

NEW ZEALAND – MLI ARBITRATION PROFILE

AS OF 29-09-2025

This document contains information on New Zealand’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 New Zealand’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>)

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 New Zealand’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 New Zealand 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
1	Australia	Not published by New Zealand (the competent authority agreement was concluded on 2 September 2025)	04-09-2025
2	Belgium		
3	Canada		
4	Denmark		
5	Fiji		
6	Finland	Not published by New Zealand (the competent authority agreement was concluded on 26 March 2025)	25-04-2025
7	France		
8	Ireland		
9	Italy		

¹ Dates and hyperlinks will be added once notified.

10	Netherlands	Not published by New Zealand (the competent authority agreement was concluded on 18 September 2023)	
11	Papua New Guinea		
12	Singapore	Not published by New Zealand (the competent authority agreement was concluded on 21 November 2024)	12-12-2024 (New Zealand) 03-12-2024 (Singapore)
13	Spain		
14	Sweden		
15	United Kingdom	Not published by New Zealand (the competent authority agreement was concluded on 11 October 2023)	

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 MLI 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, New Zealand 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. New Zealand reserves the right to exclude from the scope of Part VI (Arbitration) any case involving the application of New Zealand's general anti-avoidance rule contained in section BG 1 of the Income Tax Act 2007. Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be included in this reservation. New Zealand shall notify the Depositary of any such subsequent provisions.
2. New Zealand reserves the right to exclude from the scope of Part VI (Arbitration) any case involving the application of anti-avoidance rules concerning the avoidance of a permanent establishment in New Zealand. Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be included in this reservation. New Zealand shall notify the Depositary of any such provisions.

Additional note

1. Pursuant to Article 19(12) of the MLI, New Zealand has reserved 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 MLI 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 or administrative tribunal of one of the Contracting Jurisdictions, the arbitration process shall terminate.
2. Pursuant to Article 23(4) of the MLI, New Zealand has chosen to apply Article 23(5) of the MLI:

Prior to the beginning of arbitration proceedings, the competent authorities of the Contracting

Jurisdictions to a Covered Tax Agreement shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under the Covered Tax Agreement, as well as the arbitration proceeding under Part VI, with respect to the case shall terminate 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 person that presented the case or one of that person's advisors materially breaches that agreement.

Article 23(5) of the MLI shall apply in relation to two Contracting Jurisdictions with respect to a Covered Tax Agreement where either of the Contracting Jurisdictions has made such a notification and the Party that has not chosen to apply this provision has not reserved the right for this provision not to apply with respect to one or more identified Covered Tax Agreements or with respect to all of its Covered Tax Agreements.

3. Pursuant to Article 23(7) of the MLI, New Zealand has reserved the right for Part VI of the MLI not to apply with respect to all Covered Tax Agreements for which the other Contracting Jurisdiction makes a reservation pursuant to Article 23(6) of the MLI.
4. Pursuant to Article 24(1) of the MLI, New Zealand has chosen to apply Article 24(2) of the MLI:

Notwithstanding Article 19(4) (Mandatory Binding Arbitration) of the MLI, an arbitration decision pursuant to Part VI shall not be binding on the Contracting Jurisdictions to a Covered Tax Agreement and shall not be implemented if the competent authorities of the Contracting Jurisdictions agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

Article 24(2) of the MLI shall apply in relation to two Contracting Jurisdictions with respect to a Covered Tax Agreement only where both Contracting Jurisdictions have made such a notification.

5. Pursuant to Article 24(3) of the MLI, New Zealand has reserved the right for Article 24(2) of the MLI to apply only with respect to its Covered Tax Agreements for which Article 23(2) of the MLI applies ("Independent Opinion Arbitration").