

## TEMPLATE RESERVATIONS AND NOTIFICATIONS UNDER THE MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING

This document contains the template to formulate Draft MLI Position of reservations and notifications under the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting to ensure that jurisdictions make their reservations and notifications in accordance with the provisions of the Convention and in a harmonised manner.

Draft MLI Position (completed template) should be submitted to the MLI Secretariat for technical review by 7 April 2017 as indicated in the [Roadmap to MLI Signature](#).

Please contact the MLI Secretariat if there is a need to customise the language of the template. Each jurisdiction is encouraged to use the [Checklist for Producing Notifications](#) while finalising its notification.

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## **INDEPENDENT STATE OF PAPUA NEW GUINEA**

### **Status of List of Reservations and Notifications at the Time of Signature**

This document contains a provisional list of expected reservations and notifications to be made by Papua New Guinea pursuant to Articles 28(7) and 29(4) of the Convention.

**Article 2 – Interpretation of Terms****Notification - Agreements Covered by the Convention**

Pursuant to Article 2(1) (a) (ii) of the Convention, Papua New Guinea wishes the following agreement(s) to be covered by the Convention:

No	Title	Other Contracting Jurisdiction	Original/ Amending Instrument	Date of Signature	Date of Entry into Force
1	AGREEMENT BETWEEN AUSTRALIA AND THE INDEPENDENT STATE OF PAPUA NEW GUINEA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	Australia	Original	24-05-1989	29-12-1989
2	AGREEMENT BETWEEN CANADA AND PAPUA NEW GUINEA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT OF TAXES ON INCOME	Canada	Original	16-10-1987	21-12-1989
3	AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	China	Original	14-07-1994	16-08-1995
4	AGREEMENT BETWEEN THE GOVERNMENT OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA AND THE GOVERNMENT OF THE REPUBLIC OF FIJI FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	Fiji	Original	29-04-1998	01-01-1999

6	AGREEMENT BETWEEN THE GOVERNMENT OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	Indonesia	Original	12-03-2010	01-01-2015
7	AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KOREA AND THE GOVERNMENT OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	Korea	Original	23-11-1996	21-04-1998
8	AGREEMENT BETWEEN THE GOVERNMENT OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA AND THE GOVERNMENT OF MALAYSIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	Malaysia	Original	20-05-1993	11-06-1999
9	AGREEMENT BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	New Zealand	Original	29-10-2012	21-01-2014
10	AGREEMENT BETWEEN THE GOVERNMENT OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	Singapore	Original	19-10-1991	20-11-1992

11	CONVENTION BETWEEN THE GOVERNMENT OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	United Kingdom	Original	17-09-1991	20-12-1991
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## Article 4 – Dual Resident Entities

### Reservation

Pursuant to Article 4(3) (e) of the Convention, Papua New Guinea reserves the right to replace the last sentence of Article 4(1) with the following text for the purposes of its Covered Tax Agreements: “In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by the Covered Tax Agreement.”

### Notification of Existing Provisions in Listed Agreements

Pursuant to Article 4(4) of the Convention, Papua New Guinea considers that the following agreements contain a provision described in Article 4(2) that is not subject to a reservation under Article 4(3) (b) through (d). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Australia	Article 4(4) and (5)
2	Canada	Article 4(3) and (4)
3	China	Article 4(4)
4	Fiji	Article 4(3)
6	Indonesia	Article 4(3)
7	Korea	Article 4(3)
8	Malaysia	Article 4(3)
9	New Zealand	Article 4(3)
10	Singapore	Article 4(3)
11	United Kingdom	Article 4(4) and (5)

## Article 6 – Purpose of a Covered Tax Agreement

### Notification of Choice of Optional Provisions

Pursuant to Article 6(6) of the Convention, Papua New Guinea hereby chooses to apply Article 6(3).

### Notification of Existing Preamble Language in Listed Agreements

Pursuant to Article 6(5) of the Convention, Papua New Guinea considers that the following agreements are not within the scope of a reservation under Article 6(4) and contain preamble language described in Article 6(2). The text of the relevant preambular paragraph is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Preamble Text <sup>1</sup>
1	Australia	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
2	Canada	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
3	China	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
4	Fiji	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
6	Indonesia	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
7	Korea	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
8	Malaysia	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
9	New Zealand	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
10	Singapore	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
11	United Kingdom	Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

### Notification of Listed Agreements Not Containing Existing Preamble Language

<sup>1</sup> The preamble text would be inserted on a preambular paragraph basis. Where the relevant preambular paragraph also includes text that is not described in Article 6(2) (with the exception of minor variations), each jurisdiction may clarify that by bracketing such text (like the example in this column) so that it would not be modified by Article 6(1).

Pursuant to Article 6(6) of the Convention, Papua New Guinea considers that the following agreements do not contain preamble language referring to a desire to develop an economic relationship or to enhance co-operation in tax matters.

Listed Agreement Number	Other Contracting Jurisdiction
1	Australia
2	Canada
3	China
4	Fiji
6	Indonesia
7	Korea
8	Malaysia
9	New Zealand
10	Singapore
11	United Kingdom

## Article 7 – Prevention of Treaty Abuse

### Notification of Choice of Optional Provisions

Pursuant to Article 7(17)(b) of the Convention, Papua New Guinea hereby chooses to apply Article 7(4).

### Notification of Exsiting Provisions in Listed Agreements

Pursuant to Article 7(17)(a) of the Convention, Papua New Guinea considers that the following agreements are not subject to a reservation under Article 7(15)(b) and contain a provision described in Article 7(2). The article and paragraph number of each such provision is listed below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
7	Korea	Article 11(9)
8	Malaysia	Article 11(10)
9	New Zealand	Article 11(9)
11	United Kingdom	Article 12(10)



## **Article 8 – Dividend Transfer Transactions**

### **Reservation**

Pursuant to Article 8(3)(a) of the Convention, Papua New Guinea reserves the right for the entirety of Article 8 not to apply to its Covered Tax Agreements.

## **Article 9 – Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property**

### **Reservation**

Pursuant to Article 9(6) (a) of the Convention, Papua New Guinea reserves the right for Article 9(1) not to apply to its Covered Tax Agreements.

### **Notification of Choice of Optional Provisions**

Pursuant to Article 9(8) of the Convention, Papua New Guinea hereby chooses to apply Article 9(4).

### **Notification of Existing Provisions in Listed Agreements**

Pursuant to Article 9(8) of the Convention, Papua New Guinea considers that the following agreement(s) contain(s) a provision described in Article 9(5). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Australia	Article 13(4)
2	Canada	Article 13(1)(b)
3	China	Article 13 (4)
6	Indonesia	Article 14(1)
9	New Zealand	Article 13 (4)
10	Singapore	Article 13(4)

**Article 10 – Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions**

**Reservation**

Pursuant to Article 10(5) (a) of the Convention, Papua New Guinea reserves the right for the entirety of Article 10 not to apply to its Covered Tax Agreements.

## **Article 11 – Application of Tax Agreements to Restrict a Party’s Right to Tax its Own Residents**

### **Reservation**

Pursuant to Article 11(3) (a) of the Convention, Papua New Guinea reserves the right for the entirety of Article 11 not to apply to its Covered Tax Agreements.

## Article 12 – Artificial Avoidance of Permanent Establishment Status through Commissionaire Arrangements and Similar Strategies

### Notification of Existing Provisions in Listed Agreements

Pursuant to Article 12(5) of the Convention, Papua New Guinea considers that the following agreement(s) contain(s) a provision described in Article 12(3) (a). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Australia	Article 5(5)(a)
2	Canada	Article 5(5)(a)
3	China	Article 5(5)(a)
4	Fiji	Article 5(5)(a)
6	Indonesia	Article 5(5)(a)
7	Korea	Article 5(6)
8	Malaysia	Article 5(5)(a)
9	New Zealand	Article 5(7)(a)
10	Singapore	Article 5(5)(a)
11	United Kingdom	Article 5(6)(a)

Pursuant to Article 12(6) of the Convention, Papua New Guinea considers that the following agreement(s) contain a provision described in Article 12(3) (b). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Australia	Article 5 (6)
2	Canada	Article 5 (6)(a)
3	China	Article 5 (6)
4	Fiji	Article 5 (6)
6	Indonesia	Article 5 (6)
7	Korea	Article 5 (7)
8	Malaysia	Article 5 (6)
9	New Zealand	Article 5 (8)
10	Singapore	Article 5 (6)
11	United Kingdom	Article 5 (7)

## **Article 13 – Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions**

### **Notification of Choice of Optional Provisions**

Pursuant to Article 13(7) of the Convention, Papua New Guinea hereby chooses to apply Option A under Article 13(1).

### **Notification of Existing Provisions in Listed Agreements**

Pursuant to Article 13(7) of the Convention, Papua New Guinea considers that the following agreements contain a provision described in Article 13(5) (a). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Australia	Article 5(3)
2	Canada	Article 5(3)
3	China	Article 5(4)
4	Fiji	Article 5(4)
6	Indonesia	Article 5(4)
7	Republic of Korea	Article 5(5)
8	Malaysia	Article 5(4)
9	New Zealand	Article 5(6)
10	Singapore	Article 5(3)
11	United Kingdom	Article 5(5)

**Article 16 – Mutual Agreement Procedure****Notification of Existing Provisions in Listed Agreements**

Pursuant to Article 16(6) (a) of the Convention, Papua New Guinea considers that the following agreement(s) contain(s) a provision described in Article 16(4) (a) (i). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Australia	Article 24(1), first sentence
2	Canada	Article 24(1), first sentence
3	People's Republic of China	Article 25(1), first sentence
4	Fiji	Article 25(1), first sentence
6	Republic of Indonesia	Article 26(1), first sentence
7	Republic of Korea	Article 25(1), first sentence
8	Malaysia	Article 26(1), first sentence
9	New Zealand	Article 23(1), first sentence
10	Republic of Singapore	Article 26(1), first sentence
11	United Kingdom of Great Britain and Northern Ireland	Article 26(1)

Pursuant to Article 16(6) (b) (i) of the Convention, Papua New Guinea considers that the following agreement(s) contain(s) a provision that provides that a case referred to in the first sentence of Article 16(1) must be presented within a specific time period that is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
2	Canada	Article 24(1), second sentence

Pursuant to Article 16(6) (b) (ii) of the Convention, Papua New Guinea considers that the following agreement(s) contain(s) a provision that provides that a case referred to in the first sentence of Article 16(1) must be presented within a specific time period that is at least three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Australia	Article 24(1), second sentence
3	People's Republic of China	Article 25(1), second sentence
4	Republic of Fiji	Article 25(1), second sentence
6	Republic of Indonesia	Article 26(1), second sentence
7	Republic of Korea	Article 25(1), second sentence
8	Malaysia	Article 26(1), second sentence
9	New Zealand	Article 23(1), second sentence
10	Republic of Singapore	Article 26(1), second sentence

**Notification of Listed Agreements Not Containing Existing Provisions**

Pursuant to Article 16(6) (c) (ii) of the Convention, Papua New Guinea considers that the following agreement(s) do(es) not contain a provision described in Article 16(4)(b)(ii).

Listed Agreement Number	Other Contracting Jurisdiction
2	Canada
4	Republic of Fiji
6	Republic of Indonesia
7	Republic of Korea
8	Malaysia
11	United Kingdom of Great Britain and Northern Ireland

Pursuant to Article 16(6)(d)(ii) of the Convention, Papua New Guinea considers that the following agreement(s) do(es) not contain a provision described in Article 16(4)(c)(ii).

Listed Agreement Number	Other Contracting Jurisdiction
1	Australia
4	Republic of Fiji
8	Malaysia
11	United Kingdom of Great Britain and Northern Ireland



## **Article 17 – Corresponding Adjustments**

### **Reservation**

Pursuant to Article 17(3) (b) of the Convention, Papua New Guinea reserves the right for the entirety of Article 17 not to apply to its Covered Tax Agreements on the basis that in the absence of a provision referred to in Article 17(2) in its Covered Tax Agreement:

- i) it shall make the appropriate adjustment referred to in Article 17(1); or
- ii) its competent authority shall endeavour to resolve the case under the provisions of a Covered Tax Agreement relating to mutual agreement procedure.

**Article 18 – Choice to Apply Part VI**

**Notification of Choice of Optional Provisions**

Pursuant to Article 18 of the Convention, Papua New Guinea hereby chooses to apply Part VI.

## **Article 19 – Mandatory Binding Arbitration**

### **Reservation**

Pursuant to Article 19(12) of the Convention, Papua New Guinea reserves the right for the following rules to apply with respect to its Covered Tax Agreements notwithstanding the other provisions of Article 19:

- a) Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by the Convention shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either Contracting Jurisdiction;
- b) If, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting Jurisdictions, a decision concerning the issue is rendered by a court of administrative tribunal of one of the Contracting Jurisdictions, the arbitration process shall terminate,

## **Article 23 – Type of Arbitration Process**

### **Reservation**

Pursuant to Article 23(2) of the Convention, for the purpose of applying Article 23 to its Covered Tax Agreements, Papua New Guinea reserves the right for Article 23(1) not to apply to its Covered Tax Agreements.

Pursuant to Article 23(7) of the Convention, Papua New Guinea reserves the right for Part VI not to apply with respect to all Covered Tax Agreements for which the other Contracting Jurisdiction makes a reservation pursuant to Article 23(6).

### **Notification of Choice of Optional Provisions**

Pursuant to Article 23(4) of the Convention, Papua New Guinea hereby chooses to apply Article 23(5).

## **Article 24 – Agreement on a Different Resolution**

### **Notification of Choice of Optional Provisions**

Pursuant to Article 24(1) of the Convention, Papua New Guinea hereby chooses to apply Article 24(2).

### **Reservation**

Pursuant to Article 24(3) of the Convention, Papua New Guinea reserves the right for Article 24(2) to apply only with respect to its Covered Tax Agreements for which Article 23(2) applies.

## **Article 35 – Entry into Effect**

### **Notification of Choice of Optional Provisions**

Pursuant to Article 35(2) of the Convention, solely for the purpose of its own application of Article 35(1) (a) and (5) (a), Papua New Guinea hereby chooses to substitute “taxable period” for “calendar year”.