Restricted

Office of the Minister of Finance

Office of the Minister of Revenue

Cabinet

**Signature and ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting**

**Proposal**

1. This paper proposes that Cabinet authorises New Zealand’s signature of, and the steps necessary to ratify and bring into force, the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (“the Multilateral Instrument” or “MLI”). The full text of the MLI is attached as Annex A and a full list of New Zealand’s proposed notifications and reservations to be submitted at the time of signature and confirmed upon ratification is attached as Annex B. A table showing the MLI’s coverage of New Zealand’s double tax agreement (“DTA”) network is attached as Annex C.

**Executive summary**

1. DTAs are bilateral international treaties designed to reduce tax impediments to cross-border services, trade and investment without creating opportunities for non-taxation or reduced taxation through tax avoidance or evasion. DTAs also enable tax administrations to assist each other in the detection and prevention of tax evasion and avoidance. Section BH 1 of the Income Tax Act 2007 provides for the negotiation of and giving of effect to DTAs with other countries. New Zealand currently has 40 DTAs in force, primarily with major trading and investment partners.
2. The MLI is a multilateral international treaty that proposes to quickly and efficiently amend a significant number of DTAs around the world to take into account new treaty standards relating to treaty abuse and dispute resolution that have arisen out of the Organisation for Economic Co-operation and Development (OECD) and G20’s 15-point Action Plan on base erosion and profit shifting (“BEPS”). It allows New Zealand to update the majority of its 40 DTAs without entering into bilateral negotiations with each of its treaty partners.
3. In May 2016, Cabinet considered the MLI as part of the New Zealand Government’s response to BEPS (CAB-16-MIN-0218 refers). In February 2017, Cabinet approved the release of an officials’ issues paper seeking submissions on New Zealand’s implementation of the MLI (EGI-17-MIN-0005, CAB-17-MIN-0041 refers).
4. This paper seeks Cabinet approval for New Zealand to sign the MLI at a signing ceremony arranged by the OECD to be held in Paris on 7 June 2017. As the MLI is subject to ratification it must be presented to the House of Representatives for Parliamentary treaty examination in accordance with Standing Order 397, this paper also proposes that Cabinet approves the text of an extended National Interest Analysis (“NIA”) for submission to Parliament. The extended NIA is attached as Annex D. This paper also proposes that Cabinet authorises the steps necessary to give effect to the provisions of the MLI under New Zealand law and, after those steps have been successfully completed, authorise officials to ratify the MLI by depositing an instrument of ratification, along with New Zealand’s list of confirmed notifications and reservations, with the MLI Depositary (the OECD).

**Background**

1. DTAs are bilateral international treaties designed to reduce tax impediments to cross-border services, trade and investment without creating opportunities for non-taxation or reduced taxation through tax avoidance or evasion. DTAs also enable tax administrations to assist each other in the detection and prevention of tax evasion and avoidance. Section BH 1 of the Income Tax Act 2007 provides for the negotiation of and giving of effect to DTAs with other countries. New Zealand currently has 40 DTAs in force, primarily with major trading and investment partners.
2. While DTAs are beneficial for taxpayers, investors and governments themselves, there is the potential for these bilateral agreements to be misused to reduce or eliminate a multinational’s worldwide tax. Misuse of DTAs in this way has been a feature of a number of cross-border tax avoidance arrangements.
3. The misuse of DTAs forms part of a wider problem referred to as BEPS, which has been the focus of significant global media and political attention since late 2012, following evidence suggesting that some multinationals pay little or no tax anywhere in the world.
4. BEPS is a global problem as many BEPS strategies exploit technical differences between different countries’ tax rules, so New Zealand has been working with the OECD and G20 to develop a co-ordinated global solution to address BEPS through the 15-point OECD/G20 BEPS Action Plan.
5. A number of the items on the OECD/G20 BEPS Action Plan address the misuse of DTAs and can only be implemented through changes to DTAs themselves. These are:

* preventing the granting of treaty benefits in inappropriate circumstances (Action 6);
* preventing the artificial avoidance of permanent establishment status (Action 7);
* neutralising the effects of hybrid mismatch arrangements that have a treaty aspect (Action 2); and
* providing improved mechanisms for effective dispute resolution (Action 14).

1. Some of these solutions are “minimum standards” that countries that commit to solving BEPS are expected to adopt. Other provisions are optional, but are DTA “best practice” and now form part of the OECD Model Tax Convention following adoption of the OECD/G20 BEPS Action Plan.
2. Countries, including New Zealand, were presented with the difficulty of how to quickly and efficiently implement these measures without requiring the bilateral renegotiation of several thousand existing DTAs, which could take several years (or even potentially decades). For this reason, the Multilateral Instrument was developed under Action 15 of the OECD/G20 BEPS Action Plan to swiftly amend the DTAs of all participating jurisdictions.

**The Multilateral Instrument**

1. The MLI is a multilateral international treaty that proposes to quickly and efficiently amend a significant number of DTAs around the world to take into account new treaty standards relating to treaty abuse and dispute resolution that have arisen out of the OECD/G20 BEPS Action Plan, as outlined in paragraph 10. It allows New Zealand to update the majority of its 40 DTAs without entering into bilateral negotiations with each of its treaty partners.
2. New Zealand’s treaty negotiation resources are limited and to update New Zealand’s entire DTA network would take several years, if not decades, particularly as many of New Zealand’s treaty partners would likely place greater importance on updating more significant treaties. This would limit New Zealand’s likelihood of being able to meet the OECD minimum standard in a timely fashion.
3. The text of the MLI was developed by the OECD Ad Hoc Group consisting of officials from more than 100 participating jurisdictions, including New Zealand, and was formally adopted by the OECD in November 2016. Experts in both international tax and public international law participated in the OECD Ad Hoc Group that developed the MLI to ensure that it works as intended.
4. The MLI is flexible and allows jurisdictions to choose:

* which of their existing DTAs they wish to modify through the MLI;
* alternative ways of meeting BEPS minimum standards on treaty abuse and dispute resolution; and
* whether they want to adopt the OECD-recommended provisions for non-minimum standards.

1. Within some of these provisions, there are alternative ways of addressing BEPS concerns and the ability for countries to enter a variety of reservations.

New Zealand’s proposed MLI positions

1. To make the best use of the MLI, New Zealand’s proposed strategy is to include the majority of its DTAs within the scope of the MLI and to adopt as many of the MLI provisions as possible, where they are in line with New Zealand’s overall treaty policy. This will give New Zealand the best chance of strengthening its DTAs with as many jurisdictions as possible and will introduce consistency across New Zealand’s treaty network.
2. Of New Zealand’s 40 in-force DTAs, New Zealand has nominated 34 to be covered by the MLI. Many of these DTAs were concluded in the 1970s and 1980s and do not reflect modern treaty standards, even before the work on BEPS was completed. The six DTAs that have not been listed are with jurisdictions who will not be signing the MLI. To be modified by the MLI, both New Zealand and the other jurisdiction must elect for the MLI to apply to the DTA (if there is a match, then the DTA is a “covered tax agreement”). Based on current draft notifications, New Zealand is expected to have 28 covered tax agreements. See Annex C. While this list is not final, it provides a fairly good indication of the likely coverage of the MLI. Final coverage will not be confirmed until each jurisdiction deposits its instrument of ratification with the OECD Depositary.
3. As noted in paragraph 18, New Zealand’s proposed strategy is to adopt as many of the MLI provisions as possible. This is because they are base protection measures that are in line with New Zealand’s existing treaty policy (which has a greater source state emphasis than the OECD Model Tax Convention on which the New Zealand negotiating model is based). For example, New Zealand generally takes a broader approach in its DTAs than the current OECD Model Tax Convention in determining whether a permanent establishment exists. This means that the recommendations under Action 7 (preventing the artificial avoidance of permanent establishment status) of the OECD/G20 BEPS Action Plan which are contained in Articles 12­ to 15 of the MLI are not contrary to New Zealand’s general treaty policy and, in New Zealand’s view, represent an improvement to the OECD Model Tax Convention.

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1. In addition to the proposed changes to the concept of a permanent establishment, it is proposed that New Zealand signs up to the provisions that relate to the following common problems identified with the OECD Model Tax Convention:

* Fiscally transparent entities (like trusts or partnerships) create arbitrage opportunities because they are treated differently for tax purposes by different countries. The provision in Article 3 clarifies that treaty benefits will only be allowed to the extent to which the item of income is taxed in the state in which the entity is resident.
* Dual resident entities can be used to take advantage of arbitrage opportunities by manipulating the current “place of effective management” test. The proposed provision in Article 4 will require competent authorities to agree the residence status of a dual resident entity. If there is no agreement, then treaty benefits will be denied, or only granted to the extent to which the competent authorities can agree.
* In the OECD Model Tax Convention and in many of New Zealand’s modern treaties, a lower withholding tax rate is available where the shareholder owns more than a certain proportion of the company’s shares. The MLI provision in Article 8 requires shares to be held for a minimum of 365 days for the shareholder to be entitled to reduced withholding tax rates on dividends. This prevents shareholders buying shares and holding them temporarily in order to access lower withholding rates.
* Investors can hold land through companies and dispose of the shares in the company to avoid paying tax on the disposal of that land. Many treaties contain a “land-rich company rule” which allows the source jurisdiction to tax income derived from land when the majority of a company’s assets consist of land. To prevent artificial and temporary dilution of the amount of land held by a company just before sale, the provision in Article 9 requires the threshold for the amount of land ownership which triggers the rule to be measured on every day in the 365 day period leading up to the sale of the shares and extends the rule to interests in other entities such as partnerships and trusts.
* Permanent establishments can be established in third states to exploit low tax rates and branch exemptions. Article 10 of the MLI introduces a provision that denies treaty benefits in the case of income derived by a permanent establishment of one of the parties to the DTA, where that permanent establishment is situated in a low tax third state.
* Article 11 introduces a provision that preserves a jurisdiction’s right to tax its own residents. For example, this provision would prevent a New Zealand resident who is engaged in a tax avoidance arrangement from claiming that a DTA prevents New Zealand from using its domestic general anti-avoidance rule to impose tax.

1. In addition to addressing these specific BEPS concerns, Article 6 of the MLI proposes to amend the preamble to DTAs to confirm that they are not intended to be used to generate double non-taxation, and under Article 7, New Zealand has selected the option of adding a principal purpose test to its DTAs. The principal purpose test is a general anti-abuse rule that applies to the whole DTA. Both Articles 6 and 7 form part of the OECD minimum standard.
2. In addition to these base protection measures, New Zealand is signing up to taxpayer friendly measures relating to the mutual agreement procedure (“MAP”) and the availability of arbitration as a form of dispute resolution. These measures are a result of the work on Action 14 of the G20/OECD BEPS Action Plan relating to the improvement of mechanisms for effective dispute resolution. The key provisions are as follows:

* Article 16 of the MLI introduces a provision allowing taxpayers to request MAP where they believe taxation is not in accordance with the treaty. This is a new OECD minimum standard. While the majority of New Zealand’s DTAs contain MAP provisions, the MLI will amend these provisions to allow taxpayers to approach the competent authority of either jurisdiction (currently they only permit a case to be presented to the competent authority of the taxpayer’s country of residence).
* Article 16 also creates a new minimum standard regarding time limits for bringing a case to MAP and time limits for implementing a solution.
* Article 17 requires contracting states to make appropriate corresponding adjustments in transfer pricing cases. This provision is already found in most of New Zealand’s DTAs except for New Zealand’s oldest treaties.
* New Zealand has also opted to apply Part VI of the MLI, which will introduce arbitration as a means of dispute resolution. If a solution cannot be reach under MAP, taxpayers have the ability to request that unresolved issues can be taken to arbitration. New Zealand has already agreed to arbitration in its treaties with Australia and Japan. New Zealand’s experience is that the arbitration facility is very rarely used, but it acts as an incentive for the competent authorities of two jurisdictions to come to an agreement within the required time period for MAP.

Implementation issues and consultation

1. The main difficulty in implementing the provisions of MLI compared with amending protocols stems from the fact that the provisions in the MLI have been drafted more broadly than they otherwise would for an amending protocol to take account of the fact that the MLI must be able to apply to not one DTA, but several thousand.
2. This means that there can be some ambiguity in how the MLI applies to a particular DTA. This ambiguity is mitigated in many cases as a MLI provision will only replace the corresponding existing provision if both treaty partners notify the same provision. However, compliance costs may still be incurred as taxpayers will need to consider the DTA and MLI alongside both jurisdictions’ notifications and reservations.
3. While officials generally do not consult on the content of tax treaties, due to the unusual nature of the MLI, public feedback was sought on potential implementation issues related to the Multilateral Instrument. An officials’ issues paper titled *New Zealand’s implementation of the multilateral convention to implement tax treaty related measures to prevent BEPS* was released on 3 March 2017. Submissions closed on 7 April 2017 and 5 were received (from EY, KPMG, PwC, Corporate Taxpayers Group (“CTG”) and Chartered Accountants Australia and New Zealand (“CA ANZ”)). Two stakeholder workshops were held on 27 and 28 March 2017 with CTG and CA ANZ to enable officials to better understand practitioners’ concerns.
4. Two of the submissions supported the adoption of the MLI as the most effective way to implement the treaty related BEPS recommendations. One submission acknowledged that the New Zealand Government has the constitutional ability to decide New Zealand’s tax treaty position and it therefore makes sense to achieve this in the shortest time at the least cost through the MLI. One submission acknowledged that participating in OECD and G20 initiatives to target BEPS is a key focus for the government, while not explicitly supporting the adoption. The final submission did not express an overall view on adoption, but submitted that New Zealand should not adopt all of the optional provisions.
5. The main issues raised in submissions relate to:
   1. **substantive positions taken by New Zealand**. Although consultation was intended to focus on implementation issues, submitters did comment on the substance of the new provisions in the MLI. Most submitters were generally supportive of New Zealand’s adoption of the MLI and a number supported the proposals to take up most of the MLI provisions as an efficient way to amend our treaty network, but some submitters raised concerns about specific provisions. One point of contention among submitters was the proposal to adopt Article 4 of the MLI, relating to dual-resident entities (refer paragraph 22 above). However, this new rule is being adopted by many countries as a means of curbing certain forms of treaty abuse. It is also consistent with the position New Zealand has taken in a number of bilateral treaties. Officials are exploring ways to reduce compliance costs associated with this provision. Another concern related to one aspect of the new permanent establishment provisions which might lead to more taxation of New Zealanders operating offshore. However, New Zealand’s adoption of this provision would be consistent with both the proposals contained in the recent Government discussion document titled *BEPS – Transfer pricing and permanent establishment avoidance* and the long-term direction of New Zealand’s tax treaty policy.
   2. **requests for additional guidance and administrative resources** to help taxpayers apply DTAs as modified by the MLI (including requests for Inland Revenue to produce consolidated versions of New Zealand’s DTAs as modified by the MLI). New Zealand officials have already been working with their Australian counterparts to scope what administrative guidance could be jointly developed to assist taxpayers. Publishers may produce consolidated texts as they currently do with amending protocols and original DTAs. In addition to this, New Zealand Inland Revenue officials are continuing discussions with overseas counterparts to determine what additional certainty the competent authorities may be able to provide (for example, through a memorandum of understanding which sets out in more detail how each MLI provision applies to the DTA).
   3. **technical domestic law changes** needed to implement the MLI smoothly. Officials are considering these suggestions and will report separately to Ministers on what domestic law changes may be required before the MLI comes into effect.

**Next steps**

1. Subject to Cabinet’s approval for New Zealand to sign the MLI, we propose that the Minister of Revenue signs the MLI at a signing ceremony arranged by the OECD to be held in Paris on 7 June 2017. At the signing ceremony, New Zealand will also need to present its expected notifications and reservations.
2. An Instrument of Full Powers will need to be obtained from the Minister of Foreign Affairs to enable the Minister of Revenue to sign the MLI. The Ministry of Foreign Affairs and Trade will prepare this Instrument and arrange for its signature.
3. Standing Order 397 provides that the Government will present any international treaty that is the subject of ratification by New Zealand to the House of Representatives for treaty examination by Select Committee. Accordingly, after signature, it is proposed that the MLI be submitted to the House of Representatives for Parliamentary treaty examination. For this purpose, an extended NIA has been drafted and is attached at Annex D. This paper seeks Cabinet approval of the extended NIA so that it can be submitted to Parliament as part of the Parliamentary treaty examination process.
4. The MLI will be implemented by an Order in Council made pursuant to section BH 1 of the Income Tax Act 2007 which has overriding effect in relation to other legislation relating to tax and the exchange of information that relates to tax. Subject to satisfactory completion of Parliamentary treaty examination, this paper also seeks Cabinet approval for me to issue drafting instructions for an Order in Council to implement the MLI into New Zealand domestic law.
5. Article 34 provides that the MLI will enter into force for New Zealand once New Zealand has deposited its instrument of ratification. New Zealand will be in a position to deposit its instrument of ratification following the completion of all domestic procedures for entry into force. Subject to the successful promulgation of an Order in Council, this paper seeks Cabinet approval for officials to ratify the MLI by depositing New Zealand’s instrument of ratification with the MLI Depositary. New Zealand will also need to confirm its final notifications and reservations at this point in time.

**Consultation**

1. Tax policy officials and the Ministry of Foreign Affairs and Trade were consulted in the preparation of this Cabinet paper.
2. In addition, an officials’ issues paper titled *New Zealand’s implementation of the multilateral convention to implement tax treaty related measures to prevent BEPS* was released on 3 March 2017. Submissions closed on 7 April 2017 and 5 were received. Officials met with interested stakeholders. These submissions and views are summarised in paragraphs 26 to 29 above.

**Financial implications**

1. Normally, new DTAs or amending protocols constrain New Zealand from taxing certain income and limit the rate at which tax on passive income (dividends, interest, and royalties) can be imposed and therefore result in the reduction of New Zealand tax. This upfront revenue cost is then typically offset by other factors (for example, through reduced need to allow foreign tax credits).
2. The MLI differs in that its provisions are typically base protection measures which increase New Zealand’s ability to tax inbound investment and equips New Zealand with a whole-of-treaty anti-abuse rule to prevent tax avoidance through the use of DTAs. This may result in more tax paid by non-residents in New Zealand. However, as the provisions are reciprocal, the MLI may increase the amount of foreign income tax paid by New Zealand residents with investments and business operations overseas. This could decrease the amount of New Zealand income tax paid on that foreign income as a foreign tax credit is provided for foreign income tax paid.
3. Data limitations prevent officials from accurately estimating the actual impact on net tax revenue. However, as New Zealand is a capital importer and the MLI covers the majority of New Zealand’s DTA network, it is expected that overall impact on tax revenue will be positive.
4. In terms of costs borne by Inland Revenue, there will be costs associated in administering the arbitration provisions of the MLI and some of the provisions that require competent authority agreement. However, these are expected to be relatively small. The existence of arbitration provides a strong incentive for tax authorities to resolve issues under the mutual agreement procedure before arbitration can be triggered. New Zealand’s DTAs with Australia and Japan already provide for arbitration and New Zealand’s experience is that very few cases have been brought by taxpayers under the mutual agreement procedure and almost all of these have been settled within the required time period, regardless of whether the DTA provides for arbitration.

**Human rights**

1. No inconsistencies with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993 have been identified.

**Legislative implications**

1. The MLI must be given effect by Order in Council, pursuant to section BH 1 of the Income Tax Act 2007.
2. Accordingly this paper seeks approval for an Order in Council to be drafted and submitted to Cabinet following the signing of the MLI and the completion of the Parliamentary treaty examination process.

**Regulatory impact analysis**

1. As this proposal has regulatory implications (it requires an Order in Council), the Regulatory Impact Analysis (RIA) requirements apply. However, as this paper relates to an international treaty, an extended NIA has been prepared (see Annex D) rather than a separate Regulatory Impact Statement.
2. The extended NIA was prepared by Inland Revenue. The extended NIA was circulated with this paper to the Treasury and the Ministry of Foreign Affairs and Trade for departmental consultation.
3. As this proposal has regulatory implications (it requires an Order in Council), the Regulatory Impact Analysis (RIA) requirements apply. However, as this paper relates to an international treaty, an extended NIA has been prepared (see Annex D) in accordance with the RIA requirements.

1. The extended NIA was prepared by Inland Revenue. The extended NIA was circulated with this paper to the Treasury and the Ministry of Foreign Affairs and Trade for departmental consultation.
2. The Regulatory Impact Analysis Team (RIAT) and the tax strategy team in the Treasury have jointly reviewed the extended NIA prepared by Inland Revenue and associated supporting material, and considers that the information and analysis summarised in the extended NIA meets the quality assurance criteria.
3. The extended NIA compares the benefits and costs of signing the treaty relative to taking no action or other potential approaches to amending DTAs, and provides sufficient analysis to support the proposals.
4. In part because provisions in the MLI are drafted broadly it has been difficult to project the revenue and compliance impacts from the treaty. RIAT recommends ongoing monitoring and evaluation of the impacts of the MLI as part of the Government’s response to BEPS to ensure that any unintended consequences are known.

**Publicity**

1. It is proposed that New Zealand participates in the signing ceremony arranged by the OECD to be held in Paris on 7 June 2017. Appropriate media statements and announcements will be arranged once details have been finalised. The text of the MLI and New Zealand’s notifications and reservations will be publicly available on Inland Revenue’s Tax Policy website. The extended NIA will be publicly available on the Parliamentary website following Parliamentary treaty examination.
2. It is expected that the OECD will also arrange its own publicity for the signing ceremony and will make all signatories’ reservations and notifications publicly available following the signing ceremony.

**Recommendations**

1. We recommend that the Cabinet:

1. **note** that the Income Tax Act 2007 authorises the negotiation of, and giving effect to double tax agreements (“DTAs”) with other jurisdictions;
2. **note** that officials participated in the negotiation of the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (the “MLI”), the text of which was formally adopted in November 2016;
3. **note** that the MLI will quickly and efficiently amend the majority of New Zealand’s DTAs to include the recommended changes to tax treaties arising out of the OECD/G20 15 point Action Plan on base erosion and profit shifting;
4. **approve** the text of the MLI attached to the Cabinet paper as Annex A (subject to any minor technical changes resulting from the process of translation or legal verification);
5. **note** that officials have finalised New Zealand’s expected notifications and reservations in relation to the choices available in the MLI;
6. **approve** New Zealand’s expected notifications and reservations attached to the Cabinet paper as Annex B;
7. **delegate** to the Minister of Finance and Minister of Revenue the authority to approve any changes to the notifications and reservations as a result of developments in other jurisdictions’ positions and any other minor technical changes;
8. **agree** that New Zealand sign the MLI;
9. **note** that an Instrument of Full Powers will need to be obtained from the Minister of Foreign Affairs to enable the Minister of Revenue to sign the MLI. The Ministry of Foreign Affairs and Trade will prepare this Instrument and arrange for its signature;
10. **approve** the extended National Interest Analysis (“NIA”) attached to the Cabinet paper as Annex D;
11. **note** the content of the NIA may change as a result of developments in other jurisdictions’ positions between now and Parliamentary treaty examination;
12. **note** that the Government will present any international treaty that is the subject of ratification to the House of Representatives for Parliamentary treaty examination, in accordance with Standing Order 397;
13. **agree** that, following signature, the text of the MLI, New Zealand’s notifications and reservations, and the NIA be tabled in the House of Representatives for Parliamentary treaty examination, in accordance with Standing Order 397;
14. **note** that the MLI will be incorporated into New Zealand domestic law through an Order in Council with overriding effect made pursuant to section BH 1 of the Income Tax Act 2007;
15. **invite** the Minister of Revenue to instruct the Parliamentary Counsel Office to draft the Order in Council to give effect to the MLI, following signature and completion of the Parliamentary treaty examination process;
16. **authorise** officials, following signature, completion of the Parliamentary treaty examination process, and promulgation of the Order in Council to bring the MLI into force by depositing New Zealand’s instrument of ratification and list of confirmed notifications and reservations with the OECD Depositary.

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| **Hon Steven Joyce**  Minister of Finance  / /  Date | **Hon Judith Collins**  Minister of Revenue    / /  Date |

**Annex A**

*Text of the MLI*

**Annex B**

*New Zealand’s notifications and reservations*

**Annex C**

New Zealand has 40 DTAs currently in force. The table below shows the coverage of the MLI across New Zealand’s treaty network (as at 9 May 2017).

|  |  |
| --- | --- |
|  | **DTA** |
| **Covered tax agreements** | 1. Australia |
| 1. Belgium |
| 1. Canada |
| 1. Chile |
| 1. China |
| 1. Czech Republic |
| 1. Denmark |
| 1. Finland |
| 1. France |
| 1. Germany |
| 1. Hong Kong (China) |
| 1. India |
| 1. Indonesia |
| 1. Ireland |
| 1. Italy |
| 1. Japan |
| 1. Malaysia |
| 1. Mexico |
| 1. Netherlands |
| 1. Poland |
| 1. Russia |
| 1. Singapore |
| 1. South Africa |
| 1. Spain |
| 1. Sweden |
| 1. Turkey |
| 1. United Kingdom |
| 1. Korea |
| **Not modified by the MLI** | 1. Switzerland |
| 1. Viet Nam |
| 1. Thailand |
| 1. Philippines |
| 1. Norway |
| 1. Austria |
| 1. United Arab Emirates |
| 1. Papua New Guinea |
| 1. Samoa |
| 1. Taiwan |
| 1. Fiji |
| 1. United States |

**Annex D**

*Extended NIA*