

Germany

A. Progress in the implementation of the minimum standard

Germany has 94 tax agreements in force as reported in its response to the Peer Review questionnaire. Twelve of those agreements, comply with the minimum standard.

Germany signed the MLI in 2017 and deposited its instrument of ratification on 18 December 2020, listing 14 of its agreements in force at that time. The MLI entered into force for Germany on 1 April 2021. The agreements modified by the MLI come into compliance with the minimum standard once the provisions of the MLI take effect.

Germany reserved the right to delay the entry into effect of the provisions of the MLI until Germany has completed its internal procedures for this purpose with respect to each of its listed agreements.⁶⁰ Germany has not yet notified that it completed its internal procedures for the entry into effect of the MLI with respect to any of its agreements.

Germany has not listed its agreements under the MLI with Albania, Argentina, Armenia, Belgium, Belarus, Bosnia-Herzegovina, Canada, China (People's Republic of), Costa Rica, Côte d'Ivoire, Egypt, Georgia, Iceland, India, Indonesia, Israel, Jamaica, Kazakhstan, Kenya, Korea, Liberia, Malaysia, Mongolia, Montenegro, Morocco, Namibia, New Zealand, North Macedonia, Norway, Pakistan, Poland, Portugal, the Russian Federation, Serbia, Slovenia, South Africa, Sri Lanka, Switzerland, Thailand, Tunisia, Ukraine, Uruguay, Viet Nam and Zambia. These agreements will therefore not, at this stage, be modified under the MLI. Albania, Armenia, Bosnia-Herzegovina, China (People's Republic of), Côte d'Ivoire, Egypt, India, Jamaica, Kazakhstan, Malaysia, Morocco, Mongolia, Namibia, New Zealand, North Macedonia, Pakistan, Portugal, Serbia, Thailand, Tunisia, Ukraine, Uruguay and Viet Nam have listed their agreements with Germany under the MLI.

Germany indicated in its response to the Peer Review questionnaire that steps have been taken (other than under the MLI) to implement the minimum standard in its agreements with Albania, Argentina, Armenia, Bangladesh*, Belgium, Bolivia*, Bosnia-Herzegovina, Canada, China (People's Republic of), Costa Rica, Côte d'Ivoire, Ecuador*, Egypt, Iceland, India, Indonesia, Iran*, Israel, Jamaica, Kazakhstan, Kenya, Korea, Kosovo*, Kuwait, Liberia, Malaysia, Mongolia, Montenegro, Morocco, Namibia, New Zealand, Norway, Pakistan, Poland, Portugal, the Russian Federation, Serbia, Slovenia, South Africa, Sri Lanka, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Ukraine, Uruguay and Viet Nam.

Germany has signed a bilateral complying instrument with respect to its agreements with Bulgaria, Latvia, Lithuania, Mexico⁶¹ and Sweden.

Germany indicated in its response to the Peer Review questionnaire that the agreement with Zambia does not give rise to material treaty-shopping concerns for Germany, noting the application of German domestic anti-abuse provisions such as Section 42 of the German Fiscal Code (GAAR) or in Section 50d para. 3 of the German Income Tax Act (anti-conduit rule), which permits the proportionate denial of tax treaty benefits to companies with non-eligible shareholders. Germany further indicated that the agreements with Azerbaijan, Belarus, Georgia, and North Macedonia do not give rise to material treaty-shopping concerns for Germany, because they contain a general reservation for the application of domestic anti-abuse provisions such as the two sections mentioned above and the CFC-legislation.

⁶⁰ The reservation was made under Article 35(7)(a) of the MLI.

⁶¹ The bilateral complying instrument with respect to the agreement with Mexico entered into force on 6 August 2023.

Germany is implementing the minimum standard through the inclusion of the preamble statement and the PPT.⁶²

B. Conclusion

Albania, Armenia, Bosnia-Herzegovina, China (People's Republic of), Côte d'Ivoire, Egypt, India, Jamaica, Kazakhstan, Malaysia, Morocco, Mongolia, Namibia, New Zealand, North Macedonia, Pakistan, Portugal, Serbia, Thailand, Tunisia, Ukraine, Uruguay and Viet Nam have listed their agreement with Germany under the MLI, which amount to requests to implement the minimum standard.

Recommendations

It is recommended that Germany completes the steps to have the MLI take effect with respect to its agreements listed under the MLI as those agreements will only be modified by the MLI (and come into compliance with the minimum standard) once the provisions of the MLI take effect.

Summary of the jurisdiction response – Germany

	1. Treaty partners	2. Compliance with the standard	3. Signature of a complying instrument	4. Minimum standard provision used
1	Albania	No	No	
2	Argentina	No	No	
3	Armenia	No	No	
4	Australia	Yes other		PPT
5	Austria	No	Yes MLI	PPT
6	Bangladesh*	No	No	
7	Belgium	No	No	
8	Bolivia*	No	No	
9	Bosnia-Herzegovina	No	No	
10	Bulgaria	No	Yes other	
11	Canada	No	No	
12	China (People's Republic of)	No	No	
13	Costa Rica	No	No	
14	Côte d'Ivoire	No	No	
15	Croatia	No	Yes MLI	PPT
16	Cyprus*	Yes other		PPT
17	Czechia	No	Yes MLI	PPT
18	Denmark	Yes other		PPT
19	Ecuador*	No	No	
20	Egypt	No	No	

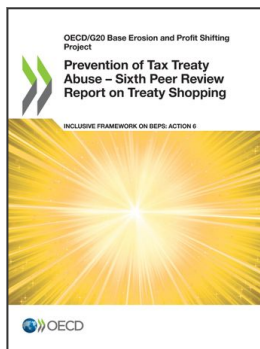
⁶² For its agreements listed under the MLI, Germany is implementing the preamble statement (Article 6 of the MLI) and the PPT (Article 7 of the MLI). Germany has made a reservation pursuant to Article 6(4) of the MLI not to apply Article 6(1) of the MLI with respect to agreements that already contain the relevant preamble language (covering one agreement). Germany has also made a reservation pursuant to 7(15)(b) of the MLI not to apply Article 7(1) of the MLI with respect to agreements which already contain a PPT (covering one agreement).

21	Estonia	Yes other		PPT
22	Finland	Yes other		PPT
23	France	No	Yes MLI	PPT
24	Greece	No	Yes MLI	PPT
25	Hungary	No	Yes MLI	PPT
26	Iceland	No	No	
27	India	No	No	
28	Indonesia	No	No	
29	Iran*	No	No	
30	Ireland	Yes other		PPT
31	Israel	No	No	
32	Italy	No	Yes MLI	PPT
33	Jamaica	No	No	
34	Japan	Yes other		PPT+LOB
35	Kazakhstan	No	No	
36	Kenya	No	No	
37	Korea	No	No	
38	Kosovo*	No	No	
39	Kuwait	No	No	
40	Latvia	No	Yes other	
41	Liberia	No	No	
42	Liechtenstein	Yes other		PPT
43	Lithuania	No	Yes other	
44	Luxembourg	No	Yes MLI	PPT
45	Malaysia	No	No	
46	Malta	No	Yes MLI	PPT
47	Mauritius	Yes other		PPT
48	Mexico	No	Yes other	PPT
49	Mongolia	No	No	
50	Montenegro	No	No	
51	Morocco	No	No	
52	Namibia	No	No	
53	Netherlands	Yes other		PPT
54	New Zealand	No	No	
55	Norway	No	No	
56	Pakistan	No	No	
57	Poland	No	No	
58	Portugal	No	No	
59	Romania	No	No	PPT
60	Russian Federation	No	No	
61	Serbia	No	No	
62	Singapore	Yes other		PPT
63	Slovak Republic	No	Yes MLI	PPT
64	Slovenia	No	No	
65	South Africa	No	No	
66	Spain	No	Yes MLI	PPT
67	Sri Lanka	No	No	
68	Sweden	No	Yes other	PPT
69	Switzerland	No	No	PPT
70	Thailand	No	No	
71	Trinidad and Tobago	No	No	
72	Tunisia	No	No	
73	Türkiye	No	Yes MLI	PPT

74	Ukraine	No	No	
75	United Kingdom	Yes other		PPT
76	United States	No	No	D-LOB
77	Uruguay	No	No	
78	Viet Nam	No	No	

Other agreements

	1. Treaty partners	2. Inclusive Framework member
1	Algeria*	No
2	Azerbaijan	Yes
3	Belarus	Yes
4	Georgia	Yes
5	Ghana*	No
6	Kyrgyzstan*	No
7	Moldova*	No
8	North Macedonia	Yes
9	Philippines	Yes
10	Syrian Arab Republic*	No
11	Tajikistan*	No
12	Turkmenistan*	No
13	Uzbekistan	Yes
14	Venezuela*	No
15	Zambia	Yes
16	Zimbabwe*	No



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