

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. Ten 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.⁶⁹ 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, Bulgaria, Canada, China (People's Republic of), Costa Rica, Côte d'Ivoire, Egypt, Georgia, Iceland, India, Indonesia, Israel, Jamaica, Kazakhstan, Kenya, Korea, Latvia, Liberia, Lithuania, Malaysia, Mauritius, Mexico, Mongolia, Montenegro, Morocco, Namibia, the Netherlands, New Zealand, North Macedonia, Norway, Pakistan, Poland, Portugal, the Russian Federation, Serbia, Slovenia, South Africa, Sri Lanka, Sweden, 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, Lithuania, Malaysia, Mauritius, Mexico, Morocco, Namibia, the Netherlands, New Zealand, North Macedonia, Pakistan, Portugal, Serbia, Thailand, Tunisia, Ukraine, Uruguay and Viet Nam have listed their agreements with Germany under the MLI.

Germany has signed a bilateral complying instrument with respect to its agreements with Mauritius, Mexico and the Netherlands.

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, Belgium, Bolivia*, Bosnia-Herzegovina, Bulgaria, Canada, China (People's Republic of), Costa Rica, Côte d'Ivoire, Ecuador*, Egypt, Iceland, India, Indonesia, Iran*, Israel, Jamaica, Kazakhstan, Kenya, Korea, Kosovo*, Kuwait*, Latvia, Liberia, Lithuania, Malaysia, Mongolia, Morocco, Namibia, New Zealand, Norway, Pakistan, Poland, Portugal, the Russian Federation, Serbia, Slovenia, South Africa, Sri Lanka, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Ukraine, Uruguay and Viet Nam.

Germany indicated in its response to the Peer Review questionnaire that the agreements with Montenegro and Zambia do 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 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.

⁶⁹ The reservation was made under Article 35(7)(a) of the MLI.

Germany is implementing the minimum standard through the inclusion of the preamble statement and the PPT.⁷⁰

B. Conclusion

Albania, Armenia, Bosnia-Herzegovina, China (People's Republic of), Côte d'Ivoire, Egypt, India, Jamaica, Kazakhstan, Lithuania, Malaysia, Morocco, 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	Belgium	No	No	
7	Bolivia*	No	No	
8	Bosnia-Herzegovina	No	No	
9	Bulgaria	No	No	
10	Canada	No	No	
11	China (People's Republic of)	No	No	
12	Costa Rica	No	No	
13	Côte d'Ivoire	No	No	
14	Croatia	No	Yes MLI	PPT
15	Cyprus*	Yes other		PPT
16	Czech Republic	No	Yes MLI	PPT
17	Denmark	Yes other		PPT
18	Ecuador*	No	No	
19	Egypt	No	No	
20	Estonia	Yes other		PPT

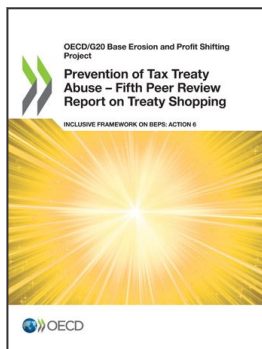
⁷⁰ For its agreements listed under the MLI, Germany is implementing the preamble statement (Article 6 of the MLI) and the PPT (Article 7 of the MLI). Germany has made a reservation pursuant to Article 6(4) of the MLI not to apply Article 6(1) of the MLI with respect to agreements that already contain 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	Finland	Yes other		PPT
22	France	No	Yes MLI	PPT
23	Greece	No	Yes MLI	PPT
24	Hungary	No	Yes MLI	PPT
25	Iceland	No	No	
26	India	No	No	
27	Indonesia	No	No	
28	Iran*	No	No	
29	Ireland	Yes other		PPT
30	Israel	No	No	
31	Italy	No	Yes MLI	PPT
32	Jamaica	No	No	
33	Japan	Yes other		PPT+LOB
34	Kazakhstan	No	No	
35	Kenya	No	No	
36	Korea	No	No	
37	Kosovo*	No	No	
38	Kuwait*	No	No	
39	Latvia	No	No	
40	Liberia	No	No	
41	Liechtenstein	Yes other		PPT
42	Lithuania	No	No	
43	Luxembourg	No	Yes MLI	PPT
44	Malaysia	No	No	
45	Malta	No	Yes MLI	PPT
46	Mauritius	No	Yes other	PPT
47	Mexico	No	Yes other	PPT
48	Mongolia	No	No	
49	Morocco	No	No	
50	Namibia	No	No	
51	Netherlands	No	Yes other	PPT
52	New Zealand	No	No	
53	Norway	No	No	
54	Pakistan	No	No	
55	Poland	No	No	
56	Portugal	No	No	
57	Romania	No	No	PPT
58	Russian Federation	No	No	
59	Serbia	No	No	
60	Singapore	Yes other		PPT
61	Slovak Republic	No	Yes MLI	PPT
62	Slovenia	No	No	
63	South Africa	No	No	
64	Spain	No	Yes MLI	PPT
65	Sri Lanka	No	No	
66	Sweden	No	No	
67	Switzerland	No	No	PPT
68	Thailand	No	No	
69	Trinidad and Tobago	No	No	
70	Tunisia	No	No	
71	Türkiye	No	Yes MLI	PPT
72	Ukraine	No	No	
73	United Kingdom	Yes other		PPT
74	United States	No	No	D-LOB

75	Uruguay	No	No	
76	Viet Nam	No	No	

Other agreements

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



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