

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



Making Dispute Resolution More Effective – MAP Peer Review Report, Denmark (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 BEPS planning strategies that rely on outdated rules or on poorly co-ordinated domestic measures will be rendered ineffective.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 via treaty provisions. With the negotiation for a multilateral instrument having been finalised in 2016 to facilitate the implementation of the treaty related measures, 67 countries signed the multilateral instrument on 7 June 2017, paving 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 an Inclusive Framework on BEPS, bringing all interested and committed countries and jurisdictions on an equal footing in the Committee on Fiscal Affairs and all its subsidiary bodies. The Inclusive Framework, which already has more than 100 members, will monitor and peer review the implementation of the minimum standards as well as complete 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.

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Abbreviations and acronyms

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

Executive summary

Finland has an extensive treaty network with over 85 tax treaties and has signed and ratified the EU Arbitration Convention. Finland has an established MAP programme and has significant experience with resolving MAP cases. It has a relatively large inventory, with a moderate number of new cases submitted each year and almost 110 cases pending on 31 December 2016. Of these cases, approximately 50% concerns allocation/attribution cases. Overall Finland meets almost all of the elements of the Action 14 Minimum Standard.

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

- Approximately 15% 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; and
- Approximately 15% of its tax treaties do not contain the equivalent of Article 25(3), second sentence of the OECD Model Tax Convention (OECD, 2015) stating that the competent authorities may consult together for the elimination of double taxation for cases not provided for in the tax treaty.

In order to be fully compliant with all four key areas of an effective dispute resolution mechanism under the Action 14 Minimum Standard, Finland needs to amend and update a portion of its tax treaties. In this respect, Finland signed the Multilateral Instrument, through which a number of its tax treaties will be potentially modified to fulfil the requirements under the Action 14 Minimum Standard. Where treaties will not be modified, upon entry into force and entry into effect of this Multilateral Instrument, Finland reported that it intends to initiate bilateral negotiations to fulfil these requirements under the Action 14 Minimum Standard. It will propose updates to its treaty partners in the near future and take the Action 14 Minimum Standard into account in pending negotiations. Furthermore, Finland opted for part VI of the Multilateral Instrument concerning the introduction of a mandatory and binding arbitration provision in its tax treaties.

Finland meets the requirements under the Action 14 Minimum Standard concerning the prevention of disputes. It is allowed to enter into bilateral APAs and is also able to apply such APAs to previous fiscal years.

Finland also meets most 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. Finland has 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. Furthermore, Finland has included on the website of its Tax Administration information on MAP and how it applies this procedure in practice. This guidance, however, does not include the contact details of Finland’s competent authority, as also not the information that taxpayers need to include in a MAP request.

Concerning the average time needed to close MAP cases, the MAP statistics for Finland for the year 2016 are as follows:

2016	Opening inventory	Cases started	Cases closed	End inventory	Average time to close cases (in months)*
Attribution/ allocation cases	62	8	14	56	27.09
Other cases	36	22	5	53	46.76
Total	98	30	19	109	32.27

* The average time taken for closing MAP cases for post-2015 cases follows the MAP Statistics Reporting Framework. For computing the average time taken for closing pre-2016 MAP cases, Finland generally used as a start date the date when a taxpayer submitted a MAP request, or for cases when the MAP request was submitted in the other jurisdiction concerned, the date of the first letter from the competent authority of that jurisdiction. For cases where the taxpayer was requested to submit additional information, the start date used was the date on which this informed was received by the competent authority. For the end date, Finland generally used the date of the letter to the taxpayer notifying him of the outcome of the MAP.

The number of cases Finland closed is less than the number of all new cases started in 2016. Its MAP inventory as per 31 December 2016 increased as compared to its inventory as per 1 January 2016. Finland’s competent authority did not close MAP cases on average within a timeframe of 24 months (which is the pursued average for resolving MAP cases received on or after 1 January 2016), as the average time necessary was 32.27 months. This particularly concerns the resolution of other cases, as the average time to close these cases is considerably longer (46.76 months) than the average time to close attribution/allocation cases (27.09 months). However, additional resources are envisaged to be assigned to the competent authority function to accelerate the resolution of all MAP cases. In that regard, Finland should closely monitor whether the additional resources envisaged to be provided in the near future will lead to the resolution of all MAP cases in a more timely, effective and efficient manner.

Furthermore, Finland meets the other requirements under the Action 14 Minimum Standard in relation to the resolution of MAP cases. Finland’s competent authority operates fully independently from the audit function of the tax authorities and adopts a pragmatic approach to resolve MAP cases in an effective and efficient manner. Its organisation is adequate and the performance indicators used are appropriate to perform the MAP function.

Lastly, Finland also meets the Action 14 Minimum Standard as regards the implementation of MAP agreements and its competent authority monitors such implementation.

Introduction

Available mechanisms in Finland to resolve tax treaty-related disputes

Finland has entered into 77 tax treaties on income (and/or capital), of which 73 are in force.¹ These 77 treaties apply to 87 jurisdictions.² All of these 77 treaties provide for a mutual agreement procedure (“MAP”) for resolving disputes on the interpretation and application of the provisions of the tax treaty. None of these 77 treaties provide for an arbitration procedure as a final stage to the mutual agreement procedure. Finland is also a signatory to the EU Arbitration Convention, which provides for a mutual agreement procedure supplemented with an arbitration procedure for settling transfer pricing disputes and disputes on the attribution of profits to permanent establishments between EU Member States.³

Under the tax treaties concluded by Finland (including the EU Arbitration Convention), the competent authority function in Finland is the Ministry of Finance. The Ministry of Finance has, on the basis of section 88 of the Act on Assessment Procedure (“AAP”), delegated this function to Finland’s Tax Administration. Where no specific delegation clause is included in Finland’s tax treaty, or where the Ministry of Finance has decided to handle the case by itself, the Ministry of Finance will act as the competent authority. The following three offices are within Finland’s Tax Administration responsible for handling MAP cases:

- a. *Attribution/allocation cases and APAs*: a separate team within the Large Taxpayers’ Office;
- b. *Other corporate income tax cases*: a nominated person within the Large Taxpayers’ Office; and
- c. *Cases concerning individual taxpayers*: the Individual Taxation Unit.

Currently there are seven people within Finland’s Tax Administration. In the Ministry of Finance, five people are handling MAP requests as well as other tasks.

The website of Finland’s Tax Administration includes information on the mutual agreement procedure, which is available at (in Finnish):

https://www.vero.fi/yritykset-ja-yhteisot/tietoa-yritysverotuksesta/siirtohinnoittelu/menettelytavat_siirtohinnoitteluasioissa/keskinainen_sopimusmenettely_map_siirto/⁴

Recent developments in Finland

Finland signed a new tax treaty with Spain in 2015 and with Germany, Portugal and Sri Lanka in 2016. These four treaties will replace the existing treaties but have not yet entered into force. Furthermore, Finland recently 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, Finland also

submitted its list of notifications and reservations to that instrument. In relation to the Action 14 Minimum Standard, Finland has not made any reservations to Article 16 of the Multilateral Instrument (concerning the mutual agreement procedure).⁵

Basis for the peer review process

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

The questionnaires for the peer review process were sent to Finland and the peers on 7 July 2017. The period for evaluating Finland’s implementation of the Action 14 Minimum Standard ranges from 1 January 2016 to 31 July 2017 (“**Review Period**”). Furthermore, this report may depict some recent developments that have occurred after the Review Period, which at this stage will not impact the assessment of Finland’s implementation of this minimum standard. In the update of this report, being stage 2 of the peer review process, these recent developments will be taken into account in the assessment and, if necessary, the conclusions contained in this report will be amended accordingly.

For the purpose of this report and the statistics below, in assessing whether Finland 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 concerns a replacement of an existing treaty. Furthermore, the treaty analysis also takes into account the treaty with the former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia. It also continues to apply the treaty with the former Netherlands Antilles to Curacao, to Sint Maarten and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba). In addition, Finland is a signatory to the multilateral tax treaty between Denmark, Finland, the Faroe Islands, Iceland, Norway and Sweden (the “**Nordic Convention**”). As this concerns three tax treaties that are applicable to multiple jurisdictions, each of these treaties is only counted as one treaty for this purpose. Reference is made to Annex A for the overview of Finland’s tax treaties regarding the mutual agreement procedure.

In total 15 peers provided input: Australia, Belgium, China, Denmark, Germany, Italy, Norway, Portugal, Russia, Slovenia, Spain, Sweden, Switzerland, Turkey and the United States. These peers represent 60% of post-2015 MAP cases in Finland’s inventory on 31 December 2016. Input was also received from one taxpayer. Broadly all peers indicated having good working relationships with Finland, some of them noting that communication is frequent and fluid, as also that Finland’s competent authority is solution oriented. Some peers, however, mentioned that it in Finland can take a long time to issue position papers or that resolution of MAP cases are delayed due to the interrelationship between MAP and domestic court procedures in Finland. Finland provided extensive answers in its questionnaire and provided detailed additional information, which was submitted on time. Finland was responsive in the course of the drafting of the peer review report by responding in a timely and comprehensive manner to requests for additional information and provided further clarity where necessary. In addition, Finland provided the following information:

- MAP profile⁶; and
- MAP statistics according to the MAP Statistics Reporting Framework (see below).⁷

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

Overview of MAP caseload in Finland

The analysis of Finland’s MAP caseload relates to the period that started on 1 January 2016 and ended on 31 December 2016 (the “**Statistics Reporting Period**”). According to the statistics provided by Finland, on 31 December 2016 its MAP inventory was 109 cases, 56 of which were attribution/allocation cases and 53 other cases. During the Statistics Reporting Period, 30 cases were started and 19 cases were closed.

General outline of the peer review report

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

- A. Preventing Disputes;
- B. Availability and Access to MAP;
- C. Resolution of MAP cases; and
- D. Implementation of MAP agreements.

Each of these sections is divided into elements of the Action 14 Minimum Standard, as described in the terms of reference to monitor and review the implementation of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective (“**Terms of Reference**”).⁸ Apart from analysing Finland’s legal framework and its administrative practice, the report also incorporates peer input and responses to such input by Finland. Furthermore, the report depicts the changes adopted and plans shared by Finland 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 Finland 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 Finland has entered into are available at: www.finlex.fi/fi/sopimukset/sopsteksti/. The treaties that are signed but have not yet entered into force are with Germany (2016), Portugal (2016), Spain (2015) and Sri Lanka (2016). These treaties will replace the currently existing treaties once the newly negotiated treaties enter into force. Reference is made to Annex A for an overview of Finland’s tax treaties.
2. Finland continues to apply the treaty with the former Netherlands Antilles to Curacao, Sint Maarten, and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba) and the treaty with the former Yugoslavia to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, and Serbia. Finland is also a signatory to the Nordic Convention that for Finland applies to Denmark, the Faroe Islands, Iceland, Norway and Sweden.

3. Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (90/436/EEC) of July 23, 1990.
4. An non-binding brief MAP guidance is also available in English at: https://www.vero.fi/en/individuals/tax-cards-and-tax-returns/moving_away_from_finland/assessment_of_taxes_that_are_contrary_1/.
5. Available at: www.oecd.org/tax/treaties/beps-mli-position-finland.pdf.
6. Available at: www.oecd.org/tax/dispute/Finland-Dispute-Resolution-Profile.pdf.
7. The MAP statistics of Finland are included in Annex B and C of this report.
8. The terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective can be found in the Peer Review Documents (OECD, 2016): www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.

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

Part A

Preventing disputes

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

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

1. Cases may arise concerning the interpretation or the application of tax treaties that do not necessarily relate to individual cases, but are more of a general nature. Inclusion of the first sentence of Article 25(3) of the *OECD Model Tax Convention* (OECD, 2015) 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 Finland's tax treaties

2. Out of Finland's 77 tax treaties, 75 contain a provision equivalent to Article 25(3), first sentence, of the *OECD Model Tax Convention* (OECD, 2015) requiring their competent authority to endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty.¹ In one of the remaining two treaties the term "interpretation" is not included, whereas in the other treaty the words "doubts" and "interpretation" are not included, following which both treaties are considered not having the equivalent of Article 25(3), first sentence, of the *OECD Model Tax Convention* (OECD, 2015).

3. Finland reported that there is no legislation or administrative practice concerning those situations where a tax treaty does not contain the equivalent of Article 25(3), first sentence, of the *OECD Model Tax Convention* (OECD, 2015).

Anticipated modifications

Multilateral Instrument

4. Finland recently signed the Multilateral Instrument. Article 16(4)(c)(i) of that instrument stipulates that Article 16(3), first sentence – containing the equivalent of Article 25(3), first sentence, of the *OECD Model Tax Convention* (OECD, 2015) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(3), first sentence, of the *OECD Model Tax Convention* (OECD, 2015). 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. This, however, only if both contracting parties to the applicable treaty has listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar both notified the depository of the fact that this treaty does not contain the equivalent of Article 25(3), first sentence, of the *OECD Model Tax Convention* (OECD, 2015).

5. In regard of the two tax treaties identified above, Finland listed both as a covered tax agreement under the Multilateral Instrument and made, pursuant to Article 16(6)(d) (i), a notification that they do not contain a provision described in Article 16(4)(c)(i). The relevant treaty partners also made such notification that their treaty with Finland does not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015). At this stage therefore, the Multilateral Instrument will, upon entry into force, modify both tax treaties identified above to include the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015).

Bilateral modifications

6. Since, as indicated above, the tax treaties that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) will be modified by the Multilateral Instrument, there is no need for bilateral modifications. In addition, Finland reported it will seek to include Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) in all of its future treaties.

Peer input

7. Most peers that provided input reported that their tax treaty with Finland meets the requirement under element A.1. Two peers further reported that their treaty with Finland that was recently negotiated and meets the requirements under element A.1 as well, although these new treaties are not yet currently in force.

8. For the two treaties identified above that do not contain the equivalent of Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015), only one provided input. This peer did not declare whether its treaty with Finland is in line with element A.1, but did report that it has neither contacted nor is in discussion with Finland to update its treaty to include the required provision.

Conclusion

	Areas for Improvement	Recommendations
[A.1]	Two out of 77 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015).	Finland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) 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. In addition, Finland should maintain its stated intention to include the required provision in all future treaties.

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

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

9. An APA is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustment thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time.² 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.

Finland’s APA programme

10. Finland does not have specific APA legislation in place, but reported that it is allowed to enter into bilateral and multilateral APAs with those states with which it has a tax treaty in force. The legal basis for APAs in Finland is the mutual agreement procedure provision contained in its tax treaties. In Finland, handling requests for APAs are the primary responsibility of Finland’s Tax Administration, specifically the Large Taxpayers’ Office. Finland reported that APAs are binding on Finland’s Tax Administration for the duration of its validity, if the taxpayer observes the terms and conditions of the APA. Furthermore, Finland does not charge any fees for the submission of APA requests.

11. Finland published information on APAs on the website of Finland’s Tax Administration.³ This guidance broadly describes what an APA is, which government institutions in Finland are responsible for handling APA requests, how a taxpayer can benefit from an APA, the basis for such APAs, the issues to be covered by an APA, the process to obtain an APA, the timelines of such APAs, the information to be included in a request for an APA, and the possibility of withdrawal, renewal or revision of an existing APA (request). In addition, the information contained on the website specifically addresses that as the APA negotiations are normally conducted in English, taxpayers are recommended to submit their APA request in English.

12. In view of the above, given the fact that there is no specific legislation on APAs in place, Finland reported that there is no exact date as of which an APA should be applied. As described on the website of Finland’s Tax Administration, which contains information on APAs, requests for APAs should be made as early as possible. In this respect, Finland noted that the process to be followed is that Finland’s competent authority and the taxpayer, prior to submitting an APA request discuss what fiscal years can be covered in an APA. As Finland itself does not have any timing requirements, the taxpayer is during such discussions informed that it should check whether the other jurisdiction concerned uses any filing requirements in terms of timing.

Roll-back of bilateral APAs

13. Finland reported that, where appropriate and upon the taxpayer’s request, it is possible to apply the outcome of a bilateral APA in a mutual agreement procedure covering previous years, whereby the process and legal basis for granting roll-backs is similar as

for regular bilateral APAs. In this respect, Finland added that there is no requirement that a primary adjustment should be made before a roll-back can be granted. The information on the website of Finland's Tax Administration does, however, not include any specific information on the possibility for roll-back of bilateral APAs.

Practical application of roll-back of bilateral APAs

14. Finland publishes statistics on APAs in relation to EU and non-EU Member States on the website of the EU Joint Transfer Pricing Forum (in English).⁴ Finland reported that as from 1 January 2016 it received three requests for bilateral/multilateral APAs, all of which are still under review. None of these requests concern a roll-back. However, it reported that it provided a roll-back of a bilateral APA with a treaty partner which related to an APA application submitted prior to 2016.

15. Most peers reported that since 1 January 2016 they have not received any requests for roll-back of bilateral APAs with Finland. One peer in particular mentioned that roll-back of bilateral APAs is possible in Finland, but that it had no practical experience on this point. Furthermore, one peer indicated having received such requests for a roll-back request concerning Finland in 2016. At that time the bilateral APA was in the process of being resolved. In 2016 this APA was entered into alongside with allowing a roll-back for four years as from the initial APA period. This peer thereby specified that both competent authorities saw no obstacles in agreeing to such a roll-back and that it did not have any indicated that Finland encountered any issues with the implementation of the roll-back.

Anticipated modifications

16. Finland did not indicate that it anticipates any modifications in relation to element A.2.

Conclusion

	Areas for Improvement	Recommendations
[A.2]	-	As Finland has done so far, it should continue to provide for roll-back of bilateral APAs in appropriate cases.

Notes

1. These 75 treaties include the Nordic Convention that Finland applies to Denmark, the Faroe Islands, Iceland, Norway and Sweden; the treaty with the former Netherlands Antilles that Finland continues to apply to Curacao, Sint Maarten, and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba); and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia. These 75 treaties also include the new treaty that Finland has signed with Sri Lanka in 2016 but that has not yet entered into force and that once it enters into force replaces the existing treaty of 1982.
2. This description of an APA based on the definition of an APA in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.

3. Available at (in Finnish): https://www.vero.fi/yritykset-ja-yhteisot/tietoa-yritysverotuksesta/siirtohinnoittelu/menettelytavat_siirtohinnoitteluasioissa/siirtohinnoittelun_ennakkosopimus_ap/.
4. Available at: https://ec.europa.eu/taxation_customs/sites/taxation/files/jtpf0152016enapastatistics.pdf. These statistics are up to fiscal year 2015.

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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.

17. For resolving cases of taxation not in accordance with the provisions of the tax treaty, it is necessary that tax treaties contain 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 Finland's tax treaties

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

18. Out of Finland's 77 tax treaties, 61 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 *Making Dispute Resolution Mechanisms More Effective, Action 14 – 2015 Final Report* (Action 14 final report, OECD 2015b), allowing taxpayers to submit a MAP request to the competent authority of the state in which they are resident when they consider that the actions of one or both of the treaty partners result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty and that can be requested irrespective of the remedies provided by domestic law of either state.¹ None of its tax treaties contain the equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as changed by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either state.

19. The 16 remaining tax treaties can be categorised as follows:

Provision	Number of 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 the taxpayer can only submit a MAP request to the competent authorities of the contracting state of which they are resident.	15 ²
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 the taxpayer can submit a MAP request irrespective of domestic available remedies, but whereby pursuant to a protocol provision the taxpayer is also required to initiate these remedies when submitting a MAP request.	1

20. The 15 treaties included 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, for the following reasons 14 of these 15 treaties are considered to be in line with this part of element B.1:

- The relevant tax treaty does not contain a non-discrimination provision (four treaties);
- The non-discrimination provision of the relevant tax treaty only covers nationals that are resident of one of the contracting states, following which it is logical to only allow for the submission of MAP requests to the state of which the taxpayer is a resident (eight treaties)³; and
- The relevant tax treaty is only one sided formulated in that they only apply to companies resident in Finland and therefore it is logical that the MAP article is also only one-sided formulated (two treaties).

21. For the remaining treaty, paragraph 1 of the non-discrimination provision also only covers nationals that are resident of one of the contracting states, but by virtue of another paragraph the non-discrimination provision applies to both nationals that are and are not resident of one of the contracting states. The omission of the full text of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) is therefore not clarified by a limited scope of the non-discrimination article, following which this treaty is considered not to be in line with this part of element B.1.

22. Furthermore, with respect to the one treaty included in the second row of the table above, the provision incorporated in the protocol to this treaty reads:

“(…) the expression “irrespective of the remedies provided by domestic law” in paragraph 1 of the Article means that the mutual agreement procedure is not alternative with the national contentious proceedings, which shall be, in any case, preventively initiated, when the claim is related to an assessment of taxes not in accordance with the Convention”.

23. As pursuant to this provision a domestic procedure has to be initiated analogous to the initiation of the mutual agreement procedure, a MAP request can in practice thus not be submitted irrespective of the remedies provided by the domestic law, even though the provision contained in the MAP article 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 final report on Action 14 (OECD, 2015b). This treaty is therefore considered not in line with this part of element B.1.

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

24. Out of Finland's 77 tax treaties, 67 contain a provision equivalent to Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015a) allowing taxpayers to submit a MAP request within a period of three years from the first notification of the action resulting in taxation not in accordance with the provisions of the particular tax treaty.⁴

25. The remaining ten treaties that do not contain such provision can be categorised as follows:

Provision	Number of treaties
No filing period for a MAP request	6
Filing period less than three years for a MAP request (two years)	3
Filing period longer than three years for a MAP request (five years) ⁵	1

26. Finland reported that there is no domestic legislation or administrative practice in place for those situations where a tax treaty does not contain a filing period for MAP requests.

Anticipated modifications

Multilateral Instrument

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

27. Finland reported it has recently 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, 2015a) as it read after the adoption of 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 final report on Action 14 (OECD, 2015b). This, however, only 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 both notified the depository of the fact that this tax treaty contains the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a). Such modification will for a specific treaty not take effect if one of the treaty partners has, pursuant to Article 16(5)(a) of the Multilateral Instrument, reserved the right not to apply the first sentence of Article 16(1) of that instrument to its existing tax treaties.

28. With the signing of the Multilateral Instrument, Finland opted to introduce in all of its tax treaties, pursuant to Article 16(4)(a)(i) of that instrument, a provision that is equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as amended by the final report on Action 14 (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In other words, where under Finland's tax treaties taxpayers currently have to submit a MAP request to the competent authority of the contracting state in which it is a resident, Finland opted to modify these treaties allowing taxpayers to submit a MAP request to the competent authority of either contracting state. In this respect, Finland listed 67 of its 77 treaties under the Multilateral Instrument and made, pursuant to Article 16(6)(a) of the Multilateral Instrument, for all 67 tax treaties 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 final report on Action 14 (OECD, 2015b).⁶

29. In total, 24 of the 67 treaty partners are not a signatory to the Multilateral Instrument and one did not list its treaty with Finland under the Multilateral Instrument.⁷ For the 42 other treaty partners, 19 treaty partners have, pursuant to Article 16(5)(a) of the Multilateral Instrument, reserved the right not to apply the first sentence of Article 16(1) of that instrument to its existing tax treaties, with a view to allow taxpayers to submit a MAP request to the competent authority of either contracting state. The remaining 23 listed their treaty with Finland as having a provision that is equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the final report on Action 14 (OECD, 2015b). At this stage therefore, the Multilateral Instrument will, upon entry into force, modify these 23 treaties to incorporate the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read after the adoption of the final report on Action 14.

30. In view of the above and in relation to the two treaties identified in paragraphs 21 and 22 that are 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 final report on Action 14 (OECD, 2015b), one of the relevant treaty partners made the reservation on the basis of Article 16(5)(a), following which this treaty will at this stage not be modified via the Multilateral Instrument. The other treaty partner did not make such a reservation and is included in the 23 treaties mentioned above that will be modified via that instrument to incorporate the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read after the adoption of the final report on Action 14 (OECD, 2015b).

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

31. 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, 2015a) – 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. This, however, only if both contracting parties to the applicable treaty has listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar both notified the depository of the fact that this treaty does not contain the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015a).

32. In regard of the three tax treaties identified in paragraph 25 above that contain a filing period for MAP requests of less than three years, Finland listed all of them as a covered tax agreement under the Multilateral Instrument and made, pursuant to Article 16(6)(b)(i), a notification that they do not contain a provision described in Article 16(4)(a)(ii). Regarding these three treaty partners, two are not a signatory to the Multilateral Instrument. The remaining treaty partner listed its treaty with Finland as not having a time limit for filing of MAP requests of at least three years. At this stage therefore, the Multilateral Instrument will, upon entry into force, modify only this treaty to include the equivalent of Article 25(1), second sentence, of the OECD Model Tax Convention (OECD, 2015a).

Bilateral modifications

33. Finland reported that when the tax treaties that do not contain the equivalent of Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), as it read prior to the adoption of the final report on Action 14 (OECD, 2015b), will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.1. In this respect, Finland reported that regarding the two tax

treaties not listed as covered tax agreement under the Multilateral Instrument it has already scheduled negotiations with its treaty partners with inter alia a view to also include this element of the Action 14 Minimum Standard. In addition, Finland reported it will seek to include Article 25(1) of the OECD Model Tax Convention (OECD, 2015a), as it read after the adoption of the final report on Action 14 (OECD, 2015b), in all of its future treaties and to all future amending protocols to existing treaties. In practice, this implies that Finland will propose updates according to the Action 14 Minimum Standard to all ongoing negotiations regarding both amendments to existing treaties and for new treaties. Furthermore, Finland explained that the treaty negotiations already underway are given priority. Finland further reported that non-compliance with the BEPS minimum standards, as well as other facts, will be taken into account when assessing which treaties should be re-negotiated next.

Peer input

34. Almost all peers that provided input reported that their tax treaty with Finland meets the requirements under element B.1. Two peers further reported that its treaty with Finland that was recently negotiated and meets the requirements under element B.1 as well, although these new treaties are not yet currently in force. Furthermore, one peer mentioned that its treaty with Finland does not contain the equivalent of Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a). This is the treaty identified in paragraphs 22 and 23 that does not contain such equivalent. In this respect, this peer mentioned that there are no ongoing contacts with Finland to amend its treaty, as in this peer's view this treaty will be modified via the Multilateral Instrument. From the analysis conducted, however, this treaty will not be modified via that instrument to incorporate the equivalent of Article 25(1), first sentence.

Conclusion

	Areas for Improvement	Recommendations
[B.1]	<p>Four out of 77 tax treaties do not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015a). Of those four tax treaties:</p> <ul style="list-style-type: none"> • one tax treaty does not incorporate the equivalent to Article 25(1), first sentence and the timeline to file such request is shorter than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty; • one tax treaty does not incorporate the equivalent to Article 25(1), first sentence; and • two tax treaties provide that the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty (two years). 	<p>Finland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015a) in those treaties that currently do not contain such equivalent. This concerns both:</p> <ul style="list-style-type: none"> • a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015a) either: <ul style="list-style-type: none"> a. As amended in the final report of Action 14 (OECD, 2015b); or b. As it read prior to the adoption of final report of Action 14 (OECD, 2015b), thereby including the full sentence of such provision; and • a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. <p>For the remaining treaties that will not be modified by the Multilateral Instrument following its entry into force to include such equivalent, Finland should request the inclusion of the required provision via bilateral negotiations.</p> <p>In addition, Finland should maintain its stated intention to include the required provision in all future treaties.</p>

[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).

35. 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

36. As discussed under element B.1, none of Finland's 77 tax treaties currently contain a provision equivalent to Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as changed by the Action 14 final report (OECD, 2015b), allowing taxpayers to submit a MAP request to the competent authority of either treaty partner. However, as was also discussed under element B.1, 23 of these 77 treaties will, upon entry into force, be modified by the Multilateral Instrument to allow taxpayers to submit a MAP request to the competent authority of either treaty partner.

37. Finland reported that it has not introduced a formal consultation/notification process for those cases where its competent authority considered the objection raised by the taxpayer in the MAP request as being not justified. However, it also reported that when a MAP request is received by Finland's competent authority, it will send a notification of receipt to the other competent authority concerned as well as to the taxpayer. In the situation that Finland's competent authority considers the objection raised in a MAP request as not being justified, Finland reported it will discuss this judgment with the other competent authority concerned. It added that these cases, however, are rare. Nevertheless, Finland reported that it has recently documented this practice in its internal MAP guidance, which includes the procedures to be followed in case its competent authority considers an objection raised as not being justified.

Practical application

38. Finland reported that as from 1 January 2016 its competent authority in one case considered the objection raised by the taxpayer in its MAP requests as being not justified. In this particular case, the MAP request was originally submitted to the competent

authority of the treaty partner, which forwarded this MAP request to Finland. Finland's competent authority considered a primary adjustment made in the other jurisdiction as not constituting a transfer pricing adjustment and for that reason considered the objection raised in the MAP request not to be justified. In that regard, Finland specified that there has been a lengthy MAP negotiation with the treaty partner before the decision was made that the objection was not justified. Finland reported that this outcome has been confirmed by the relevant peer.

39. All peers that provided input indicated not being aware of any cases for which Finland's competent authority denied access to MAP since 1 January 2016, or being consulted/notified of a case that where Finland's competent authority considered the objection raised in a MAP request as not being justified.

Anticipated modifications

40. Finland did not indicate that it anticipates any modifications in relation to element B.2.

Conclusion

	Areas for Improvement	Recommendations
[B.2]		Finland should ensure that it will actually use the recently documented bilateral consultation and notification process 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, 2015a) as amended by the final report on Action 14 (OECD, 2015b).

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

Jurisdictions should provide access to MAP in transfer pricing cases.

41. 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. Countries should thus provide access to MAP in transfer pricing cases.

Legal and administrative framework

42. Out of Finland's 77 tax treaties, 51 contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015a), requiring their state to make a corresponding adjustment in case a transfer pricing adjustment is imposed by the other treaty partner.⁸ The remaining 26 treaties do not contain a provision related to providing corresponding adjustments.⁹

43. Finland is a signatory to the EU Arbitration Convention, which provides for a mutual agreement procedure supplemented with an arbitration procedure for settling transfer pricing disputes and disputes on the attribution of profits to permanent establishments between EU Member States.

44. Access to MAP should be provided in transfer pricing cases regardless of whether the equivalent of Article 9(2) is contained in Finland's tax treaties and irrespective of whether its domestic legislation enables the granting of corresponding adjustments. In accordance with element B.3, as translated from the Action 14 Minimum Standard, Finland reported that it will always provide access to MAP for transfer pricing cases. The information available on the website of Finland's Tax Administration in relation to MAP specifically concerns transfer pricing cases. This information specifies that taxpayers can request for MAP in case of transfer pricing adjustments and in that regard includes a specific example here.

Application of legal and administrative framework in practice

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

46. All peers that provided input have indicated not being aware of a denial of access to MAP by Finland for transfer pricing cases since 1 January 2016. Also taxpayers reported not being aware of such denial.

Anticipated modifications

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

48. Finland has, pursuant to Article 17(3), reserved the right not to apply Article 17(2) of the Multilateral Instrument for those treaties that already contain a provision equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015a). In regard of the 26 treaties identified in paragraph 43 above that are considered not to contain a provision that is equivalent to Article 9(2) of the OECD Model Tax Convention (OECD, 2015a), Finland listed 17 of them as a covered tax agreement under the Multilateral Instrument and included none of these in the list of treaties for which Finland has, pursuant to Article 17(3), reserved

the right not to apply Article 17(2) of the Multilateral Instrument.¹⁰ Furthermore, Finland did not make a notification on the basis of Article 17(4) for these 17 treaties. Of the relevant 17 treaty partners, six are not a signatory to the Multilateral Instrument, whereas one has not listed its treaty with Finland under that instrument and one has, on the basis of Article 17(3), reserved the right not to apply Article 17(2) as it considered that its treaty with Finland already contains the equivalent of Article 9(2). At this stage therefore, Article 17(1) of the Multilateral Instrument will, upon entry into force, supersede the remaining nine treaties only to the extent that the provisions included in those treaties relating to the granting of corresponding adjustments are incompatible with Article 17(1).¹¹

Conclusion

	Areas for Improvement	Recommendations
[B.3]	-	As Finland has thus far granted access to the MAP in eligible transfer pricing cases, it should continue granting access for these 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.

49. 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

50. None of Finland's 77 tax treaties allows the competent authorities to restrict access to MAP for cases when a treaty anti-abuse provision applies or when 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.

51. Finland reported that issues relating to the application of domestic and/or treaty anti-abuse provisions are within the scope of MAP. This, however, is not clarified in the information on MAP on the website of Finland's Tax Administration.

Practical application

52. Finland reported that it has since 1 January 2016 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 for 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.

53. Peers have indicated not being aware of a denial of access to MAP by Finland since 1 January 2016 in relation to the application of treaty and/or domestic anti-abuse provisions. Also taxpayers reported not being aware of such denial.

Anticipated modifications

54. Finland did not indicate that it anticipates any modifications in relation to element B.4.

Conclusion

	Areas for Improvement	Recommendations
[B.4]	-	As Finland has thus far granted access to the MAP in eligible 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, it should continue granting access for these 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.

55. 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 independent from the audit and examination function and which is only accessible through a request by taxpayers.

Legal and administrative framework

Audit settlements

56. Finland reported that under its domestic legislation there is no legal basis for audit settlements. In other words, there is no process in existence that allows Finland's Tax Administration and taxpayers to enter into settlements in the course of an audit or thereafter.

Administrative or statutory dispute settlement/resolution process

57. Finland reported that it has no 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

58. Finland reported that it has since 1 January 2016 not denied access to MAP for cases where the issue presented by the taxpayer has already been dealt with in an audit settlement, which is logical as no such process is in place in Finland.

59. Peers indicated not being aware of a denial of access to MAP by Finland since 1 January 2016 in case there was already an audit settlement between the taxpayer and Finland’s tax administration. Also taxpayers reported not being aware of such denial.

Anticipated modifications

60. Finland did not indicate that it anticipates any modifications in relation to element B.5.

Conclusion

	Areas for Improvement	Recommendations
[B.5]	-	-

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

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

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

Legal framework on access to MAP and information to be submitted

62. The information and documentation that Finland requires taxpayers include in a request for MAP are discussed under element B.8.

63. Finland reported that when a taxpayer does not include in its MAP request the required information and documentation, its competent authority will send a request to the taxpayer asking it to supplement its request with additional information. Finland further reported that a specific timeframe is not given to the taxpayer and that in cases where there is a timeframe, the taxpayer is usually granted additional time if it so requests. In a very general sense, the general timelines used is two-four weeks, which is dependent on the comprehensiveness of the request for information. Where a taxpayer does not provide the requested information, Finland’s competent authority will inform him in writing that the case is at risk of being closed if the additional information is not submitted within the given timeframe. If the taxpayer will then still not submit the requested information, the case will eventually be closed.

Practical application

64. Finland reported that it provides access to MAP in all cases where taxpayers have complied with the information or documentation requirements. It further reported that since 1 January 2016 its competent authority has not denied access to MAP for cases where the taxpayer had not provided the required information or documentation.

65. All peers that provided input indicated not being aware of denial of access to MAP by Finland since 1 January 2016 in situations where taxpayers complied with information and documentation. Also taxpayers reported not being aware of such denial.

Anticipated modifications

66. Finland did not indicate that it anticipates any modifications in relation to element B.6.

Conclusion

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

[B.7] Include Article 25(3), second sentence, of the OECD Model Tax Convention in tax treaties

Jurisdictions should ensure that their tax treaties contain a provision under which competent authorities may consult together for the elimination of double taxation in cases not provided for in their tax treaties.

67. 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 contains the second sentence of Article 25(3) of the OECD Model Tax Convention (OECD, 2015a), enabling them to consult together for the elimination of double taxation in cases not provided for by these treaties.

Current situation of the Finland's tax treaties

68. Out of Finland's 77 tax treaties, 63 contain a provision equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) allowing their competent authorities to consult together for the elimination of double taxation in cases not provided for in their tax treaties.¹² Furthermore, 13 treaties do not contain a provision that is based on or is the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a). The remaining treaty contains a provision that is similar to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a), but this provision refers to the "consultation regarding cases not provided for in the convention", whereas the second sentence of Article 25(3) refers to the consultation "for the elimination of double taxation in cases not provided for in the convention".¹³ As the particular tax treaty provides for a scope of application that is at least as broad as that second sentence of Article 25(3), it is considered to be in line with element B.7.

Anticipated modifications

Multilateral Instrument

69. Finland recently 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, 2015a) – 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, 2015a). 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. This shall apply, however, only if both contracting parties to the applicable treaty has listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar both notified the depository of the fact that this treaty does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a).

70. In regard of the 13 tax treaties identified above, Finland listed five of them as a covered tax agreement under the Multilateral Instrument and for all of them did it make, pursuant to Article 16(6)(d)(ii), a notification that they do not contain a provision described in Article 16(4)(c)(ii). For these five treaties all treaty partners also made the notification that their treaty with Finland does not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a). At this stage therefore, the Multilateral Instrument will, upon entry into force, modify five of the 13 tax treaties identified above to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a).

Bilateral modifications

71. Finland reported that when comprehensive tax treaties that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element B.7. In addition, Finland reported it will seek to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) in all of its future comprehensive treaties.

72. Further to the above, Finland also reported that it does not intend to include Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) in tax treaties with a limited scope as such inclusion would contradict the purpose of those treaties. When jurisdictions agree on a comprehensive treaty, the intention is to cover all or close to all cases. Against this background, it is Finland's understanding that Article 25(3) should be analysed in the context of the entire tax treaty. If such a tax treaty is only limited to certain items of income and does not contain a provision regarding other items of income, it would in Finland's view not be logical to extend the scope of the MAP article to cases not covered by such a treaty. In addition, Finland believes that the inclusion of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) to treaties with a limited scope would give the competent authorities the possibility to consult in cases that intentionally have been excluded from the scope of the treaty itself due to policy reasons.

Peer input

73. Almost all peers that provided input reported that its provisions of their tax treaty with Finland meet the requirements under element B.7. Two peers further reported that their treaty with Finland that was recently negotiated and meet the requirements under element B.7 as well, although these new treaties are not yet currently in force.

74. For the 13 treaties identified above that do not contain the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a), only three peers that are signatory to three of these 14 treaties provided input. The first two peers did not indicate whether their treaty with Finland contain the required provision, one of which also did not indicate whether it had contacted or was already in discussions with Finland to incorporate the required provision. The other peer mentioned that it had recently signed the Multilateral Instrument *inter alia* to include the equivalent of Article 25(3), second sentence. This peer's treaty with Finland will indeed be modified by the Multilateral Instrument to incorporate such equivalent. The third peer made the same remark and also this treaty will be modified by the Multilateral Instrument to include the required provision.

Conclusion

	Areas for Improvement	Recommendations
[B.7]	13 out of 77 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a).	<p>Finland 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, 2015a) in those five treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining eight treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) following its entry into force, Finland should request the inclusion of the required provision via bilateral negotiations.</p> <p>Specifically with respect to the agreement with the former Netherlands Antilles Islands that Finland applies to Curacao, St. Maarten and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba), Finland should, once it enters into negotiations with the jurisdictions for which it applies those treaties, request the inclusion of the required provision.</p> <p>In addition, Finland should maintain its stated intention to include the required provision in all future treaties.</p>

[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.

75. 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.

Finland’s MAP guidance

76. Finland published brief guidance in English on MAP and on how to file a MAP request on the website of Finland’s Tax Administration.¹⁴ This website mentions that for submission of MAP requests taxpayers can send a free-form letter to Finland’s Tax Administration with the heading “Request to start a mutual agreement procedure within the meaning of an international tax treaty”. It also specifies that before presenting the official MAP request the taxpayer should contact Finland’s Tax Administration to establish the feasibility of a mutual agreement procedure.

77. Finland also published more detailed guidance on MAP on the website of Finland’s Tax Administration. This guidance is available at (in Finnish):

https://www.vero.fi/yriitykset-ja-yhteisot/tietoa-yriitysverotuksesta/siirtohinnoittelu/menettelytavat_siirtohinnoitteluasioissa/keskinainen_sopimusmenettely_map_siirto/

78. The information on this website describes for what situations a MAP request can be submitted (including an example of a transfer pricing MAP case), the process of submission of a MAP request, the relationship with domestic remedies, the availability of MAP under tax treaties and the EU Arbitration Convention, and how a taxpayer can withdraw a MAP application during the course of the procedure.

79. The above-described information on MAP includes only basic information on the availability and the use of MAP in Finland and how its competent authority conducts the procedure in practice. The FTA MAP Forum agreed on information that should be included in a jurisdiction’s MAP guidance, which concerns: (i) contact information of the competent authority or the office in charge of MAP cases and (ii) the manner and form in which the taxpayer should submit its MAP request.¹⁵ The information on MAP available in Finland does not include the contact details of Finland’s competent authority. Further, there are no requirements for the information to be submitted in a MAP request in Finland other than it is in writing (see below). This latter, however, is not contrary to what is agreed in the FTA MAP Forum.

80. Further to the above, numerous subjects are not specifically discussed in the information on MAP on the website of Finland’s Tax Administration. This concerns whether MAP is available in cases of: (i) the application of anti-abuse provisions, (ii) multilateral MAPs and (iii) bona fide foreign-initiated self-adjustments. In addition, this information also does not specify: (a) whether taxpayers can request for the multi-year resolution of recurring issues through MAP, (b) the possibility of suspension of tax collection during the course of a MAP, (c) the consideration of interest and penalties in MAP, (d) the availability of arbitration under tax treaties, and (e) the process how MAP agreements are implemented in terms of steps to be taken and timing of these steps, including any actions to be taken by taxpayers (if any).

81. Peers did not provide specific input in relation to element B.8, but one peer mentioned that MAP guidance is not available in the English language. This peer suggested that, although not required, it would be useful to make such an English version available. Furthermore, one taxpayer considered the allowance of a form-free MAP request convenient, but echoed the peer input on availability of guidance in English.

Information and documentation to be included in a MAP request

82. To facilitate the review of a MAP request by competent authorities and to have more consistency in the required content of MAP requests, the FTA MAP Forum agreed on guidance that jurisdictions could use in their domestic guidance on what information and documentation taxpayers need to include in a request for MAP assistance.¹⁶ This concerns the following information:

- Identity of the taxpayer(s) covered in the MAP request;
- The basis for the request (the nature of the action giving rise to, or expected to give rise to, taxation not in accordance with the convention);
- Facts of the case;
- Analysis of the issue(s) requested to be resolved via MAP;
- 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 MAP request was also submitted to the competent authority of the other treaty partner;
- Whether the issue(s) involved were dealt with previously; and
- A statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the competent authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the competent authority in a timely manner.

83. As indicated before, Finland's information on MAP does not enumerate what information taxpayers should include in their MAP requests, other than it should be in writing. Further, prior to submitting a MAP request, the taxpayer is instructed to contact Finland's Tax Administration to establish the feasibility of a mutual agreement procedure.

Anticipated modifications

84. Finland indicated that it does not anticipate introducing specific MAP guidance in the near future, but mentioned that documentation requirements for MAP requests are likely to be introduced due to the implementation of the Multilateral Instrument and developments at the European level, as also domestic projects on MAP.

Conclusion

	Areas for Improvement	Recommendations
[B.8]	Guidance on MAP is available but further clarity should be provided.	<p>Finland should improve the level of clarity on the webpage containing information on MAP and should include the contact details of its competent authority.</p> <p>Additionally, although not part of the minimum standard, in order to further improve the level of clarity, Finland could consider including in its MAP guidance information on:</p> <ul style="list-style-type: none"> • Whether MAP is available in cases of: (i) the application of anti-abuse provisions, (ii) multilateral MAPs and (iii) 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 MAP; and • The process how MAP agreements are implemented in terms of steps to be taken and timing of these steps, including actions to be taken by taxpayers (if any).
	Guidance on what information that taxpayers should include in a MAP request is absent, as the sole requirement is to file a free form request in writing.	Finland should include in the webpage containing information on MAP more details on what taxpayers are usually expected to include in a MAP request to Finland's competent authority, for example the guidance the FTA MAP Forum agreed on.

[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.

85. 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.¹⁷

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

86. As discussed in the Introduction, information on MAP is published on the website of Finland's Tax Administration and can be found at (in Finnish):¹⁸

https://www.vero.fi/yriytykset-ja-yhteisot/tietoa-yriytysverotuksesta/siirtohinnoittelu/menettelytavat_siirtohinnoitteluasioissa/keskinainen_sopimusmenettely_map_siirto/

87. As regards its accessibility, this information on MAP is easily found on the website of Finland's Tax Administration, as also by searching for "MAP" or "mutual agreement procedure".

MAP profile

88. Finland’s MAP profile is published on the website of the OECD.¹⁹ This MAP profile is almost complete, with most of the time additional information and guidance and external links which provide extra information and guidance.

Anticipated modifications

89. Finland did not indicate that it anticipates any modifications in relation to element B.9.

Conclusion

	Areas for Improvement	Recommendations
[B.9]	-	Finland should ensure that future update of information on MAP is made publically available and easily accessible. Its MAP profile, published on the shared public platform, should be updated if needed.

[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.

90. 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 processes already mentioned.

MAP and audit settlements in the MAP guidance

91. The website of Finland’s Tax Administration containing information on MAP does not include any information regarding access to MAP in cases of audit settlements, which is logical because as previously discussed under B.5 Finland does not allow audit settlements.

92. Peers raised no issues with respect to the availability of audit settlements and the inclusion of any information hereon in guidance related to MAP.

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

93. As previously mentioned under element B.5, Finland does not have an administrative or statutory dispute settlement/resolution process available 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 in the information on MAP on the website of Finland’s Tax Administration the effects of such process with respect to MAP.

94. All but one peer indicated not being aware or being notified of any administrative or statutory dispute settlement/resolution process in Finland that may limit access to MAP. However one peer mentioned that in Finland’s MAP profile no reference is made to the existence of such process. This is logical since no such process is in existence in Finland.

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

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

Anticipated modifications

96. Finland did not indicate that it anticipates any modifications in relation to element B.10.

Conclusion

	Areas for Improvement	Recommendations
[B.10]	-	-

Notes

1. These 61 treaties include the Nordic Convention that for Finland applies to Denmark, Faroe Islands, Iceland, Norway and Sweden.
2. These 15 treaties include the treaty with the former Netherlands Antilles that Finland continues to apply to Curacao, Sint Maarten, and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba) and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia.
3. These nine treaties include the treaty with the former Netherlands Antilles that Finland continues to apply to Curacao, Sint Maarten, and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba) and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia.
4. These 70 treaties include the treaty with the former Netherlands Antilles that Finland continues to apply to Curacao, Sint Maarten, and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba) and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia. These 70 treaties also include the new treaty that Finland has signed with Portugal in 2016 but that has not yet entered into force and that once it enters into force replaces the existing treaty of 1970.

5. This one treaty concerns the Nordic Convention that for Finland applies to Denmark, Faroe Islands, Iceland, Norway and Sweden.
6. These 67 treaties include the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia.
7. These 24 treaty partners include the treaty partners Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia, for which Finland continues to apply the treaty with former Yugoslavia. Croatia and Serbia are signatories to the Multilateral Instrument. For these treaty partners the Multilateral Instrument will not apply in respect of Article 16, as both Croatia and Serbia made a reservation pursuant to Article 16(5)(a) of the Multilateral Instrument not to replace the provision based on Article 25(1), first sentence, of the OECD Model Tax Convention (OECD, 2015a) as it read prior to the adoption of the final report on Action 14. For simplicity purposes, the relationship with Croatia and Serbia is only mentioned here and not in the further numbers of this section.
8. These 51 treaties include the Nordic Convention which for Finland applies to Denmark, Faroe Islands, Iceland, Norway and Sweden.
9. These 26 treaties include the treaty with the former Netherlands Antilles that Finland continues to apply to Curacao, Sint Maarten, and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba) and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia.
10. These 17 treaty partners include the treaty partners Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia, for which Finland continues to apply the treaty with former Yugoslavia. Croatia and Serbia are signatories to the Multilateral Instrument.
11. Croatia and Serbia, for which Finland also continues to apply the treaty with former Yugoslavia, are signatories to the Multilateral Instrument. For these treaty partners Article 17(1) of the Multilateral Instrument will supersede the treaty with former Yugoslavia, as both Croatia and Serbia did not make a reservation pursuant to Article 17(3) of the Multilateral Instrument not to incorporate Article 9(2) of the OECD Model Tax Convention (OECD, 2015a). This is marked in the treaty table included in Annex A.
12. These 63 treaties include the Nordic Convention that Finland applies to Denmark, Faroe Islands, Iceland, Norway and Sweden; and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia.
13. These 13 treaties include the treaty with the former Netherlands Antilles Islands that Finland continues to apply to Curacao, Sint Maarten, and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba).
14. Available at: https://www.vero.fi/en/individuals/tax-cards-and-tax-returns/moving_away_from_finland/assessment_of_taxes_that_are_contrary_t/.
15. Available at: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf.
16. Ibid.
17. The shared public platform can be found at: www.oecd.org/ctp/dispute/country-map-profiles.htm.
18. A brief English version is available at: https://www.vero.fi/en/individuals/tax-cards-and-tax-returns/moving_away_from_finland/assessment_of_taxes_that_are_contrary_t/.
19. Available at: www.oecd.org/tax/dispute/Finland-Dispute-Resolution-Profile.pdf.

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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.

97. It is of critical importance that in addition to allowing taxpayers to request for a MAP, tax treaties also contain the equivalent of the first sentence of Article 25(2) of the OECD Model Tax Convention (OECD, 2015a), 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 Finland's tax treaties

98. Out of Finland's 77 tax treaties, 76 contain a provision equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) requiring its competent authority to endeavour – when the objection raised is considered justified and no unilateral solution is possible – to resolve by mutual agreement with the competent authority of the other treaty partner the MAP case with a view to the avoidance of taxation which is not in accordance with the tax treaty.¹ The remaining one treaty does contain a provision that is based on Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a), but also includes additional language that limits the possibility to discuss cases bilaterally, as this additional language reads: "... provided that the competent authority of the other Contracting State is notified of the case within four and a half years from the due date or the date of filing of the return in that other State, whichever is later". This treaty is therefore considered not being the equivalent of Article 25(2), first sentence.

Anticipated modifications

Multilateral Instrument

99. Finland recently 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, 2015a) – 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, 2015a). 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. This shall apply, however, only if both contracting parties to the applicable treaty has listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar both notified the depository of the fact that this treaty does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).

100. In regard of the one tax treaty identified above, Finland listed this treaty as a covered tax agreement under the Multilateral Instrument and made, pursuant to Article 16(6)(c)(i), a notification that it does not contain a provision described in Article 16(4)(b)(i). The relevant treaty partner also made the notification that its treaty with Finland does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a). At this stage therefore, the Multilateral Instrument will, upon entry into force, modify this treaty to include the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).

Bilateral modifications

101. Since, as indicated above, the tax treaty that does not contain the equivalent of Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) will be modified by the Multilateral Instrument, there is no need for a bilateral modification. In this respect, Finland has not yet in place a plan in relation hereto. In addition, Finland reported it will seek to include Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) in all of its future treaties.

102. All peers that provided input reported that their tax treaty with Finland meets the requirements under element C.1. Two peers further reported that their treaty with Finland that was recently negotiated and meet the requirements under element C.1 as well, although these new treaties are not yet currently in force. The treaty partner to the one treaty identified above that does not contain the equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a) did not provide peer input.

Conclusion

	Areas for Improvement	Recommendations
[C.1]	One out of 77 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).	Finland 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, 2015a) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force. In addition, Finland should maintain its stated intention to include the required provision in all future treaties.

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

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

103. 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

104. Statistics regarding all tax treaty related disputes concerning Finland are published on the website of the OECD as of 2007.² Finland publishes MAP statistics regarding transfer pricing disputes with EU Member States also on the website of the EU Joint Transfer Pricing Forum.³

105. The FTA MAP Forum has agreed on rules for reporting of MAP statistics (“**MAP Statistics Reporting Framework**”) for MAP requests submitted on or after 1 January 2016 (“**post-2015 cases**”). Also, for MAP requests submitted prior to that date (“**pre-2016 cases**”), the FTA MAP Forum agreed to report MAP statistics on the basis of an agreed template. The statistics discussed below include both post-2015 and pre-2016 cases and the full statistics are attached to this report as Annex B and C respectively and should be considered jointly for an understanding of Finland’s MAP caseload.⁴ With respect to post-2015 cases, Finland reported that it contacted its MAP partners with a view to have their MAP statistics matching. It noted that such matching was successful with all of its MAP partners that report their MAP statistics under the MAP Statistics Reporting Framework.

Monitoring of MAP statistics

106. Finland reported that it monitors its MAP caseload on a regular basis. Finland further reported that it has an internal and up-to-date database containing information on the MAP caseload and specific information concerning each MAP case.

Analysis of Finland’s MAP caseload

Global overview

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

108. At the beginning of the Statistics Reporting Period Finland had 98 pending MAP cases, of which 62 concerned attribution/allocation cases and 36 other cases.⁵ At the end of the Statistics Reporting Period, Finland had 109 MAP cases, 56 of which were attribution/allocation cases and 53 of which were other cases. While the total number of cases increased by approximately 11% over the Statistics Reporting Period, the number of attribution/allocation cases decreased slightly by 10%, whereas other MAP cases increased by approximately 47%. The end inventory can be illustrated by Figure C.2.

Figure C.1. Finland’s MAP inventory

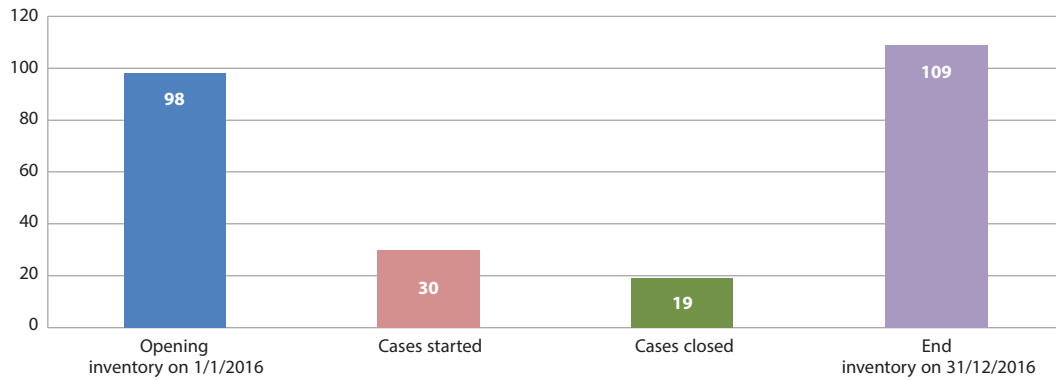
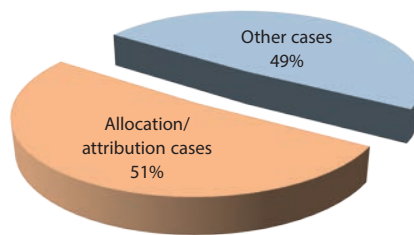
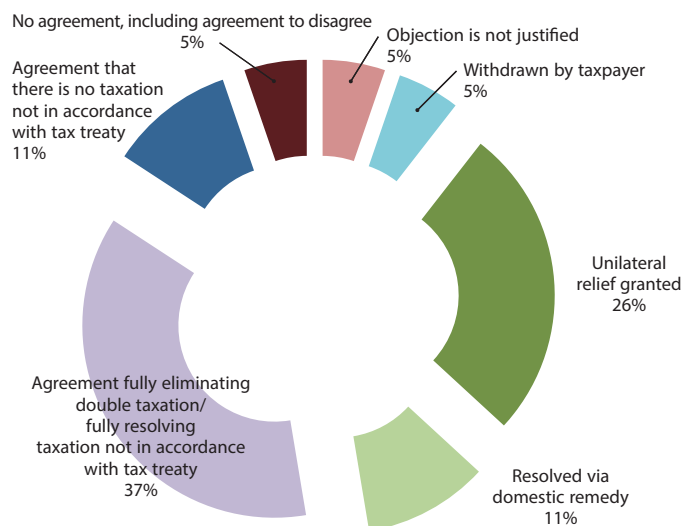


Figure C.2. End inventory on 31 December 2016 (109 cases)



109. During the Statistics Reporting Period Finland in total closed 19 MAP cases, for which the following outcomes were reported:

Figure C.3. Cases closed during the Statistics Reporting Period (19 cases)



110. This chart shows that seven out of 19 cases were closed through an agreement fully eliminating double taxation or fully resolving taxation not in accordance with the tax treaty.

Pre-2016 cases

111. At the beginning of the Statistics Reporting Period, Finland's MAP inventory of pre-2016 cases consisted of 98 cases, of which 62 cases were attribution/allocation cases and 36 other cases. At the end of the Statistics Reporting Period the total inventory of pre-2016 had decreased to 81 cases, consisting of 50 attribution/allocation cases and 31 other cases. This decrease concerns 17% of the opening inventory of pre-2016 cases, which can be broken down in a decrease by 19% of the number of attribution/allocation cases and a decrease by 14% of the number of other cases. In total, 12 of the 17 cases closed concerned attribution/allocation cases and five concerned other MAP cases. The outcomes reported are:

- Objection not justified (one case);
- Withdrawn by taxpayer (one case);
- Unilateral relief granted (four cases);
- Resolved via domestic remedies (two cases);
- Agreement fully eliminated double taxation/fully resolved taxation not in accordance with the tax treaty (six cases);
- Agreement that there is no taxation not in accordance with a treaty (two cases); and
- No agreement including an agreement to disagree (one case).

Post-2015 cases

112. In total 30 cases were started on or after 1 January 2016, of which eight concern attribution/allocation cases and 22 other cases. At the end of the Statistics Reporting Period the total post-2015 inventory had decreased to 28 cases, of which six are attribution/allocation cases and 22 other MAP cases. Conclusively, Finland closed two cases, which reflects 7.00% of the total post-2015 cases. In one of these cases unilateral relief was granted and in 1 case there was an agreement reached that fully eliminated double taxation/fully resolved taxation not in accordance with a tax treaty.

Average timeframe needed to resolve MAP cases*Pre-2016 cases*

113. For pre-2016 cases Finland reported that on average it needed 31.24 months to resolve 12 attribution/allocation cases and 46.76 months to resolve five other cases. This resulted in an average time needed of 35.81 months to close pre-2016 cases. Finland reported that for 12 out of 17 cases the 24 month average was exceeded. In view of these numbers, Finland also provided the median time to resolve pre-2016 cases. For attribution/allocation cases the median was 29.80 months and for other cases 33.24. The median of all closed pre-2016 cases was 33.24 months.

114. For the purpose of computing the average time needed to resolve pre-2016 cases, Finland generally used as the:

- *Start date*: either the date when the taxpayer has submitted a MAP request, or when the MAP request was submitted in the other jurisdiction concerned, the date of the first letter from the competent authority of that jurisdiction. For cases where the taxpayer has been requested to submit additional information, the start date is the date on which this information has been received by the competent authority.
- *End date*: the date of the letter to the taxpayer notifying him of the outcome of the MAP.

Post-2015 cases

115. As a preliminary remark, it should be noted that the period for assessing post-2015 MAP statistics only comprises 12 month.

116. During the Statistics Reporting Period, Finland closed two attribution/allocation cases, which represents 7.00% of new received post-2015 cases during the Statistics Reporting Period and which was closed within 2.19 months, one of which resulted in an agreement that fully eliminated double taxation or fully resolving the taxation not in accordance with the provisions of the applicable tax treaty.

All cases closed during Statistics Reported Period

117. The average time needed to resolve MAP cases during the Statistics Reported Period was 32.27 months, which can be broken down as follows:

	Number of cases	Start date to end date (in months)
Attribution/Allocation cases	14	27.09
Other cases	5	46.76
All cases	19	32.27

Peer input

118. On an overall level, most peers that provided input on Finland's implementation of the Action 14 Minimum Standard reported a good working relationship with Finland's competent authority, which is further discussed under element C.3 below. Some peers, however, also mentioned that it can take a long time in Finland to issue position papers as well as in the peers' own jurisdiction, which in turn can cause a delay in resolving MAP cases. Furthermore, one peer noted that a MAP is in Finland suspended if for the same case a court procedure is pending until the moment such procedure is finalised. In this peer's view this could also cause delays in resolving MAP cases.

Anticipated modifications

119. Finland did not indicate that it anticipates any modifications in relation to element C.2.

Conclusion

	Areas for Improvement	Recommendations
[C.2]	Finland submitted timely comprehensive MAP statistics on the basis of the MAP Statistics Reporting Framework. Based on the information provided by Finland's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners. Finland's MAP statistics point out that during the Statistics Reporting Period it closed 7.00% (two out of 30 cases) of its post-2015 cases in 2.19 months on average. In that regard, Finland is recommended to seek to resolve the remaining 93.00% of the post-2015 cases pending on 31 December 2016 (28 cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.	

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

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

120. 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 Finland's competent authority

121. In Finland, the competent authority function is assigned to the Ministry of Finance, but has been delegated to Finland's Tax Administration in accordance with the provision of section 88 of the Act on Assessment Procedure, apart from those cases where no delegation clause is included in the tax treaty or where the Ministry of Finance has decided to handle the case by itself. This can be for cases of a principled nature. In this respect, Finland reported that over the past ten years this happened only in a small number of cases.

122. The following three offices are within Finland's Tax Administration responsible for handling MAP cases:

- a. *Attribution/allocation cases and APAs*: a separate team within the Large Taxpayers' Office;
- b. *Other corporate income tax cases*: a nominated person within the Large Taxpayers' Office; and
- c. *Cases concerning individual taxpayers*: the Individual Taxation Unit.

123. Finland reported that over the last few years, staff in charge of MAP has been increased. In 2010, there were only two persons handling MAP cases within Finland's Tax Administration. Currently there are five people handling MAP requests within the Ministry of Finance along with other tasks (e.g. providing expert opinions and legislative work related to international tax issues and treaty negotiations). In addition, there are currently seven people handling tax treaty MAP and APA cases and cases falling under the EU Arbitration Convention within Finland's Tax Administration. Four people thereby handle transfer pricing cases on a full-time basis. One person deals with other corporate income tax cases and two persons handle MAP requests concerning individual taxpayers. All three of these latter employees handle MAP requests along with other tasks (e.g. handling advanced rulings and providing support within the tax administration).

124. Finland further reported that staff in charge of MAP is required to have several years of experience in international tax affairs either within Finland's Tax Administration or the private sector. In addition, Finland mentioned that internal training is available and it is possible that staff in charge of MAP can participate in private sector seminars and international tax administration seminars and workshops.

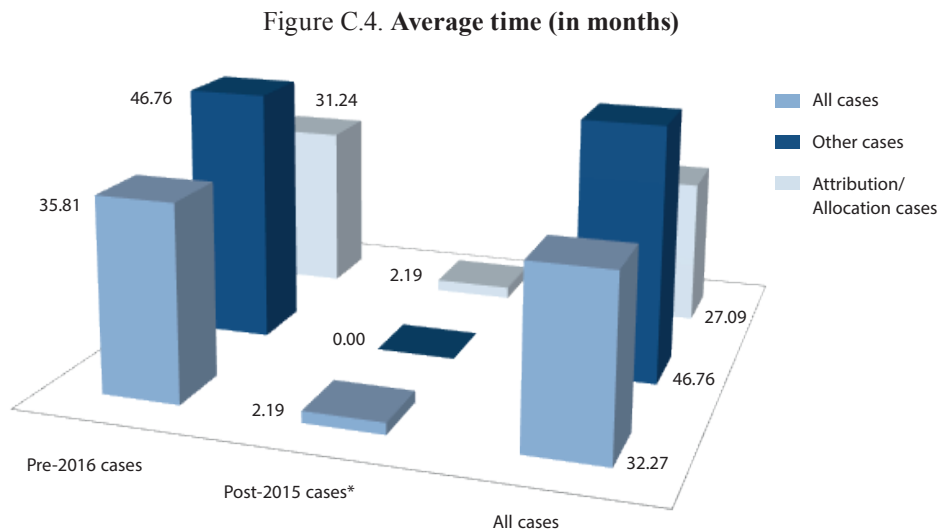
125. Finland reported that it does not notify its treaty partners about the contact details of its competent authorities, or of staff in charge of MAP. However, Finland does frequently update its MAP profile and its transfer pricing profile on the website of the EU JTPF.⁶

126. According to Finland, sufficient funding is available to conduct face-to-face meetings when necessary.

Practical application

MAP statistics

127. As discussed under element C.2, Finland has closed its MAP cases during the Statistics Reporting Period significantly above the 24-month pursued average. Moreover, a discrepancy can be noted in the time needed for the resolution of attribution/allocation cases and other cases, which can be illustrated by the following graph:



* Note that post-2015 cases only concern cases opened and closed during 2016.

128. Based on these figures, it follows that on average it took Finland 32.27 months to resolve MAP cases. As it took Finland 46.76 months to resolve other cases, this may indicate that additional resources specifically dedicated to these cases may be necessary to accelerate their resolution.

129. Finland provided an explanation for why it took some cases on average longer than 24 months to resolve MAP cases. In particular, Finland reported that the resolution of MAP cases may potentially deviate from the average timeframe of 24 months due to a longstanding Finnish practice. This practice is that if a taxpayer files both a domestic appeal and a MAP request, the MAP case will be put on hold as domestic remedies must be resolved first. In Finland, this domestic appeal process may take up to five years and therefore it could take up to 60 months before Finland's competent authority begins to process a MAP request. Finland further reported that in some cases it took a long time to receive additional information from the taxpayer or position papers from other competent authorities, which adversely affected the average timeframe. Finland however did not provide the impact of these delays on the average timeframe in general. Concerning the delays caused by simultaneous pending court cases, Finland reported that in one case it took 108 months to resolve (of which 32 months was caused by waiting on the response of the treaty partner), which caused that 20 months of the total average reported for pre-2016 cases is attributable to this particular case.

130. Further to the above, Finland also reported that with respect to pre-2016 cases it kept in its inventory very old cases, to which the other competent authorities concerned

never responded to any letters by Finland’s competent authority. Keeping these cases in the inventory may cause a longer average time frame to resolve MAP cases. Finland, however, did not provide a breakdown of the impact these cases would have on the average time to resolve MAP cases. In addition, Finland reported the median time necessary to resolve MAP cases, which is 20.85 months for attribution/allocation cases and 32.24 for other cases. The median for all MAP cases is 26.83 months. In this respect, Finland noted that these median numbers are significantly shorter than the average time reported and that these averages were heavily affected by long pending cases that were finally closed during the Review period. To this end, Finland concluded that the median provides a more accurate indication of the time needed to resolve MAP cases.

Peer input

131. In total nine of the 15 peers that provided input provided details in relation to their contacts with Finland’s competent authority and their experiences in resolving MAP cases during the Review Period. The other five peers reported to have little experience with Finland during the Review Period and for that reason they were unable to provide extensive input and therefore only provided general input. Only for a small number of these 15 peers is their MAP relationship with Finland important.

132. Almost all peers indicated that communication and cooperation is fluid with Finland’s competent authority and that there were no impediments to the resolution of their MAP cases. One peer noted that even though it does not have substantial experience with Finland that the MAP process was going smoothly without any difficulties. Furthermore, another peer noted that its working relationship with Finland is in development and an additional peer noted that even though it did not consider Finland to be a significant MAP partner, it viewed its relationship with Finland’s competent authority as good and noted that Finland’s competent authority has so far responded promptly to all of its MAP related communications. Lastly, two peers mentioned that they have a very good working relationship with Finland and they consider it easy to contact its competent authority.

133. Peers also reported that contacts with Finland’s competent authority generally takes place through conference calls, emails, written letters and in-person meetings, whereby one peer noted that this kind of communication works well. Some of these peers also reported that they were conducting regular face-to-face meetings with Finland’s competent authority, generally once a year.

134. Concerning the resolution of MAP cases one peer noted that Finland’s competent authority has promptly responded in communications regarding their mutual MAP case. A second peer mentioned that the dialogue between their competent authorities is collaborative and solution oriented and acts as a sound basis for discussing and solving MAP cases. This peer also noted that historically the average time cycle of MAP allocation cases has been within the pursued average of 24 months. Another peer also noted that it generally had a cooperative relationship with Finland’s competent authority in resolving MAP cases in a principled manner. Furthermore, another peer mentioned the procedure for resolving MAP cases in done a correct way. Lastly, one peer mentioned that MAP cases with Finland through written communication only.

135. Some peers, however, also raised some criticism on the resolution of MAP cases in relation to Finland. Two peers commented on the length of time it takes to receive position papers from Finland’s competent authority. One of these peers mentioned that meeting targeted timeframes for issuing such papers is often challenging for both competent authorities, whereby they both do not always meet these targets. This peer however also

mentioned that in most cases progress is made in a reasonable time. Furthermore, a third peer mentioned that for one non attribution/allocation case, it was difficult to resolve it. This peer further specified that although this case involved difficult, technical and interpretative issues concerning the application of the treaty, resolution of such case has also been impeded by the ongoing, extended leave of the responsible person within Finland's competent authority. This peer therefore considered that, as it has not received any notification of temporary reassignment, that there may be a potential resource constraint within Finland's competent authority.

136. Another peer, like the peers mentioned above, noted that meeting target timeframes for issuing position papers, such as those in the Code of Conduct for the effective implementation of the EU Arbitration Convention, is often challenging, as both competent authorities do not always meet these timeframes. This peer commented on his understanding that when taxpayers initiate domestic appeals in Finland, Finland's competent authority does not actively pursue MAP and does not issue a position paper before there is a final court decision. This peer noted that, although it is in line with the rules of the EU Arbitration Convention, there is a risk that this practice could have the consequence that average cycle times for completing MAP cases take longer than two years if the taxpayer does not agree to suspend the MAP during the period for which such appeal is pending.

137. Another peer noted a specific instance where in one case the notification of the MAP request was only made by Finland's competent authority more than six months after the request was made. This peer also noted that Finland sometimes provides the relevant MAP documents in Finnish without any courtesy translation.

138. Almost all peers did not make any suggestions regarding how its competent authorities could improve the resolution of MAP cases, whereby one peer concluded that Finland had provided adequate resources to its competent authority. Another peer mentioned that it will continue to keep in contact with Finland's competent authority and endeavour to reach an agreement in their mutual cases. A third peer pointed out that it looks forward to continue working with Finland's competent authority to resolve all MAP cases in the most efficient and effective manner. This peer also mentioned that it believes that both competent authorities can uphold their shared commitments under the Action 14 Minimum Standard, by continuing and fostering consistent, direct, and substantive communications at the level of analysts and management with a view to improve the efficiency of resolving MAP cases.

139. One peer suggested that Finland would benefit from more resources attributed to the competent authority function and from more frequent communication and consultation between the two competent authorities. Another peer reinforced the perception that Finland could benefit from more resources by stating that it is its understanding that Finland's competent authority is currently heavily understaffed, which makes it difficult to resolve MAP cases in a timely manner. This peer also remarked, however, that its working relationship with Finland is generally very good.

Taxpayer input

140. One taxpayer provided input and noted that for one case agreement was reached, which however took some time. This taxpayer further mentioned that access and assistance by Finland's competent authority has been good, whereby Finland acknowledged the receipt of the MAP request with a written confirmation which was considered a good practice.

Anticipated modifications

141. Finland anticipates increasing their resources in the future due to an anticipated increase of APA requests. Furthermore, Finland also indicated that it does not have any direct plans to increase the staff in charge of MAP but that the workload is closely followed by its management who can decide to allocate additional resources if needed.

Conclusion

	Areas for Improvement	Recommendations
[C.3]	As Finland closed MAP cases in 32.27 months on average, there may be a risk that post-2015 cases are not closed within the average of 24 months, which is the pursued average for resolving MAP cases received on or after 1 January 2016 and which might indicate that Finland's competent authority is not adequately resourced.	Finland should closely monitor whether the additional resources envisaged to be provided in the near future to its competent authority will contribute to the resolution of MAP cases in a timely, effective and efficient manner. In particular, as also suggested by peers, Finland could use these additional resources to accelerate the issuing of position papers.

[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.

142. Ensuring that staff in charge of MAP can and will resolve cases, absent of any approval/direction by the tax administration personnel directly involved in the adjustment and absent of any policy consideration, contributes to a principled and consistent approach to MAP cases.

Functioning of staff in charge of MAP

143. Finland reported that its competent authority, when handling MAP cases, does not have to consult or involve any tax administration personnel on resolution of MAP cases apart from the people within the competent authority assigned to work on MAP cases. If a MAP case is handled within Finland's Tax Administration, at least two persons are involved in the decision making process, unless it is a less complicated or straightforward case. In such situation, the person assigned to handle the MAP request can make the decision himself. In that regard, Finland specified that staff in charge of MAP is itself fully authorised to prepare a position, negotiate and resolve MAP cases. Where necessary, however, auditors or specialists within the local tax offices might be asked to clarify the facts of the case under review. Where a MAP request is being handled by the Ministry of Finance, the position in a specific case is, as reported by Finland, always reviewed by another person within the department. If it concerns a complex case it is ultimately the head of the department who makes the decision.

144. In view of the above, Finland reported that there is neither a (formal) system in place requiring the competent authority to ask other departments (i.e. the audit department) for approval of any MAP agreements nor is the process for negotiating MAP agreements influenced by policy considerations.

Practical application

145. Peers generally reported no impediments in Finland to perform its MAP function absent from approval or the direction of the tax administration personnel who made the adjustments at issue or being influenced by considerations of the policy that Finland would like to see reflected in future amendments to the treaty. Two peers specifically mentioned that they are not being aware that staff in charge of the MAP in Finland is dependent on the approval of MAP agreements by the personnel within the tax administration that made the adjustment under review.

Anticipated modifications

146. Finland did not indicate that it anticipates any modifications in relation to element C.4.

Conclusion

	Areas for Improvement	Recommendations
[C.4]	-	As it has done thus far, Finland 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 adjustments at issue, or being influenced by considerations of the policy that Finland would like to see reflected in future amendments to the treaty.

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

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

147. 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 Finland

148. Finland reported that within Finland's Tax Administration staff is evaluated based on criteria that are related to efficiency and quality of work, communication skills, knowledge and degree of involvement in internal development projects. Furthermore, the senior management of Finland's Tax Administration annually sets targets regarding the various functions within the organisation. Specifically relating to staff in charge of MAP, Finland reported that the staff as a whole is being evaluated on the time it takes to resolve MAP cases, which is monitored via its internal MAP database, and the number of cases resolved. This evaluation is intended to evaluate the group's functioning and as a tool to organise resources.

149. In view of the above, Finland emphasised that staff in charge of MAP is not evaluated on the basis of content of MAP agreements reached, the amount of maintained tax revenue nor the number of sustained audit adjustments.

150. The Final Report on Action 14 (OECD, 2015b) includes examples of performance indicators that are considered appropriate. These indicators are shown below and presented in the form of a checklist for Finland.

- 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); and
- 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).

Practical application

151. Peers generally provided no specific input relating to this element of the minimum standard. One peer indicated not being aware of the use of performance indicators based on the amount of sustained audit adjustments or maintaining tax revenue for competent authority staff in Finland.

Anticipated modifications

152. Finland did not indicate that it anticipates any modifications in relation to element C.5.

Conclusion

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

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

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

153. 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

154. MAP arbitration is currently not available in Finland's tax treaties. However, Finland is a signatory to the EU Arbitration Convention and it has been a participant in the sub-group on arbitration as part of the group which negotiated the Multilateral Instrument. In that regard, Finland reported that it has opted for part VI of the Multilateral Instrument, which includes a mandatory and binding arbitration provision.⁷

155. The website of Finland’s Tax Administration includes information on the availability of the EU Arbitration Convention and how Finland applies that convention in practice. The position on MAP arbitration, however, is not further specified on this webpage, but information hereon is available in Finland’s MAP profile.

Practical application

156. None of Finland’s 77 tax treaties currently contain an arbitration clause as a final stage to the MAP. One treaty, however, does include a most favoured nation arbitration clause. This provision stipulates that if Finland enters into a treaty with a third state that includes an arbitration clause, then Finland and that contracting jurisdiction will enter into negotiations with a view to include such a clause in their treaty with each other.

Anticipated modifications

157. Finland is currently in the process of analysing which of its tax treaties, and to what extent, will be modified to incorporate the arbitration provision of part VI of the Multilateral Instrument upon its entry into force.

Conclusion

	Areas for Improvement	Recommendations
[C.6]	-	-

Notes

1. The 76 treaties include the Nordic Convention that for Finland applies to Denmark, Faroe Islands, Iceland, Norway and Sweden; the treaty with the former Netherlands Antilles that Finland continues to apply to Curacao, Sint Maarten, and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba) and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia; and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia.
2. Available at: www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm. These statistics are up to and include fiscal year 2015.
3. Available at http://ec.europa.eu/taxation_customs/business/company-tax/transfer-pricing-eu-context/joint-transfer-pricing-forum_en. These statistics are up to and include fiscal year 2015.
4. For post-2015 cases, if the number of MAP cases in Finland’s inventory at the beginning of the Statistics Reporting Period plus the number of MAP cases started during the Statistics Reporting Period was more than five for any treaty partner, Finland reported its MAP caseload for such a treaty partner on a jurisdiction-by-jurisdiction basis. This rule applies for each type of cases (attribution/allocation cases and other cases).
5. Finland reported that for pre-2016 cases for determining whether a case is considered an attribution/allocation MAP case cases it followed the rules contained in Annex D of the MAP Statistics Reporting Framework. Annex D of MAP Statistics Reporting Framework defines such case as: “a MAP case where the taxpayer’s MAP request relates to (i) the attribution of profits to a permanent establishment (see e.g. Article 7 of the *OECD Model Tax*

Convention [OECD, 2015]); or (ii) the determination of profits between associated enterprises (see e.g. Article 9 of the *OECD Model Tax Convention* [OECD, 2015]), which is also known as a transfer pricing MAP case”. Furthermore, Finland also reported that other MAP cases are considered cases not related to attribution/allocation cases, cases where the function of the foreign company has been considered to establish a permanent establishment, cases of withholding taxes and cases concerning individuals.

6. Available at: http://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/company_tax/transfer_pricing/forum/profiles/tpprofile-fi.pdf.
7. An overview of Finland’s position on the Multilateral Instrument is available at: www.oecd.org/tax/treaties/beps-mli-position-Finland.pdf.

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Part D

Implementation of MAP agreements

[D.1] Implement all MAP agreements

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

158. 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

159. Section 89.3 of the Act on Assessment Procedure stipulates that when an act of taxation leads to double taxation or to taxation not in accordance with a tax treaty, Finland's Ministry of Finance may, upon request by a taxpayer and under the terms and conditions designated by the Ministry of Finance, grant full or partial exemption of taxes levied in Finland. Furthermore, the Ministry of Finance may empower Finland's Tax Administration, pursuant to section 89.5, to resolve a MAP case, provided that the amount of the tax in question does not exceed EUR 50 000. Furthermore, under section 75.2, Finland's Tax Administration is authorised to adjust taxation in Finland when taxation in another state has been adjusted in a manner that has an impact on the taxation in Finland.

160. Based on the above described legislation, Finland's competent authority is authorised to implement MAP agreements, once reached. In that regard, Finland reported that there are no domestic statutes of limitations for implementation of MAP agreements. Depending on which government agency handled the case and which of Finland's domestic provisions were applied in the course of the MAP agreement, MAP agreements are implemented in Finland either by the Tax Administration or the Ministry of Finance. Where the implementation of a MAP agreement requires a repayment to the taxpayer in Finland, such payment is always made by Finland's Tax Administration.

161. In view of the implementation process, where a MAP agreement is entered into by Finland, implementation will be done automatically without asking for taxpayer approval. In other words, taxpayer approval is not a prerequisite for implementation, although Finland noted that in some cases it has followed the process of a treaty partner asking taxpayer's consent to a MAP agreement in the same way, whereby no time limit for giving such consent was set.

Practical application

162. Finland reported that all MAP agreements that were reached on or after 1 January 2016 have been or will be implemented. Furthermore, Finland also reported that it has a tracking system available that, among other things, also includes information on the implementation of MAP agreements.

163. All but one peer that provided input reported not being aware of MAP agreements that were reached on or after 1 January 2016 that were not implemented by Finland. Also taxpayers did not indicate being aware of any issues relating to the implementation of MAP agreements in Finland. The remaining peer reported that all MAP agreements with Finland were implemented in a timely manner and correctly, except for one attribution/allocation case for which an agreement was reached at the end of 2016, but has not been implemented yet. In addition, another peer noted that the procedure in Finland for implementing MAP agreements appears to it to be complicated.

Anticipated modifications

164. Finland reported that there is currently an ongoing legislative project within its Ministry of Finance to evaluate its domestic legislation relating to the mutual agreement procedure. The aim of this project is to analyse the MAP procedure and its function and to see whether legislative amendments are necessary. This in particular concerns the effectiveness of its implementation process of MAP agreements.

Conclusion

	Areas for Improvement	Recommendations
[D.1]	-	As it has done thus far, Finland should continue to implement all MAP agreements if the conditions for such implementation are fulfilled.

[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.

165. 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

166. Finland reported that the implementation of a MAP agreement is in practice dependent on the legislative practice applied, which was discussed under element D.1. It also reported that implementation is done as quickly as possible but there are no specific timelines set for such implementation.

Practical application

167. Finland reported that all MAP agreements that were reached on or after 1 January 2016 have been or will be implemented on a timely basis.

168. Apart from the input discussed under element D.1, all peers that provided input have not indicated experiencing any issues with Finland regarding the implementation of MAP agreements reached on a timely basis. Also taxpayers did not indicate being aware of any issues relating to the timely implementation of MAP agreements.

Anticipated modifications

169. Finland did not indicate that it anticipates any modifications in relation to element D.2.

Conclusion

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

[D.3] Include Article 25(2), second sentence, of the OECD Model Tax Convention in tax treaties or alternative provisions in Article 9(1) and Article 7(2)

Jurisdictions should either (i) provide in their tax treaties that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law, or (ii) be willing to accept alternative treaty provisions that limit the time during which a Contracting Party may make an adjustment pursuant to Article 9(1) or Article 7(2), in order to avoid late adjustments with respect to which MAP relief will not be available.

170. In order to provide full certainty to taxpayers it is essential that implementation of MAP agreements is not obstructed by any time limits in the domestic law of the jurisdictions concerned. Such certainty can be provided by either including the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) 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 Finland's tax treaties

171. As discussed under element D.1, Finland's domestic legislation does not include a statute of limitations for implementing MAP agreements.

172. Out of Finland's 77 tax treaties, 62 contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) that any mutual agreement reached through MAP shall be implemented notwithstanding any time limits in their domestic law.¹ Furthermore, two treaties do not contain such equivalent but do contain the alternative provisions in Article 9 and the MAP article, setting a time limit for making adjustments. Both treaties are therefore considered containing the alternatives for Article 9(1) and Article 7(2).

173. For the remaining 13 treaties the following analysis is made:

- In nine treaties the equivalent of 25(2) second sentence, of the OECD Model Tax Convention (OECD, 2015) is not contained nor the alternatives to Article 9(1) and Article 7(2);
- In two treaties the equivalent of 25(2) second sentence, of the OECD Model Tax Convention (OECD, 2015) is not contained, but these treaties do contain the alternative provision in Article 9(1);
- In one treaty a variation to the provision of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) is contained, but whereby the actual implementation of a MAP agreement is dependent on the notification of a MAP request to the other competent authority involved within a certain term. This treaty therefore is considered not being the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015); and
- In one treaty a variation to the provision of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) is contained, whereby MAP agreements should be implemented within ten years from the due date or the date of filing of a tax return in the other state concerned (whichever is later), or a longer period if permitted under the domestic law of the other state concerned. As this provision bears the risk that MAP agreements cannot be implemented due to time constraints in domestic law of the treaty partners, this treaty therefore is considered being the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015).

Anticipated modifications

Multilateral Instrument

174. Finland recently signed the Multilateral Instrument. Article 16(4)(b)(ii) of that instrument stipulates that Article 16(2), second sentence – containing the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) – will apply in the absence of a provision in tax treaties that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015). 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. This, however, only if both contracting parties to the applicable treaty has listed this treaty as a covered tax agreement under the Multilateral Instrument and insofar both notified the depository of the fact that this treaty does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015). Furthermore, Article 16(4)(b)(ii) of the Multilateral Instrument does not take effect if one or both of the signatory states to the tax treaty has, pursuant to Article 16(5)(c), reserved the right not to apply Article 16(2), second sentence, 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.

175. In regard of the 15 tax treaties above that are considered not having the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015), Finland listed all as covered tax agreements under the Multilateral Instrument and made, pursuant

to Article 16(6)(c)(ii), for all of them a notification that these treaties do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015). Of the relevant 15 treaty partners, five are not a signatory to the Multilateral Instrument and one has not listed its treaty with Finland as a covered tax agreement. Of the remaining nine treaty partners, seven also made a notification that their treaty with Finland does not contain such provision. At this stage therefore, seven of the 15 treaties will, upon entry into force, be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015).

Bilateral modifications

176. Finland 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, 2015) will not be modified by the Multilateral Instrument, it intends to update them via bilateral negotiations with a view to be compliant with element D.3. In this respect, Finland reported it will seek to include Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) in all of its future treaties and to all future amending protocols to existing treaties. In practice, this implies that Finland will propose updates according to the Action 14 Minimum Standard to all ongoing negotiations regarding both amendments to existing treaties and for new treaties. Furthermore, Finland explained that the treaty negotiations already underway are given priority. Finland further reported that non-compliance with the BEPS minimum standards, as well as other facts, will be taken into account when assessing which treaties should be re-negotiated next.

Peer input

177. Almost all peers that provide input reported that their tax treaty with Finland meet the requirements under element D.3. Two peers further reported that their treaty with Finland was recently negotiated and meet the requirements under element D.3 as well, although these new treaties are not yet currently in force.

178. Furthermore, two peers mentioned that their treaty with Finland does not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015), or that it includes deviating language. The treaties with both peers are identified above as not containing such equivalent. One of these peers did not indicate whether it had contacted or is in discussion with Finland to update its treaty with a view to include the required provision or the alternatives. The other peer mentioned that there are no ongoing contacts with Finland to amend its treaty given the fact that the required provision will be incorporated by the Multilateral Instrument. This treaty will indeed be modified by that instrument to incorporate that equivalent of Article 25(2), second sentence.

179. For the other treaties identified above that do not contain the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015), the relevant peers did not provide input in general or in relation to element D.3.

Conclusion

	Areas for Improvement	Recommendations
[D.3]	<p>13 out of 77 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2015), nor both alternatives provisions in Article 9(1) and Article 7(2). Of those 13 tax treaties:</p> <ul style="list-style-type: none"> • 11 contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) nor include any of the alternative provisions in Article 9(1) and Article 7(2); and • two out of 77 tax treaties do not contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) and only contain the alternative provision provided in Article 9(1). 	<p>Finland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) in those seven treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining six treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) following its entry into force to include such equivalent, Finland should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions.</p> <p>In addition, Finland should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future treaties.</p>

Note

1. These 60 treaties include the Nordic Convention that for Finland applies to Denmark, Faroe Islands, Iceland, Norway and Sweden; the treaty with the former Netherlands Antilles that Finland continues to apply to Curacao, Sint Maarten, and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba) and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia; and the treaty with former Yugoslavia that Finland continues to apply to Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia. These 60 treaties also include the new treaty that Finland has signed with Germany (2017), Portugal (2016) and Spain (2015), which have not yet entered into force and that once they enter into force replace the existing treaties of 1979, 1980 and 1960 respectively.

Bibliography

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Summary

	Areas for Improvement	Recommendations
Part A: Preventing disputes		
[A.1]	Two out of 77 tax treaties do not contain a provision that is equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015).	Finland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(3), first sentence, of the OECD Model Tax Convention (OECD, 2015) 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. In addition, Finland should maintain its stated intention to include the required provision in all future treaties.
[A.2]	-	As Finland has done so far, it should continue to provide for roll-back of bilateral APAs in appropriate cases.
Part B: Availability and access to MAP		
[B.1]	Four out of 77 tax treaties do not contain a provision that is equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015a). Of those four tax treaties: <ul style="list-style-type: none"> • one tax treaty does not incorporate the equivalent to Article 25(1), first sentence and the timeline to file such request is shorter than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty; • one tax treaty does not incorporate the equivalent to Article 25(1), first sentence; and • two tax treaties provide that the timeline to file a MAP request is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty (two years). 	Finland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(1) of the OECD Model Tax Convention (OECD, 2015a) in those treaties that currently do not contain such equivalent. This concerns both: <ul style="list-style-type: none"> • a provision that is equivalent to Article 25(1), first sentence of the OECD Model Tax Convention (OECD, 2015) either: <ol style="list-style-type: none"> a. As amended in the final report of Action 14 (OECD, 2015b); or b. As it read prior to the adoption of final report of Action 14 (OECD, 2015b), thereby including the full sentence of such provision; and • a provision that allows taxpayers to submit a MAP request within a period of no less than three years as from the first notification of the action resulting in taxation not in accordance with the provision of the tax treaty. For the remaining treaties that will not be modified by the Multilateral Instrument following its entry into force to include such equivalent, Finland should request the inclusion of the required provision via bilateral negotiations. In addition, Finland should maintain its stated intention to include the required provision in all future treaties.
[B.2]		Finland should ensure that it will actually use the recently documented bilateral consultation and notification process 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, 2015a) as amended by the final report on Action 14 (OECD, 2015b).
[B.3]	-	As Finland has thus far granted access to the MAP in eligible transfer pricing cases, it should continue granting access for these cases.

	Areas for Improvement	Recommendations
[B.4]	-	As Finland has thus far granted access to the MAP in eligible 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, it should continue granting access for these cases.
[B.5]	-	-
[B.6]	-	As Finland has thus far not limited access to the MAP in eligible cases when taxpayers have complied with Finland's information and documentation requirements for MAP requests, it should continue this practice.
[B.7]	13 out of 77 tax treaties do not contain a provision that is equivalent to Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a).	<p>Finland 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, 2015a) in those five treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force.</p> <p>For the remaining eight treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(3), second sentence, of the OECD Model Tax Convention (OECD, 2015a) following its entry into force, Finland should request the inclusion of the required provision via bilateral negotiations.</p> <p>Specifically with respect to the agreement with the former Netherlands Antilles Islands that Finland applies to Curacao, St. Maarten and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba), Finland should, once it enters into negotiations with the jurisdictions for which it applies those treaties, request the inclusion of the required provision.</p> <p>In addition, Finland should maintain its stated intention to include the required provision in all future treaties.</p>
[B.8]	Guidance on MAP is available but further clarity should be provided.	<p>Finland should improve the level of clarity on the webpage containing information on MAP and should include the contact details of its competent authority.</p> <p>Additionally, although not part of the minimum standard, in order to further improve the level of clarity, Finland could consider including in its MAP guidance information on:</p> <ul style="list-style-type: none"> • Whether MAP is available in cases of: (i) the application of anti-abuse provisions, (ii) multilateral MAPs and (iii) 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 MAP; and • The process how MAP agreements are implemented in terms of steps to be taken and timing of these steps, including actions to be taken by taxpayers (if any).
	Guidance on what information that taxpayers should include in a MAP request is absent, as the sole requirement is to file a free form request in writing.	Finland should include in the webpage containing information on MAP more details on what taxpayers are expected to include in a MAP request to Finland's competent authority, for example the guidance the FTA MAP Forum agreed on.
[B.9]	-	Finland should ensure that future update of information on MAP is made publically available and easily accessible. Its MAP profile, published on the shared public platform, should be updated if needed.
[B.10]	-	-

	Areas for Improvement	Recommendations
Part C: Resolution of MAP cases		
[C.1]	One out of 77 tax treaties does not contain a provision that is equivalent to Article 25(2), first sentence, of the OECD Model Tax Convention (OECD, 2015a).	Finland 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, 2015a) in the one treaty that currently does not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force. In addition, Finland should maintain its stated intention to include the required provision in all future treaties.
[C.2]	Finland submitted timely comprehensive MAP statistics on the basis of the MAP Statistics Reporting Framework and based on the information provided by Finland's MAP partners, its post-2015 MAP statistics actually match those of its treaty partners. Finland's MAP statistics point out that during the Statistics Reporting Period 7.00% (two out of 30 cases) of its post-2015 cases in 2.19 months on average. In that regard, Finland is recommended to seek to resolve the remaining 93.00% of the post-2015 cases pending on 31 December 2016 (28 cases) within a timeframe that results in an average timeframe of 24 months for all post-2015 cases.	
[C.3]	As Finland closed MAP cases in 32.27 months on average, there may be a risk that post-2015 cases are not closed within the average of 24 months, which is the pursued average for resolving MAP cases received on or after 1 January 2016 and which might indicate that Finland's competent authority is not adequately resourced.	Finland should closely monitor whether the additional resources envisaged to be provided in the near future to its competent authority will contribute to the resolution of MAP cases in a timely, effective and efficient manner. In particular, as also suggested by peers, Finland could use these additional resources to accelerate the issuing of position papers.
[C.4]	-	As it has done thus far, Finland 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 adjustments at issue, or being influenced by considerations of the policy that Finland would like to see reflected in future amendments to the treaty.
[C.5]	-	As it has done thus far, Finland should continue to use appropriate performance indicators.
[C.6]	-	-
Part D: Implementation of MAP agreements		
[D.1]	-	As it has done thus far, Finland should continue to implement all MAP agreements if the conditions for such implementation are fulfilled.
[D.2]	-	As it has done thus far, Finland should continue to implement all MAP agreements on a timely basis if the conditions for such implementation are fulfilled.
[D.3]	13 out of 77 tax treaties contain neither a provision that is equivalent to Article 25(2), second sentence of the OECD Model Tax Convention (OECD, 2015), nor both alternative provisions in Article 9(1) and Article 7(2). Of those 13 tax treaties: <ul style="list-style-type: none"> • 11 contain neither a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) nor include any of the alternative provisions in Article 9(1) and Article 7(2); and • two out of 77 tax treaties do not contain a provision that is equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) and only contain the alternative provision provided in Article 9(1). 	Finland should as quickly as possible ratify the Multilateral Instrument to incorporate the equivalent to Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) in those seven treaties that currently do not contain such equivalent and that will be modified by the Multilateral Instrument upon its entry into force. For the remaining six treaties that will not be modified by the Multilateral Instrument to include the equivalent of Article 25(2), second sentence, of the OECD Model Tax Convention (OECD, 2015) following its entry into force to include such equivalent, Finland should request the inclusion of the required provision via bilateral negotiations or be willing to accept the inclusion of both alternative provisions. In addition, Finland should maintain its stated intention to include the required provision, or be willing to accept the inclusion of both alternatives provisions, in all future treaties.

Annex A

Tax treaty network of Finland

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	Y = yes N = signed pending ratification	DTC in force?	Inclusion Art. 25(1)? if yes, submission to either competent authority	Inclusion Art. 25(1) second sentence? if no, please state reasons	Inclusion Art. 9(2)? if no, will your CA provide access to MAP in TP cases?	Existence of a provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? if no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no	Y = yes N = no
Argentina	Y		O**		Y	Y = yes i = no and such cases will be accepted for MAP ii = no but such cases will not be accepted for MAP	Y = yes N = no	Y = yes i = no, but have Art. 7 equivalent ii = no, but have Art. 9 equivalent iii = no, but have both Art. 7 & 9 equivalent N = no and no equivalent of Art. 7 and 9	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Armenia	Y		O		Y	Y = yes i = no and access will be given to TP cases ii = no and access will not be given to TP cases iv = no, other reasons	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Aruba	Y		O		Y	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Australia	Y		O**		Y	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Austria	Y		O		Y	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Azerbaijan	Y		O		Y	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Barbados	Y		O		Y	Y = yes i = no, no such provision ii = no, different period iii = no, starting point for computing the 3 year period is different	Y = yes N = no	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	DTC in force?	Inclusion Art. 25(1)?	Inclusion Art. 25(1) second sentence?	Inclusion Art. 9(2) of the OECD MTC	Anti-abuse	Article 25(2) of the OECD MTC	Article 25(3) 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	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Arbitration
Belarus	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Belgium	Y	O**	Y	N/A	Y	i	Y	Y	Y	N**	N**	N**	N**	N**	N**	N**	N**	N**	N**	N	N/A
Bermuda	Y	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Bosnia and Herzegovina (Former Yugoslavia)	Y	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Brazil	Y	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
British Virgin Islands	Y	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Bulgaria	Y	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Canada	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Caribbean part of the Netherlands	Y	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Cayman Islands	Y	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Curacao	Y	O	Y	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
China	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Croatia	Y	O	Y	N/A	i**	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Cyprus*	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Czech Republic	Y	O**	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Denmark	Y	O	ii	5-years	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Egypt	Y	O**	i**	N/A	i	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Estonia	Y	O	Y	N/A	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Faroe Islands	Y	O	ii	5-years	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	DTC in force?	Inclusion Art. 25(1)? If yes, submission to either competent authority	Inclusion Art. 25(1) second sentence? If no, please state reasons	Inclusion Art. 9(2)? If no, will your CA provide access to MAP in TP cases?	Existence of a provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Article 25(3) of the OECD MTC	Article 25(3) of the OECD MTC	Arbitration									
	B.1	B.3	B.4	B.5	B.6	B.7	B.8	B.9	B.10	B.11	B.12	B.13	B.14	B.15	B.16	B.17	B.18	B.19	B.20	B.21	B.22
France	Y	O**	i**	N/A	i	Y	N**	Y	N**	Y	N**	Y	N**	Y	N**	Y	N	N	N/A	N/A	N/A
Georgia	Y	O**	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Germany***	N	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Greece	Y	O**	Y	N/A	i	i**	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Guernsey	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Hungary	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Iceland	Y	O	ii	5-years	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
India	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Indonesia	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Ireland	Y	O**	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Isle of Man	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Israel	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Italy	Y	N	ii	2-years	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Japan	Y	N**	i**	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Jersey	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Kazakhstan	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Korea	Y	O**	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Kosovo	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Kyrgyzstan	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Latvia	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Lithuania	Y	O**	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Luxembourg	Y	O**	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Macedonia	Y	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A
Malaysia	Y	O	ii	2 years	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N/A	N/A	N/A

Treaty partner	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11	
	DTC in force?	Inclusion Art. 25(1)? If yes, submission to either competent authority	Inclusion Art. 25(1) second sentence? If no, please state reasons	Inclusion Art. 9(2)? If no, will your CA provide access to MAP in TP cases?	Existence of a provision that MAP Article will not be available in cases where your jurisdiction is of the assessment that there is an abuse of the DTC or of the domestic tax law? If no, will your CA accept a taxpayer's request for MAP in relation to such cases?	Inclusion Art. 25(2) first sentence?	Inclusion Art. 25(2) second sentence? If no, alternative provision in Art. 7 & 9 OECD MTC?	Inclusion Art. 25(3) first sentence?	Inclusion Art. 25(3) second sentence?	Article 25(3) of the OECD MTC	A.1	A.1	B.7	B.7	C.6	C.6				
Malta	Y	O**	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Mexico	Y	O	Y	N/A	Y	Y	Y	Y	i	N**	N	Y	Y	Y	N	Y	Y	N	N/A	
Moldova	Y	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Montenegro	Y	O	Y	N/A	i	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Morocco	Y	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Netherlands	Y	O**	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
New Zealand	Y	O**	Y	N/A	i**	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Norway	Y	O	ii	5-years	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Pakistan	Y	O	Y	N/A	i	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Philippines	Y	O	ii	2-years	i	Y	iii	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Poland	Y	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Portugal***	N	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	N**	Y	N	N/A	
Romania	Y	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Russia	Y	O**	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Serbia	Y	O	Y	N/A	i**	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Singapore	Y	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Sint Maarten	Y	O	Y	N/A	i	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Slovak Republic	Y	O	Y	N/A	Y	Y	Y	Y	i	Y	N**	Y	Y	Y	N	Y	Y	N	N/A	
Slovenia	Y	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
South Africa	Y	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Spain***	N	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Sri Lanka***	N	O	Y	N/A	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Sweden	Y	O	ii	5-years	Y	Y	Y	Y	i	Y	Y	Y	Y	Y	N	Y	Y	N	N/A	
Switzerland	Y	O	Y	N/A	i	Y	Y	Y	i	Y	ii	Y	Y	Y	N	Y	Y	N	N/A	

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6		Column 7		Column 8		Column 9		Column 10		Column 11		
	Action 25(1) of the OECD Model Tax Convention ("MTC")		Article 9(2) of the OECD MTC		Anti-abuse		Article 25(2) of the OECD MTC		Article 25(3) of the OECD MTC		Arbitration										
	B.1	B.3	B.4	C.1	D.3	A.1	B.7	C.6													
Tajikistan	Y	O	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Tanzania	Y	O	O	Y	Y	i	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Thailand	Y	O	O	Y	Y	i	Y	Y	Y	ii	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Turkey	Y	O**	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Turkmenistan	Y	O	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Ukraine	Y	O	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
United Arab Emirates	Y	O	O	Y	Y	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
United Kingdom	Y	O**	O**	i**	N/A	i	Y	Y	Y	N**	Y	N**	Y	N**	Y	N**	Y	N**	Y	N	N/A
United States	Y	O	O	i	N/A	i	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Uruguay	Y	O**	O**	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Uzbekistan	Y	O	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Viet-Nam	Y	O	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A
Zambia	Y	O	O	Y	N/A	i	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A

* 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.

** Treaties will be modified upon entry into force of the Multilateral Instrument.

*** Finland has already in place a treaty with these jurisdictions. These treaties will be replaced by the newly signed treaties, once they enter into force. For purposes of the treaty analysis, the newly negotiated treaties are taken into account.

Annex B

MAP Statistics: pre-2016 cases

Category of cases	No. of pre-2016 cases in MAP inventory on 1 January 2016	Number of pre-2016 cases closed during the reporting period by outcome										Average time taken (in months) for closing pre-2016 cases during the reporting period	
		Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12		Column 13
		Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement including agreement to disagree	Any other outcome	No. of pre-2016 cases remaining in MAP inventory on 31 December 2016	
Attribution/Allocation	62	0	1	1	3	2	5	0	0	0	0	50	31.24
Others	36	0	0	0	1	0	1	0	2	1	0	31	46.76
Total	98	0	1	1	4	2	6	0	2	1	0	81	35.81

Annex C

MAP statistics: post-2015 cases

Category of cases	Number of post-2015 cases closed during the reporting period by outcome															Average time taken (in months) for closing post-2015 cases during the reporting period													
	No. of post-2015 cases in MAP inventory on 1 January 2016	No. of post-2015 cases started during the reporting period	Denied MAP access	Objection is not justified	Withdrawn by taxpayer	Unilateral relief granted	Resolved via domestic remedy	Agreement fully eliminating double taxation/ fully resolving taxation not in accordance with tax treaty	Agreement partially eliminating double taxation/partially resolving taxation not in accordance with tax treaty	Agreement that there is no taxation not in accordance with tax treaty	No agreement including agreement to disagree	Any other outcome	No. of post-2015 cases remaining in on MAP inventory on 31 December 2016	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	8	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	2.19
Others	0	22	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	22	0.00
Total	0	30	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	28	2.19	

Glossary

Action 14 Minimum Standard	The minimum standard as agreed upon in the final report on Action 14: Making Dispute Resolution Mechanisms More Effective
MAP guidance	Mutual Agreement in Transfer Pricing Matters
MAP Statistics Reporting Framework	Rules for reporting of MAP statistics as agreed by the FTA MAP Forum
Multilateral Instrument	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
Nordic Convention	Multilateral tax treaty between Denmark, Finland, the Faroe Islands, Iceland, Norway and Sweden
OECD Model Tax Convention	OECD Model Tax Convention on Income and on Capital as it read on 15 July 2014
Pre-2016 cases	MAP cases in a competent authority's inventory pending resolution on 31 December 2015
Post-2015 cases	MAP cases received by a competent authority from the taxpayer on or after 1 January 2016
Review Period	Period for the peer review process that started on 1 January 2016 and ended on 31 July 2017
Statistics Reporting Period	Period for reporting MAP statistics that started on 1 January 2016 and ended on 31 December 2016
Terms of Reference	Terms of reference to monitor and review the implementing of the BEPS Action 14 Minimum Standard to make dispute resolution mechanisms more effective

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OECD/G20 Base Erosion and Profit Shifting Project

Making Dispute Resolution More Effective – MAP Peer Review Report, Denmark (Stage 1)

INCLUSIVE FRAMEWORK ON BEPS: ACTION 14

Addressing base erosion and profit shifting is a key priority of governments around the globe. In 2013, OECD and G20 countries, working together on an equal footing, adopted a 15-point Action Plan to address BEPS. Beyond securing revenues by realigning taxation with economic activities and value creation, the OECD/G20 BEPS Project aims to create a single set of consensus-based international tax rules to address BEPS, and hence to protect tax bases while offering increased certainty and predictability to taxpayers. In 2016, the OECD and G20 established an Inclusive Framework on BEPS to allow interested countries and jurisdictions to work with OECD and G20 members to develop standards on BEPS related issues and reviewing and monitoring the implementation of the whole BEPS Package. Over 100 countries and jurisdictions have joined the Inclusive Framework.

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

The peer review process is conducted in two stages. Stage 1 assesses countries against the terms of reference of the minimum standard according to an agreed schedule of review. Stage 2 focuses on monitoring the follow-up of any recommendations resulting from jurisdictions' stage 1 peer review report. This report reflects the outcome of the stage 1 peer review of the implementation of the Action 14 Minimum Standard by Denmark, which is accompanied by a document addressing the implementation of best practices which can be accessed on the OECD website: <http://oe.cd/bepsaction14>.

Consult this publication on line at <http://dx.doi.org/10.1787/9789264190184-en>.

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