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In this article, the authors examine the OECD's new Manual on Effective Mutual Agreement Procedures and assess its effects on tax administrations and tax professionals.

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Introduction

On February 2, 2026, the OECD published an updated version of the Manual on Effective Mutual Agreement Procedures (the "MEMAP").¹ The MEMAP is intended to serve "as a comprehensive guide for navigating the Mutual Agreement Procedure," and running to over 150 pages, the manual is certainly comprehensive.² But the big question for taxpayers is this: Will this guidance make MAP more effective and efficient?

Our article explains that, despite the MEMAP's nonbinding status, it provides clear and comprehensive end-to-end guidance on MAP and useful template documents, which can help taxpayers and tax administrations, particularly in low-capacity jurisdictions, navigate MAP successfully. Adoption is likely to vary by jurisdiction, but the best practices were approved by over 140 BEPS-inclusive framework jurisdictions, making it a significant step toward addressing the main issues the business community has highlighted as barriers to effective MAP.

¹ OECD, "Manual on Effective Mutual Agreement Procedures (2026 Edition)" (Feb. 2, 2026).

² *Id.* at 3.

Why Did the OECD Decide to Update the MEMAP?

The original MEMAP was published in 2007.³ It was a high-level, policy-focused document aimed at OECD member jurisdictions, which numbered 30 at that time. Several years later, improving dispute resolution mechanisms became an integral part of the work of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting — a much larger group of jurisdictions that currently counts over 140 members.⁴ Under action 14, these inclusive framework members agreed to a minimum standard for the resolution of treaty-related disputes and a peer review process to ensure its effective implementation. Many jurisdictions also committed to providing for mandatory binding arbitration in their bilateral tax treaties as a mechanism to ensure treaty-related disputes are resolved within a specified timeframe. In the decade following the publication of the original BEPS package, there have been several important developments:

- The number of international tax disputes has increased significantly, with MAP inventories for transfer pricing and non-transfer-pricing cases growing substantially.⁵
- The complexity of transfer pricing disputes has increased as a consequence of the changes made by BEPS actions 8 to 10.⁶
- The number of jurisdictions reporting MAP activity has almost doubled, increasing from 51 in 2016 to 99 by 2024.⁷
- The OECD Tax Certainty Unit and many competent authorities (CAs) have gained significant insights into how MAP is

functioning through the peer review process, which is now on its third cycle.⁸

In light of these developments, the OECD saw an opportunity to revisit the MEMAP and give it a more practical focus, incorporating lessons learned over the past decade and providing a roadmap for effective MAP for CAs and taxpayers.

Process Is Important

When the OECD publishes guidance, it can be tempting to focus on what it says without considering how it was produced. Sometimes “how” is more important than “what.” The guidance was drafted by a focus group of 17 jurisdictions that are members of the Forum on Tax Administration’s (FTA) MAP Forum, taking into consideration feedback received from tax administrations and the business community.

The jurisdictions that participated in this group are unidentified, but it seems reasonable to assume that the major players (or usual suspects) were involved, as well as participants from Africa, Asia, and Latin America. In this regard, it is notable that the top 10 jurisdictions represent more than 70 percent of all MAP cases.⁹ Moreover, the final text of the MEMAP was approved by the inclusive framework members in December 2025, so more than 140 jurisdictions have endorsed the best practices.

No Commitment, Review, or Monitoring

The MEMAP makes clear that jurisdictions have not agreed to be bound by its content, and there is no review or monitoring of the adoption of the best practices.

In our view, it is still a positive step to have a one-stop shop for practical guidance on MAP, drafted by the OECD and CA delegates from the FTA MAP Forum. With more jurisdictions now reporting MAP activity and significant growth in regions like Africa, Latin America, and the Middle East, where tax administrations have less

³ OECD, “Manual on Effective Mutual Agreement Procedures (MEMAP)” (Feb. 6, 2007).

⁴ OECD, “Base Erosion and Profit Shifting (BEPS)” (last accessed, Mar. 31, 2026).

⁵ OECD, “Strengthening Tax Certainty Through Dispute Resolution: Introducing the Revised Manual on Effective Mutual Agreement Procedures (MEMAP)” (Feb. 10, 2026).

⁶ *Id.*; OECD, “Aligning Transfer Pricing Outcomes With Value Creation, Actions 8-10 — 2015 Final Reports” (Oct. 5, 2015).

⁷ “Strengthening Tax Certainty Through Dispute Resolution: Introducing the Revised Manual on Effective Mutual Agreement Procedures (MEMAP),” *supra* note 5.

⁸ *Id.*

⁹ *Id.*

experience with MAP, this guidance could prove invaluable, particularly given its specific considerations for low-capacity jurisdictions.¹⁰

By including specific statements on the importance of respecting taxpayer MAP rights, tax authority pre-MAP filing practices, governance procedures, and how audit and competent authority functions should interact, MEMAP has tackled head-on some of the most significant obstacles to effective MAP, which will undoubtedly be welcomed by businesses and advisers.

Practical Recommendations

The MEMAP provides practical guidance about how both tax administrations and taxpayers should approach MAP across five sections:

1. **Background and pre-MAP phase** explain what the MAP is and that tax administrations and taxpayers should engage in pre-MAP consultations in appropriate cases.
2. **Unilateral Phase of MAP** describes how a MAP request should be submitted, how a tax administration checks if a case is eligible for MAP, and when unilateral relief should be granted.
3. **Bilateral Phase of MAP** discusses the process for resolving MAP cases bilaterally, including, where applicable, MAP arbitration.
4. **Considerations for low-capacity jurisdictions** suggest how jurisdictions with MAP experience could support, or “buddy up,” with jurisdictions with less experience.
5. **Appendices** include helpful summaries of the MEMAP best practices and templates

for the MAP process, such as a template MAP request form.

The recommendations included in the MEMAP are clear and, generally, taxpayer favorable, for example:

- **Dispute prevention:** The manual places significant emphasis on proactive tax authority behavior to prevent inappropriate or avoidable disputes from entering the MAP process. In particular, it strongly encourages tax authorities to ensure that all assessments are well reasoned and properly supported by facts. It also highlights the importance of effective communication between the CA and the audit or case team within a jurisdiction to avoid the issuance of assessments that are not sustainable under MAP.
- **Accessibility:** The manual explicitly states that tax administrations should not block or discourage access to MAP, including as part of an audit settlement. Notably, it emphasizes that MAP access must not be used as leverage, such as by offering reduced adjustments or waiving penalties, in exchange for a taxpayer agreement not to pursue MAP. This reflects the manual’s broader goal of ensuring that taxpayers’ treaty rights remain fully preserved and are not compromised by domestic settlement practices. On the recent webinar to launch the revised MEMAP, OECD officials strongly emphasized taxpayers’ right to access MAP and competent authorities’ treaty obligation to act in good faith to admit and resolve cases under MAP, which they referred to as a “treaty first mindset.”¹¹
- **Unilateral relief:** The MEMAP encourages unilateral relief where appropriate rather than defaulting to protracted bilateral MAP negotiations. The manual is clear that the CA from the adjusting state should not attempt to rework the tax audit but instead should correct the actions of the audit function where an adjustment is not well substantiated or is otherwise inappropriate

¹⁰ *Id.*

¹¹ MEMAP, *supra* note 1.

(e.g., where it moves a return from one point in the arm's-length range to another).

What Moves the Dial?

The MEMAP provides 50 MAP best practices for tax administrations. These can be grouped into five core pillars:

1. **Competent Authority Organization and Governance:** Best practices focusing on how a jurisdiction should structure and operate its CA structure. Key elements include:
 - a. Ensuring the CA is independent from the audit function.
 - b. Maintaining sufficient staff, training, and technical resources.
 - c. Promoting a solution-oriented mindset, rather than an adversarial negotiation.
 - d. Monitoring case inventories to manage timeliness and reduce backlog.
2. **Dispute Prevention:** Best practices to encourage early intervention to avoid inappropriate disputes entering MAP to reduce caseloads and enable the CA to focus on resolving the more complex cases. Key elements include:
 - a. Ensuring audit adjustments are well reasoned and supported by facts.
 - b. Ensuring audit teams avoid adjustments that are consistently unwound in MAP.
 - c. Encouraging engagement between the CA and audit teams to avoid treaty-inconsistent positions.
 - d. Offering pre-MAP consultations to explain expectations, requirements, and the likelihood of MAP being appropriate and/or successful.
 - e. Promoting dispute prevention tools such as advance pricing agreements.
3. **Ensuring Access to MAP:** Best practices to reinforce the idea that jurisdictions should not restrict or discourage taxpayers from pursuing MAP.
4. **Conduct of MAP — Efficient and Effective Case Resolution:** Best practices to address how CAs should conduct

negotiations and manage cases. Key elements include:

- a. Working in good faith with a genuine intent to eliminate double taxation.
 - b. Adhering to the 24-month resolution target.
 - c. Maintaining open, timely, and transparent communication with the other CA.
 - d. Preparing high-quality position papers, supported by facts and legal analysis.
5. **MAP Arbitration:** Best practices covering when arbitration applies and how administrations should manage complex or capacity-constrained situations. Key elements include:
 - a. Understanding when arbitration is mandated and how to initiate it.
 - b. Establishing procedures for the selection of arbitrators and to maintain readiness for both “last-best-offer” and “independent-opinion” models.
 - c. Adopting templates for arbitration submissions and case tracking.

In our view, many of the so-called best practices directly reflect obligations already embedded in the BEPS action 14 minimum standards, albeit expressed in more operational and practical terms. This is particularly true in areas such as ensuring access to MAP, resolving MAP cases within an average of 24 months, and implementing MAP outcomes even where domestic time limits have expired.

Fifty best practices is a lot. Here, we call out a subset of key practices that, in our view, would have the biggest impact on improving the efficiency and effectiveness of the MAP process if adhered to by jurisdictions:

- **Best Practice 5** encourages jurisdictions to take proactive measures to prevent inappropriate disputes from entering MAP, with a particular focus on ensuring that audit teams avoid making adjustments that are clearly contrary to the terms of the relevant tax treaty or that are consistently and commonly withdrawn in MAP. To support this objective, the MEMAP emphasizes the importance of ensuring that

all audit adjustments are well reasoned and properly substantiated and of effective communication between the CA team and the audit team to avoid raising positions that the CA would ultimately be unwilling to defend in MAP. We consider this best practice fundamental to preventing improper and unjustified adjustments from arising, thereby reducing the overall caseload of both examination teams and CAs, and enabling the CA to devote more time and resources to resolving genuinely complex or contentious matters.

- **Best Practice 15** encourages jurisdictions to be open to taxpayers seeking guidance before submitting a MAP request, particularly to help them understand the required format and procedural expectations. The manual also encourages CAs, where appropriate, to discuss, on a case-by-case basis, the general prospects of pursuing MAP. This best practice is welcomed and, like Best Practice 5, plays an important role in preventing inappropriate cases from reaching MAP. It also provides taxpayers with the clarity they need to prepare a comprehensive and well-substantiated MAP request from the outset, thereby contributing to a more efficient and effective MAP process overall.
- **Best Practice 37** states that the CA receiving the MAP request should first determine whether the adjustment is sufficiently well founded that unilateral relief can be granted. The MEMAP notes that where an adjustment is not well substantiated by evidence, the CA of the adjusting jurisdiction should generally provide unilateral relief rather than attempting to re-perform the audit. The OECD MAP statistics show that several jurisdictions have been increasingly using unilateral relief in recent years, and that this has helped improve their “time taken to complete MAP” statistics. If Best Practice 37 is followed consistently, it should give taxpayers greater confidence in MAP and enable CAs to focus on progressing more complex matters that genuinely require bilateral resolution.

- **Best Practices 43 and 44** address how bilateral negotiations should be conducted in practice and emphasize the importance of sharing clear, comprehensive, and well-substantiated position papers in a timely manner. Given that the CA-to-CA negotiation phase is fundamental to the success of any MAP case, adherence to these practices is essential to ensuring that negotiations progress efficiently and that resolution is achieved without unnecessary delay.
- **Best Practices 53 and 55** relate to arbitration and emphasize that jurisdictions should agree in advance on the conduct of the arbitration process and ensure that this process is designed to provide a clear, transparent, and effective dispute resolution mechanism. These recommendations are clearly welcome and, if implemented consistently, will go a long way toward ensuring that arbitration functions more efficiently and effectively, thereby resolving the more complex cases in which arbitration is most likely to be invoked. As comfort with arbitration increases, more tax administrations may be willing to adopt it as a backstop to MAP.

Two to Tango

The MEMAP provides nine best practices for taxpayers to follow to support a more efficient MAP process by engaging cooperatively and transparently from the outset, providing complete and timely information during the process, and submitting clear MAP requests in a timely manner. Taxpayers should ensure that both CAs receive the same information at the same time, maintain consistent positions, and clearly indicate whether a MAP request is intended solely to protect against deadlines and how they intend to prioritize the available remedies.

Throughout the MAP process, taxpayers are expected to respond promptly to information requests, remain available for discussions, and avoid strategically switching between procedures.

Finally, taxpayers should be willing to accept MAP outcomes that fully eliminate any potential double tax and undertake any necessary steps to

support the timely implementation of the agreed-upon outcome as soon as practically possible.

While clarification of best-practice taxpayer behavior is welcome, in our experience, most taxpayers already operate in line with these expectations. The most contentious area for taxpayers is when they receive requests for additional information that originate from the adjusting state during the MAP process, as the adjusting state should have collected this information when seeking to assert the adjustment.

Where Next?

We expect the OECD Tax Certainty Unit will continue to be ambitious in its agenda to improve tax certainty and explore new ways to work with OECD/G20 inclusive framework members to promote the adoption of the MEMAP best practice.

Next, we will note some thoughts we had about what might follow.

Minimum Standards vs. Best Practices

MEMAP could be further refined to make a clearer distinction between practices that are essentially the means by which action 14 minimum standards are to be met and practices that are aspirational “best in class” behaviors. Stronger language could also be included regarding practices that are inconsistent with the spirit and objectives of tax treaties. This would allow jurisdictions to more clearly identify where improvements are mandatory.

Consistent Adoption in High Demand Jurisdictions

A results-oriented approach would focus on adoption by the 10 jurisdictions that account for over 70 percent of new cases. If these jurisdictions were to fully embrace MEMAP, it could have a major impact. One idea would be to see whether some or all of these jurisdictions would be willing to lead by example and agree to be peer reviewed on a subset of the best practices considered most impactful.

Awards and Recognition at the OECD Tax Certainty Day

The OECD could place greater emphasis on adherence to best practices when recognizing jurisdictions with awards. At present, awards predominantly reflect in-year statistical results and outcomes, which may not always provide a complete or representative picture of a jurisdiction’s overall performance. Accordingly, qualitative assessments, such as effective implementation of the best practices, could promote more meaningful behavioral improvements. Incorporating feedback from businesses as part of that process could also help, for example, if business organizations could play a role in gathering feedback from their members on an annual basis, which could also help to assess the impact of MEMAP going forward.

More Practical Guidance and Examples

Additional guidance would be helpful, particularly regarding the specific circumstances in which unilateral relief may be appropriate, supported with illustrative examples. Similarly, examples of how arbitration has been effectively conducted in practice could provide jurisdictions with tangible models to emulate. Furthermore, access to an effective and efficient MAP process would be improved if jurisdictions issued domestic guidance in line with MEMAP (e.g., guidance clarifying that MAP access is not waived by settling an issue at the examination stage and that any purported waiver will have no effect).

Measuring Success

During the webinar to launch MEMAP, an OECD official made a telling remark that “what gets measured gets done.”¹² In this vein, it would be worth considering how the success of MEMAP could be measured. For example, tracking the progress of transfer pricing audit adjustments into MAP would be a fruitful area of focus, since in some jurisdictions very few new MAP cases are reported despite tax administrations frequently adjusting transfer prices. An upward trend in

¹²“Strengthening Tax Certainty Through Dispute Resolution: Introducing the Revised Manual on Effective Mutual Agreement Procedures (MEMAP),” *supra* note 5.

unilateral resolution of MAP applications is a potential positive indicator, as would be examples of jurisdictions issuing new or revised domestic guidance on their approach to MAP that reflects the MEMAP best practices.

Conclusion

To return to the question we started with — will MEMAP make MAP more efficient and effective? The skeptics would say probably not because even the 17 jurisdictions that rewrote MEMAP have not agreed to be bound by it. The counterargument would be: “Why would CAs take the time to make such a comprehensive update to MEMAP if they are just going to ignore it afterward?” Many of the delegates who represent their jurisdictions at the FTA MAP Forum and OECD Tax Certainty events speak with genuine passion about making MAP more effective, and the new and improved MEMAP provides them with a clear set of standards to educate new team members, tax auditors, and other stakeholders. It can also be of great assistance to jurisdictions with less MAP

experience, helping to guide them down the right path.

MEMAP should also be welcomed by taxpayers, as it provides clear explanations of how MAP should work and a tool they can point to when it does not work as effectively or efficiently as it should. There are also useful templates for different types of MAP requests that will help taxpayers seeking to access MAP.

Overall, this is a step in the right direction, and we hope the OECD and the FTA MAP Forum will continue to explore how they can build on this.¹³ ■

¹³ The foregoing information is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser. This article represents the views of the authors only and does not necessarily represent the views or professional advice of KPMG LLP.

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