United States

A. Progress in the implementation of the minimum standard

The United States has 66 tax agreements in force as reported in its response to the Peer Review questionnaire. None of those agreements comply with the minimum standard.

The United States made a general statement in its response to the Peer Review questionnaire that it intends to implement a detailed LOB rule as part of its commitment to implement the minimum standard in all of its bilateral agreements. The detailed LOB is not available through the MLI and requires substantive bilateral discussions and modifications with respect to each treaty.

The United States has implemented LOB clauses in most of its agreements. It started to include anti-treaty-shopping measures in 1962,[164] and since the seventies, LOB clauses (which initially targeted investment or holding companies) have appeared in agreements concluded by the United States. All of the United States' agreements are supplemented by its domestic anti-conduit regulations.[165]

The 2016 US Model Convention contains an express statement that the tax treaty should not create opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third states).

The United States' agreements with the following 45 jurisdictions contain an LOB rule and are supplemented by domestic anti-conduit rules: Australia, Austria, Bangladesh*, Barbados, Belgium, Bulgaria, Canada, China (People's Republic of), Cyprus*, Czech Republic, Denmark, Estonia, Finland, France, Germany, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Portugal, Russian Federation, the Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Ukraine, Venezuela*. Signed conventions with Hungary and Poland contain an LOB rule and are supplemented by domestic anti-conduit rules. The agreements with Egypt, Korea, Morocco, Norway, and Trinidad and Tobago have a limited anti-treaty shopping rule and are supplemented by domestic anti-conduit rules. The agreement with the United Kingdom contains an LOB and anti-conduit rules and is supplemented by domestic anti-conduit rules.

B. Conclusion

No jurisdiction has raised any concerns about their agreements with the United States.

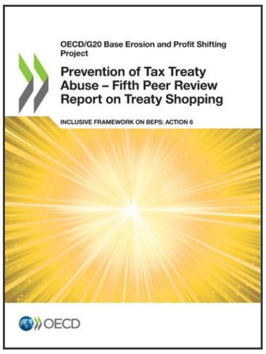
[164] With respect to the United States' agreement with Luxembourg.

[165] See I.R.C. §7701(l), added to the Internal Revenue Code by section 13238 of the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66 (allowing the Internal Revenue Service to re-characterise any multiple-party financing transaction as being a transaction directly among any two or more of its parties whenever appropriate to prevent the avoidance of the United States' tax); Treas. Reg. § 1.881-3 (as amended in 2020) (providing additional guidance relating to conduit financing arrangements). In addition, the United States has judicial doctrines such as substance-over-form and economic substance that may achieve a similar result in addressing conduit arrangements.

Summary of the jurisdiction response – United States

	1.Treaty partners	2. Compliance with the standard	3. Signature of a complying instrument	4. Minimum standard provision used
1	Armenia	No	No	
2	Australia	No	No	
3	Austria	No	No	
4	Azerbaijan*	No	No	
5	Bangladesh*	No	No	
6	Barbados	No	No	
7	Belarus	No	No	
8	Belgium	No	No	
9	Bulgaria	No	No	
10	Canada	No	No	
11	China (People's Republic of)	No	No	
12	Cyprus*	No	No	
13	Czech Republic	No	No	
14	Denmark	No	No	
15	Egypt	No	No	
16	Estonia	No	No	
17	Finland	No	No	
18	France	No	No	
19	Georgia	No	No	
20	Germany	No	No	
21	Greece	No	No	
22	Hungary	No	No	
23	Iceland	No	No	
24	India	No	No	
25	Indonesia	No	No	
26	Ireland	No	No	
27	Israel	No	No	
28	Italy	No	No	
29	Jamaica	No	No	
30	Japan	No	No	
31	Kazakhstan	No	No	
32	Korea	No	No	
33	Kyrgyzstan*	No	No	
34	Latvia	No	No	
35	Lithuania	No	No	
36	Luxembourg	No	No	
37	Malta	No	No	
38	Mexico	No	No	
39	Moldova*	No	No	
40	Morocco	No	No	
41	Netherlands	No	No	
42	New Zealand	No	No	
43	Norway	No	No	
44	Pakistan	No	No	
45	Philippines*	No	No	
46	Poland	No	No	
47	Portugal	No	No	
48	Romania	No	No	
49	Russian Federation	No	No	

50	Slovak Republic	No	No	
51	Slovenia	No	No	
52	South Africa	No	No	
53	Spain	No	No	
54	Sri Lanka	No	No	
55	Sweden	No	No	
56	Switzerland	No	No	
57	Tajikistan*	No	No	
58	Thailand	No	No	
59	Trinidad and Tobago	No	No	
60	Tunisia	No	No	
61	Türkiye	No	No	
62	Turkmenistan*	No	No	
63	Ukraine	No	No	
64	United Kingdom	No	No	
65	Uzbekistan*	No	No	
66	Venezuela*	No	No	



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