

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



# **Making Dispute Resolution More Effective – MAP Peer Review Report, Barbados (Stage 1)**

**INCLUSIVE FRAMEWORK ON BEPS: ACTION 14**





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## *Foreword*

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

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

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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.

Implementation is now the focus of this work. The BEPS package is designed to be implemented via changes in domestic law and practices, and in tax treaties. With the negotiation of a multilateral instrument (MLI) having been finalised in 2016 to facilitate the implementation of the treaty related BEPS measures, over 90 jurisdictions are covered by the MLI. The entry into force of the MLI on 1 July 2018 paves the way for swift implementation of the treaty related measures. OECD and G20 countries also agreed to continue to work together to ensure a consistent and co-ordinated implementation of the BEPS recommendations and to make the project more inclusive. Globalisation requires that global solutions and a global dialogue be established which go beyond OECD and G20 countries.

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

As a result, the OECD established the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework), bringing all interested and committed countries and jurisdictions on an equal footing in the Committee on Fiscal Affairs and all its subsidiary bodies. The Inclusive Framework, which already has more than 135 members, is monitoring and peer

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

This report was approved by the Inclusive Framework on 28 October 2020 and prepared for publication by the OECD Secretariat.

## *Table of contents*

<b>Abbreviations and acronyms</b> .....	7
<b>Executive summary</b> .....	9
<b>Introduction</b> .....	11
<b>Part A. Preventing disputes</b> .....	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
References .....	18
<b>Part B. Availability and access to MAP</b> .....	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 .....	25
[B.4] Provide access to MAP in relation to the application of anti-abuse provisions .....	27
[B.5] Provide access to MAP in cases of audit settlements .....	28
[B.6] Provide access to MAP if required information is submitted .....	29
[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties .....	30
[B.8] Publish clear and comprehensive MAP guidance .....	32
[B.9] Make MAP guidance available and easily accessible and publish MAP profile .....	34
[B.10] Clarify in MAP guidance that audit settlements do not preclude access to MAP .....	35
References .....	36
<b>Part C. Resolution of MAP cases</b> .....	37
[C.1] Include Article 25(2), first sentence, of the OECD Model Tax Convention in tax treaties .....	37
[C.2] Seek to resolve MAP cases within a 24-month average timeframe .....	39
[C.3] Provide adequate resources to the MAP function .....	42
[C.4] Ensure staff in charge of MAP has the authority to resolve cases in accordance with the applicable tax treaty .....	43
[C.5] Use appropriate performance indicators for the MAP function .....	44
[C.6] Provide transparency with respect to the position on MAP arbitration .....	45
Reference .....	46
<b>Part D. Implementation of MAP agreements</b> .....	47
[D.1] Implement all MAP agreements .....	47
[D.2] Implement all MAP agreements on a timely basis .....	48

[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) .....	49
Reference .....	52
<b>Summary</b> .....	53
<b>Annex A. Tax treaty network of Barbados</b> .....	59
<b>Annex B. MAP Statistics Reporting for the 2017, 2018 and 2019 Reporting Periods (1 January 2017 to 31 December 2019) for pre-2017 cases.</b> .....	63
<b>Annex C. MAP Statistics Reporting for the 2017, 2018 and 2019 Reporting Periods (1 January 2017 to 31 December 2019) for post-2016 cases</b> .....	65
<b>Glossary</b> .....	67
<b>Figures</b>	
Figure C.1 Evolution of Barbados' MAP caseload .....	40
Figure C.2 Evolution of Barbados' MAP inventory .....	41

*Abbreviations and acronyms*

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



## Executive summary

Barbados has a modest tax treaty network with over 30 tax treaties. Barbados has limited experience with resolving MAP cases. It currently has three MAP cases in its inventory, all of them being other MAP cases. Overall Barbados meets the majority of the elements of the Action 14 Minimum Standard. Where it has deficiencies, Barbados is working to address most of them.

All but one of Barbados' tax treaties contain a provision relating to MAP. Those treaties mostly follow paragraphs 1 through 3 of Article 25 of the OECD Model Tax Convention (OECD, 2017). Its treaty network is mostly consistent with the requirements of the Action 14 Minimum Standard, except mainly for the fact that almost 20% of its tax treaties neither contain a provision stating that mutual agreements shall be implemented notwithstanding any time limits in domestic law (which is required under Article 25(2), second sentence), nor the alternative provisions for Article 9(1) and Article 7(2) to set a time limit for making transfer pricing adjustments.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Barbados needs to amend and update a certain number of its tax treaties. In this respect, Barbados signed the Multilateral Instrument, through which a majority 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 the Multilateral Instrument for the treaties concerned, Barbados reported that it intends to update all of its tax treaties via bilateral negotiations to be compliant with the requirements under the Action 14 Minimum Standard but it has not yet put in place a plan in relation hereto. Furthermore, Barbados opted for part VI of the Multilateral Instrument concerning the introduction of a mandatory and binding arbitration provision in tax treaties.

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

Barbados meets some of the requirements regarding the availability and access to MAP under the Action 14 Minimum Standard. It provides access to MAP in all eligible cases, although it has since 1 January 2017 not received any MAP request concerning transfer pricing cases or cases where anti-abuse provisions are applied or cases where there has been an audit settlement. Furthermore, Barbados does not have in place a documented bilateral consultation or notification process for those situations in which its competent authority considers the objection raised by taxpayers in a MAP request as not justified. Barbados also has no guidance on the availability of MAP and how it applies this procedure in practice, although it indicated that it is planning to publish rules, guidelines and procedures on access to and the use of MAP in Barbados, including the specific information and documentation that should be submitted in a MAP request.

The MAP Statistics submitted by Barbados for the period 2017-19 are as follows:

2017-19	Opening Inventory 1/1/2017	Cases started	Cases closed	End inventory 31/12/2019	Average time to close cases (in months)
Attribution/allocation cases	0	0	0	0	n.a.
Other cases	0	3	0	3	n.a.
Total	0	3	0	3	n.a.

Furthermore, Barbados has not resolved any MAP cases since 1 January 2017, but it meets in principle almost all the requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Barbados' competent authority operates fully independently from the audit function of the tax authorities. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function. However, it did not submit MAP statistics or match such statistics according to the Statistics Reporting Framework within the deadline for all the relevant years.

As there were no MAP agreements reached that required implementation since 1 January 2017, it was not yet possible to assess whether Barbados meets the Action 14 Minimum Standard as regards the implementation of MAP agreements. However, since Barbados has a domestic statute of limitation for implementation of MAP agreements, there is a risk that future MAP agreements cannot be implemented where the applicable tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Nevertheless, no problems have surfaced throughout the peer review process, which can be clarified by the fact that there was no MAP agreement reached by Barbados.

## *Introduction*

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

Barbados has entered into 34 tax treaties on income (and/or capital), 31 of which are in force.<sup>1</sup> These 34 treaties are being applied to 43 jurisdictions.<sup>2</sup> All but one 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, one of the 34 treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure.<sup>3</sup>

Under the tax treaties that Barbados has entered into, the competent authority function is generally assigned to the Minister of Finance. Accordingly, this function is delegated to the Barbados Revenue Authority (“**BRA**”). The competent authority of Barbados currently employs two employees that deal partly with MAP cases along with various other tasks in the BRA.

Barbados has not issued any guidance on the governance and administration of the mutual agreement procedure.

### **Recent developments in Barbados**

Barbados reported it is currently conducting tax treaty negotiations with Belgium, Malaysia and Viet Nam.

Furthermore, on 24 January 2018, Barbados signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**Multilateral Instrument**”), 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. With the signing of the Multilateral Instrument, Barbados also submitted its list of notifications and reservations to that instrument.<sup>4</sup> In relation to the Action 14 Minimum Standard, Barbados has not made any reservations pursuant to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).

Where treaties will not be modified by the Multilateral Instrument, Barbados reported that it strives updating them through future bilateral negotiations. However, Barbados has not put in place a plan for initiating such negotiations with the concerned treaty partners.

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

The peer review process entails an evaluation of Barbados’ 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 Barbados, its peers and taxpayers. The questionnaires for the peer review process were sent to Barbados and the peers on 20 December 2019.

The period for evaluating Barbados’ implementation of the Action 14 Minimum Standard ranges from 1 January 2017 to 31 December 2019 (“**Review Period**”). In general, developments following the Review Period, including the subsequent introduction of MAP Guidance, have not been taken into account for the analysis in this report. However, the report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Barbados’ 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 Barbados 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.

The treaty analysis also takes into account the multilateral tax treaty entered into between Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines and Trinidad and Tobago – the Caribbean Community (CARICOM) Convention (1994). This treaty is counted as one treaty, even though it is applicable to multiple jurisdictions. Reference is made to Annex A for the overview of Barbados’ tax treaties regarding the mutual agreement procedure.

In total one peer provided input: Switzerland. The input only related to the treaty provisions and not to experiences in handling and resolving MAP cases since this peer has not had MAP cases with Barbados that started on or after 1 January 2017.

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

- MAP profile<sup>5</sup>
- MAP statistics<sup>6</sup> according to the MAP Statistics Reporting Framework (see below).

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

## Overview of MAP caseload in Barbados

The analysis of Barbados’ MAP caseload relates to the period starting on 1 January 2017 and ending on 31 December 2019 (“**Statistics Reporting Period**”). According to the statistics provided by Barbados, its MAP caseload during this period was as follows:

2017-19	Opening Inventory 1/1/2017	Cases started	Cases Closed	End inventory 31/12/2019
Attribution/allocation cases	0	0	0	0
Other cases	0	3	0	3
Total	0	3	0	3

## General outline of the peer review report

This report includes an evaluation of Barbados’ implementation of the Action 14 Minimum Standard. The report comprises the following four sections:

- A. Preventing disputes
- B. Availability and access to MAP
- C. Resolution of MAP cases
- D. Implementation of MAP agreements.

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).<sup>7</sup> Apart from analysing Barbados’ legal framework and its administrative practice, the report also incorporates peer input. Furthermore, the report depicts the changes adopted and plans shared by Barbados 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 Barbados 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 Barbados has entered into are available at: <https://www.investbarbados.org/investing-in-barbados/double-taxation-agreements-dtas/>. The treaties that are signed but have not yet entered into force are with Ghana (2008), Rwanda (2014) and the Slovak Republic (2015). Reference is made to Annex A for an overview of Barbados’ tax treaties.
2. Barbados is a signatory to the Caribbean Community (CARICOM) Convention that for Barbados applies to Antigua and Barbuda, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Lucia, St. Vincent and the Grenadines, Saint Kitts and Nevis and Trinidad and Tobago. Further, Barbados continues to apply in relation to Switzerland, the 1954 treaty between the United Kingdom and Switzerland, even though Switzerland and the United Kingdom have entered into a new convention in 1977.
3. This concerns Barbados’ treaty with the Netherlands (2006). Reference is made to Annex A for an overview of Barbados’ tax treaties.
4. Available at: [www.oecd.org/tax/treaties/beps-mli-position-barbados.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-barbados.pdf).
5. Available at <https://www.oecd.org/tax/dispute/barbados-dispute-resolution-profile.pdf>.
6. The MAP statistics of Barbados are included in Annex B and C of this report.
7. Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective. Available at: [www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf](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, 2017) 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 Barbados' tax treaties*

2. Out of Barbados' 34 tax treaties, 33 contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) 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. The remaining treaty does not contain a provision that is based on or equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017).

3. Barbados reported that it is willing to enter into MAP agreements of a general nature even where the applicable treaty would not contain a provision equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017). However, Barbados indicated that such agreements of a general nature are not published.

#### *Anticipated modifications*

##### *Multilateral Instrument*

4. Barbados 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, 2017) – 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, 2017). 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, 2017).

5. In regard of the tax treaty identified above that is considered not to contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017), Barbados listed it as a covered tax agreement under the Multilateral Instrument and made, pursuant to Article 16(6)(d)(i), a notification that it does not contain a provision described in Article 16(4)(c)(i). However, this treaty partner did not list its treaty with Barbados as a covered tax agreement. Therefore, at this stage, the tax treaty identified above will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017).

#### *Bilateral modifications*

6. For the remaining treaty that is not in line with element A.1 and will not be modified by the Multilateral Instrument, Barbados has no plan in place for the renegotiation of this tax treaty. As this concerns the 1954 treaty between United Kingdom and the treaty partner that continues to be applied to Barbados, such renegotiations are also not necessary. In addition, Barbados reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

#### *Peer input*

7. For the treaty identified that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017), the relevant peer provided input. However, no input was provided in respect of element A.1.

#### **Conclusion**

	Areas for Improvement	Recommendations
[A.1]	One out of 34 tax treaties does not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty will not be modified by the Multilateral Instrument.	As the one treaty that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.
		In addition, Barbados 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.

8. An APA is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustment thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time.<sup>1</sup> The methodology to be applied prospectively under a bilateral or multilateral APA may be relevant in determining the treatment of comparable controlled transactions in previous filed years. The “roll-back” of an APA to these previous filed years may be helpful to prevent or resolve potential transfer pricing disputes.

***Barbados’ APA programme***

9. Barbados reported it does not have a bilateral APA programme.

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

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

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

11. Barbados reported not having received any requests for a bilateral APA since 1 January 2017, and accordingly, there was no possibility for roll-back.

12. No peer input was received with respect to element A.2.

***Anticipated modifications***

13. Barbados indicated that it does not anticipate any modifications in relation to element A.2.

***Conclusion***

	Areas for Improvement	Recommendations
[A.2]	-	-

**Note**

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

## *References*

- OECD (2017a), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.
- OECD (2017b), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*. <https://dx.doi.org/10.1787/tpg-2017-en>.

## *Part B*

### **Availability and access to MAP**

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

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

14. 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 Barbados' tax treaties***

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

15. None of Barbados' 34 tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b) and allowing taxpayers to submit a MAP request to the competent authority of either state when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state. In addition, 32 of Barbados' tax treaties contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident.

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

Provision	Number of tax treaties
A variation of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), whereby taxpayers can only submit a MAP request to the competent authority of the contracting state of which they are resident.	2
No MAP Provision based on or equivalent to Article 25 of the OECD Model Tax Convention (OECD, 2017)	1

17. The two treaties mentioned in the first row of the table are considered not to have the full equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), since 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, the non-discrimination provision in these treaties only cover nationals that are resident of one of the contracting states. Therefore, it is logical to allow only for the submission of MAP requests to the state of which the taxpayer is a resident and consequently, these treaties are considered to be in line with this part of element B.1

18. The remaining treaty mentioned in the second row of the table contains a dispute resolution provision, but not a provision based on Article 25 of the OECD Model Tax Convention (OECD, 2017) that allows taxpayers to file for a MAP. Consequently, this treaty is not considered to be in line with this part of element B.1.

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

19. Out of Barbados' 34 tax treaties, 28 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing taxpayers to submit a MAP request within a period of no less than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.

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

Provision	Number of tax treaties
No MAP Provision based on or equivalent to Article 25 of the OECD Model Tax Convention (OECD, 2017)	1
No filing period for a MAP request	2
Filing period less than 3 years for a MAP request (2 years)	3

#### ***Practical application***

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

21. As indicated in paragraphs 15 to 18 above, all but one of Barbados' tax treaties contain a MAP provision that allows taxpayers to file a MAP request irrespective of domestic remedies. Barbados reported that submitting a MAP request does not deprive taxpayers of other remedies available under their respective domestic tax law.

22. Barbados clarified that although Sections 59 to 63 of Barbados’ Income Tax Act state that issues heard by or decided by the Barbados Revenue Appeals Tribunal (“**Tribunal**”) shall not be questioned “in any other proceedings”, Sections 83 (1) and 83 (4) that transpose Barbados’ tax treaties into its law provide that in the event of an inconsistency between the provisions of the tax treaty and the Income Tax Act, the provisions of the tax treaty would prevail. Therefore, regardless of other limitations, Barbados reported that a taxpayer would not be denied access to MAP where a MAP request has been filed under its tax treaties, irrespective of domestic remedies, whether pending or finalised. This is confirmed in Barbados’ MAP profile as well.

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

23. Barbados reported that, if the tax treaty does not contain a filing period for MAP requests, its competent authority will follow the time limit provided for in Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), namely three years as from the first notification of the action resulting in taxation not in accordance with the provisions of the tax treaty.

***Anticipated modifications***

*Multilateral Instrument*

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

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

25. With the signing of the Multilateral Instrument, Barbados opted, pursuant to Article 16(4)(a)(i) of that instrument, to introduce in all of its tax treaties a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Barbados’ tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state of which they are resident, Barbados opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Barbados listed 33 of its 34 treaties as a covered tax agreement under the Multilateral Instrument and made for 32, on the basis of Article 16(6)(a), the notification that they contain a provision that is

equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b).

26. In total, six of the 32 relevant treaty partners are not a signatory to the Multilateral Instrument, whereas four have not listed their treaty with Barbados as a covered tax agreement under that instrument and seven reserved, pursuant to Article 16(5)(a), the right not to apply the first sentence of Article 16(1) to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state. Out of the remaining 15 treaty partners, 14 listed their treaty with Barbados as having a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b). Therefore, at this stage, 14 of the 34 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, 2017), as amended by the Action 14 final report (OECD, 2015b).

27. Furthermore, for the remaining treaty of the 15 relevant treaties, for which the treaty partner did not make a notification on the basis of Article 16(6)(a), the Multilateral Instrument will only supersede this treaty to the extent that the provisions contained therein are incompatible with the first sentence of Article 16(1). Since the provision of the covered tax agreement does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as it read prior to the adoption of or as amended by the Action 14 final report (OECD, 2015b), it is considered to be incompatible with the first sentence of Article 16(1). Therefore, at this stage the Multilateral Instrument will, upon entry into force, supersede this treaty to include the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b).

28. However, the treaty identified above that is considered not to contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the Action 14 final report (OECD, 2015b) is not part of the 15 treaties that will be modified or superseded via the Multilateral Instrument.

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

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

30. With regard to the three tax treaties identified in paragraph 20 above that contain a filing period for MAP requests of less than three years, Barbados listed all of them as covered tax agreements under the Multilateral Instrument, and made for all, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). All of the concerned treaty partners have listed their treaty with Barbados as a covered tax agreement and also made such notification. Therefore, at this stage, all of the three 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), second sentence, of the OECD Model Tax Convention (OECD, 2017).

### *Bilateral modifications*

31. For the remaining treaty that is not in line with element B.1 and will not be modified by the Multilateral Instrument, Barbados has no plan in place for the renegotiation of this tax treaty. As this concerns the 1954 treaty between United Kingdom and the treaty partner that continues to be applied to Barbados, such renegotiations are also not necessary. In addition, Barbados reported it will seek to include Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), in all of its future tax treaties.

### *Peer input*

32. For the treaty identified that does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the Action 14 final report (OECD, 2015b), the relevant peer provided input. However, no input was provided in respect of element B.1. For the treaties identified that do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), the relevant peers did not provide input.

### *Conclusion*

	Areas for Improvement	Recommendations
	One out of 34 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the Action 14 final report or as amended by that report (OECD, 2015b). This treaty will not be modified by the Multilateral Instrument to include the required provision.	As the one treaty that does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the Action 14 final report or as amended by that report (OECD, 2015b) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.
[B.1]	Three out of 34 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as 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. All of these treaties are expected to be modified by the Multilateral Instrument upon entry into force.	Barbados should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in the three treaties that are expected to be modified by the Multilateral Instrument.
		In addition, Barbados should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) in all future tax treaties.

## **[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).

33. 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***

34. As discussed under element B.1, none of Barbados' 34 treaties currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. However, as was also discussed under element B.1, 15 of these 34 treaties will, upon entry into force, be modified or superseded by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

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

### ***Practical application***

36. Barbados reported that since 1 January 2017 its competent authority has for none of the MAP requests it received decided that the objection raised by taxpayers in such request was not justified. The 2017, 2018 MAP statistics and preliminary MAP statistics for 2019 submitted by Barbados also show that none of its MAP cases was closed with the outcome "objection not justified".

37. No peer input was received with respect to element B.2.

### *Anticipated modifications*

38. Barbados indicated that it does not anticipate any modifications in relation to element B.2.

### *Conclusion*

	Areas for Improvement	Recommendations
[B.2]	None of the 34 treaties contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Barbados should without further delay introduce a documented notification and/or consultation process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Barbados should apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b).

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

Jurisdictions should provide access to MAP in transfer pricing cases.

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 Barbados' 34 tax treaties, 27 contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017) requiring their state to make a correlative adjustment in case a transfer pricing adjustment is imposed by the treaty partner. Furthermore, three tax treaties do not contain a provision that is based on or equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). The remaining four treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but deviate from this provision for the following reasons:

- One treaty contains a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but the granting of a corresponding adjustment could be read as only optional as the word "shall" is replaced by "may".
- One treaty contains a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but which does not contain the last part of the second sentence that allows competent authorities to consult each other where necessary.
- Two treaties contain a provision that is based on Article 9(2) of the OECD Model Tax Convention (OECD, 2017), but is considered not being equivalent thereof as it stipulates that a corresponding adjustment can only be made through an agreement or consultation between the competent authorities.

41. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Barbados' tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, Barbados indicated that it will always provide access to MAP for transfer pricing cases and is willing to make corresponding adjustments, regardless of whether the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017) is contained in its tax treaties.

42. Since Barbados has no published MAP guidance to date, there is no publicly available information on access to MAP in transfer pricing cases.

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

43. Barbados reported that since 1 January 2017, it has not denied access to MAP on the basis that the case concerned a transfer pricing case. However, no such cases in relation hereto were received in this period.

44. No peer input was received with respect to element B.3.

### *Anticipated modifications*

45. Barbados reported that it is in favour of including Article 9(2) of the OECD Model Tax Convention (OECD, 2017) in its tax treaties where possible and that it will seek to include this provision in all of its future tax treaties. In that regard, Barbados 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, 2017) – will apply in place of or in the absence of a provision in tax treaties that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument. Article 17(2) of the Multilateral Instrument does not take effect for a tax treaty if one or both of the treaty partners have, pursuant to Article 17(3), reserved the right not to apply Article 17(1) for those tax treaties that already contain the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017), or not to apply Article 17(1) in the absence of such equivalent under the condition that: (i) it shall make appropriate corresponding adjustments or (ii) its competent authority shall endeavour to resolve the case under mutual agreement procedure of the applicable tax treaty. Where neither treaty partner has made such a reservation, Article 17(4) of the Multilateral Instrument stipulates that both have to notify the depositary whether the applicable treaty already contains a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). Where such a notification is made by both of them, the Multilateral Instrument will modify this treaty to replace that provision. If neither or only one treaty partner made this notification, Article 17(1) of the Multilateral Instrument will supersede this treaty only to the extent that the provision contained in that treaty relating to the granting of corresponding adjustments is incompatible with Article 17(1) (containing the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017)).

46. Barbados has, pursuant to Article 17(3), not reserved the right not to apply Article 17(1) of the Multilateral Instrument for those tax treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2017). With regard to the seven tax treaties identified in paragraph 40 above that are considered not to contain this equivalent, Barbados listed all of them as a covered tax agreement under the Multilateral Instrument, but only for four made a notification on the basis of Article 17(4).

Three of these four treaty partners have, on the basis of Article 17(3), reserved the right not to apply Article 17(1). The remaining treaty partner has also made a notification on the basis of Article 17(4) that their treaty with Barbados contains a provision described in Article 17(2). Therefore, at this stage, one of the seven 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 9(2) of the OECD Model Tax Convention (OECD, 2017) in place of existing provisions in these treaties.

47. With regard to the remaining three treaties that were not notified by Barbados under Article 17(4), one treaty is not a covered tax agreement since not all signatories to this treaty are signatories to the Multilateral Instrument. The remaining two treaty partners have not listed their treaty with Barbados under that instrument. Therefore, at this stage, none of the remaining three treaties will be superseded by the Multilateral Instrument upon its entry into force for these treaties to include the equivalent of Article 9(2) of the OECD Model Tax Convention (OECD, 2017).

### *Conclusion*

	Areas for Improvement	Recommendations
[B.3]	Barbados reported that it will provide access to MAP in transfer pricing cases. Its competent authority, however did not receive any MAP request for such cases during the Review Period. Barbados 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.

48. 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*

49. None of Barbados' 34 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, also the domestic law and/or administrative processes of Barbados do not include a provision allowing its competent authority to limit access to MAP for cases in which there is a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty.

50. Since Barbados has no published MAP guidance to date, there is no publicly available information on access to MAP in relation to the application of anti-abuse provisions.

### *Practical application*

51. Barbados reported that since 1 January 2017 it has not denied access to MAP in cases in which there was a disagreement between the taxpayer and the tax authorities as to whether the conditions for the application of a treaty anti-abuse provision have been met, or as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. However, no such cases in relation hereto were received in this period.

52. No peer input was received with respect to element B.4.

### *Anticipated modifications*

53. Barbados indicated that it does not anticipate any modifications in relation to element B.4.

### *Conclusion*

	Areas for Improvement	Recommendations
[B.4]	Barbados 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. Barbados is therefore recommended to follow its policy and grant access to MAP in such cases.	

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

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

54. An audit settlement procedure can be valuable to taxpayers by providing certainty on their tax position. Nevertheless, as double taxation may not be fully eliminated by agreeing on such settlements, taxpayers should have access to the MAP in such cases, unless they were already resolved via an administrative or statutory disputes settlement/resolution process that functions independently from the audit and examination function and which is only accessible through a request by taxpayers.

### *Legal and administrative framework*

#### *Audit settlements*

55. Barbados reported that under its domestic law no process is available allowing taxpayers and the tax administration to enter into a settlement agreement during the course of or after the ending of an audit.

*Administrative or statutory dispute settlement/resolution process*

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

*Practical application*

57. No peer input was received with respect to element B.5.

*Anticipated modifications*

58. Barbados 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.

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

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

60. As will be discussed under element B.8, Barbados has not yet issued any MAP guidance to date. Barbados further reported that its domestic law does not provide any guidance in respect of the MAP and that at present, there is neither a defined list of information that the taxpayer is required to provide along with a MAP request nor a specific timeframe within which any requested information should be provided.

61. Barbados reported that where the taxpayer has not provided sufficient information in its MAP request, the BRA will make a formal request for the required information or documentation. However, the BRA would also undertake a search of its own internal records to obtain any additional information which may be helpful to the taxpayer's case and will supply copies of the same to the taxpayer.

*Practical application*

62. Barbados reported that it provides access to MAP in all cases where taxpayers have provided sufficient information or documentation. It further reported that since 1 January 2017 it has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

63. No peer input was received with respect to element B.6.

### *Anticipated modifications*

64. Barbados indicated that it does not anticipate any modifications in relation to element B.6 for the moment.

### *Conclusion*

	Areas for Improvement	Recommendations
[B.6]	-	As Barbados has thus far not limited access to MAP in eligible cases when taxpayers have complied with Barbados' 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.

65. 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, enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

### *Current situation of Barbados' tax treaties*

66. Out of Barbados' 34 tax treaties, 31 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties. The remaining three tax treaties do not contain a provision that is based on or equivalent to Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2017)

### *Anticipated modifications*

#### *Multilateral Instrument*

67. Barbados 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, 2017) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). In other words, in the absence of this equivalent, Article 16(4)(c)(ii) of the Multilateral Instrument will modify the applicable tax treaty to include such equivalent. However, this shall only apply if both contracting parties to the applicable tax treaty have listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar as both notified, pursuant to Article 16(6)(d)(ii), the

depository that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017).

68. With regard to the three tax treaties identified above that are considered not to contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), Barbados listed all of them as a covered tax agreement under the Multilateral Instrument and made for all, pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). Of the relevant three treaty partners, one did not list its treaty with Barbados as a covered tax agreement. Both the remaining treaty partners made such notification. Therefore, at this stage, two of the three 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, 2017).

### *Bilateral modifications*

69. For the remaining treaty that is not in line with element B.7 and will not be modified by the Multilateral Instrument, Barbados has no plan in place for the renegotiation of this tax treaty. As this concerns the 1954 treaty between United Kingdom and the treaty partner that continues to be applied to Barbados, such renegotiations are also not necessary. In addition, Barbados reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) in all of its future tax treaties.

### *Peer input*

70. For the three treaties identified that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017), only one peer provided input. However, no input was provided in respect of element B.7.

### **Conclusion**

	<b>Areas for Improvement</b>	<b>Recommendations</b>
[B.7]	Three out of 34 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Two of these three treaties are expected to be modified by the Multilateral Instrument to include the required provision.	<p>Barbados 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, 2017) in those two 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.</p> <p>As the one remaining treaty that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p>
		In addition, Barbados 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.

71. 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.

### *Barbados' MAP guidance*

72. Barbados has not issued guidance on the MAP process and how it applies that process in practice. In this respect, Barbados clarified that due to the very few MAP cases it had to date, that it did not publish rules, guidelines and procedures on access to and use of MAP, including the specific information and documentation that should be submitted in a MAP request.

73. Since Barbados does not have published MAP guidance, the information that the FTA MAP Forum agreed should be included in such guidance is not available. This concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayers should submit its MAP request.<sup>1</sup> Furthermore, due to the absence of any MAP guidance, information on various subjects is not specifically addressed. This concerns information on:

- whether MAP is available in cases of: (i) transfer pricing cases, (ii) the application of anti-abuse provisions, (iii) multilateral disputes and (iv) bona fide foreign-initiated self-adjustments
- whether taxpayers can request for the multi-year resolution of recurring issues through MAP
- the possibility of suspension of tax collection during the course of a MAP
- the consideration of interest and penalties in the MAP
- the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).

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

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

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

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

75. Due to the fact that Barbados has not issued MAP guidance, there is also no guidance on this in Barbados.

### *Anticipated modifications*

76. Barbados indicated that it is planning to publish rules, guidelines and procedures on access to and the use of MAP in Barbados, including the specific information and documentation that should be submitted in a MAP request. Moreover, Barbados reported that the guidance is scheduled to be published by the end of the last quarter of 2020.

### *Conclusion*

	Areas for Improvement	Recommendations
[B.8]	There is no published MAP guidance.	<p>Barbados should without further delay introduce clear and comprehensive MAP guidance. This guidance should in any case include (i) contact details of the competent authority or office in charge of MAP cases and (ii) manner and form in which the taxpayer should submit its MAP request.</p> <p>Furthermore, although not required by the Action 14 Minimum Standard, Barbados could consider including information on:</p> <ul style="list-style-type: none"> <li>• how the MAP operates in Barbados, the rules for accessing MAP, how its competent authority applies the process in practice and the rights and role of taxpayers</li> <li>• 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</li> <li>• whether taxpayers can request for the multi-year resolution of recurring issues through MAP</li> <li>• the possibility of suspension of tax collection during the course of a MAP</li> <li>• the consideration of interest and penalties in the MAP</li> <li>• the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).</li> </ul>

	Areas for Improvement	Recommendations
[B.8]	No guidance is available on what information taxpayers should include in their MAP request.	<p>Barbados should include in its to be published MAP guidance information on the manner and form in which taxpayers should submit their MAP request. In particular, the following items could be included:</p> <ul style="list-style-type: none"> <li>• identity of the taxpayer(s) covered in the MAP request</li> <li>• the basis for the request</li> <li>• facts of the case</li> <li>• analysis of the issue(s) requested to be resolved via MAP</li> <li>• whether the MAP request was also submitted to the competent authority of the other treaty partner</li> <li>• whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes</li> <li>• whether the issue(s) involved were dealt with previously</li> <li>• 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.</li> </ul>

### [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.

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

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

78. As stated under element B.8, Barbados has not yet published its MAP guidance.

#### *MAP profile*

79. The MAP profile of Barbados is published on the website of the OECD. While this MAP profile is complete, since Barbados has not published MAP guidance, detailed information on its MAP programme is not included in many of its responses.

#### *Anticipated modifications*

80. Barbados stated its intention to publish the MAP guidance and thereafter, to update its MAP profile as soon as possible.

### Conclusion

	Areas for Improvement	Recommendations
[B.9]	Barbados' MAP guidance is not publically available.	Barbados should make its MAP guidance available and easily accessible once it has been introduced. Furthermore, Barbados' MAP profile should be updated once its MAP guidance has been introduced.

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

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

81. 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*

82. As previously discussed under B.5, audit settlements are not possible in Barbados.

83. No peer input was received with respect to element B.10.

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

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

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

85. As Barbados does not have an internal administrative or statutory dispute settlement/resolution process in place that has an impact on MAP, there is no need for notifying treaty partners of such process.

### ***Anticipated modifications***

86. Barbados indicated that it does not anticipate any modifications in relation to element B.10.

### ***Conclusion***

	Areas for Improvement	Recommendations
[B.10]	-	-

## **Notes**

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

## **References**

- OECD (2017), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/g2g972ee-en>.
- OECD (2015a), *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264239081-en>.
- OECD (2015b), “*Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report*”, in *OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241633-en>.

## *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.

87. 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, 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 Barbados' tax treaties***

88. Out of Barbados' 34 tax treaties, 31 contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.

89. For the remaining three treaties the following analysis is made:

- One tax treaty contains the text of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), but also contains additional language that reads: "... The mutual agreement procedure shall expire by the end of the third year following that in which the case was presented by the taxpayer". As the inclusion of this sentence bears the risk that a MAP case cannot be resolved anymore if an agreement is not reached within the three-year or four-year period, these treaties are considered to not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).
- One tax treaty contains the text of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), but also contains 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 4 (four) and a half years from the due date or the date of filing of the return in that other State, whichever is later”. Such an obligation may prevent that cases are effectively dealt with in MAP. Therefore, this tax treaty is also considered not being equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

- One tax treaty does not contain a provision that is based on equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017).

### *Anticipated modifications*

#### *Multilateral Instrument*

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

91. With regard to the three tax treaties identified above that are considered not to contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Barbados listed all of them as a covered tax agreement under the Multilateral Instrument but only for two treaties did it make, pursuant to Article 16(6)(c)(i), a notification that they do not contain a provision described in Article 16(4)(b)(i). Of the relevant two treaty partners, one did not list its treaty with Barbados as a covered tax agreement. The remaining treaty partner made such notification. Therefore, at this stage, one of the three 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), first sentence, of the OECD Model Tax Convention (OECD, 2017).

#### *Bilateral modifications*

92. Barbados reported that when the tax treaties that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) will not be modified by the Multilateral Instrument, it will strive to update them via bilateral negotiations to be compliant with element B.7. Barbados, however, reported not having in place a specific plan for such negotiations. As one of these two treaties concerns the 1954 treaty between United Kingdom and the treaty partner that continues to be applied to Barbados, such renegotiations are not necessary for this treaty.

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

*Peer input*

94. For the three treaties identified that do not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), only one peer provided input. However, no input was provided in respect of element C.1.

*Conclusion*

	Areas for Improvement	Recommendations
[C.1]	Three out of 34 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). One of these three treaties is expected to be modified by the Multilateral Instrument to include the required provision.	<p>Barbados should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in the 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.</p> <p>As one of the remaining two treaties that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Barbados should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Barbados should put a plan in place on how it envisages updating this treaty to include the required provision.</p> <p>In addition, Barbados should maintain its stated intention to include the required provision in all future tax treaties.</p>

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

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

95. 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*

96. The FTA MAP Forum has agreed on rules for reporting of MAP statistics (“**MAP Statistics Reporting Framework**”) for MAP requests submitted on or after 1 January 2016. Also, for MAP requests submitted prior to that date, the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template. Barbados joined in the Inclusive

Framework in 2017. For this reason the statistics referred to are pre-2017 cases for cases that were pending on 31 December 2016, and post-2016 cases for cases that started on or after 1 January 2017. Barbados did not provide its MAP statistics for 2017 and 2018 pursuant to the MAP Statistics Reporting Framework, but only shared such statistics during the peer review process. Barbados submitted its MAP statistics for 2019 pursuant to the MAP Statistics Reporting Framework within the given deadline. However, Barbados reported that it has not reached out to its treaty partners for the matching of its MAP statistics as yet. The statistics discussed below include both pre-2017 and post-2016 cases and they are attached to this report as Annex B and Annex C respectively and should be considered jointly to understand the MAP caseload of Barbados.

### *Monitoring of MAP statistics*

97. Barbados does not have a system in place with its treaty partners that communicates, monitors and manages with its treaty partners the MAP caseload.

### *Analysis of Barbados' MAP caseload*

#### *Global overview*

98. The analysis of Barbados' MAP caseload relates to the period starting on 1 January 2017 and ending on 31 December 2019.

99. Figure C.1 shows the evolution of Barbados' MAP caseload over the Statistics Reporting Period.

Figure C.1. Evolution of Barbados' MAP caseload



100. At the beginning of the Statistics Reporting Period Barbados had no pending MAP cases. At the end of the Statistics Reporting Period, Barbados had three MAP cases in its inventory, all of which are other MAP cases.

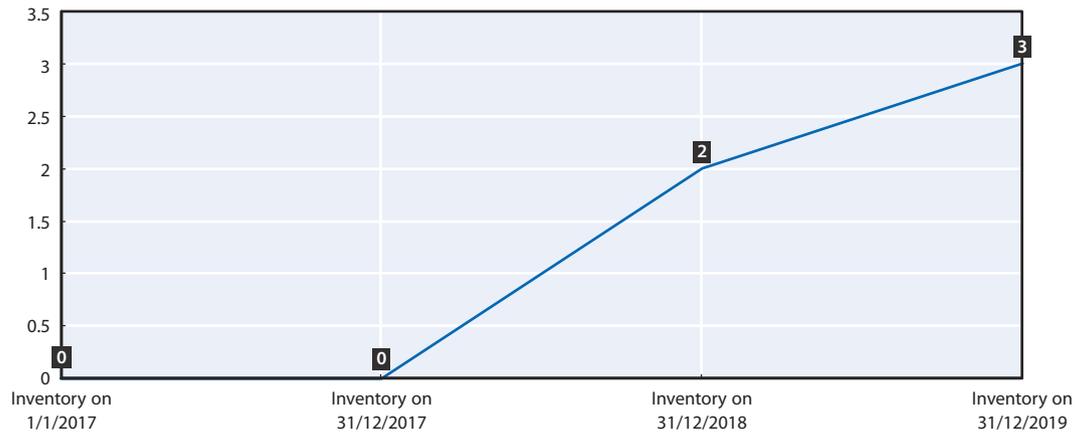
#### *Pre-2017 cases*

101. Barbados did not have any pre-2017 MAP cases in its inventory.

*Post-2016 cases*

102. Figure C.2 shows the evolution of Barbados' post-2016 MAP cases over the Statistics Reporting Period.

Figure C.2. **Evolution of Barbados' MAP inventory**  
Post-2016 cases



103. In total, three MAP cases started during the Statistics Reporting Period, all of which concerned other cases. No cases were closed by Barbados during this period.

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

104. No cases were closed by Barbados during the Statistics Reporting Period.

***Average timeframe needed to resolve MAP cases***

105. No cases were closed by Barbados during the Statistics Reporting Period.

***Peer input***

106. No peer input was received in respect of element C.2.

***Anticipated modifications***

107. Barbados indicated that it does not anticipate any modifications in relation to element C.2.

### *Conclusion*

	Areas for Improvement	Recommendations
[C.2]	MAP statistics for 2017 and 2018 were not submitted. In addition, matching of MAP statistics was not sought with all of the treaty partners.	Barbados should report its MAP statistics in accordance with the MAP Statistics Reporting Framework. In addition, Barbados should endeavour matching its MAP statistics with all of its treaty partners.
	Barbados' MAP statistics show that during the Statistics Reporting Period it closed none of its post-2016 cases. In that regard, Barbados is recommended to seek to resolve its post-2016 cases pending on 31 December 2019 (three cases) within a timeframe that results in an average timeframe of 24 months for all post-2016 cases.	

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

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

108. 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 Barbados' competent authority*

109. Under the tax treaties that Barbados has entered into, the competent authority function is generally assigned to the Minister of Finance. Accordingly, this function is delegated to the Legal department of the BRA. The competent authority of Barbados currently employs two employees that deal partly with MAP cases along with various other tasks in the BRA. Barbados reported that these other tasks include defending the revenue's position before the Tribunal and Courts, where applicable.

110. Barbados reported that the two employees of the BRA that deal with MAP cases are Attorneys-at-Law in the Legal Department of the BRA and serve the positions of general counsel and legal officer respectively. These staff members have limited experience in MAP, in line with Barbados' limited experience in MAP in general.

111. Barbados clarified that it has no specialised resources for MAP given the fact that it has received very few MAP requests from taxpayers or other competent authorities.

112. However, Barbados reported that relevant training will be provided to the two staff members via the OECD's various e-learning tools and a few capacity-building events. With respect to funding for conducting face-to-face meetings, Barbados clarified that funds are usually very limited and therefore, face-to-face meetings are quite infrequent and if at all possible, Barbados noted that it usually only has enough funding to secure the attendance of one participant at a face-to-face meeting.

#### *Monitoring mechanism*

113. Barbados reported that it does not presently have a specific monitoring mechanism in place to monitor the work of the competent authority.

***Practical application****MAP statistics*

114. No cases were closed by Barbados during the Statistics Reporting Period.

*Peer input*

115. No peer input was received with respect to element C.3.

***Anticipated modifications***

116. Barbados indicated that it does not anticipate any modifications in relation to element C.3. However, Barbados reported that as its MAP caseload grows, it may be necessary for the BRA to establish a framework for the monitoring and assessment of its MAP resources and to increase the staff in its competent authority as well as train new staff members.

***Conclusion***

	Areas for Improvement	Recommendations
[C.3]	-	Barbados should monitor whether the resources available for the competent authority function remain adequate in order to resolve its pending MAP inventory and future MAP cases 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.

117. 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***

118. Barbados clarified that even though all tax administration personnel involved in audit matters are employees of the BRA as well, the staff members involved in MAP are not involved in the audit function and that at no time will the same staff member be involved in an adjustment as well as a subsequent MAP case. Barbados further reported that the negotiation and conclusion of MAP cases does not require the approval of personnel in the tax administration that are responsible for audit. Accordingly, Barbados reported that the staff in charge of MAP in Barbados would have the necessary authority to resolve MAP cases as it is not dependent on the approval/direction of the tax administration personnel directly involved in the adjustment and there are no impediments in Barbados' abilities to perform its MAP functions.

119. However, as noted under element C.3 above, Barbados reported that the Legal Department of the BRA, which functions as the competent authority of Barbados, is also tasked with the responsibility of defending the revenue's position before the Tribunal and Courts, where applicable. This could create the risk that the staff involved in such cases may not be in a position to act independently in a MAP case.

120. Further, Barbados noted that the BRA is not responsible for tax treaty policy as the Ministry of Finance is directly responsible for this. Therefore, Barbados clarified that its competent authority will take into consideration the actual terms of a tax treaty as applicable for the relevant year and that it is committed not to be influenced by policy considerations that Barbados would like to see reflected in future amendments to the treaty.

### ***Practical application***

121. No peer input was received with respect to element C.4.

### ***Anticipated modifications***

122. Barbados indicated that it does not anticipate any modifications in relation to element C.4.

### ***Conclusion***

	Areas for Improvement	Recommendations
[C.4]	-	<p>As it has done thus far, Barbados 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 Barbados would like to see reflected in future amendments to the treaty.</p> <p>Barbados should also monitor whether the role played by the competent authority staff in defending audit adjustments before the Tribunal and/or Courts could interfere with their authority to function independently from the audit function</p>

## **[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.

123. 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 Barbados*

124. The Action 14 final report includes examples of performance indicators that are considered appropriate. These indicators are:

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

125. In view of these indicators, Barbados reported that currently it does not have any metrics designed to evaluate staff specifically for their work on MAP cases. Barbados noted, however, that there are broader metrics in place designed to evaluate staff of the BRA based on their performance in relation to all tasks undertaken.

126. Further to the above, Barbados 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*

127. No peer input was received in respect of element C.5.

### *Anticipated modifications*

128. Barbados indicated that it does not anticipate any modifications in relation to element C.5.

### *Conclusion*

	Areas for Improvement	Recommendations
[C.5]	-	Barbados could consider using the examples of performance indicators mentioned in the Action 14 final report to evaluate staff in charge of the MAP processes.

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

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

129. 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***

130. Barbados reported that it has no domestic law limitations for including MAP arbitration in its tax treaties. In that regard, Barbados reported that it opted for part VI of the Multilateral Instrument, which includes a mandatory and binding arbitration provision.<sup>1</sup> With respect to the one treaty mentioned below where Barbados has already included an arbitration provision, Barbados listed this treaty under Article 26(1) with a view to replace the arbitration provision contained in that treaty by part VI.

### ***Practical application***

131. Up to date, Barbados has incorporated an arbitration clause in one of its 34 treaties as a final stage to the MAP. This clause provides for voluntary and binding arbitration.

### ***Anticipated modifications***

132. Barbados indicated that it does not anticipate any modifications in relation to element C.6.

### ***Conclusion***

	Areas for Improvement	Recommendations
[C.6]	-	-

## **Note**

1. An overview of the assessed jurisdiction's position on the Multilateral Instrument is available at: [www.oecd.org/tax/treaties/beps-mli-position-barbados.pdf](http://www.oecd.org/tax/treaties/beps-mli-position-barbados.pdf).

## **Reference**

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

## *Part D*

### **Implementation of MAP agreements**

#### **[D.1] Implement all MAP agreements**

Jurisdictions should implement any agreement reached in MAP discussions, including by making appropriate adjustments to the tax assessed in transfer pricing cases.

133. 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***

134. Barbados reported that where the underlying tax treaty contains the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), it will implement all MAP agreements irrespective of its domestic time limits.

135. However, Section 54 of Barbados' Income Tax Act includes a statute of limitation of nine years from the end of the concerned financial year, applicable to upward and downward adjustments, as long as there is no undeclared income. Barbados reported that where a tax treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), the implementation of MAP agreements would be restricted by this limitation period.

136. Concerning the process of implementing MAP agreements, Barbados reported that it does not yet have a process or defined timeframes for implementing MAP agreements.

#### ***Practical application***

137. Barbados reported that there were no MAP agreements reached with another competent authority on or after 1 January 2017.

138. No peer input was received with respect to element D.1.

#### ***Anticipated modifications***

139. Barbados indicated that it intends to introduce a process for implementation of MAP agreements in its forthcoming MAP guidance.

## Conclusion

	Areas for Improvement	Recommendations
	As there was no MAP agreement reached during the Review Period, it was not yet possible to assess whether Barbados would have implemented all MAP agreements thus far.	
[D.1]	As will be discussed under element D.3 not all of Barbados' tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to time limits in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017) in Barbados' relevant tax treaty, prevent the implementation of a MAP agreement, Barbados should put appropriate procedures in place to ensure that such an agreement is implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Barbados should for clarity and transparency purposes notify the treaty partner thereof without delay.

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

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

140. 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*

141. As discussed under element D.1., Barbados reported that there are no specific time limits set for the implementation of MAP agreements.

#### *Practical application*

142. Barbados reported that there were no MAP agreements reached with another competent authority on or after 1 January 2017.

143. No peer input was received with respect to element D.2.

#### *Anticipated modifications*

144. Barbados indicated that it does not anticipate any modifications in relation to element D.2.

## Conclusion

	Areas for Improvement	Recommendations
[D.2]	As there was no MAP agreement reached during the Review Period that needed to be implemented in Barbados, it was not yet possible to assess whether Barbados would have implemented all MAP agreements on a timely basis thus far.	

**[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.

145. 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 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 Barbados' tax treaties***

146. As discussed under element D.1, Barbados' domestic legislation includes a statute of limitations of nine years from the end of the concerned financial year, applicable to upward and downward adjustments, as long as there is no undeclared income, for implementing MAP agreements, unless overridden by tax treaties.

147. Out of Barbados' 34 tax treaties, 27 contain a provision equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law. In addition, one tax treaty does not contain Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), but contains a provision in the MAP article setting a time limit for making primary adjustments, which is considered as having both alternative provisions in Article 9(1) and Article 7(2) of the OECD Model Tax Convention (OECD, 2017).

148. For the remaining six tax treaties the following analysis is made:

- One tax treaty does not contain a provision that is based on or equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), but contains only the alternative provision in Article 9(1) of the OECD Model Tax Convention (OECD, 2017).
- Four tax treaties do not contain a provision that is based on or equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), or the alternative provisions in Article 9(1) and Article 7(2) of the OECD Model Tax Convention (OECD, 2017).
- One tax treaty contains a provision that is based on Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), but also includes wording that a MAP agreement must be implemented within ten years from the due date or the date of filing of the return in that other state. As this bears the risk that MAP agreements cannot be implemented due to time constraints in domestic law of the treaty partners, this tax treaty therefore is considered not being equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).

## *Anticipated modifications*

### *Multilateral Instrument*

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

150. With regard to the six tax treaties identified above that are considered not to contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) or the alternative provisions for Articles 9(1) and 7(2), Barbados listed all of them as covered tax agreements under the Multilateral Instrument and made for all, pursuant to Article 16(6)(c)(ii), a notification that they do not contain a provision described in Article 16(4)(b)(ii). However, one treaty is not a covered tax agreement since not all signatories to this treaty are signatories to the Multilateral Instrument. Of the remaining five treaty partners, one is not a signatory to the Multilateral Instrument and one did not list their treaty with Barbados as a covered tax agreement. Of the remaining three treaty partners, one made a reservation on the basis of Article 16(5)(c). The remaining two treaty partners made a notification pursuant to Article 16(6)(c)(ii). Therefore, at this stage, two of the six 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, 2017).

### *Bilateral modifications*

151. Barbados reported that for one of the four treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), the relevant treaty partner has informed Barbados that it will withdraw its reservation under the Multilateral Instrument, following which it is expected that the treaty with that treaty partner will be modified by the instrument to include the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017).

152. For the remaining treaties, Barbados reported that when the tax treaties that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) will not be modified by the Multilateral Instrument, it will strive to update them via bilateral negotiations to be compliant with element D.3. Barbados,

however, reported not having in place a specific plan for such negotiations. As one of these treaties concerns the 1954 treaty between United Kingdom and the treaty partner that continues to be applied to Barbados, such renegotiations are not necessary for this treaty.

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

### *Peer input*

154. For the six treaties identified that do not contain the equivalent of Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2017), one of the relevant peers provided input. This peer noted that its treaty with Barbados was not in line with element D.3 of Action 14 minimum standard, but reported that since MAP cases have not arisen in respect of this treaty, it treated other treaty partners with priority regarding the implementation of the minimum standard in the field of MAP and that it intends to enter into contact with Barbados in this respect in due course.

### *Conclusion*

	Areas for Improvement	Recommendations
[D.3]	<p>Six out of 34 tax treaties do not contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). Of these six treaties:</p> <ul style="list-style-type: none"> <li>• Two will be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• One is expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) once the treaty partner has amended its notifications.</li> </ul> <p>The remaining three treaties will not be modified by the Multilateral Instrument to include the required provision.</p>	<p>Barbados 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, 2017) in the three treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for this treaty.</p> <p>As one of the remaining three treaties that does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), Barbados should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Barbados should put a plan in place on how it envisages updating these treaties to include the required provision.</p> <p>In addition, Barbados should maintain its stated intention to include the required provision in all future tax treaties.</p>

## *Reference*

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

## Summary

	Areas for Improvement	Recommendations
<b>Part A: Preventing disputes</b>		
[A.1]	One out of 34 tax treaties does not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017). This treaty will not be modified by the Multilateral Instrument.	As the one treaty that does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.
		In addition, Barbados should maintain its stated intention to include the required provision in all future tax treaties.
[A.2]	-	-
<b>Part B: Availability and access to MAP</b>		
	One out of 34 tax treaties does not contain a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the Action 14 final report or as amended by that report (OECD, 2015b). This treaty will not be modified by the Multilateral Instrument to include the required provision.	As the one treaty that does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a), either as it read prior to the adoption of the Action 14 final report or as amended by that report (OECD, 2015b) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.
[B.1]	Three out of 34 tax treaties do not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017), as 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. All of these treaties are expected to be modified by the Multilateral Instrument upon entry into force.	Barbados should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2017) in the three treaties that are expected to be modified by the Multilateral Instrument.
		In addition, Barbados should maintain its stated intention to include Article 25(1) of the OECD Model Tax Convention (OECD, 2017) as amended by the Action 14 final report (OECD, 2015b) in all future tax treaties.

	Areas for Improvement	Recommendations
[B.2]	None of the 34 treaties contain a provision equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partners. For these treaties no documented bilateral consultation or notification process is in place, which allows the other competent authority concerned to provide its views on the case when the taxpayer's objection raised in the MAP request is considered not to be justified.	Barbados should without further delay introduce a documented notification and/or consultation process and provide in that document rules of procedure on how that process should be applied in practice, including the steps to be followed and timing of these steps. Furthermore, Barbados should apply that process in practice for cases in which its competent authority considered the objection raised in a MAP request not to be justified and when the tax treaty concerned does not contain Article 25(1) of the OECD Model Tax Convention (OECD, 2017), as amended by the Action 14 final report (OECD, 2015b).
[B.3]	Barbados reported that it will provide access to MAP in transfer pricing cases. Its competent authority, however did not receive any MAP request for such cases during the Review Period. Barbados is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.4]	Barbados 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. Barbados is therefore recommended to follow its policy and grant access to MAP in such cases.	
[B.5]	-	-
[B.6]	-	As Barbados has thus far not limited access to MAP in eligible cases when taxpayers have complied with Barbados' information and documentation requirements for MAP requests, it should continue this practice.
[B.7]	Three out of 34 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017). Two of these three treaties are expected to be modified by the Multilateral Instrument to include the required provision.	<p>Barbados 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, 2017) in those two 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.</p> <p>As the one remaining treaty that does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p>
		In addition, Barbados should maintain its stated intention to include the required provision in all future tax treaties.

	Areas for Improvement	Recommendations
[B.8]	There is no published MAP guidance.	<p>Barbados should without further delay introduce clear and comprehensive MAP guidance. This guidance should in any case include (i) contact details of the competent authority or office in charge of MAP cases and (ii) manner and form in which the taxpayer should submit its MAP request.</p> <p>Furthermore, although not required by the Action 14 Minimum Standard, Barbados could consider including information on:</p> <ul style="list-style-type: none"> <li>• how the MAP operates in Barbados, the rules for accessing MAP, how its competent authority applies the process in practice and the rights and role of taxpayers</li> <li>• 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</li> <li>• whether taxpayers can request for the multi-year resolution of recurring issues through MAP</li> <li>• the possibility of suspension of tax collection during the course of a MAP</li> <li>• the consideration of interest and penalties in the MAP</li> <li>• the steps of the process and the timing of such steps for the implementation of MAP agreements, including any actions to be taken by taxpayers (if any).</li> </ul>
	No guidance is available on what information taxpayers should include in their MAP request.	<p>Barbados should include in its to be published MAP guidance information on the manner and form in which taxpayers should submit their MAP request. In particular, the following items could be included:</p> <ul style="list-style-type: none"> <li>• identity of the taxpayer(s) covered in the MAP request</li> <li>• the basis for the request</li> <li>• facts of the case</li> <li>• analysis of the issue(s) requested to be resolved via MAP</li> <li>• whether the MAP request was also submitted to the competent authority of the other treaty partner</li> <li>• whether the MAP request was also submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes</li> <li>• whether the issue(s) involved were dealt with previously</li> <li>• 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.</li> </ul>
[B.9]	Barbados' MAP guidance is not publically available.	<p>Barbados should make its MAP guidance available and easily accessible once it has been introduced. Furthermore, Barbados' MAP profile should be updated once its MAP guidance has been introduced.</p>
[B.10]	-	-

	Areas for Improvement	Recommendations
<b>Part C: Resolution of MAP cases</b>		
[C.1]	Three out of 34 tax treaties do not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017). One of these three treaties is expected to be modified by the Multilateral Instrument to include the required provision.	<p>Barbados should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) in the 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.</p> <p>As one of the remaining two treaties that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p> <p>For the remaining treaty that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2017), Barbados should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Barbados should put a plan in place on how it envisages updating this treaty to include the required provision.</p> <p>In addition, Barbados should maintain its stated intention to include the required provision in all future tax treaties.</p>
[C.2]	MAP statistics for 2017 and 2018 were not submitted. In addition, matching of MAP statistics was not sought with all of the treaty partners.	<p>Barbados should report its MAP statistics in accordance with the MAP Statistics Reporting Framework.</p> <p>In addition, Barbados should endeavour matching its MAP statistics with all of its treaty partners.</p>
	Barbados' MAP statistics show that during the Statistics Reporting Period it closed none of its post-2016 cases. In that regard, Barbados is recommended to seek to resolve its post-2016 cases pending on 31 December 2019 (three cases) within a timeframe that results in an average timeframe of 24 months for all post-2016 cases.	
[C.3]	-	Barbados should monitor whether the resources available for the competent authority function remain adequate in order to resolve its pending MAP inventory and future MAP cases in a timely, efficient and effective manner.
[C.4]	-	<p>As it has done thus far, Barbados 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 Barbados would like to see reflected in future amendments to the treaty.</p> <p>Barbados should also monitor whether the role played by the competent authority staff in defending audit adjustments before the Tribunal and/or Courts could interfere with their authority to function independently from the audit function</p>
[C.5]	-	Barbados could consider using the examples of performance indicators mentioned in the Action 14 final report to evaluate staff in charge of the MAP processes.
[C.6]	-	-

	Areas for Improvement	Recommendations
<b>Part D: Implementation of MAP agreements</b>		
	As there was no MAP agreement reached during the Review Period, it was not yet possible to assess whether Barbados would have implemented all MAP agreements thus far.	
[D.1]	As will be discussed under element D.3 not all of Barbados' tax treaties contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017). Therefore, there is a risk that for those tax treaties that do not contain that provision, not all MAP agreements will be implemented due to time limits in its domestic law.	When, after a MAP case is initiated, the domestic statute of limitation may, in the absence of the second sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2017) in Barbados' relevant tax treaty, prevent the implementation of a MAP agreement, Barbados should put appropriate procedures in place to ensure that such an agreement is implemented. In addition, where during the MAP process the domestic statute of limitations may expire and may then affect the possibility to implement a MAP agreement, Barbados should for clarity and transparency purposes notify the treaty partner thereof without delay.
[D.2]	As there was no MAP agreement reached during the Review Period that needed to be implemented in Barbados, it was not yet possible to assess whether Barbados would have implemented all MAP agreements on a timely basis thus far.	
[D.3]	<p>Six out of 34 tax treaties do not contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) nor both alternative provisions provided for in Article 9(1) and Article 7(2). Of these six treaties:</p> <ul style="list-style-type: none"> <li>• Two will be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017).</li> <li>• One is expected to be modified by the Multilateral Instrument to include the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) once the treaty partner has amended its notifications.</li> </ul> <p>The remaining three treaties will not be modified by the Multilateral Instrument to include the required provision.</p>	<p>Barbados 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, 2017) in the three treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force for this treaty.</p> <p>As one of the remaining three treaties that does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017) and will not be modified by the Multilateral Instrument is the 1954 treaty between the United Kingdom and the treaty partner that continues to be applied to Barbados, Barbados should ensure that, once it enters into negotiations with this treaty partner, it includes the required provision.</p> <p>For the remaining two treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2017), Barbados should request the inclusion of the required provision via bilateral negotiations.</p> <p>To this end, Barbados should put a plan in place on how it envisages updating these treaties to include the required provision.</p> <p>In addition, Barbados should maintain its stated intention to include the required provision in all future tax treaties.</p>





Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Arbitration
	DTC in force?	Inclusion Art. 25(1) first sentence?	If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) of the OECD MTC (Note 2) If no, will your CA provide access to MAP in TP cases?	Anti-abuse	Article 25(2) of the OECD MTC	Article 25(2) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Arbitration								
Treaty partner	B.1	B.1	B.1	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6								
Belize	Y	N/A	O	i	N/A	i	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	N	
Botswana	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Canada	Y	N/A	O	ii*	2-years	i	Y	iii	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
China (People's Republic of)	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Cuba	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Cyprus	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Czech Republic	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Dominica	Y	N/A	O	i	N/A	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	
Finland	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Ghana	N	4/24/2008	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Grenada	Y	N/A	O	i	N/A	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	
Guyana	Y	N/A	O	i	N/A	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	
Iceland	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Italy	Y	N/A	O	Y	N/A	i	Y	N*	Y	Y	Y	Y	N*	Y	Y	Y	Y	N	
Jamaica	Y	N/A	O	i	N/A	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	
Luxembourg	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Malta	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Mauritius	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Mexico	Y	N/A	O*	Y	N/A	i	Y	N	Y	Y	Y	Y	N	Y	Y	Y	N*	N	
Netherlands	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Norway	Y	N/A	O*	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Panama	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
Portugal	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N*	N	
Qatar	Y	N/A	O*	ii*	2 years	i	Y	N*	Y	Y	Y	N*	Y	Y	Y	Y	Y	N	

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Arbitration
	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		Article 25(3) of the OECD MTC		Arbitration				
	B.1	B.1	B.3	B.4	C.1	C.1	D.3	A.1	B.7	C.6									
Treaty partner	DTC in force?	Inclusion Art. 25(1) first sentence?	If yes, submission to either competent authority? (new Art. 25(1), first sentence)	Inclusion Art. 25(1) second sentence? (Note 1) If no, please state reasons	Inclusion Art. 9(2) (Note 2) If no, will your CA provide access to MAP in TP cases?	Inclusion provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence? (Note 3)	Inclusion Art. 25(2) second sentence? (Note 4) If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence? (Note 5)	Inclusion Art. 25(3) second sentence? (Note 6)	Inclusion arbitration provision?								
Rwanda	N	12/22/2014	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Saint Lucia	Y	N/A	O	i	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
San Marino	Y	N/A	O	ii*	2-years	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Seychelles	Y	N/A	O**	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Singapore	Y	N/A	O	Y	N/A	i*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Slovak Republic	N	10/28/2015	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Spain	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
St. Kitts and Nevis	Y	N/A	O	i	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
St. Vincent and the Grenadines	Y	N/A	O	i	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sweden	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Switzerland	Y	N/A	N	i	N/A	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Trinidad and Tobago	Y	N/A	O	i	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
United Arab Emirates	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
United Kingdom	Y	N/A	O*	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
United States	Y	N/A	O	i	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Venezuela	Y	N/A	O	Y	N/A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

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

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

*Legend*

E*	The provision contained in this treaty was already in line with the requirements under this element of the Action 14 Minimum Standard, but has been modified by the Multilateral Instrument to allow the filing of a MAP request in either contracting state.
E**	The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this standard.
O*	The provision contained in this treaty is already in line with the requirements under this element of the Action 14 Minimum Standard, but will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then allow the filing of a MAP request in either contracting state.
O**/E***	The provision contained in this treaty is already in line with the requirements under this element of the Action 14 Minimum Standard, but will be or has been superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.
Y*	The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been modified by the Multilateral Instrument and is now in line with this element of the Action 14 Minimum Standard.
Y**	The provision contained in this treaty already included an arbitration provision, which has been replaced by part VI of the Multilateral Instrument containing a mandatory and binding arbitration procedure.
Y***	The provision contained in this treaty did not include an arbitration provision, but part VI of the Multilateral Instrument applies, following which a mandatory and binding arbitration procedure is included in this treaty
i*/ii*/iv*/N*	The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be modified by the Multilateral Instrument upon entry into force for this specific treaty and will then be in line with this element of the Action 14 Minimum Standard.
i**/iv**/N**	The provision contained in this treaty is not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty will be superseded by the Multilateral Instrument upon entry into force for this specific treaty only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.
i***	The provision contained in this treaty was not in line with the requirements under this element of the Action 14 Minimum Standard, but the treaty has been superseded by the Multilateral Instrument only to the extent that existing treaty provisions are incompatible with the relevant provision of the Multilateral Instrument.

## Annex B

## MAP Statistics Reporting for the 2017, 2018 and 2019 Reporting Periods (1 January 2017 to 31 December 2019) for pre-2017 cases

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

2018 MAP Statistics													
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2018	Number of pre-2017 cases closed during the reporting period by outcome										No. of pre-2017 cases remaining in MAP inventory on 31 December 2018	Average time taken (in months) for closing pre-2017 cases during the reporting period
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2019 MAP Statistics														
Category of cases	No. of pre-2017 cases in MAP inventory on 1 January 2019	Number of pre-2017 cases closed during the reporting period by outcome										No. of pre-2017 cases remaining in MAP inventory on 31 December 2019	Average time taken (in months) for closing pre-2017 cases during the reporting period	
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome			Column 11
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	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

## Annex C

## MAP Statistics Reporting for the 2017, 2018 and 2019 Reporting Periods (1 January 2017 to 31 December 2019) for post-2016 cases

2017 MAP Statistics															
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2017	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome							No. of post-2016 cases remaining in on MAP inventory on 31 December 2017	Average time taken (in months) for closing post-2016 cases during the reporting period				
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty			Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.

2018 MAP Statistics															
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2018	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome							No. of post-2016 cases remaining in on MAP inventory on 31 December 2018	Average time taken (in months) for closing post-2016 cases during the reporting period				
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty			Agreement that there is no taxation not in accordance with tax treaty	No agreement, including agreement to disagree	Any other outcome	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	0	2	0	0	0	0	0	0	0	0	0	0	0	2	n.a.
Total	0	2	0	0	0	0	0	0	0	0	0	0	0	2	n.a.

2019 MAP Statistics															
Category of cases	No. of post-2016 cases in MAP inventory on 1 January 2019	No. of post-2016 cases started during the reporting period	Number of post-2016 cases closed during the reporting period by outcome								No. of post-2016 cases remaining in on MAP inventory on 31 December 2019	Average time taken (in months) for closing post-2016 cases during the reporting period			
			Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty			No agreement, including agreement to disagree	Any other outcome	
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	
Attribution/Allocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n.a.
Others	2	1	0	0	0	0	0	0	0	0	0	0	0	3	n.a.
Total	2	1	0	0	0	0	0	0	0	0	0	0	0	3	n.a.

## *Glossary*

<b>Action 14 Minimum Standard</b>	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
<b>MAP Statistics Reporting Framework</b>	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
<b>Multilateral Instrument</b>	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
<b>OECD Model Tax Convention</b>	OECD Model Tax Convention on Income and on Capital as it read on 21 November 2017
<b>OECD Transfer Pricing Guidelines</b>	OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations
<b>Pre-2017 cases</b>	MAP cases in a competent authority’s inventory that are pending resolution on 31 December 2016
<b>Post-2016 cases</b>	MAP cases that are received by a competent authority from the taxpayer on or after 1 January 2017
<b>Review Period</b>	Period for the peer review process that started on 1 January 2017 and ended on 31 December 2019
<b>Statistics Reporting Period</b>	Period for reporting MAP statistics that started on 1 January 2017 and that ended on 31 December 2019
<b>Terms of Reference</b>	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective

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

# **Making Dispute Resolution More Effective – MAP Peer Review Report, Barbados (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 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 monitoring of the implementation of the Action 14 Minimum Standard by Barbados.



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