

United States

A. Progress in the implementation of the minimum standard

The United States has 65 tax agreements in force as reported in its response to the Peer Review questionnaire. None of those agreements comply with the minimum standard.

The United States made a general statement in its response to the Peer Review questionnaire that it intends to implement a detailed LOB rule as part of its commitment to implement the minimum standard in all of its bilateral agreements. The detailed LOB is not available through the MLI and requires substantive bilateral discussions and modifications with respect to each treaty.

The United States has implemented LOB clauses in most of its agreements. It started to include anti-treaty-shopping measures in 1962,¹⁴⁹ and since the seventies, LOB clauses (which initially targeted investment or holding companies) have appeared in agreements concluded by the United States. All of the United States' agreements are supplemented by its domestic anti-conduit regulations.¹⁵⁰

The 2016 US Model Convention contains an express statement that the tax treaty should not create opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third states).

The United States' agreements with the following 45 jurisdictions contain an LOB rule and are supplemented by domestic anti-conduit rules: Australia, Austria, Bangladesh*, Barbados, Belgium, Bulgaria, Canada, China (People's Republic of), Cyprus*, Czechia, Denmark, Estonia, Finland, France, Germany, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Portugal, Russian Federation, the Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Ukraine, Venezuela*. A signed convention with Poland contains an LOB rule and is supplemented by domestic anti-conduit rules. The agreements with Egypt, Korea, Morocco, Norway, and Trinidad and Tobago have a limited anti-treaty shopping rule and are supplemented by domestic anti-conduit rules. The agreement with the United Kingdom contains an LOB and anti-conduit rules and is supplemented by domestic anti-conduit rules.

B. Conclusion

No jurisdiction has raised any concerns about their agreements with the United States.

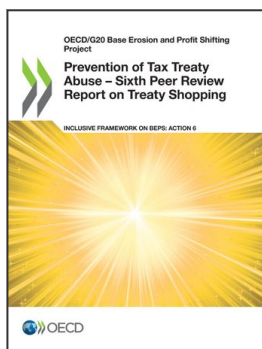
¹⁴⁹ With respect to the United States' agreement with Luxembourg.

¹⁵⁰ See I.R.C. §7701(l), added to the Internal Revenue Code by section 13238 of the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66 (allowing the Internal Revenue Service to re-characterise any multiple-party financing transaction as being a transaction directly among any two or more of its parties whenever appropriate to prevent the avoidance of the United States' tax); Treas. Reg. § 1.881-3 (as amended in 2020) (providing additional guidance relating to conduit financing arrangements). In addition, the United States has judicial doctrines such as substance-over-form and economic substance that may achieve a similar result in addressing conduit arrangements.

Summary of the jurisdiction response – United States

	1. Treaty partners	2. Compliance with the standard	3. Signature of a complying instrument	4. Minimum standard provision used
1	Armenia	No	No	
2	Australia	No	No	
3	Austria	No	No	
4	Azerbaijan	No	No	
5	Bangladesh*	No	No	
6	Barbados	No	No	
7	Belarus	No	No	
8	Belgium	No	No	
9	Bulgaria	No	No	
10	Canada	No	No	
11	China (People's Republic of)	No	No	
12	Cyprus*	No	No	
13	Czechia	No	No	
14	Denmark	No	No	
15	Egypt	No	No	
16	Estonia	No	No	
17	Finland	No	No	
18	France	No	No	
19	Georgia	No	No	
20	Germany	No	No	
21	Greece	No	No	
22	Iceland	No	No	
23	India	No	No	
24	Indonesia	No	No	
25	Ireland	No	No	
26	Israel	No	No	
27	Italy	No	No	
28	Jamaica	No	No	
29	Japan	No	No	
30	Kazakhstan	No	No	
31	Korea	No	No	
32	Kyrgyzstan*	No	No	
33	Latvia	No	No	
34	Lithuania	No	No	
35	Luxembourg	No	No	
36	Malta	No	No	
37	Mexico	No	No	
38	Moldova*	No	No	
39	Morocco	No	No	
40	Netherlands	No	No	
41	New Zealand	No	No	
42	Norway	No	No	
43	Pakistan	No	No	
44	Philippines	No	No	
45	Poland	No	No	
46	Portugal	No	No	
47	Romania	No	No	
48	Russian Federation	No	No	
49	Slovak Republic	No	No	

50	Slovenia	No	No
51	South Africa	No	No
52	Spain	No	No
53	Sri Lanka	No	No
54	Sweden	No	No
55	Switzerland	No	No
56	Tajikistan*	No	No
57	Thailand	No	No
58	Trinidad and Tobago	No	No
59	Tunisia	No	No
60	Türkiye	No	No
61	Turkmenistan*	No	No
62	Ukraine	No	No
63	United Kingdom	No	No
64	Uzbekistan	No	No
65	Venezuela*	No	No



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