

Multilateral Instrument

**Multilateral
Convention
to Implement Tax
Treaty Related
Measures to
Prevent
Base Erosion
and
Profit Shifting**

Information Brochure

The Multilateral Instrument

A turning point in tax treaty history

"The conclusion of this multilateral instrument marks a new turning point in tax treaty history. We are moving towards rapid implementation of the far-reaching reforms agreed under the BEPS Project in more than 1,200 tax treaties worldwide. In addition to saving the signatories from the burden of bilaterally re-negotiating these treaties, the Convention will result in more certainty and predictability for businesses, and a better functioning international tax system for the benefit of our citizens."



Angel Gurría
OECD Secretary-General

100-240 billion USD annual revenue loss due to BEPS

Base erosion and profit shifting (BEPS) refers to tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no overall corporate tax being paid. Conservative estimates indicate annual losses of anywhere from 4 to 10% of global corporate income tax revenues, i.e. USD 100 - 240 billion annually.

Working together in the OECD/G20 BEPS Project, over 60 countries jointly developed 15 actions to tackle tax avoidance, improve the coherence of international tax rules and ensure a more transparent tax environment. Leaders of OECD and G20 countries, as well as other leaders, urged the timely implementation of this comprehensive BEPS package. The Multilateral Instrument (MLI) responds to this call for swift action by implementing the BEPS measures which require changes to tax treaties.

78 jurisdictions covered 1,200+ matched treaties

On 7 June 2017, Ministers and other high-level representatives of over 70 jurisdictions participated in the first signing ceremony of the MLI in Paris. At this ceremony, the MLI was signed by 67 countries and jurisdictions, covering 68 jurisdictions from all continents and all levels of development. Since then, 10 additional jurisdictions have joined the MLI.

Signatories of the MLI may choose which existing tax treaties they would like to modify using the MLI. Once a tax treaty has been listed by the two parties, it becomes an agreement to be covered by the MLI. The current signatories have listed over 2,500 treaties, already leading up to over 1,200 matched agreements.

The number of modified tax treaties is expected to increase continually as many additional jurisdictions are preparing for signature of the MLI.

The MLI shall enter into force on 1 July 2018.

MLI: the fastest way to strengthen tax treaties

The MLI allows jurisdictions to swiftly implement measures to strengthen existing tax treaties to protect governments against tax avoidance strategies that inappropriately use tax treaties to artificially shift profits to low or no-tax location.

The measures to be implemented will put an end to treaty abuse and "treaty shopping" by transposing in existing tax treaties jurisdictions' commitment to minimally include in their tax treaties tools to ensure these treaties are used in accordance with their intended object and purpose.

The MLI will further enhance dispute resolution mechanisms in accordance with minimum standards agreed by over 90 countries. In addition, 28 jurisdictions have already opted in to introduce an arbitration procedure to their tax treaties, further improving tax payer certainty.



MLI: From Conception to Entry into Effect

- FEB 2013** **Start BEPS Project**
- On 12 February 2013 the report [Addressing Base Erosion and Profit Shifting](#) was published recommending the development of an action plan to address BEPS issues in a comprehensive manner.
- JUL 2013** **Endorsement of the BEPS Project**
- In July 2013, the OECD Committee on Fiscal Affairs (CFA) submitted the [BEPS Action Plan](#) to the G20 identifying 15 actions to address BEPS in a comprehensive manner, and set out deadlines to implement those actions.
- SEP 2014** **Call for the development of the MLI**
- On 16 September 2014, the [Action 15 interim report](#) of the BEPS Action Plan called for the development of a multilateral instrument to implement tax treaty-related BEPS measures developed in the course of the work on BEPS and modify bilateral tax treaties.
- FEB 2015** **Start MLI negotiations** by Ad hoc Group of over 100 jurisdictions
- Based on the Action 15 interim report, a [mandate](#) to set up the Ad hoc Group for the development of a multilateral instrument was developed by the CFA in February 2015 and endorsed by the G20 Finance Ministers and Central Bank Governors, open to the participation of all interested countries on an equal footing.
- OCT 2015** **Adoption BEPS package**; already embraced by now adopted by over 110 jurisdictions
- On 5 October 2015, the final [BEPS package](#) was published and subsequently endorsed by the [G20 Finance Ministers and Leaders](#) comprising reports on each of the 15 actions identified in the BEPS Action Plan.
- NOV 2016** **Adoption of MLI and Explanatory Statement** by over 100 jurisdictions
- On 24 November 2016, the ad hoc Group concluded the negotiations and adopted the [Text](#) of the MLI as well as its accompanying [Explanatory Statement](#).
- JUN 2017** **First high-level signing ceremony** with over 70 governments participating
- On 7 June 2017, a high-level signing ceremony took place in Paris.
- ONGOING** **Additional jurisdictions sign MLI**
- The MLI remains open for signature and over 10 jurisdictions have already joined the MLI since the first signing ceremony.
- 2017 onwards** **Signatories deposit their instrument of ratification** after completing domestic procedures
- Completion of steps to undertake to sign the MLI by many other jurisdictions expected to sign the MLI.
 - Signatories ratify the MLI in accordance with their domestic procedures.
 - The MLI will enter into force on 1 July 2018 (the first day of the month that follows three months after the deposit of the fifth instrument of ratification, acceptance or approval).
- Preparation of synthesised texts of tax treaties modified by the MLI by individual jurisdictions (either due to domestic requirements or in order to ensure clarity and transparency for tax administrations and taxpayers).

Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting

Key Features



Jurisdictions involved

- Instrument developed by an Ad hoc Group of 100+ jurisdictions
- Signed by developed and developing economies around the world
- Instrument open for signature by any country



Measures included

- Includes measures against [hybrid mismatch arrangements](#) (Action 2) and [treaty abuse](#) (Action 6), strengthened definition of [permanent establishment](#) (Action 7) and measures to make [mutual agreement procedures](#) (MAP) more effective (Action 14), including provisions on MAP arbitration.



Tax treaties covered

- Parties can choose tax treaties to be modified by the MLI
- Parties remain free to make subsequent amendments to their modified tax treaties through bilateral negotiations



Flexibility

- Flexibility with respect to ways of meeting BEPS minimum standards on treaty abuse and dispute resolution
- Possibility to opt out of provisions which do not reflect a BEPS minimum standard with the possibility to opt in later
- Possibility to apply optional provisions and alternative provisions at any time where there are multiple ways to address BEPS



Clarity & Transparency

- Explanatory Statement available and additional materials
- Notifications of Covered Tax Agreements, reservations, options and affected existing provisions (MLI Positions) to identify modifications. MLI positions provided by each jurisdiction available on the OECD website
- MLI Matching Database that makes projections on how the MLI modifies a specific tax treaty covered by the MLI by matching information from MLI Positions
- Interactive flowcharts of each substantive provision as well as an application toolkit



Languages

- English and French text authentic
- Translations being developed by individual countries and published on the OECD website (oe.cd/mli)

Signatories and Group members

Jurisdictions covered by the MLI as of 24 January 2018

Andorra	Georgia	Kingdom of the Netherlands (<i>inc. Curaçao</i>)
Argentina	Germany	New Zealand
Armenia	Greece	Nigeria
Australia	Guernsey	Norway
Austria	Hungary	Pakistan
Barbados	Iceland	Panama
Belgium	India	Poland
Bulgaria	Indonesia	Portugal
Burkina Faso	Ireland	Romania
Cameroon	Isle of Man	Russian Federation
Canada	Israel	San Marino
Chile	Italy	Senegal
China	Jamaica	Serbia
<i>(inc. Hong Kong)</i>	Japan	Seychelles
Colombia	Jersey	Singapore
Costa Rica	Korea	Slovak Republic
Côte d'Ivoire	Kuwait	Slovenia
Croatia	Latvia	South Africa
Cyprus	Liechtenstein	Spain
Czech Republic	Lithuania	Sweden
Denmark	Luxembourg	Switzerland
Egypt	Malaysia	Tunisia
Fiji	Malta	Turkey
Finland	Mauritius	United Kingdom
France	Mexico	Uruguay
Gabon	Monaco	

Other members of the ad hoc Group on the MLI

Albania	Estonia*	Peru
Algeria*	Guatemala	Philippines
Azerbaijan	Haiti	Qatar
Bahrain	Jordan	Saudi Arabia
Bangladesh	Kazakhstan*	Sri Lanka
Belize	Kenya	Sudan
Benin	Lebanon*	Swaziland*
Bermuda	Lesotho	Tanzania
Bhutan	Liberia	Thailand
Bosnia and Herzegovina	Marshall Islands	Uganda
Brazil	Mauritania	Ukraine
Brunei Darussalam	Moldova	United Arab Emirates
Democratic Republic of Congo	Mongolia	United States
Dominican Republic	Morocco	Vietnam
	Oman*	Zambia
	Papua New Guinea	Zimbabwe

Organisations participating in ad hoc Group as observers

- African Tax Administration Forum (ATAF);
- Association of Tax Authorities of Islamic Countries (ATAIC);
- Centre de rencontres et d'études des dirigeants des administrations fiscales (Credaf);
- Commonwealth Association of Tax Administrators (CATA);
- European Union (EU);
- Inter-American Centre of Tax Administrations (CIAT);
- International Monetary Fund (IMF);
- Intra-European Organisation of Tax Administrations (IOTA);
- World Bank Group (WBG)

* These jurisdictions have expressed their intent to sign the MLI.

Six questions on the MLI

How does the MLI help the fight against BEPS?

Abuse of tax treaties is an important source of base erosion and profit shifting (BEPS). The MLI helps the fight against BEPS by implementing the tax treaty-related measures developed through the BEPS Project in existing bilateral tax treaties in a synchronised and efficient manner. These measures will prevent [treaty abuse](#), improve [dispute resolution](#), prevent the artificial avoidance of [permanent establishment](#) status and neutralise the effects of [hybrid mismatch arrangements](#).

Which jurisdictions have signed up?

As of 24 January 2018, the MLI has been signed by 76 signatories, covering 78 jurisdictions. Additional jurisdictions have expressed their intention to sign the MLI, with many jurisdictions already preparing for signature of the MLI. An up-to-date list of the Signatories is available at [oe.cd/mli](#).

How will I know if an existing tax treaty is modified by the MLI?

The MLI modifies tax treaties that are “Covered Tax Agreements”. A Covered Tax Agreement is an agreement for the avoidance of double taxation that is in force between Parties to the MLI and for which both Parties have made a notification that they wish to modify the agreement using the MLI. Lists of notified tax treaties by jurisdiction can be found in the MLI Positions available at [oe.cd/mli](#).

Can Signatories opt in for certain MLI provisions later in time (after signature)?

The provisional MLI Position of each Signatory indicates the tax treaties it intends to cover, the options it has chosen and the reservations it has made. Signatories can amend their MLI Positions until ratification. Even after ratification, Parties can choose to opt in with respect to optional provisions or to withdraw reservations. For example, while 28 Signatories have chosen to apply the MLI arbitration provisions, additional Signatories can choose to apply those provisions later.

When will the modifications become effective?

Early 2019, the first modifications to covered treaties will become effective. The timing of entry into effect of the modifications is linked to the completion of the ratification procedures in the jurisdictions that are parties to the covered tax treaty.

The Signatories will inform the OECD of the completion of their ratification procedures. As the Depositary of the MLI, the OECD will be tracking ratification procedures completed by the MLI Signatories and will make available to the public all relevant information on effects of the MLI provisions.

How will the OECD provide further clarity?

The OECD Secretariat is developing tools and guidance on the MLI. Interactive flowcharts on each of the substantive MLI Articles and the MLI Toolkit on the application of the MLI (which includes a Matching Database making projections of the MLI effects) are already available at [oe.cd/mli](#).

For more Frequently Asked Questions visit [oe.cd/mli](#).



**Group photo of the Signatories participating in the
MLI Signing Ceremony held on 7 June 2017 at the OECD Headquarters in Paris**

✉ multilateralinstrument@oecd.org

🌐 <http://oe.cd/mli>

🐦 @OECDtax