

BEPS
Multilateral Instrument

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

Information Brochure

The BEPS Multi-lateral 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 1,650 treaties worldwide. In addition to saving jurisdictions from the burden of bilaterally renegotiating these treaties, the "MLI" results 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
(2006 - 2021)

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 in January 2017 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, jurisdictions 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 BEPS Multilateral Instrument (BEPS MLI) responds to this call for swift action by implementing the BEPS measures which require changes to tax treaties.

100 jurisdictions covered

around 1,850 treaties to be modified

The BEPS MLI now covers 100 jurisdictions from all continents and all levels of development. It entered into force on 1 July 2018 and started to take effect with respect to Covered Tax Agreements of jurisdictions that ratified it.

Signatories and Parties that joined the BEPS MLI identified which of their existing tax treaties they wish to modify via the BEPS MLI and which of its provisions they wish to implement. Their choices (made through notifications and reservations) are reflected in their “MLI Position” available at oe.cd/mli.

Once a tax treaty has been listed by its two treaty partners, it becomes an agreement covered by the BEPS MLI. The effects of the BEPS MLI on a specific covered agreement are drawn from the “matching” of its partners’ choices.

Current Signatories and Parties have listed over 2,900 treaties, already leading up to around 1,850 matched agreements. The number of modified tax treaties is expected to further increase as additional jurisdictions will join the BEPS MLI.

The BEPS MLI: the fastest way to strengthen tax treaties and implement the BEPS measures

The BEPS 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 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 BEPS MLI further enhances treaty-related dispute resolution mechanisms. In addition, over 30 jurisdictions decided to introduce, via the BEPS MLI, an arbitration procedure in their tax treaties, which further improves tax certainty.



BEPS MLI: From Conception to Entry into Effect

- Feb 2013** ○ **Start of the 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.
- July 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.
- Feb 2015** ○ **Start BEPS 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.
- Nov 2016** ○ **Adoption of BEPS 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 BEPS MLI as well as its accompanying [Explanatory Statement](#).
- June 2017** ○ **First high-level signing ceremony** with 76 governments participating

 - On 7 June 2017, a high-level signing ceremony took place in Paris.
- Ongoing** ○ **Additional jurisdictions sign the BEPS MLI**

 - The BEPS MLI remains open for signature. Around 25 jurisdictions joined the BEPS MLI since the first signing ceremony and more are expected to follow.
- 2017 onwards** ○ **Ratification of the BEPS MLI** after completing domestic procedures

 - Following the signature of the BEPS MLI, each Signatory must ratify the BEPS MLI in accordance with their domestic procedures and deposit its instrument of ratification with the Depository. Only then could the BEPS MLI start take effect with respect to certain Covered Tax Agreements.
- July 2018** ○ **Entry into force of the BEPS MLI** on 1 July 2018

 - As of that day, the BEPS MLI begins its legal existence.
 - The BEPS MLI also enters into force with respect to each of its Parties on the first day of the month following three calendar months after the deposit of their instrument of ratification, acceptance or approval.
- 2019 onwards** ○ **Entry into effect of the BEPS MLI** for Covered Tax Agreements

 - The BEPS MLI started to take effect with respect to some Covered Tax Agreements of Parties (i.e. jurisdictions that ratified the BEPS MLI). Detailed rules on the entry into effect of the BEPS MLI are found in Articles 35 and 36 of the BEPS MLI.

- 2019 onwards** **Parties are preparing synthesised texts of their tax treaties as modified by the BEPS MLI**
- Synthesised texts would take the form of a single document or webpage. It would reproduce (a) the text of each Covered Tax Agreement (including the texts of any amending protocols or similar instruments), and (b) the provisions of the BEPS MLI that will modify that Covered Tax Agreement in the light of the interaction of the BEPS MLI positions the Parties have taken. Synthesised texts would also include explanatory information, including information on the entry into effect of the relevant provisions of the BEPS MLI. Synthesised texts would thereby make it much simpler to understand the effects of the BEPS MLI and the way it modifies each Covered Tax Agreement.
- 2019 onwards** **Conference of the Parties of the BEPS MLI**
- Parties to the BEPS MLI may convene a Conference of the Parties for the purposes of taking any decisions or exercising any functions as may be required or appropriate under the provisions of the BEPS MLI. This could include a Conference of the Parties to address questions of interpretation or implementation of the BEPS MLI as foreseen in Article 32(2) or to consider a possible amendment to the MLI as foreseen in Article 33(2).
- The meetings of the Conference of the Parties are held on a regular basis.
- Ongoing** **Parties are expanding the coverage of the BEPS MLI**
- Some Parties to the BEPS MLI update their MLI Positions to expand the coverage of the application of the BEPS MLI by notifying additional tax treaties to be modified by the BEPS MLI, adopting more optional provisions, or replacing or withdrawing reservations.
- Oct 2022** **100 jurisdictions joined the BEPS MLI**
- As per October 2022, 100 jurisdictions have joined the BEPS MLI which now covers around 1850 bilateral tax treaties. This represents an important milestone in the implementation of treaty-related BEPS measures and the strengthening of the global tax treaty network.

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 and ratified by developed and developing economies around the world



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

- Signatories and Parties can choose tax treaties to be modified by the BEPS MLI
- Signatories and 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 reserve their right not to apply 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 a BEPS concern



Clarity & Transparency

- Explanatory Statement and additional materials available
- Notifications of Covered Tax Agreements, reservations, options and affected existing provisions (MLI Positions) to identify modifications to treaties covered by the BEPS MLI (available on the OECD website)
- BEPS MLI Matching Database that shows how the BEPS MLI modifies specific tax treaties covered by the BEPS MLI by matching information from MLI Positions
- Synthesised texts of treaties modified by the BEPS MLI prepared and published by Signatories and Parties
- Notes on the interpretation of the BEPS MLI developed by the Conference of the Parties



Languages

- English and French text authentic
- Translations developed by individual Signatories and Parties are published on the OECD website (<http://oe.cd/mli>)

Signatories and Parties

Jurisdictions covered by the BEPS MLI as of 1 January 2023

Albania	Germany	New Zealand
Andorra	Greece	Nigeria
Argentina	Guernsey	North Macedonia
Armenia	Hungary	Norway
Australia	Iceland	Oman
Austria	India	Pakistan
Bahrain	Indonesia	Panama
Barbados	Ireland	Papua New Guinea
Belgium	Isle of Man	Peru
Belize	Israel	Poland
Bosnia and Herzegovina	Italy	Portugal
Bulgaria	Jamaica	Qatar
Burkina Faso	Japan	Romania
Cameroon	Jersey	Russian Federation
Canada	Jordan	San Marino
Chile	Kazakhstan	Saudi Arabia
China (<i>inc. Hong Kong</i>)	Kenya	Senegal
Colombia	Korea	Serbia
Costa Rica	Kuwait	Seychelles
Côte d'Ivoire	Latvia	Singapore
Croatia	Lesotho	Slovak Republic
Cyprus	Liechtenstein	Slovenia
Czech Republic	Lithuania	South Africa
Denmark	Luxembourg	Spain
Egypt	Malaysia	Sweden
Estonia	Malta	Switzerland
Fiji	Mauritius	Thailand
Finland	Mexico	Tunisia
France	Monaco	Türkiye
Gabon	Mongolia	Ukraine
Georgia	Morocco	United Arab Emirates
	Namibia	United Kingdom
	Kingdom of the Netherlands (<i>inc. Curaçao</i>)	Uruguay
		Viet Nam

Questions on the BEPS MLI

How does the BEPS MLI help the fight against BEPS?

Abuse of tax treaties is an important source of base erosion and profit shifting (BEPS). The BEPS MLI helps the fight against BEPS by implementing the tax treaty-related measures developed through the BEPS Project in existing tax treaties in a synchronised and efficient manner. These measures 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 1 January 2023, the BEPS MLI covers 100 jurisdictions. An updated list of Signatories and Parties, which includes links to MLI Positions submitted upon signature and ratification or to notifications made after becoming a Party to the BEPS MLI, is available at <http://oe.cd/mli>.

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

The BEPS MLI modifies treaties that are “Covered Tax Agreements”. A Covered Tax Agreement is a treaty for the avoidance of double taxation that is in force between Parties to the BEPS MLI and for which each Parties have made a notification that they wish to modify the agreement in their MLI Position. Lists of notified agreements by jurisdictions can be found in MLI Positions at <http://oe.cd/mli>.

Can Parties change their MLI Position later in time (after ratification)?

MLI Positions contain lists of tax treaties Signatories and Parties wish to cover under the BEPS MLI and information of the BEPS MLI provisions adopted (options chosen and reservations made not to apply provisions). Signatories can entirely change the MLI Position submitted upon signature until the deposit of the instrument of ratification. After ratification, Parties can partially change their MLI Position. In particular, they can identify more treaties to be modified by the BEPS MLI, adopt optional provisions or replace or withdraw reservations.

When do the modifications become effective?

As of 1 January 2019, the first modifications to some Covered Tax Agreements became effective. The BEPS MLI provisions could take effect at different moments for each Covered Tax Agreement: it takes effect following a period provided in the BEPS MLI, once each Contracting Jurisdictions to a Covered Tax Agreement deposit their instrument of ratification, acceptance or approval.

Article 35 sets out the general rules on the entry into effect and divides modifications into two categories based on the type of taxation to which they apply (provisions of the BEPS MLI with respect to taxes withheld at source on amounts paid or credited to non-residents and provisions of the BEPS MLI with respect to all other taxes levied).

How will the OECD provide further clarity?

The OECD Secretariat developed a toolkit on the application of the BEPS MLI (which includes a Matching Database making projections of the BEPS MLI effects), which is available at <http://oe.cd/mli>.

The OECD Secretariat also published guidance for the development of synthesised texts to help jurisdictions to prepare synthesised texts of their Covered Tax Agreements.

Interpretation notes of the BEPS MLI developed by the Conference of the Parties could also soon be available on the OECD website.

For more Frequently Asked Questions visit <http://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**

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🌐 <http://oe.cd/mli>

🐦 @OECDtax