

AUSTRALIA – MLI ARBITRATION PROFILE

AS OF 29-09-2025

This document contains information on Australia’s arbitration position under Part VI of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). It also contains hyperlinks to Australia’s competent authority agreements concluded to settle the mode of application of the provisions contained in Part VI of the MLI.

References

- MLI Position (<https://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf>)
- MAP Profile (<https://www.oecd.org/tax/dispute/country-map-profiles.htm>)
- Synthesised text (the hyperlinks to the synthesised texts obtainable from the MLI Matching Database <https://www.oecd.org/tax/treaties/mli-matching-database.htm>); and the Australian Taxation Office MLI webpage <https://www.ato.gov.au/about-ato/international-tax-agreements/in-detail/multilateral-instrument>

Type of arbitration process

The “final offer” arbitration process (otherwise known as “last best offer” arbitration) will apply as the default type of arbitration process to Australia’s Covered Tax Agreements except to the extent that competent authorities mutually agree on different rules or except where other Contracting Jurisdictions have reserved their right to adopt the “independent opinion” approach as the default type of arbitration process pursuant to Article 23(2) of the MLI.

Competent authority agreements and entry into effect of Part VI

Competent authority agreements:

The competent authority of Australia has, by mutual agreement, settled the mode of application of the provisions contained in Part VI of the MLI with the competent authority of the jurisdictions as indicated below:

No	Treaty partner	Hyperlinks to competent authority agreements	Date on which both Contracting Jurisdictions have notified that they reached mutual agreement
1	Belgium	https://www.ato.gov.au/law/view/document?DocID=MOU/Belgium&PiT=99991231235958	26-03-2021
2	Canada		
3	Denmark		
4	Fiji		
5	Finland		
6	France		
7	Hungary		
8	Ireland		
9	Italy		
10	Japan		
11	Malta		

AUSTRALIA – MLI ARBITRATION PROFILE AS OF 29-09-2025

12	Netherlands		
13	New Zealand	https://www.ato.gov.au/law/view/document?DocID=MOU/NZ&PiT=99991231235958	04-09-2025
14	Papua New Guinea		
15	Singapore		
16	Spain		
17	United Kingdom	https://www.ato.gov.au/law/view/document?DocID=MOU/UK&PiT=99991231235958	08-06-2021

Entry into effect of Part VI of the MLI:

Article 36 of the MLI governs the entry into effect of the provisions of Part VI of the MLI with respect to:

- *cases presented to the competent authority of a Contracting Jurisdiction on or after the later of the dates on which the MLI enters into force for each of the Contracting Jurisdictions; and,*
- *cases presented to the competent authority of a Contracting Jurisdiction prior to the later of the dates on which the Convention enters into force for each of the Contracting Jurisdictions.*

Reservations on the scope of cases eligible to Part VI of the MLI

Pursuant to Article 28(2)(a) of the MLI, Australia has formulated the following reservations with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI:

1. Australia reserves the right to exclude from the scope of Part VI any case to the extent that it involves the application of Australia's general anti-avoidance rules contained in Part IVA of the Income Tax Assessment Act 1936 and section 67 of the Fringe Benefits Tax Assessment Act 1986. Australia also reserves the right to extend the scope of the exclusion for Australia's general antiavoidance rules to any provisions replacing, amending or updating those rules. Australia shall notify the Depositary of any such provisions that involve substantial changes.

Additional note