

Inputs from the Organisation for Economic Co-operation and Development (OECD)

On 27 June, the Intergovernmental Negotiating Committee (INC) on the United Nations Framework Convention on International Tax Cooperation called for written inputs from stakeholders and Member States regarding the issues notes and overview produced through the inter-sessional work on the following workstreams:

- Workstream I: Framework Convention
- Workstream II: Taxation of services
- Workstream III: Dispute prevention and resolution

The OECD, as an intergovernmental organization, participates in the INC as an observer. The OECD Center for Tax Policy and Administration (CTPA) is pleased to submit inputs for information with respect to each of the three workstreams and supporting issues notes.

Abstract:

Tax certainty is a cornerstone of effective tax administration and a key driver of investment, economic growth, and trust between taxpayers and tax administrations. A number of OECD instruments and workstreams focus on tax certainty more broadly and on dispute prevention and resolution specifically, as detailed below. For information, and consideration to the extent relevant to delegates, the following OECD submission provides a non-exhaustive list of OECD initiatives, reports, and outputs (with links to supporting materials) that are related to these important issues.

Workstream III: Dispute prevention and resolution

Workstream III focuses on dispute prevention and resolution. Tax certainty is a cornerstone of effective tax administration and a key driver of investment, economic growth, and trust between taxpayers and tax administrations. A number of OECD instruments and workstreams focus on tax certainty more broadly and on dispute prevention and resolution specifically. For information, and to the extent useful, following is a non-exhaustive list of OECD initiatives and outputs (with links to supporting materials) that are relevant to dispute prevention and resolution.

Simplification of the Transfer Pricing Rules

- In the issues notes for Workstreams I and III, transfer pricing is highlighted as a key area of concern because it is the subject of many disputes, which typically take longer to resolve than other disputes. Specifically, the issues overview note mentions low value-added services and lack of relevant information as topics leading to disputes in transfer pricing. The OECD/G20 Inclusive Framework has done and continues to do extensive work in this area, including BEPS Action 14 best practices (which aim to improve the effectiveness and efficiency of the Mutual Agreement Procedure process) and simplified approaches in the OECD Transfer Pricing Guidelines.

- The jurisdictions participating in the 147-member Inclusive Framework have been working on tax certainty and simplification measures for transfer pricing over many years. For example:
 - BEPS Action 10: Simplified approach on low value-added intra-group services ([Chapter VII of the OECD Transfer Pricing Guidelines](#));
 - [Amount B of Pillar One](#), published on 19 February 2024, added a new annex to Chapter IV of the OECD Transfer Pricing Guidelines on an optional simplified and streamlined approach to baseline distribution and marketing activities.
 - Guidance on safe harbours ([Chapter IV of the OECD Transfer Pricing Guidelines](#));
 - Mandate to standardise benchmarking practices ([2019 FTA MAP Forum Santiago Communiqué](#));

Dispute Prevention Mechanisms

Efforts in dispute prevention have a beneficial effect in terms of enhancing tax certainty both for taxpayers and tax administrations.

In this regard, work has been undertaken as follows:

Cooperative Compliance

- The OECD's Forum on Tax Administration has advanced cooperative compliance to foster a trustful relationship between tax authorities and taxpayers, promoting transparency and early engagement aiming at reducing disputes, including through the publication of dedicated frameworks in [2013](#) and [2016](#). To date, more than 37 jurisdictions have implemented cooperative compliance programmes.

Risk Assessment

- Supporting effective risk assessment enables tax administrations to focus resources on high-risk transactions and exclude low-risk taxpayers from unnecessary scrutiny. It also contributes significantly to administrative efficiency and taxpayer certainty – reducing the cost of compliance and the cost of administration
- The OECD has developed a suite of instruments to support tax administrations in effective risk assessment, including:
 - [Country-by-Country \(CbC\) Reporting Handbooks](#)
 - Tax Risk Evaluation and Assessment Tool (TREAT), which assists in evaluating transfer pricing risks
 - Transfer Pricing Risk Overviews (TROves), which provide structured insights into risk indicators and data sources
 - [International Compliance Assurance Programme \(ICAP\)](#) which allows taxpayers to obtain comfort over their low-risk transactions in 6 to 12 months through the cooperation of multiple jurisdictions, fostering consistency, and enabling early resolution of potential issues.

Advance Pricing Arrangements (APAs)

- The OECD has supported the development and implementation of APA programmes through practical tools to enhance the efficiency, transparency, and accessibility of APA processes, including the:
 - [Bilateral APA Manual \(BAPAM\)](#)
 - [Manual on the Handling of Multilateral MAPs and APAs \(MoMA\)](#)
 - Requirement to allow roll-backs for bilateral APAs in the Action 14 Minimum Standard and best practice to implement bilateral APA programmes in the [final report on BEPS Action 14](#)
 - Section F of Chapter IV and Annex II to Chapter IV of the [OECD Transfer Pricing Guidelines](#)
- Inclusive Framework members report their APA statistics in accordance with the [APA Statistics Reporting Framework](#) since 2023, allowing a more comprehensive view of their efforts on dispute prevention.
- The [2019 Santiago Forum on Tax Administration \(FTA\) Communiqué](#) gave a mandate to the OECD to explore an extension of APA-like instruments to issues not related to transfer pricing such as permanent establishments.

Joint Audits

- Two reports released by the OECD in [2010](#) and [2019](#) offer strategic and operational guidance for conducting joint audits, including legal frameworks, case selection, and audit execution.
- Recent initiatives have focused on capacity building, particularly in developing countries, to support the broader adoption and effective implementation of joint audits as part of the global tax certainty agenda.

Dispute Resolution Mechanisms

Mutual Agreement Procedure (MAP)

- Primary treaty-based mechanism for resolving cross-border tax disputes - provided for by article 25 of the [OECD Model Tax Convention](#).
- The [final report on BEPS Action 14](#) sets up a minimum standard to ensure that tax treaty-related disputes are resolved in a timely, efficient, and fair manner through the MAP.
- Practical guidance on the handling of MAP and multilateral MAP in the Manual on Effective Mutual Agreement Procedures ([MEMAP](#)) and [MoMA](#).

Peer Review and Monitoring

- Compliance of jurisdictions to the Action 14 minimum standard is assessed through a [peer review process](#).
- Extensive capacity building efforts undertaken through numerous MAP trainings allowing developing countries to develop a robust MAP policy framework.

MAP Statistics

- Reporting of [annual MAP statistics](#) under an agreed framework, with new data reporting introduced in 2023.
- [FAQ on MAP Statistics](#).

Arbitration

- Mandatory, binding arbitration for unresolved issues at the taxpayer's request included in Article 25 of the OECD Model Tax Convention in 2008.
- Option for arbitration possible through the [BEPS Multilateral Instrument \(Part VI\)](#).
- The OECD is currently exploring alternatives to arbitration such as expert opinions.

Integrated Tax Certainty Framework and Ongoing Work Projects

- The OECD works toward a holistic approach where dispute prevention and resolution tools complement each other. This includes:
 - simplified rules and administrative mechanisms
 - cooperative compliance and risk assessment for early intervention
 - APAs and joint audits for complex cases
 - MAP and arbitration for unresolved disputes
- Following the [2024 FTA Plenary Meeting's Statement of Outcomes](#), work has started on:
 - identifying the factors that most commonly lead to MAP cases to put in place good practices to avoid adjustments that have systemically been relieved at the MAP stage previously
 - expanding ICAP and APA usage
 - strengthening MAP frameworks including through:
 - a review of the Manual on Effective Mutual Agreement Procedure (MEMAP); and
 - continuing to support jurisdictions through technical assistance and capacity building.

The OECD is committed to continuing to work constructively with the UN, other international organisations, and regional bodies to support jurisdictions in improving dispute resolution and promoting tax certainty for governments and taxpayers.