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Difficulties in implementing the minimum standard

78. 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, was initially put in place in 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. The process was examined as part of the review of the peer review methodology, and it was determined that the process was adequate as it stood and no changes were needed.

Concern regarding the CARICOM Agreement

79. 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.

80. 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.

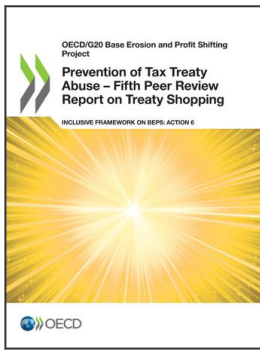
81. Previous attempts to renegotiate the CARICOM Agreement have proven to be difficult but talks have commenced among CARICOM Member States to bring the CARICOM Agreement up to date.

82. 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.

83. 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 – are also entirely exempted from tax under the CARICOM Agreement.



From:
**Prevention of Tax Treaty Abuse – Fifth Peer Review
Report on Treaty Shopping**
Inclusive Framework on BEPS: Action 6

Access the complete publication at:
<https://doi.org/10.1787/9afac47c-en>

Please cite this chapter as:

OECD (2023), “Difficulties in implementing the minimum standard”, in *Prevention of Tax Treaty Abuse – Fifth Peer Review Report on Treaty Shopping: Inclusive Framework on BEPS: Action 6*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/e537e6dc-en>

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