

PAPUA NEW GUINEA – MLI ARBITRATION PROFILE

AS OF 11-01-2024

This document contains information on Papua New Guinea'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 Papua New Guinea'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-ml-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/ml-matching-database.htm>)

Type of arbitration process

The "independent opinion" approach will apply as the default type of arbitration process to Papua New Guinea'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 not apply the "independent opinion" pursuant to Article 23(3) of the MLI.

Competent authority agreements and entry into effect of Part VI

Competent authority agreements:

The competent authority of Papua New Guinea 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		
2	Canada		
3	Fiji		
4	New Zealand		
5	Singapore		
6	United Kingdom		

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.

¹ Dates and hyperlinks will be added once notified.

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

Pursuant to Article 28(2)(a) of the MLI, Papua New Guinea formulates the following reservation with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI.

1. Papua New Guinea reserves the right to limit the scope of issues eligible for arbitration under the MLI to the following:
 - a) Issues arising under provisions akin to Article 4 (Resident) of the OECD Model Tax Convention, but only insofar as the issue relates to the residence of an individual;
 - b) Issues arising under provisions akin to Article 5 (Permanent Establishment) of the OECD Model Tax Convention;
 - c) Issues arising under provisions akin to Article 7 (Business Profits) of the OECD Model Tax Convention;
 - d) Issues arising under provisions akin to Article 9 (Associated Enterprises) of the OECD Model Tax Convention;
 - e) Issues arising under provisions akin to Article 12 (Royalties) of the OECD Model Tax Convention, but only insofar as such a provision might apply in transactions involving related persons to which provisions akin to Article 9 of the OECD Model Tax Convention might apply; and
 - f) Any other provisions subsequently agreed by the Contracting Jurisdictions through an exchange of diplomatic notes.
2. Papua New Guinea reserves the right to exclude from the scope of the arbitration provisions of the MLI issues pertaining to the application of anti-abuse provisions whether contained in the MLI, a Covered Tax Agreement, or the domestic law of a Contracting Jurisdiction.

Additional note