior to the adoption of the Action 14 final report (OECD, 2015[2]), whereby taxpayers can only submit a MAP request to the competent authorities of the contracting state of which they are resident.	4

16. The one treaty in the first row contains a provision that reads, "Where a person who is a resident of a Contracting State considers that the actions of the competent authority of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which that person is a resident." The language above is additional language that limits MAP requests to actions taken only by a "competent authority" as opposed to actions taken by a "contracting state." Given this additional limiting language, this treaty is not considered to be in line with element B.1.

17. The four treaties in the second row do not to contain the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as it read prior to the adoption of the Action 14 final report (OECD, 2015[2]), since taxpayers are not allowed to submit a MAP request in the state of which they are a national where the case comes under the non-discrimination article. However, for the following reasons all four treaties are considered to be in line with this part of element B.1:

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

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

18. Out of Iceland's 49 tax treaties, 44 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) 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.

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

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

Practical application

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

20. Iceland reported that access to MAP is granted if a case has already been decided via the judicial remedies even though its competent authority cannot deviate from such court decisions. It clarified that in order to reach a different outcome, new evidence or documents will be requested from the taxpayer.

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

21. For the two treaties in paragraph 19 that do not contain a filing period for a MAP request, Iceland reported that its domestic time limit would apply. In this respect, Iceland reported that according to Article 101(2) of its Income Tax Act 90/2003 its domestic statute of limitation expires six years after the relevant fiscal year. In practice, this may lead to a filing period of less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.

Anticipated modifications

Multilateral Instrument

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

22. Iceland signed the Multilateral Instrument. Article 16(4)(a)(i) of that instrument stipulates that Article 16(1), first sentence – containing the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as amended by the final report on Action 14 (OECD, 2015[2]) and allowing the submission of MAP requests to the competent authority of either contracting state – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as it read prior to the adoption of the final report on Action 14 (OECD, 2015[2]). However, this shall only apply if both contracting parties to the applicable tax treaty have listed this tax treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified the depositary, pursuant to Article 16(6)(a)(i), that this treaty contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as it read prior to the adoption of the final report on Action 14 (OECD, 2015[2]). Article 16(4)(a)(i) will for a tax treaty not take effect if one of the treaty partners has, pursuant to Article 16(5)(a), reserved the right not to apply the first sentence of Article 16(1) of that instrument to all of its covered tax agreements.

23. With the signing of the Multilateral Instrument, Iceland opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is

equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as amended by the final report on Action 14 (OECD, 2015[2]), allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Iceland's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which it is a resident, Iceland opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Iceland listed 35 of its 49 treaties as a covered tax agreement under the Multilateral Instrument and made, on the basis of Article 16(6)(a), for 33 of them the notification that they contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as it read prior to the adoption of the final report on Action 14 (OECD, 2015[2]).

24. In total, five of the 33 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas all other treaty partners have listed their treaty with Iceland as a covered tax agreement under that instrument and 11 reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state. The remaining 17 treaty partners listed their treaty with Iceland as having a provision that is equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as it read prior to the adoption of the final report on Action 14 (OECD, 2015[2]). Therefore, at this stage, all of the 17 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

25. The one treaty identified in the first row of the table in paragraph 15 above that is considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as it read prior to the adoption of the final report on Action 14 (OECD, 2015[2]) is not one of the 17 treaties that will be modified via the Multilateral Instrument.

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

26. With respect to the period of filing of a MAP request, Article 16(4)(a)(ii) of the Multilateral Instrument stipulates that Article 16(1), second sentence – containing the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention – will apply where such period is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(b)(i), the depositary that this treaty does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

27. In regard of the two tax treaties identified in paragraph 19 above that contain a filing period for MAP requests of less than three years, Iceland listed both treaties as a covered tax agreement under the Multilateral Instrument and for all of them made, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). Both tax treaty partners also made such notification. Therefore, at this stage, the Multilateral Instrument, upon entry into force, will modify

both treaties to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

Bilateral modifications

28. Iceland reported that for the one tax treaty that does not contain the equivalent of Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015[1]), as it read prior to the adoption of the final report on Action 14 (OECD, 2015[2]), and which will not be modified by the Multilateral Instrument, it intends to update this treaty via bilateral negotiations with a view to be compliant with element B.1. Iceland however, reported not having in place a specific plan for such negotiations.

29. With respect to Article 25(1), Iceland reported that it will propose to include the equivalent as it read after the adoption of the final report on Action 14 (OECD, 2015[2]) in its bilateral negotiations in all its future tax treaties.

Peer input

30. Most peers that provided input reported that their treaty with Iceland either meets the requirements under element B.1 or will be modified by the Multilateral Instrument, which is in line with the above analysis.

31. For the one treaty identified above that does not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2015[1]) and that will not be modified by the Multilateral Instrument, the relevant peer did not provide input.

Conclusion

	Areas for Improvement	Recommendations
[B.1]	Three out of 49 tax treaties do not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015[1]). Of those three tax treaties: ○ One tax treaty does not contain the equivalent of Article 25(1), first sentence; ○ Two tax treaties provide that the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.	Iceland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015[1]) in those treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. This concerns only: ● a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland should request the inclusion of the required provision via bilateral negotiations. To this end, Iceland should put a plan in place on how it envisages updating this one treaty to include the required provision. In addition, Iceland should maintain its stated intention to include the required provision in all future tax treaties.
	Where tax treaties do not contain a time limit for submission of a MAP request, applicable rules under domestic legislation may lead to a filing period of less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.	Iceland should ensure that where its domestic time limits apply for filing of MAP requests, in the absence of a provision hereon in its tax treaties, such time limits do not prevent taxpayers from being granted access to MAP if a request thereto is made within a period of three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.

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

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

32. 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

33. As discussed under element B.1, out of Iceland's 49 treaties, three currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) as changed by the Action 14 final report (OECD, 2015[2]), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. Furthermore, as was also discussed under element B.1, 17 of these 49 treaties will, upon entry into force, be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

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

Practical application

35. Iceland reported that since 1 January 2016 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such requests was not justified.

36. All peers that provided input indicated not being aware of any cases for which Iceland's competent authority denied access to MAP. They also reported not having been consulted or notified of a case where Iceland's competent authority considered the objection raised in a MAP request as not justified. This can be explained by the fact that Iceland did not consider that an objection raised in a MAP request was not justified since 1 January 2016.

Anticipated modifications

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

38. As previously discussed under element B.1, Iceland has signed the Multilateral Instrument, *inter alia* with the intention to modify covered tax agreements to allow taxpayers to submit a MAP request to the competent authority of either contracting state. Where tax treaties will not be modified by the Multilateral Instrument, Iceland declared it will apply its bilateral notification and consultation process once introduced when its competent authority considers the objection raised in a MAP request not to be justified.

Conclusion

	Areas for Improvement	Recommendations
[B.2]	46 of the 49 treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015[1]) as changed by the Action 14 final report (OECD, 2015[2]), allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Iceland should, without further delay, introduce a documented notification and/or consultation process and apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2015[1]) as amended by the final report on Action 14 (OECD, 2015[2]).

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

Jurisdictions should provide access to MAP in transfer pricing cases.

39. 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

40. Out of Iceland's 49 tax treaties, 35 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015[1]) requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner.[4] Furthermore, 12 do not contain Article 9(2) of the OECD Model Tax Convention (OECD, 2015[1]).[5] The remaining two treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2015[1]), but deviate from this provision for the following reasons:

- The term "may" is used instead of "shall" when it concerns the granting of a corresponding adjustment (one treaty)
- Granting of corresponding adjustments is only allowed through the mutual agreement procedure (one treaty).

41. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Iceland's tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B3, as translated from the Action 14 Minimum Standard, Iceland indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments.

Application of legal and administrative framework in practice

42. Iceland reported that since 1 January 2016, it has not denied access to MAP on the basis that the case concerned a transfer pricing case.

43. Peers indicated not being aware of a denial of access to MAP by Iceland on the basis that the case concerned was a transfer pricing case since 1 January 2016.

Anticipated modifications

44. Iceland reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention (OECD, 2015[1]) in its tax treaties where possible and that it will seek to include this provision in all of its future tax treaties. In that regard, Iceland signed the Multilateral Instrument. Article 17(2) of that instrument stipulates that Article 17(1) – containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2015[1]) – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 9(2) of the OECD Model Tax Convention. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument. Article 17(2) of the Multilateral Instrument does for a tax treaty not take effect if one or both of the treaty partners to the tax treaty have, pursuant to Article 17(3), reserved the right to not apply Article 17(2) for those tax treaties that already contain the equivalent of Article 9(2) of the OECD Model Tax Convention, or not to apply Article 17(2) in the absence of such equivalent under the condition that: (i) it shall make appropriate corresponding adjustments or (ii) its competent authority shall endeavour to resolve the case under mutual agreement procedure of the applicable tax treaty. Where neither treaty partner has made such a reservation, Article 17(4) of the Multilateral Instrument stipulates that both have to make a notification whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015[1]). Where such a notification is made by both of them, the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2015[1])).

45. Iceland has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument for those tax treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015[1]). In regard of the 14 treaties identified in paragraph 39 above that are considered not to contain such equivalent, Iceland listed five as a covered tax agreement under the Multilateral Instrument and included two of them in the list of treaties for which Iceland has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument. For the remaining three treaties Iceland did not make, pursuant to Article 17(4), a notification that these treaties do contain such equivalent. Of the relevant three treaty partners, one is not a signatory to the Multilateral Instrument and one has, on the basis of Article 17(3), reserved the right not to apply Article 17(2) as it considered that its treaty with Iceland already contains the equivalent of Article 9(2).. Therefore, at this stage, the remaining one tax treaty will be superseded by the Multilateral Instrument upon its entry into force for this treaty only to the extent that the provisions contained in this treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1).

Conclusion

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

[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 Iceland's 49 tax treaties allow competent authorities to restrict access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. In addition, the domestic law and/or administrative processes of Iceland does not contain a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

Practical application

48. Iceland reported that since 1 January 2016 it did not deny access to MAP in any cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

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

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[B.4]	Iceland reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Iceland is therefore recommended to follow its policy and grant access to MAP when such cases surface.	

[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.

51. 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

52. Under Iceland's domestic law there is no audit settlement process available.

Administrative or statutory dispute settlement/resolution process

53. According to Iceland's Income Tax Act 90/2003, a taxpayer has the option to appeal a decision from Iceland's tax authority to Iceland's Directorate of Internal Revenue. Iceland further reported that the appellate decision can then be further appealed to the State Revenue Board or to a district court and that does not limit access to MAP with respect to the matters resolved through that process. Iceland reported that access to MAP is granted if a case has already been decided by this administrative body but its competent authority cannot deviate from such a decision. Iceland clarified that in order to reach a different outcome, new evidence or documents will be requested from the taxpayer. . This is also clarified in Iceland's MAP profile.

Practical application

54. Iceland reported that since 1 January 2016 it has not denied access to MAP in any case where the issue presented by the taxpayer in a MAP request has already been resolved through an audit settlement between the taxpayer and the tax administration, which is logical given that audit settlements are not allowed in Iceland. In addition,

Iceland reported that no cases were submitted during the Review period whereby the taxpayer resorted to the administrative body and submitted a MAP request.

55. All peers generally indicated not being aware of a denial of access to MAP in Iceland since 1 January 2016.

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[B.5]	-	-

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

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

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

Legal framework on access to MAP and information to be submitted

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

Practical application

59. Iceland reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements as described under element B.8. In this respect, it reported that it has received six MAP requests from taxpayers since 1 January 2016 and that its competent authority has not denied access to MAP for these cases as a result of a taxpayer not providing the required information or documentation.

60. All peers that provided input indicated not being aware of a limitation of access to MAP by Iceland since 1 January 2016 in situations where taxpayers complied with information and documentation requirements.

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[B.6]	-	As Iceland has thus far not limited access to MAP in eligible cases when taxpayers have complied with Iceland's information and documentation requirements for MAP requests, it should continue this practice.

[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.

62. 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, 2015[1]), enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

Current situation of Iceland's tax treaties

63. Out of Iceland's 49 tax treaties, 38 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties.[6]

Anticipated modifications

Multilateral Instrument

64. Iceland signed the Multilateral Instrument. Article 16(4)(c)(ii) of that instrument stipulates that Article 16(3), second sentence – containing the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]). In other words, in the absence of this equivalent, Article 16(4)(c)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(ii), the depositary that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

65. In regard of the 11 tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland listed three treaties as a covered tax agreement under the Multilateral Instrument and for all of them made, pursuant to Article 16(6)(d)(ii), a

notification that they do not contain a provision described in Article 16(4)(c)(ii). All three treaty partners made such notification. Therefore, at this stage, three of the 11 tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

Bilateral modifications

66. Iceland reported that when the tax treaties that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.7. Iceland, however, reported not having in place a specific plan for such negotiations. Furthermore, Iceland reported that it does not intend to include Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2015[1]) in tax treaties with a limited scope as it believes that such an inclusion would contradict the purpose of these treaties. Iceland is of the opinion that the inclusion of Article 25(3), second sentence is intended to enable competent authorities to deal with rare and exceptional cases, and therefore it would be illogical for limited scope treaties to give competent authorities the possibility to consult in cases that have been intentionally excluded from the scope of the treaty.

67. In addition, Iceland reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) in all of its future comprehensive tax treaties.

Peer input

68. The majority of peers that provided input reported that their treaty with Iceland either meets the requirements under element B.7 or will be modified by the Multilateral Instrument, which is in line with the above analysis.

69. For the 11 treaties identified above that do not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2015[1]), nine did not provide peer input and the remaining two reported that their treaty will be modified by the Multilateral Instrument which is also in line with the above analysis.

Conclusion

	Areas for Improvement	Recommendations
[B.7]	11 out of 49 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]).	Iceland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) in those three treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining eight treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland should request the inclusion of the required provision via bilateral negotiations. To this end, Iceland should put a plan in place on how it envisages updating these eight treaties to include the required provision. In addition, Iceland should maintain its stated intention to include the required provision in all future tax treaties.

[B.8] Publish clear and comprehensive MAP guidance

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

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

Iceland's MAP guidance

71. Since Iceland does not have published MAP guidance, the information that the FTA MAP Forum agreed should be included in such guidance is not available.[7] This information 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 is not publically available.

Information and documentation to be included in a MAP request

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

shown below.[8] Iceland reported which items must be included in a request for MAP assistance and they are checked in the following list:

- ☑ Identity of the taxpayer(s) covered in the MAP request;
- ☑ The basis for the request;
- ☑ Facts of the case;
- ☑ Analysis of the issue(s) requested to be resolved via MAP;
- ☐ Whether the MAP request was also submitted to the competent authority of the other treaty partner;
- ☐ Whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes;
- ☐ Whether the issue(s) involved were dealt with previously; and
- ☐ 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.

73. This list, however, is not publically available as Iceland has not yet published MAP guidance.

74. Iceland reported that if a taxpayer sends its MAP request to the incorrect tax authority in Iceland, such as the Ministry of Finance or the Directorate of Tax Investigations, then the MAP request will be forwarded as soon as possible to the Directorate of Internal Revenue, as stipulated by Article 7 in the Administrative Procedures Act No. 37/1993.[9] Iceland clarified that neither the Ministry of Finance nor the Directorate of Tax Investigations has the authority to process such MAP requests. Iceland further reported that it will notify treaty partners when asked about updated information regarding Iceland's competent authority.

Anticipated modifications

75. Iceland indicated that it is developing MAP guidance which it expects to be published in 2018. Iceland reported that this MAP guidance is expected to include information on: whether MAP is available in cases of (i) transfer pricing, (ii) the application of anti-abuse provisions (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments. Iceland further indicated that this guidance will also address whether taxpayers can request for the multi-year resolution of recurring issues through MAP as well as information on the steps of the MAP process in Iceland and the timing for such steps regarding the implementation of MAP agreements.

Conclusion

	Areas for Improvement	Recommendations
[B.8]	Published MAP guidance is not available.	Iceland should introduce and publish, without further delay, guidance on access to and use of the MAP and 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/information that it should include in such a request. Additionally, Iceland could follow its stated intention to include the items described previously, and although not required by the Action 14 Minimum Standard, could consider including information on: ● the non-possibility of suspension of tax collection during the course of a MAP ● the consideration of interest and penalties in the MAP
	-	Recommendations on guidance in relation to audit settlements and access to MAP are discussed in element B.10.

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

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

76. 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.[10]

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

77. Iceland does not publish any MAP guidance in English but provides the following information on double taxation in Icelandic:

https://www.rsk.is/atvinnurekstur/malsmedferd-og-rettarreglur/tviskottunarsamningar/

MAP profile

78. The MAP profile of Iceland is published on the website of the OECD. This MAP profile is complete but contains limited information as Iceland's MAP guidance is still under development.

Anticipated modifications

79. Iceland indicated that it is in the process of updating its MAP profile.

Conclusion

	Areas for Improvement	Recommendations
[B.9]	There is no MAP guidance publically available.	Iceland should ensure that (i) its MAP guidance under preparation will be made publically available and easily accessible without further delay and that (ii) its MAP profile published on the shared public platform is updated to reflect the publication of its MAP guidance.

[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.

80. 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

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

82. Peers raised no issues with respect to this element concerning audit settlements.

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

83. As previously mentioned under element B.5, Iceland has an administrative or statutory dispute settlement/resolution process in place that is independent from the audit and examination functions and that limits access to MAP. As mentioned previously, Iceland does not currently publish MAP guidance.

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

84. Iceland has an internal administrative or statutory dispute settlement/resolution process in place that can limit access to MAP. Iceland reported that all treaty partners were notified of the existence of its administrative dispute settlement process, by referring to the information included in Iceland's MAP profile. However, all peers that provided input indicated not being aware of the existence of an administrative or statutory dispute settlement/resolution process in Iceland. As Iceland included information on this process in its MAP profile, this is considered to be in line with the notification requirements under element B.10.

Anticipated modifications

85. Iceland indicated that it is currently developing MAP guidance.

Conclusion

	Areas for Improvement	Recommendations
[B.10]	Public guidance on its administrative dispute settlement process does not address the effects of that process on MAP, and there is no MAP guidance available.	Iceland's to be published MAP guidance and the guidance on administrative or statutory dispute settlement/resolution processes should clarify the effects on MAP when the case was resolved through a dispute settlement/resolution process.

Notes

1. These 45 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, the Faroe Islands, Norway and Sweden.

2. These two treaties include the former treaty with the Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands.

3. This one treaty includes the Nordic Convention that Iceland applies to Denmark, Finland, Faroe Islands, Norway and Sweden.

4. These 35 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, the Faroe Islands, Norway and Sweden.

5. These 12 treaties include the former treaty with the Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands.

6. These 38 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, Faroe Islands, Norway and Sweden.

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

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

9. Available at: https://www.government.is/publications/legislation/lex/?newsid=fe364017-fd27-11e7-9423-005056bc4d74

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

References

OECD (2015), *Making Dispute Resolution Mechanisms More Effective, Action 14 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264241633-en. [2]

OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264239081-en. [1]

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.

86. 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, 2015[1]), which obliges competent authorities, in situations where the objection raised by taxpayers are considered justified and where cases cannot be unilaterally resolved, to enter into discussions with each other to resolve cases of taxation not in accordance with the provisions of a tax treaty.

Current situation of Iceland's tax treaties

87. Out of Iceland's 49 tax treaties, 48 contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) 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.[1]

88. The one remaining treaty contains a provision that is based on Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), but also includes additional language that limits the possibility to discuss cases bilaterally, as this additional language reads: "(…) provided that the competent authority of the other Contracting State is notified of the case within four and a half years from the due date or the date of filing the return in that other State, whichever is later". This provision is therefore considered not being the equivalent of Article 25(2), first sentence.

Anticipated modifications

Multilateral Instrument

89. Iceland signed the Multilateral Instrument. Article 16(4)(b)(i) of that instrument stipulates that Article 16(2), first sentence – containing the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]). In other words, in the absence of this

equivalent, Article 16(4)(b)(i) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(c)(i), the depositary–that this treaty does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

90. In regard of the one tax treaty identified above that is considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland listed it as a covered tax agreement under the Multilateral Instrument but did not make, pursuant to Article 16(6)(c)(i), a notification that it does not contain a provision described in Article 16(4)(b)(i). Therefore, at this stage, the one tax treaty identified above will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

Bilateral modifications

91. Iceland further reported that for its one tax treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) and which will not be modified by the Multilateral Instrument, it intends to update it via bilateral negotiations with a view to be compliant with element C.1. Iceland, however, reported not having in place a specific plan for this negotiation. In addition, Iceland reported it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) in all of its future tax treaties.

Peer input

92. All peers that provided input reported their treaty with Iceland meets the requirements under element C.1 or will be modified by the Multilateral Instrument, which is in line with the above analysis.

93. For the one treaty identified that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), the relevant peer did not provide input.

Conclusion

	Areas for Improvement	Recommendations
[C.1]	One out of 49 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention. (OECD, 2015[1])	As the one treaty will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland should request the inclusion of the required provision via bilateral negotiations. To this end, Iceland should put a plan in place on how it envisages updating this one treaty to include the required provision. In addition, Iceland should maintain its stated intention to include the required provision in all future tax treaties.

[C.2] Seek to resolve MAP cases within a 24-month average timeframe

Jurisdictions should seek to resolve MAP cases within an average time frame of 24 months. This time frame applies to both jurisdictions (i.e. the jurisdiction which receives the MAP request from the taxpayer and its treaty partner).

94. 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

95. Statistics regarding all tax treaty related disputes concerning Iceland are published on the website of the OECD as of 2006.[2]

96. The FTA MAP Forum has agreed on rules for the reporting of MAP statistics ('**MAP Statistics Reporting Framework**') for MAP requests submitted on or after 1 January 2016 ('**post-2015 cases**'). Also, for MAP requests submitted prior to that date ('**pre-2016 cases**'), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template. Iceland provided MAP statistics pursuant to the MAP Statistics Reporting Framework within the given deadline, including all cases involving Iceland and of which its competent authority was aware. The statistics discussed below only include post-2015 cases, as Iceland has no pre-2016 MAP cases in its inventory.[3] The statistics are attached in the annexes to this report. With respect to these post-2015 cases, Iceland reported having reached out to all of its MAP partners with a view to have their MAP statistics matching. In that regard, Iceland reported that it could match its statistics with all of its MAP partners.

Monitoring of MAP statistics

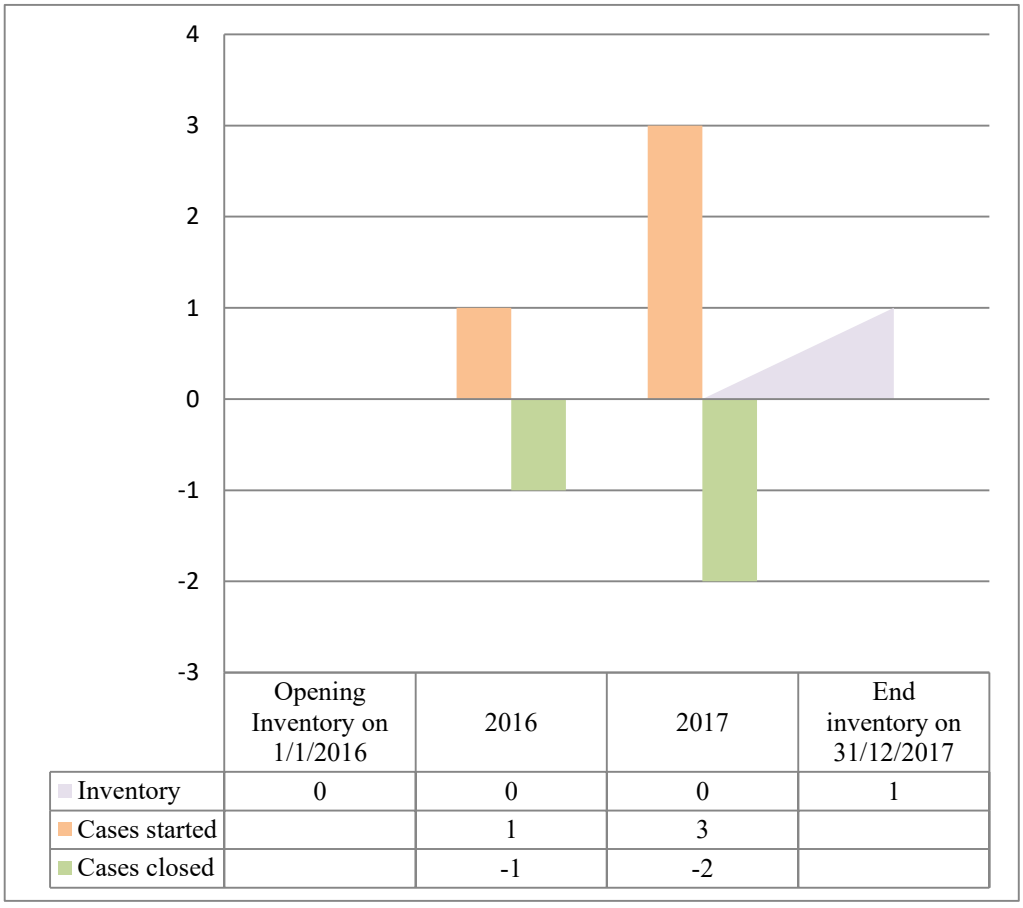
97. Iceland reported that due to its very small MAP caseload it does not have a system in place that monitors, communicates, and manages with its treaty partners the MAP caseload. However, Iceland noted that the person responsible for MAP cases monitors the progress of each MAP case manually.

Analysis of Iceland's MAP caseload

Global overview

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

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



	Opening Inventory on 1/1/2016	2016	2017	End inventory on 31/12/2017
Inventory	0	0	0	1
Cases started		1	3	
Cases closed		-1	-2	

99. During the Statistics Reporting Period, four MAP cases started, three of which were closed. At the end of that period, Iceland had one case in its inventory, which was an other case.

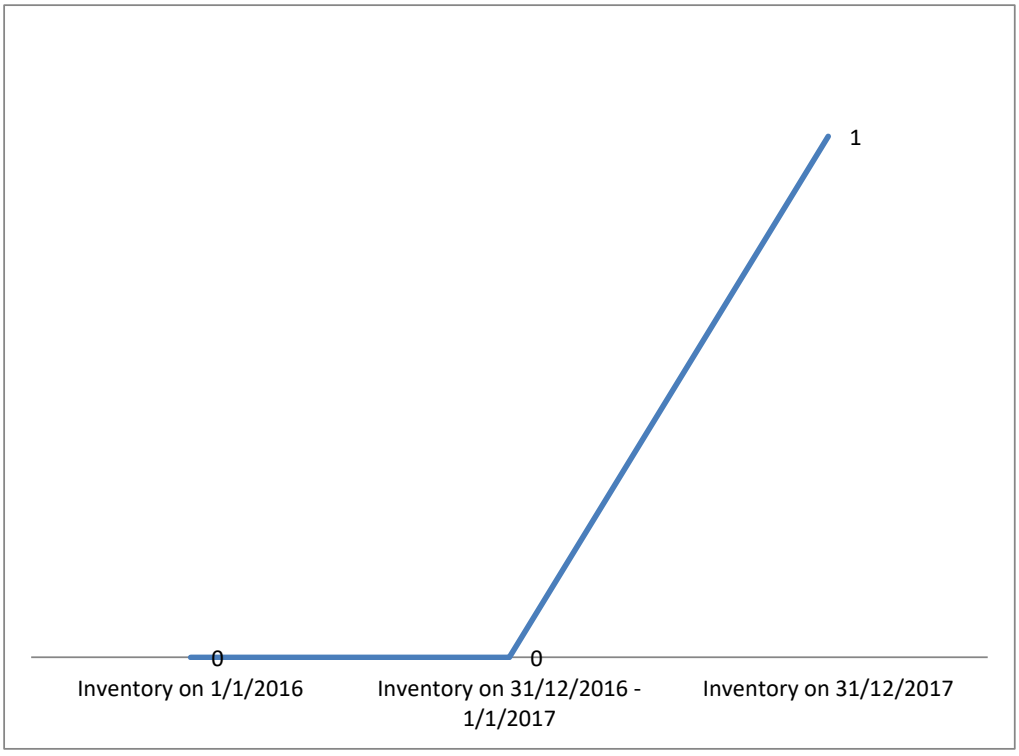
Pre-2016 cases

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

Post-2015 cases

101. The following graph shows the evolution of Iceland's post-2015 MAP cases over the Statistics Reporting Period:

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



102. In total, four MAP cases started during the Statistics Reporting Period, all of which were other cases. At the end of this period the total number of post-2015 cases in the inventory was one other case. Conclusively, Iceland closed three post-2015 cases during the Statistics Reporting Period, all of which were other cases. The total number of closed cases represents approximately 75% of the total number of post-2015 cases that started during the Statistics Reporting Period.

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

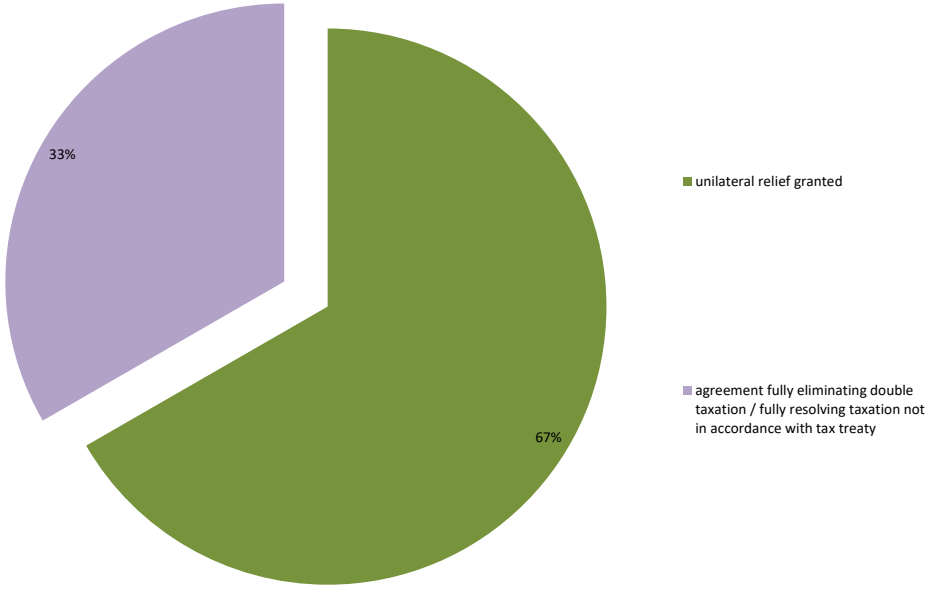
Post-2015 cases only	% of cases closed in 2016 compared to cases started in 2016	% of cases closed in 2017 compared to cases started in 2017	Evolution of total MAP caseload over the two years (2016+2017)
Attribution / allocation cases	no cases started	no cases started	no cases started
Other cases	100%	67%	75%

Overview of cases closed during the Statistics Reporting Period

Reported outcomes

104. During the Statistics Reporting Period Iceland closed three MAP cases in total for which the following outcomes were reported:

Figure C.3. Cases closed during the Statistics Reporting Period (three cases)



105. This chart shows that during the Statistics Reporting Period, 33% of cases were closed through an agreement that fully eliminated double taxation or fully resolved taxation not in accordance with the tax treaty.

Reported outcomes for other cases

106. In total, three other cases were closed during the Statistics Reporting Period. Two of these cases were closed with unilateral relief granted and the other case was closed as the result of agreement fully eliminating double taxation / fully resolving taxation not in accordance with the tax treaty.

Average timeframe needed to resolve MAP cases

All cases closed during the Statistics Reporting Period

107. The average time needed to close MAP cases during the Statistics Reporting Period was 3.23 months.

	Number of cases	Start date to End date (in months)
Attribution / Allocation cases	N/A	N/A
Other cases	3	3.23
All cases	3	3.23

Pre-2016 cases

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

Post-2015 cases

109. Furthermore, as a preliminary remark, it should be noted that the period for assessing post-2015 MAP statistics only comprises 24 months.

110. For post-2015 cases Iceland reported that on average it needed 3.23 months to close other cases. As there were no attribution/allocation cases for Iceland, this resulted in an average time needed of 3.23 months to close three post-2015 cases.

Peer input

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

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[C.2]	Iceland submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016 and 2017. Based on the information provided by Iceland's MAP partners, its post-2015 statistics actually match those of its treaty partners as reported by the latter. Iceland's MAP statistics show that during the Statistics Reporting Period it closed 75% (three out of four cases) of its post-2015 cases in 3.23 months on average. In that regard, Iceland is recommended to seek to resolve the remaining 25% of the post-2015 cases pending on 31 December 2017 (one case) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.	

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

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

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

Description of Iceland's competent authority

114. Iceland reported that its Ministry of Finance delegates the competent authority function for MAP cases to the Directorate of Internal Revenue. Iceland further reported that the Directorate of Internal Revenue is the only tax authority in Iceland that levies taxes covered by double tax treaties and is therefore the only tax authority that can amend previously levied taxes in Iceland.

115. Iceland noted that due to its very low MAP caseload there is just one person in charge of MAP cases in its competent authority and this person is placed within the Control/Compliance Department of the Directorate of Internal Revenue. According to Iceland, this staff member has been working on MAP cases for the past year and receives training from personnel who were previously responsible for handling MAP. Iceland reported that this staff member can draw upon the expertise of others within the Directorate of Internal Revenue who can help resolve complex cases. These other employees are placed within other departments of the Directorate of Internal Revenue, such as "Einstaklingssvið" (Individual Taxation), "Atvinnurekstrarsvið" (Corporate Taxation) or "Skrifstofa yfirstjórnar" (Administrative Department) where the transfer pricing team is placed.[4]

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

Monitoring mechanism

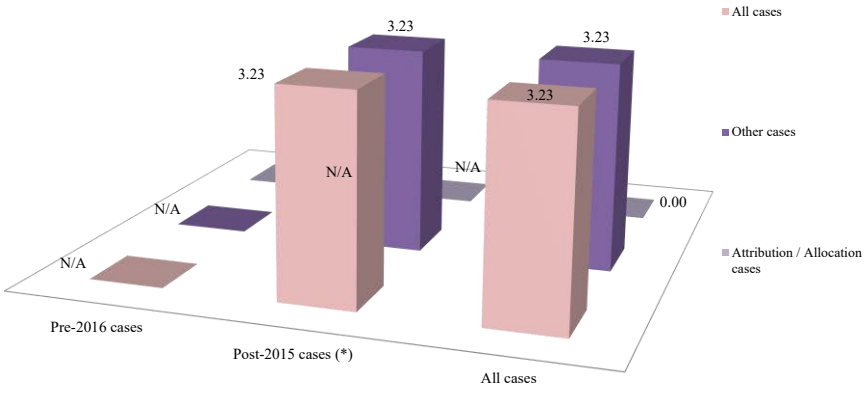
117. Iceland noted that its competent authority is responsible for informing the Director General of the Directorate of Internal Revenue whether or not resources provided to the competent authority are considered adequate. Iceland stated that up until now it considers the resources provided to its competent authority to be adequate.

Practical application

MAP statistics

118. As discussed under element C.2, Iceland closed its MAP cases during the Statistics Reporting Period within the pursued 24-month average, as it needed 3.23 months to close MAP cases. The average time to resolve MAP cases in 2016 and 2017 can be illustrated by the following graph:

Figure C.4. Average time (in months) to close cases in 2016 or 2017



Note: Note that post-2015 cases only concern cases started and closed during 2016 or 2017.

Peer input

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

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[C.3]	-	Iceland should continue to monitor whether it has adequate resources in place to ensure that future MAP cases are resolved in a timely, efficient and effective manner.

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

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

121. 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

122. Iceland reported that in most of its MAP cases the staff member of its competent authority in charge of the case is authorised to resolve cases on his own. For particularly complex MAP cases, Iceland reported that such staff could ask for technical assistance from tax experts in order to resolve the case. Iceland clarified that these tax experts are chosen based off their respective expertise in order to match the subject matter of the case in question, but that usually such experts are drawn from the Corporation Taxation department or the Transfer Pricing team.

123. In regard of the above, Iceland reported that staff in charge of MAP in practice operates independently and has the authority to resolve MAP cases without being dependent on the approval/direction of the tax administration personnel directly involved in the adjustment and the process for negotiating MAP agreements is not influenced by policy considerations.

Practical application

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

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[C.4]	-	As it has done thus far, Iceland should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that Iceland would like to see reflected in future amendments to the treaty.

[C.5] Use appropriate performance indicators for the MAP function

Jurisdictions should not use performance indicators for their competent authority functions and staff in charge of MAP processes based on the amount of sustained audit adjustments or maintaining tax revenue.

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

Performance indicators used by Iceland

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

128. The final report on Action 14 (OECD, 2015[2]) includes examples of performance indicators that are considered appropriate. These indicators are shown below and presented in the form of a checklist:

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

129. Further to the above, Iceland also reported that it does not use any performance indicators for staff in charge of MAP that are related to the outcome of MAP discussions

in terms of the amount of sustained audit adjustments or maintained tax revenue. In other words, staff in charge of MAP is not evaluated on the basis of the material outcome of MAP discussions.

Practical application

130. Peers generally provided no specific input relating to this element of the Action 14 Minimum Standard.

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[C.5]	-	As it has done thus far, Iceland should continue to use appropriate performance indicators.

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

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

132. 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

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

134. In that regard, Iceland reported that it did not opt for part VI of the Multilateral Instrument, which includes a mandatory and binding arbitration provision.[5]

Practical application

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

- Equivalent of Article 25(5) of the OECD Model Tax Convention (OECD, 2015[1]): four treaties
- Voluntary and binding arbitration: three treaties

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[C.6]	-	-

Notes

[1.] These 48 treaties include the Nordic Convention that Iceland applies to Denmark, Finland, Faroe Islands, Norway and Sweden as well as the former treaty with the Netherlands Antilles that Iceland continues to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands.

[2.] Available at: http://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm. These statistics are up to and include fiscal year 2016.

[3.] For post-2015 cases, if the number of MAP cases in Iceland's inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five, Iceland reports its MAP caseload on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution / allocation cases and other cases).

[4.] Available at: https://www.rsk.is/um-rsk/embaettid/skipurit-rikisskattstjora/nr/251.

[5.] An overview of Iceland's position on the Multilateral Instrument is available at: http://www.oecd.org/tax/treaties/beps-mli-position-iceland.pdf.

References

OECD (2015), *Making Dispute Resolution Mechanisms More Effective, Action 14 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264241633-en. [2]

OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264239081-en. [1]

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.

137. 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

138. Iceland stated that all MAP agreements will be implemented notwithstanding the time limits in its domestic laws when it is in favour of the taxpayer. According to Article 101(2) of Iceland's Income Tax Act, Iceland's Directorate of Internal Revenue is allowed to take into consideration a request from a taxpayer to change a final tax assessment six years after the relevant fiscal year. Iceland reported that in the case of downward adjustments, this time period can be extended in special circumstances, which is determined on a discretionary basis with respect to the extent of the taxpayer's interest. Iceland indicated that such an extension is rarely used in practice but that in such cases a taxpayer must be able to demonstrate the importance of an extension of this six year time period.

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

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

Practical application

141. Iceland reported that since 1 January 2016 it has reached the following number of MAP agreements:

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

142. In view of these MAP agreements, one of these required an implementation by Iceland. In this respect, Iceland reported that such an agreement was implemented the day when this agreement was reached.

143. All peers that provided input reported that they were not aware of any MAP agreement reached on or after 1 January 2016 that was not implemented by Iceland.

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[D.1]	-	As it has done thus far, Iceland should continue to implement all MAP agreements reached if the conditions for such implementation are fulfilled. To ensure that all MAP agreements continue to be implemented if the conditions for such implementation are fulfilled, Iceland could introduce a tracking system.
	As will be discussed under element D.3, not all of Iceland's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]). Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to time limits of six years in its domestic law that can only be overridden by discretionary authority in certain circumstances.	Additionally, Iceland should closely monitor whether its domestic statute of limitation results in obstructions in practice concerning the implementation of MAP agreements. Where this is the case, Iceland should consider amending the process in place with a view to enable the implementation of all MAP agreements.

[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.

145. 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

146. Iceland reported that MAP agreements are implemented as soon as an agreement has been reached, and that the person in charge of implementation in Iceland is the same

person who handled the MAP case. Iceland noted that notification letters are sent to taxpayers for both downwards and upwards adjustments informing them of the outcome. As stated under element D.1, for MAP agreements that result in upwards adjustments, the Directorate of Internal Revenue is required to give the taxpayer 15 days to object, as required by Article 96(4) of Iceland's Income Tax Act 90/2003. If the taxpayer does not object, Iceland reported that the agreement will be implemented and typically takes around 30 days to finalise.

Practical application

147. As discussed under element D.1, since 1 January 2016, Iceland entered into two MAP agreements, one of which required implementation by Iceland. In this respect, Iceland reported that this MAP agreement was implemented the day the agreement was reached.

148. All peers that provided input have not indicated experiencing any problems with Iceland regarding the implementation of MAP agreements reached on a timely basis since 1 January 2016.

Anticipated modifications

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

Conclusion

	Areas for Improvement	Recommendations
[D.2]	-	As it has done thus far, Iceland should continue to implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.

[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.

150. 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, 2015[1]) in tax treaties, or alternatively, setting a time limit in Article 9(1) and Article 7(2) for making adjustments to avoid that late adjustments obstruct granting of MAP relief.

Legal framework and current situation of Iceland's tax treaties

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

152. Out of Iceland's 49 tax treaties, 43 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law.[1] In addition, one tax treaty contains such equivalent as well as the alternative provisions in Article 9(1) and Article 7(2), setting a time limit for making adjustments. Furthermore, four tax treaties do not contain the second sentence of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2015[1]) at all, nor do they contain the alternative provisions in Article 9(1) and Article 7(2).

153. The remaining treaty contains a variation of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]), but whereby the actual implementation of a MAP agreement is dependent on the notification of a MAP request to the other competent authority involved within a certain time period. This treaty is therefore considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) nor the alternative provisions in Article 9(1) and Article 7(2).

Anticipated modifications

Multilateral Instrument

154. Iceland signed the Multilateral Instrument. Article 16(4)(b)(ii) of that instrument stipulates that Article 16(2), second sentence – containing the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]). In other words, in the absence of this equivalent, Article 16(4)(b)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both, pursuant to Article 16(6)(c)(ii), notified the depositary that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]). Article 16(4)(b)(ii) of the Multilateral Instrument will for a tax treaty not take effect if one or both of the treaty partners has, pursuant Article 16(5)(c), reserved the right not to apply the second sentence of Article 16(2)–of that instrument for all of its covered tax agreements under the condition that: (i) any MAP agreement shall be implemented notwithstanding any time limits in the domestic laws of the contracting states, or (ii) the jurisdiction intends to meet the Action 14 Minimum Standard by accepting in its tax treaties the alternative provisions to Article 9(1) and 7(2) concerning the introduction of a time limit for making transfer pricing profit adjustments.

155. In regard of the five tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) or both alternative provisions for Articles 9(1) and 7(2), Iceland listed four treaties as covered tax agreements under the Multilateral Instrument but only for one treaty did it make, pursuant to Article 16(6)(c)(ii), a notification that it does not contain a provision described in Article 16(4)(b)(ii). The relevant treaty partner also made such

notification. Therefore, at this stage, one of the five tax treaties identified above will be modified by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]).

Bilateral modifications

156. Iceland reported that when tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) or both alternative provision in Articles 9(1) and 7(2), it intends to update them via bilateral negotiations with a view to be compliant with element D.3. Iceland, however, reported not having in place a specific plan for such negotiations. In addition, Iceland reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) or both alternatives in all of its future tax treaties.

Peer input

157. Some peers that provided input reported their treaty with Iceland either meets the requirements under element D.3 or will be modified by the Multilateral Instrument, which is in line with the above analysis.

158. For the five treaties identified above that do not contain the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2015[1]), two of the relevant peers did not provide input and one other peer mentioned that its treaty with Iceland will be modified by the Multilateral Instrument which is correct according to the above analysis and one peer reported that it is currently negotiating an amendment to its existing treaty with Iceland. One peer noted it is willing to accept the alternative provisions.

Conclusion

	Areas for Improvement	Recommendations
[D.3]	Five out of 49 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) nor any of the alternative provisions provided for in Article 9(1) and Article 7(2).	Iceland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for this treaty. For the remaining four treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions. To this end, Iceland should put a plan in place on how it envisages updating these four treaties to include the required provision or its alternative. In addition, Iceland should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.

Notes

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

References

OECD (2015), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264239081-en. [1]

Summary

	Areas for Improvement	Recommendations
	Part A: Preventing disputes	
[A.1]	Three out of 49 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]).	As the three treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]) will at this time not be modified via the Multilateral Instrument, Iceland should request the inclusion of the required provision via bilateral negotiations. To this end, Iceland should put a plan in place on how it envisages updating these three treaties to include the required provision. In addition, Iceland should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	-	-
	Part B: Availability and access to MAP	
[B.1]	Three out of 49 tax treaties do not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015[1]). Of those three tax treaties: ○ One tax treaty does not contain the equivalent of Article 25(1), first sentence; ○ Two tax treaties provide that the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty.	Iceland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015[1]) in those treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. This concerns only: • a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland should request the inclusion of the required provision via bilateral negotiations. To this end, Iceland should put a plan in place on how it envisages updating this one treaty to include the required provision. In addition, Iceland should maintain its stated intention to include the required provision in all future tax treaties.

	Areas for Improvement	Recommendations
	Where tax treaties do not contain a time limit for submission of a MAP request, applicable rules under domestic legislation may lead to a filing period of less than three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.	Iceland should ensure that where its domestic time limits apply for filing of MAP requests, in the absence of a provision hereon in its tax treaties, such time limits do not prevent taxpayers from being granted access to MAP if a request thereto is made within a period of three years as from the first notification of the action resulting in taxation not in accordance with the provisions of a tax treaty.
[B.2]	46 of the 49 treaties do not contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015[1]) as changed by the Action 14 final report (OECD, 2015[2]), allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Iceland should, without further delay, introduce a documented notification and/or consultation process and apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2015[1]) as amended by the final report on Action 14 (OECD, 2015[2]).
[B.3]	Iceland reported it will give access to MAP in transfer pricing cases. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Iceland is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.4]	Iceland reported it will give access to MAP in cases concerning whether the conditions for the application of a treaty anti-abuse provision have been met or whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a treaty. Its competent authority, however, did not receive any MAP requests of this kind from taxpayers during the Review Period. Iceland is therefore recommended to follow its policy and grant access to MAP when such cases surface.	
[B.5]	-	-
[B.6]	-	As Iceland has thus far not limited access to MAP in eligible cases when taxpayers have complied with Iceland's information and documentation requirements for MAP requests, it should continue this practice.
[B.7]	11 out of 49 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]).	Iceland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) in those three treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for the treaties concerned. For the remaining eight treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland should request the inclusion of the required provision via bilateral negotiations. To this end, Iceland should put a plan in place on how it envisages updating these eight treaties to include the required provision. In addition, Iceland should maintain its stated intention to include the required provision in all future tax treaties.
[B.8]	Published MAP guidance is not available.	Iceland should introduce and publish, without further delay, guidance on access to and use of the MAP and 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/information that it should include in such a request. Additionally, Iceland could follow its stated intention to include the items described previously, and although not required by the Action 14 Minimum Standard, could consider including information on:

	Areas for Improvement	Recommendations
		• the non-possibility of suspension of tax collection during the course of a MAP • the consideration of interest and penalties in the MAP
	-	Recommendations on guidance in relation to audit settlements and access to MAP are discussed in element B.10.
[B.9]	There is no MAP guidance publically available.	Iceland should ensure that (i) its MAP guidance under preparation will be made publically available and easily accessible without further delay and that (ii) its MAP profile published on the shared public platform is updated to reflect the publication of its MAP guidance.
[B.10]	Public guidance on its administrative dispute settlement process does not address the effects of that process on MAP, and there is no MAP guidance available.	Iceland's to be published MAP guidance and the guidance on administrative or statutory dispute settlement/resolution processes should clarify the effects on MAP when the case was resolved through a dispute settlement/resolution process.
Part C: Resolution of MAP cases		
[C.1]	One out of 49 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]).	As the one treaty will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland should request the inclusion of the required provision via bilateral negotiations. To this end, Iceland should put a plan in place on how it envisages updating this one treaty to include the required provision. In addition, Iceland should maintain its stated intention to include the required provision in all future tax treaties.
[C.2]	Iceland submitted comprehensive MAP statistics on time on the basis of the MAP Statistics Reporting Framework for the years 2016 and 2017. Based on the information provided by Iceland's MAP partners, its post-2015 statistics actually match those of its treaty partners as reported by the latter. Iceland's MAP statistics show that during the Statistics Reporting Period it closed 75% (three out of four cases) of its post-2015 cases in 3.23 months on average. In that regard, Iceland is recommended to seek to resolve the remaining 25% of the post-2015 cases pending on 31 December 2017 (one case) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.	
[C.3]	-	Iceland should continue to monitor whether it has adequate resources in place to ensure that future MAP cases are resolved in a timely, efficient and effective manner.
[C.4]	-	As it has done thus far, Iceland should continue to ensure that its competent authority has the authority, and uses that authority in practice, to resolve MAP cases without being dependent on approval or direction from the tax administration personnel directly involved in the adjustment at issue and absent any policy considerations that Iceland would like to see reflected in future amendments to the treaty.
[C.5]	-	As it has done thus far, Iceland should continue to use appropriate performance indicators.
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	-	As it has done thus far, Iceland should continue to implement all MAP agreements reached if the conditions for such implementation are fulfilled. To ensure that all MAP agreements continue to be implemented if the conditions for such implementation are fulfilled, Iceland could introduce a tracking system.
	As will be discussed under element D.3, not all of Iceland's tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]). Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be	Additionally, Iceland should closely monitor whether its domestic statute of limitation results in obstructions in practice concerning the implementation of MAP agreements. Where this is the case, Iceland should consider amending the process in place with a view to enable the implementation of all MAP agreements.

	Areas for Improvement	Recommendations
	implemented due to time limits of six years in its domestic law that can only be overridden by discretionary authority in certain circumstances.	
[D.2]	-	As it has done thus far, Iceland should continue to implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.
[D.3]	Five out of 49 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) nor any of the alternative provisions provided for in Article 9(1) and Article 7(2).	Iceland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for this treaty. For the remaining four treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015[1]), Iceland should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions. To this end, Iceland should put a plan in place on how it envisages updating these four treaties to include the required provision or its alternative. In addition, Iceland should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future tax treaties.

Annex A. Tax treaty network of Iceland

		Article 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration
		B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	Inclusion Art. 25(1) second sentence? **(Note 1)**	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?	Inclusion Art. 25(2) first sentence? **(Note 3)**	Inclusion Art. 25(2) second sentence? (**Note 4**)	Inclusion Art. 25(3) first sentence? **(Note 5)**	Inclusion Art. 25(3) second sentence? **(Note 6)**	Inclusion arbitration provision?
		If yes, submission to either competent authority ? (new Art. 25(1), first sentence)	If no, please state reasons		If no, will your CA accept a taxpayer's request for MAP in relation to such cases?		If no, alternative provision in Art. 7 & 9 OECD MTC? **(Note 4)**			

		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	
	Y = yes	E = yes, either CAs	Y = yes		Y = yes	Y = yes	Y = yes	Y = yes	Y = yes	Y = yes	Y = yes	if yes:
		O = yes, only one CA	i = no, no such provision		i = no, but access will be given to TP cases	i = no and such cases will be accepted for MAP		i = no, but have Art 7 equivalent	N = no	N = no	N = no	i-Art. 25(5)
			ii = no, different period	if ii, specify period				ii = no, but have Art 9 equivalent				ii-mandatory other
	N = signed pending ratification	N = No	iii = no, starting point for computing the 3 year period is different		ii = no and access will not be given to TP cases	ii = no but such cases will not be accepted for MAP	N = no	iii = no, but have both Art 7 & 9 equivalent				iii - voluntary
			iv = no, others reasons					N = no and no equivalent of Art 7 and 9				
Albania	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Aruba	Y	O	Y	N/A	i	i	Y	Y	N	N	N	N/A
Austria	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Barbados	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Belgium	Y	O**	Y	N/A	Y	i	Y	Y	Y	N**	N	N/A
Bermuda	Y	O	Y	N/A	i	i	Y	Y	Y	N	N	N/A
British Virgin Islands	Y	O	Y	N/A	i	i	Y	Y	Y	N	N	N/A
Canada	Y	O	ii**	2-year	Y	i	Y	iii	Y	Y	Y	iii

		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	s	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	
Caribbean part of the Netherlands	Y	O	Y	N/A	i	i	Y	Y	N	N	N	N/A
Cayman Islands	Y	O	Y	N/A	i	i	Y	Y	Y	N	N	N/A
China (People's Republic of)	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Croatia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Cyprus*	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Curacao	Y	O	Y	N/A	i	i	Y	Y	N	N	N	N/A
Czech Republic	Y	O**	Y	N/A	i	i	Y	Y	Y	Y	N	N/A
Denmark	Y	O	ii	5-years	Y	i	Y	Y	Y	Y	N	N/A
Estonia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Faroe Islands	Y	O	ii	5-years	Y	i	Y	Y	Y	Y	N	N/A
Finland	Y	O	ii	5-years	Y	i	Y	Y	Y	Y	N	N/A
France	Y	O**	Y	N/A	i**	i	Y	Y	Y	Y	N	N/A
Georgia	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Germany	Y	O	i	N/A	i	i	Y	N	Y	Y	N	N/A
Greece	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A

		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	
Greenland	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Guernsey	Y	O	Y	N/A	i	i	Y	Y	Y	N	N	N/A
Hungary	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
India	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Ireland	Y	O**	Y	N/A	Y	i	Y	Y	Y	N**	N	N/A
Isle of Man	Y	O	Y	N/A	i	i	Y	Y	Y	N	N	N/A
Italy	Y	O	ii**	2-years	i	i	Y	Y	Y	Y	Y	iii
Japan	N	E	Y	N/A	Y	i	Y	Y	Y	Y	Y	i
Jersey	Y	O	Y	N/A	i	i	Y	Y	Y	N	N	N/A
Korea	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Latvia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Liechtenstein	Y	E	Y	N/A	Y	i	Y	Y	Y	Y	Y	i
Lithuania	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Luxembourg	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Malta	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Mexico	Y	O**	Y	N/A	Y	i	N	N	Y	Y	N	N/A
Netherlands	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	Y	iii
Norway	Y	O	ii	5-years	Y	i	Y	Y	Y	Y	N	N/A
Poland	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Portugal	Y	O	Y	N/A	Y	i	Y	N**	Y	N**	N	N/A
Romania	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A

		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	
Sint Maarten	Y	O	Y	N/A	i	i	Y	Y	N	N	N	N/A
Russia	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Slovak Republic	Y	O	Y	N/A	Y	i	Y	N	Y	Y	N	N/A
Slovenia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
Spain	Y	O	Y	N/A	i	i	Y	Y	Y	Y	N	N/A
Sweden	Y	O	ii	5-years	Y	i	Y	Y	Y	Y	N	N/A
Switzerland	Y	O**	Y	N/A	Y	i	Y	N	Y	Y	Y	i
Ukraine	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	N	N/A
United Kingdom	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	Y	i
United States	Y	E	i	N/A	Y	i	Y	Y	Y	Y	N	N/A
Viet Nam	Y	N	Y	N/A	i	i	Y	Y	N	Y	N	N/A

Annex B. MAP Statistics Reporting for the 2016 and 2017 Reporting Periods (1 January 2016 to 31 December 2017) for Pre-2016 Cases

		number of pre-2016 cases closed during the reporting period by outcome:											
category of cases	no. of pre-2016 cases in MAP inventory on 1 January 2016	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-2016 cases remaining in on MAP inventory on 31 December 2016	average time taken (in months) for closing pre-2016 cases during the reporting period
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0.00
Others	0	0	0	0	0	0	0	0	0	0	0	0	0.00
Total	0	0	0	0	0	0	0	0	0	0	0	0	0.00

Notes:

		number of pre-2016 cases closed during the reporting period by outcome:											
category of cases	no. of pre-2016 cases in MAP inventory on 1 January 2017	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-2016 cases remaining in on MAP inventory on 31 December 2017	average time taken (in months) for closing pre-2016 cases during the reporting period
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/ Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0.00
Others	0	0	0	0	0	0	0	0	0	0	0	0	0.00
Total	0	0	0	0	0	0	0	0	0	0	0	0	0.00

Notes:

Annex C. MAP Statistics Reporting for the 2016 and 2017 Reporting Periods (1 January 2016 to 31 December 2017) for Post-2015 Cases

			number of post-2015 cases closed during the reporting period by outcome:											
category of cases	no. of post-2015 cases in MAP inventory on 1 January 2016	no. of post-2015 cases started during the reporting period	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-2015 cases remaining in on MAP inventory on 31 December 2016	average time taken (in months) for closing post-2015 cases during the reporting period
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15
Attribution / Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
Others	0	1	0	0	0	1	0	0	0	0	0	0	0	0.00
Total	0	1	0	0	0	1	0	0	0	0	0	0	0	0.00

Notes:

			number of post-2015 cases closed during the reporting period by outcome:											
category of cases	no. of post-2015 cases in MAP inventory on 1 January 2017	no. of post-2015 cases started during the reporting period	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-2015 cases remaining in on MAP inventory on 31 December 2017	average time taken (in months) for closing post-2015 cases during the reporting period
Column 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	3	0	0	0	1	0	1	0	0	0	0	1	0.00
Others	0	3	0	0	0	1	0	1	0	0	0	0	1	4.85
Total	0	6	0	0	0	2	0	2	0	0	0	0	2	2.43

Notes:

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
Multilateral Instrument	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
OECD Transfer Pricing Guidelines	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
Pre-2016 cases	MAP cases in a competent authority's inventory pending resolution on 31 December 2015
Post-2015 cases	MAP cases received by a competent authority from the taxpayer on or after 1 January 2016
Review Period	Period for the peer review process that started on 1 January 2016 and ended on 30 April 2018
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2016 and ended on 31 December 2017
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

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(23 2018 54 1 P) ISBN 978-92-64-30995-1 – 2019

OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective - MAP Peer Review Report, Iceland (Stage 1)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

Under Action 14, countries have committed to implement a minimum standard to strengthen the effectiveness and efficiency of the mutual agreement procedure (MAP). The MAP is included in Article 25 of the OECD Model Tax Convention and commits countries to endeavour to resolve disputes related to the interpretation and application of tax treaties. The Action 14 Minimum Standard has been translated into specific terms of reference and a methodology for the peer review and monitoring process. The minimum standard is complemented by a set of best practices.

The peer review process is conducted in two stages. Stage 1 assesses countries against the terms of reference of the minimum standard according to an agreed schedule of review. Stage 2 focuses on monitoring the follow-up of any recommendations resulting from jurisdictions' stage 1 peer review report. This report reflects the outcome of the stage 1 peer review of the implementation of the Action 14 Minimum Standard by Iceland.

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ISBN 978-92-64-30995-1
23 2018 54 1 P