

5 Difficulties in implementing the minimum standard

73. The peer review provides jurisdictions that encounter difficulties in reaching agreement with another jurisdiction to implement the Action 6 minimum standard with an opportunity to raise concerns with the OECD Secretariat. This process, which is set out in paragraph 35 of the Revised Peer Review Documents, has been in place since the 2017 Peer Review Documents (paragraph 19) to identify cases where a jurisdiction is facing a treaty partner that is a member of the Inclusive Framework that is unwilling to respect its commitment to implement the minimum standard.

74. No concern has been raised on the implementation of the minimum standard in the context of the 2023 Action 6 peer review process. Moreover, any such concerns raised in previous years have been addressed.

Previous concern regarding the CARICOM Agreement

75. The CARICOM Agreement was concluded in 1994 to encourage regional trade and investment within the CARICOM, and contains several unusual features,¹ not found in the OECD Model Tax Convention or UN Model Double Taxation Convention, which could lead to certain income flows escaping tax altogether. These departures from standard tax treaty provisions may have encouraged greater economic integration within the CARICOM at the time, but they may also have made the Agreement more vulnerable to treaty shopping and other forms of abuse.

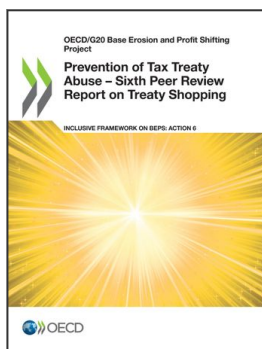
76. At this stage, the CARICOM Agreement does not contain the elements required to satisfy the Action 6 minimum standard. Implementing the Action 6 minimum standard, or updating the CARICOM Agreement more broadly, requires agreement by all eleven jurisdictions that are parties to that agreement.

77. Discussions have now commenced among CARICOM Member States to bring the CARICOM Agreement up to date. Those talks follow previous Action 6 peer review processes where concerns had been raised on the CARICOM Agreement. In the course of the 2019 peer review, a jurisdiction raised a concern about the Agreement and called upon other treaty partners to launch talks to modernise it. In the 2020 and 2021 peer reviews, jurisdictions that are parties to the CARICOM Agreement were encouraged to bring that agreement up to date by commencing talks among all the treaty partners. In the 2022 peer review, it was acknowledged that discussions to bring the CARICOM Agreement up to date should be continued.

78. The Secretariat has offered its full support to the jurisdictions that are parties to the CARICOM Agreement and members of the Inclusive Framework in working towards bringing this agreement into compliance with the minimum standard.

Note

¹ The CARICOM Agreement provides for an almost exclusive source-based taxation of all income, gains and profits. Some income – for instance, dividends – is also entirely exempted from tax under the CARICOM Agreement.



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