WU Institute for Austrian
and International Tax Law

Series Editor: Michael Lang

Editors: Georg Kofler, Michael Lang, Jeffrey Owens, Pasquale Pistone,
Alexander Rust, Josef Schuch, Karoline Spies, Claus Staringer

The Implementation and Lasting Effects of the Multilateral Instrument

21

European and International
Tax Law and Policy Series

IBFD

The Implementation and Lasting Effects of the Multilateral Instrument

Why this book?

Action 15 of the BEPS Project “The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting” – the Multilateral Instrument (MLI) – is a multilateral convention that swiftly modifies the application of existing bilateral tax treaties without the need to renegotiate each treaty individually. It does not replace the existing tax treaties but rather modifies their application with the aim to reduce the opportunities for tax avoidance by multinational enterprises, counter treaty abuse and improve the dispute resolution mechanism, providing flexibility according to the different treaty policies and positions chosen by countries. The MLI was finalized in November 2016, and a first signing ceremony was held in Paris on 6 June 2017. A total of 76 jurisdictions signed it at this first ceremony. In the meantime, it has grown to cover almost 100 jurisdictions. The aim of this book is to provide tax authorities, policymakers, courts and practitioners with an overview of the countries’ positions and experiences regarding the impact of the MLI on their tax treaty network, as well as other issues on the implementation of the convention with respect to policy options, reservations, and legal and constitutional concerns.

The book comprises 34 national reports from countries across the globe and is the outcome of an alternative non-physical interaction between national reporters and authors. This was due to the special COVID-19 situation lived during 2020, serving as a substitute for the prepared conference on the MLI that should have taken place from 2 to 4 July 2020 in Rust, Burgenland, Austria. A general report highlights the most important findings.

Title:	The Implementation and Lasting Effects of the Multilateral Instrument
Editor(s):	Georg Kofler, Michael Lang, Jeffrey Owens, Pasquale Pistone, Alexander Rust, Josef Schuch, Karoline Spies, Claus Staringer
Date of publication:	October 2021
ISBN:	978-90-8722-720-3 (print), 978-90-8722-727-2 (ePub), 978-90-8722-728-9 (PDF)
Type of publication:	Book
Number of pages:	1,014
Terms:	Shipping fees apply. Shipping information is available on our website
Price (print/online):	EUR 145 / USD 175 (VAT excl.)
Price (eBook: ePub or PDF):	EUR 116 / USD 140 (VAT excl.)

Order information

To order the book, please visit www.ibfd.org/IBFD-Products/shop. You can purchase a copy of the book by means of your credit card, or on the basis of an invoice. Our books encompass a wide variety of topics, and are available in one or more of the following formats:

- IBFD Print books
- IBFD eBooks – downloadable on a variety of electronic devices
- IBFD Online books – accessible online through the IBFD Tax Research Platform

IBFD, Your Portal to Cross-Border Tax Expertise

IBFD

Visitors' address:
Rietlandpark 301
1019 DW Amsterdam
The Netherlands

Postal address:
P.O. Box 20237
1000 HE Amsterdam
The Netherlands

Telephone: 31-20-554 0100
Email: info@ibfd.org
www.ibfd.org

© 2021 IBFD

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the written prior permission of the publisher. Applications for permission to reproduce all or part of this publication should be directed to: permissions@ibfd.org.

Disclaimer

This publication has been carefully compiled by IBFD and/or its author, but no representation is made or warranty given (either express or implied) as to the completeness or accuracy of the information it contains. IBFD and/or the author are not liable for the information in this publication or any decision or consequence based on the use of it. IBFD and/or the author will not be liable for any direct or consequential damages arising from the use of the information contained in this publication. However, IBFD will be liable for damages that are the result of an intentional act (*opzet*) or gross negligence (*grove schuld*) on IBFD's part. In no event shall IBFD's total liability exceed the price of the ordered product. The information contained in this publication is not intended to be an advice on any particular matter. No subscriber or other reader should act on the basis of any matter contained in this publication without considering appropriate professional advice.

Where photocopying of parts of this publication is permitted under article 16B of the 1912 Copyright Act jo. the Decree of 20 June 1974, Stb. 351, as amended by the Decree of 23 August 1985, Stb. 471, and article 17 of the 1912 Copyright Act, legally due fees must be paid to Stichting Reprorecht (P.O. Box 882, 1180 AW Amstelveen). Where the use of parts of this publication for the purpose of anthologies, readers and other compilations (article 16 of the 1912 Copyright Act) is concerned, one should address the publisher.

ISBN 978-90-8722-720-3 (print)
ISBN 978-90-8722-727-2 (eBook, ePub); 978-90-8722-728-9 (eBook, PDF)
ISSN 2451-8360 (print); 2589-9694 (electronic)
NUR 826

Preface

In recent years, several important developments have taken place with respect to anti-tax avoidance measures under the law of double taxation conventions. Following developments and recommendations from the OECD/G20 Base Erosion and Profit Shifting [hereinafter BEPS] Project, the OECD and UN tax treaty models and their commentaries were updated in 2017. The purpose was to include substantive rules strengthening the aim of double tax agreements so that they not only eliminate double taxation but also prevent tax evasion and avoidance. The intent was also to preclude the creation of opportunities for non-taxation and likewise improve the dispute resolution mechanism. The new model tax conventions will guide the negotiations and the scope of new bilateral tax conventions.

For its part, in order to update the more than 3,000 bilateral tax treaties that are currently in force, Action 15 of the BEPS Project "The Multilateral Convention to Implement Tax Treaty Related Measures to prevent Base Erosion and Profit Shifting" – Multilateral Instrument [hereinafter MLI] – proposed an innovative solution via a multilateral agreement that intends to modify the application of existing tax treaties without the need to renegotiate each treaty bilaterally. The MLI is the available tool to country members of the Inclusive Framework on BEPS providing governments an efficient and flexible option to modify tax treaties in a synchronized manner mainly on anti-BEPS measures. The MLI was finalized in November 2016, and the first signing ceremony was held in Paris in 2017, entering into force on 1 July 2018. The impact of the MLI on a certain bilateral tax treaty depends on the MLI positions (reservations, notifications or options) of both treaty partners upon deposit of the respective instruments of ratifications.

This book brings together 34 national reports from experts in international tax law with strong knowledge in the OECD/G20 BEPS Project developments where they discuss their countries' positions and experiences regarding the impact of the MLI in their countries' tax treaty network. They also consider other issues that have arisen on the implementation of the MLI with respect to policy options, reservations and legal and constitutional concerns from a critical point of view, giving insights to current flaws and potential improvements.

We are very grateful to the general reporters, Pasquale Pistone and Nevia Čičin-Šain, and all national reporters. They displayed enormous discipline in completing their national reports, taking into account the guidelines provided. The special circumstances that existed during 2020 obligated suspending the conference that should have taken place in Rust, Burgenland, Austria, from 2 to 4 July 2020. The national reporters and other participants would have had the opportunity at that time to discuss and exchange points of views on their research. As a replacement, the editing team from WU (Wirtschaftsuniversität Wien) found the way to supply the physical interaction by requesting authors to exchange comments on other reports. We are grateful for these extra efforts that surely enriched the content and outcome that is presented in this book.

This project was conducted with the kind support of the Austrian Central Bank (OeNB Jubiläumsfonds) [hereinafter OeNB]. We are grateful to the OeNB for the funding received under the project entitled "Das Multilaterale Instrument und seine Auswirkungen" (project number: 18656). We would like to express our sincere thanks to IBFD for its cooperation and the swift realization of this publication project. Ms Jenny Hill and Ms Margaret McKinney contributed greatly to the completion of this book by editing and polishing the texts for the authors, for whom English is – to a great extent – a foreign language.

Above all, we would like to especially thank research and teaching assistants of the Institute for Austrian and International Tax Law, Mr Cristóbal Pérez Jarpa and Mr Martin Klokar, and members of the secretariat, Ms Renée Pestuka and Mrs Layomi Gunatilleke-Jester, who were responsible for the coordination of the activities that supplied the physical conference and for the editing, organization and preparation of the publication of this book. Without their dedication and talent for organization, the success and the completion of this book would not have been possible.

Vienna, March 2021

The Editors
Georg Kofler
Michael Lang
Jeffrey Owens
Pasquale Pistone
Alexander Rust
Josef Schuch
Karoline Spies
Claus Staringer

Chapter 1

The Implementation and Lasting Effects of the Multilateral Instrument: General Report

Pasquale Pistone and Nevia Čičin-Šain

1.1. Party to the MLI

The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting [hereinafter Multilateral Instrument or MLI] as a product of Action 15 of the OECD's BEPS Project, the main focus of which was to transpose results of the BEPS Project into bilateral tax treaties worldwide, stirred up the international tax community. The originality of this instrument laid in the fact that it supposedly allowed "countries to swiftly modify their tax treaty networks"[1] by signing and ratifying just one multilateral convention instead of renegotiating the whole treaty network.

All members of the BEPS Inclusive Framework committed themselves to implement the four minimum standards, two which relate to treaty modifications, namely, the minimum standard for the prevention of treaty abuse under Action 6 and the minimum standard for the improvement of dispute resolution under Action 14. However, they were not obligated to sign the MLI in order to implement their commitments to meet the minimum standards. Some countries already had these minimum standards while others preferred to negotiate them bilaterally. Yet, the MLI was promoted as the instrument that provides the fastest way for steering the vast number of bilateral tax treaties towards convergence. According to the OECD, as of November 2020, there are 95 signatories to the MLI which will, in return, apply to over 1,700 "matched agreements" that would become so-called Covered Tax Agreements [hereinafter CTAs] once the MLI enters into force for both contracting jurisdictions.[2]

[1] *OECD Multinational Convention (MLI) (2017)*, Explanatory statement to the multilateral convention to implement tax treaty related measures to prevent base erosion and profit shifting, p. 1, paragraph 5, Treaties & Models IBFD [hereinafter *Multilateral Convention*, Explanatory statement].

[2] *See* http://www.oecd.org/ctp/treaties/bahrain-signs-landmark-agreement-to-strengthen-its-tax-treaties.htm (accessed 1 Dec. 2020).

One of the goals of this book is to provide empirical evidence that is needed to understand to what extent the MLI truly attained its proclaimed goal. The said analysis revolves around the question as to which formal but also substantial extent is the MLI actually being used around the world. It will cover not only the quantitative analysis in terms of the number of parties to the MLI but also the qualitative one in terms of the scope of the implemented substantive provisions of the MLI.

Namely, in an attempt to gain the maximum endorsement possible, the MLI maintained a large degree of flexibility. The jurisdictions retained the possibility to choose whether and which tax treaties will be covered by the MLI, to opt-into certain provisions, to make a reservation on others (all but the minimum standards) and to make options between offered alternatives. This, almost excessive, flexibility in the attitude of jurisdictions towards the content of the MLI led to an extreme complexity of its clauses.

Since the MLI is a piece of international law, it must abide by its rules and principles. The MLI does not function in the same way as an amending protocol to a single existing treaty, but it rather operates as a two-tiered structure that is composed of the underlying covered tax agreement and the changes brought to it by the MLI. These changes will only be operational if both contracting jurisdictions of the underlying covered tax agreement consent to them by matching not only their will to include the bilateral tax agreement but also by matching their will in terms of the scope of the desired alterations to be brought to it by the MLI via the system of reservations and options. If there is a mismatch between the wills of the contracting jurisdictions either in terms of whether to cover their respective tax agreement or with respect to the substantive scope of the provisions, the changes that the MLI intended to bring to the underlying agreement will be unsuccessful. Consequentially, the complexity of the MLI generated by its “desire to please everyone” ultimately can play against its effectiveness and undermine its reputation as being a “quick fix” that allows a swift modification of the network of tax treaties.

On top of analysing the reception of the MLI in general, the authors sought to pursue another goal in this report and that is to analyse its geographical spread. In addition, it was necessary to identify the drivers behind the policy options made by the reporting countries. In order to determine the impact of the MLI on the tax treaty networks of countries in the same (sub) region, the authors adopted, on occasion, a “regional bird’s eye-view” in their analysis. Authors assumed that countries will be guided by two main, mutually opposing, goals when shaping their attitude towards the MLI. On the one hand, there is the political obligation to discourage tax treaty abuse in the face of the international tax arena and the desire to remain attractive for businesses, on the other hand. Indeed, the analysis of the national reports confirmed that countries can be placed somewhere on the spectrum between total reluctance and great enthusiasm. It also revealed an array of other potential drivers for (non)implementation of the MLI such as, for instance, low administrative capacity to conduct MLI measures in practice, existence of similar domestic rules, etc.

Brazil is a prominent example of a country that opted not to sign the MLI despite being committed to BEPS measures as an OECD key partner and BEPS Framework member. The views shared in that country report offer valuable insight into the criticisms against the MLI as the instrument of choice for updating the tax treaty networks according to the BEPS standards.[3] In this respect, one of the reasons against adhering to the MLI is that it can undermine the equilibrium upon which the existing bilateral tax treaties have been concluded. Namely, even though the MLI purports to be tailor-made, the fact remains that it offers “a limited amount of clothes” that a country needs to select from. If a country has a treaty policy that deviates from the provisions in the MLI, it will result in non-adjustability issues. Additionally, reticent countries see the MLI as an instrument that inevitably affects the allocation of taxing rights. Other reasons for not becoming a party to the MLI can be not to reveal too much the desired tax positions in the negotiation process. Many countries still prefer to keep their positions secret and to use them as leverage in the negotiation process. Revealing them through the notifications to the Depositary would result in them losing their bargaining power, so many of them still prefer to negotiate in a discrete, bilateral way.

All of these reasons can indeed lead to the result that the MLI is not as effective in practice as the OECD purports it to be in the short term. Nevertheless, the authors claim that the true value of the MLI needs to be evaluated in the medium to long term. In terms of its substantive content, the MLI has the power to produce a significant effect on the future tax treaty networks since the anti-BEPS measures it contains can become a “new norm” in international tax law. Even countries that do not sign the MLI will, in their bilateral negotiations, adhere to this new paradigm that it sets either on their own initiative or because their treaty partner adopted

[3] *See* Chapter 6: Brazil, section 6.1.1.

the standards into its own treaty network.[4] In this respect, the MLI should be praised as an impressive attempt to enhance coordinated bilateralism in tax treaty matters in a way that goes well beyond model conventions. Unlike the existing OECD/UN Model Conventions, the MLI is not soft law but an international agreement that creates an actual hard law obligation to comply with its content. In this sense, it is a great step forward for international tax law standards.

The text of the MLI was approved in November 2016 and opened for signing at the end of the same year. Almost all countries represented in this book (except Brazil) opted for the MLI as the preferred tool for changing their respective tax treaty networks. Moreover, they signed the instrument as early as on the signing ceremony on 7 June 2017.

However, the adherence to the MLI differed greatly from region to region. The authors observed that, in the South American region, only five out of 13 jurisdictions are signatory parties of the MLI.[5] The driving factors for the adherence to the MLI varied between those five signatories. Some of the countries viewed the MLI as a time-saving tool replacing the very lengthy renegotiation processes[6] and as an effective tool to fight aggressive tax planning.[7] Others pursued an additional country-specific agenda, for instance, the need to standardize the country's tax treaty network considering that, in the past, tax treaties were interpreted arbitrarily by the tax authorities which resulted in different treatment of various treaty partners.[8]

In Europe, the high uptake of the MLI was expected since many of these countries are members of the OECD. However, as will be demonstrated in other chapters, this initial enthusiasm needs to be nuanced when taking a closer look to the number of CTAs listed or reservations made. In Eastern Europe, country reports demonstrate a variety of attitudes to the MLI that span from cautious to (overly) enthusiastic. A very interesting example of polar opposite attitudes towards the MLI between two neighbouring countries is the case of the Czech Republic and Slovakia. While the former nominally became party to the MLI but announced early on that it would

[4] D. Duff & D. Gutmann, *General Report*, in *Reconstructing the treaty network* p. 38 (IFA Cahiers, vol. 105A, IBFD 2020), Books IBFD.

[5] *See* Chapter 9: Chile, section 9.1.2. Four of the five jurisdictions signed the Convention on the day of the signing ceremony (Argentina, Colombia, Chile and Uruguay), and Peru signed the MLI one year later, on 27 June 2018.

[6] *See* Chapter 9: Chile, section 9.1.1.

[7] *See* Chapter 8: Canada, section 8.1.1.

[8] *See* Chapter 2: Argentina, section 2.1.1.

put all possible reservations out of fear of the instrument's complexity,[9] the latter demonstrated great zeal and openness towards the MLI.[10] Other jurisdictions in the region used the signing of the MLI to send a political message to the international community of them being a cooperative and modern tax jurisdiction. Whether this political enthusiasm, however, shall be coupled with sufficient administrative capacity to conduct all of the novel measures in reality remains to be seen.[11]

On the African continent, the adherence to the MLI is relatively low. Of the 55 African states, only 13 have currently signed the MLI. Some reporters offer clues as to the reasons behind this: lacking administrative capacity and low number of double tax treaties. This might reflect the "wait-and-see" approach before finalizing the options. A country that stands out is South Africa. It is the only African country that, as a non-OECD member, fully participated as a G20 country in the process of priority setting in the BEPS Project.[12]

Some large countries, such as China, found the MLI to be an effective tool to update its existing treaties on an equal footing. Becoming an MLI signatory was considered to be in line with the need to improve international tax norms and establish a fair, multilaterally beneficial tax environment at home and abroad. On the other hand, it was also recognized that the provi-

[9] The country expressed caution with regard to new anti-avoidance provisions creating too many uncertainties and problems in practical application and a strong preference for bilateral negotiations over the MLI. *See* Chapter 12: Czech Republic, section 12.6.

[10] For Slovakia, the adoption of the MLI was absolutely a clear-cut decision. The country considered the MLI as the most feasible way for smaller jurisdictions to implement outcomes of the BEPS Action Plan into their double taxation conventions. This resulted not in just a wide coverage in terms of numbers of covered tax treaties but also in the adoption of the individual provisions in the fullest extent possible (except for arbitration). *See* Chapter 30: Slovakia, section 30.7.3.

[11] For example, for Serbia, signing the MLI was politically motivated. Serbia is neither an EU Member State nor an OECD member country so, according to the Serbian report, the zeal to adhere to the MLI was somewhat surprising. The signing was used to show the European Union and the international community Serbia's willingness to upgrade its standards in taxation. *See* Chapter 29: Serbia, section 29.1.1.

[12] South Africa holds an official observer status at the OECD, is on the shortlist of prospective member countries and is one of the OECD's five Key Partner countries. It is an associate in six OECD bodies and projects and a participant in 15 (OECD website, "South Africa and the OECD", available at https://www.oecd.org/southafrica/south-africa-and-oecd.htm (accessed 5 Jan. 2021)). This includes membership of the Steering Group: Inclusive Framework for BEPS Implementation (OECD website, "Composition of the 2019-2020 Steering Group of the Inclusive Framework on BEPS", available at https://www.oecd.org/tax/beps/steering-group-of-the-inclusive-framework-on-beps.pdf (accessed 5 Jan. 2021)).

List of Contributors

Editors

Georg Kofler

Georg Kofler is a professor at the Institute for Austrian and International Tax Law, WU.

Michael Lang

Michael Lang is Head of the Institute for Austrian and International Tax Law. He is Academic Director of the LLM Program in International Tax Law and Speaker of the Doctoral Program in International Business Taxation (DIBT) at Vienna University of Economics and Business (WU), Austria.

Jeffrey Owens

Jeffrey Owens is Director of the WU Global Tax Policy Center of the Institute for Austrian and International Tax Law, WU, and former Head of the OECD Centre for Tax Policy and Administration.

Pasquale Pistone

Pasquale Pistone holds the Ad Personam Jean Monnet Chair in European Tax Law and Policy at WU. He is also Associate Professor of Tax Law at the University of Salerno, Italy and the Academic Chairman of IBFD.

Alexander Rust

Alexander Rust is a professor at the Institute for Austrian and International Tax Law, WU.

Josef Schuch

Josef Schuch is a professor at the Institute for Austrian and International Tax Law, WU, and a partner of Deloitte Austria.

Karoline Spies

Karoline Spies is a professor at the Institute for Austrian and International Tax Law, WU.

Claus Staringer

Claus Staringer is a professor at the Institute for Austrian and International Tax Law, WU, and a principal consultant with the law firm Freshfields Bruckhaus Deringer.

Assistant Editors

Martin Klokar

Martin Klokar is a research and teaching associate at the WU Vienna University of Economics and Business, Institute for Austrian and International Tax Law. He received a master's degree in Taxation and Accounting (MSc) from WU and graduated from that university with bachelor's degrees in both Business Law (LLB) and Business, Economics and Social Sciences (BSc). During his bachelor's studies, he did a study abroad at the London School of Economics and Political Science (LSE). Before joining the Institute, he worked in several law and tax consulting firms. He has been doing research on and has been published in the area of Austrian, European and international tax law. He is pursuing a doctoral degree in Business Law (Dr. iur.) from WU.

Cristóbal Pérez Jarpa

Cristóbal Pérez Jarpa was born in Santiago de Chile. He received his law degree and master of law post-graduate degree (LLM) in corporate taxation from Universidad de Los Andes, Santiago de Chile, and he obtained his second master of law (LLM) in international tax law at WU (Vienna University of Economic and Business), Vienna, Austria. Cristóbal gained experience working as a tax advisor in a Chilean law firm and currently works as a research and teaching associate at the Institute for Austrian and International Tax Law, WU and is a PhD collegiate in the Doctoral Program in International Business Taxation (DIBT) at WU.

Authors

Kristiina Äimä

Kristiina Äimä is a teacher at the Faculty of Law of the University of Helsinki. She is also a tax consultant at KPMG in Finland and holds the title of lecturer of tax law at the Aalto University School of Business and the University of Helsinki.

Äimä holds a Doctor of Laws degree from the University of Helsinki (2009) and an LLM from the University of Amsterdam (1996). She has published four monographs, co-authored one book and around 90 book contributions and articles. Her research topics have mainly dealt with corporate taxation, international and European tax law and procedural tax law.

José Manuel Almudí Cid

José Manuel Almudí Cid is Professor of tax law and Head of the School for Legal Practice at the Complutense University of Madrid. His main fields of research are European tax law in the area of direct taxation, international anti-avoidance rules, the harmonized system of VAT and taxpayer guarantees in tax procedures. He is the author of several publications on tax law and is regularly invited to speak at various tax conferences both in Spain and abroad. He is a member of the International Fiscal Association and of the Spanish Association of Tax Advisors.

Muhammad Ashfaq Ahmed

Muhammad Ashfaq Ahmed is a Pakistan Inland Revenue Service (IRS) officer and is currently posted as Member (Inland Revenue), Federal Board of Revenue, Islamabad. He also heads International Taxes and has been Pakistan's lead negotiator of double taxation agreements for over two decades. He holds a PhD in Political Economy from the Quaid-e-Azam University, Islamabad.

Susi Baerentzen

Susi Baerentzen is an international postdoc student within the field of taxpayers' rights and holds a PhD in international tax law. She has published several articles, books and chapters on tax issues related to Danish beneficial ownership cases, State aid and alternative financing. Most recently, she was a reporter for the International Fiscal Association's 73rd Congress in he completed his doctorate on the rule of law implications of HMRC advice (published by Hart Publishing as *HMRC Advice and the Public* (2020)).

Christina Dimitropoulou

Christina Dimitropoulou is currently a research and teaching associate and PhD Candidate in the doctoral program in International Business Taxation (DIBT) of the WU Vienna University of Economics and Business. She is a tax lawyer member of the Athens Bar Association and previously worked with PwC Greece as a tax litigator and senior tax consultant as well as a tax lawyer in law firms. She specializes in robot taxation and whether robot taxes would enhance the tax system's normative goals in terms of distributive fairness, efficiency and tax certainty. Other fields of her research concern, broadly, digital taxation and digitalization of tax procedures. She publishes articles and gives lectures regarding tax policy issues and international and European tax law. She is a member of the European Artificial Intelligence (AI) Alliance. Christina received the city of Vienna best paper award in the field of new research avenues in 2019 and has actively participated in tax law and technology conferences, while she is also a reviewer of tax law journals.

Caroline Docclo

Caroline Docclo is admitted as an *avocat spécialiste en droit fiscal* at the Brussels Bar. She practices in the Brussels office of Loyens & Loeff and is also is a professor of tax law at the University of Liège and the Université libre de Bruxelles. She represents Belgium at the IFA Permanent Scientific Committee and is a past president of the Belgian branch of IFA. She is appointed by Belgium as an "independent person of standing" for the purposes of both the EU Tax Arbitration Convention and the EU Tax Arbitration Directive.

David Domínguez

David Domínguez is an international tax advisor with over 13 years of experience in international tax advisory and tax management for multinationals in America and Europe, both as external tax advisor and in-house tax manager. David focuses on international tax planning, mergers and acquisitions, double tax treaties, permanent establishments, tax aspects of supply chain, tax compliance and tax audits for direct and indirect taxes as well as tax and transfer pricing policy definition. He holds a JD from the Pontificia Universidad Javeriana, a post-graduate degree on Tax Law from Universidad de los Andes and an LLM in International Tax Law from WU

Vienna University of Economics and Business. David is a frequent contributor in several international tax law publications and seminars on the topics of treaty interpretation, anti-abuse rules and the OECD/G20 BEPS Project.

Marilena Ene

Dr Marilena Ene, LLM, is a lecturer at the Faculty of Law, University of Bucharest, holding a chair in tax law and public finance law. She holds bachelor's degrees in law from the University of Bucharest (2000) and in finance and banking from the Bucharest University of Economic Studies (2016), as well as an LLM in international tax law from WU (Vienna University of Economic and Business). Dr Ene is a partner in RATIU & RATIU, a Romanian law firm specialized in tax law, both local and international, public procurement, concessions and PPP projects, public finance law, arbitration and real estate law.

Jorge Ferreras Gutiérrez

Jorge Ferreras Gutiérrez is Financial Counsellor at the Spanish Permanent Representation to the European Union. Previously, he was Deputy Competent Authority for International Taxation at the General Directorate for Taxation in the Ministry of Finance of Spain. He holds a dual degree in Law and Business Administration from Universidad Pontificia Comillas (ICADE). During this time, he participated in an exchange programme at the Université Catholique de Louvain (Belgium). He majored in Finance at the Stockholm School of Economics (Sweden). Currently, he is a Tax Inspector. Jorge is a frequent speaker at international tax conferences and author of articles related to international taxation, particularly the BEPS Project.

Guilherme Galdino

Guilherme Galdino is a lawyer in São Paulo, Master of Science Candidate at the University of São Paulo and has a Bachelor of Law degree from the University of São Paulo.

Clémence Garcia

Clémence Garcia is a Professor of Accounting at the Faculty of International Social Sciences at Gakushuin University in Tokyo. She holds a PhD from the University of Paris Dauphine. Her research activities focus mainly on intangible assets and international taxation.

Stefanie Gombotz

Stefanie Gombotz, LLM, is a research and teaching associate at the WU Vienna University of Economics and Business, Institute for Austrian and International Tax Law. She holds a master's degree in Business Law from WU Vienna and is currently pursuing a doctoral degree there in Business Law.

Johann Hattingh

Johann Hattingh is Associate Professor at the Faculty of Law in the University of Cape Town, South Africa. He is an Advocate of the High Court of South Africa and formerly practised with PwC. He is Chief Editor of the Bulletin for International Taxation and part of the management structure for IBFD's Centre for Studies in African Taxation. He has acted as senior international consultant for the UN Economic Commission for Africa, the IMF and for NEPAD on behalf of the African Union. He further serves as Rapporteur for Africa in the International Law Association's Study Group on International Taxation and is executive board member of the International Fiscal Association-South Africa.

Pablo Andrés Hernández González-Barreda

Pablo Andrés Hernández González-Barreda is Assistant Professor of Tax Law at Universidad Pontificia Comillas – ICADE. Formerly, he was Secretary to the Deloitte-ICADE Chair of Business Taxation. His main research subjects are abuse in international and European tax law and taxation of the financial sector. He has authored and edited several publications on these matters. He frequently participates in national and international conferences and has been a Visiting Researcher or Professor in many leading academic institutions. He is a member of the International Fiscal Association and of the Spanish Association of Tax Advisors. He has been Director General of Public Administration in the government of the Canary Islands. Currently, he serves as Chairman of the Canary Islands Tax Zone at the Ministry of Finance of Spain.

Gordana Ilić-Popov

Prof. Dr Gordana Ilić-Popov, LLM, is Vice-Rector at the University of Belgrade, Serbia, and full professor at the University of Belgrade Faculty of Law, with 30 years of experience in teaching and researching in tax law. She is a member of the International Institute of Public Finance (IIPF), International Fiscal Association (IFA), European Association of Tax Law Professors (EATLP) and Athens Institute for Education and Research, World Association of Academics and Researchers (ATINER). She is member of the Committee of Tokyo Fund University of Belgrade and of the Steering Committee of the Council of Europe project. She is author or co-author of nine books and some 200 articles on tax law, EU tax law and public finance issues in international and national professional and scientific journals.

Matej Kačaljak

Matej Kačaljak is an associate professor and head of Department of Financial Law at the Comenius University in Bratislava, Faculty of Law. His primary focus is on direct taxes, with an emphasis on international taxation and transfer pricing.

Petra Kamínková

Petra Kamínková is an assistant judge in Prague. She worked as a tax advisor at Ernst & Young and PwC and as a lawyer in the legislative department of the Ministry of Justice. She received a master's degree in diplomacy at the University of Economics in Prague and a master's degree in law at Charles University where she also received postgraduate degrees, JUDr and PhD, in financial law. Petra also holds an LLM in international tax law from the WU (Vienna University of Economics and Business).

Elena Kilinkarova

Elena Kilinkarova is Associate Professor at the Law Faculty of Saint Petersburg State University (Saint Petersburg, Russia) where she also holds the position of Deputy Dean of the Law Faculty – Head of the Academic Committee in Law. She has additionally gained experience practising tax law in a Russian law firm. Elena's research areas include tax law (Russian tax law, international tax law and comparative tax law) and budget law. She has authored and co-authored books, book chapters, textbooks and articles on various aspects of tax law, budget law and administrative law. She regularly publishes and speaks at conferences in both Russian and English, with several articles being published in Chinese. Elena is a member of the International Fiscal Association.

Christian Knotzer

Christian Knotzer, MSc, BSc, is a research and teaching associate at the WU Vienna University of Economics and Business, Institute for Austrian and International Tax Law. He holds a master's degree in Taxation and Accounting from WU Vienna and a bachelor's degree in Business, Economics and Social Sciences from the University of Vienna. He is currently pursuing a doctoral degree in Business Law at WU Vienna.

Aki Kokko

Aki Kokko is a tax consultant at KPMG Finland and holds the degree of Master of Laws (University of Helsinki). Aki also began doctoral studies in January 2020 in the field of tax treaty law. He has participated as co-author of a book concerning Finnish business income taxation, which is updated annually, and Linde's *CJEU – Recent Developments in Direct Taxation 2019*.

Jiří Kostohryz

Jiří Kostohryz received a master's degree in finance and accounting at the University of Economics, Prague, and an LLM in international tax law from the WU Vienna University of Economics and Business. He has more than six years of experience advising in tax matters in the private (certified tax adviser in the Czech Republic) and public sectors (European Commission). Currently, he is working at the International Taxation Unit of the Czech Ministry of Finance.

Richard Krever

Richard Krever is a professor at the Law School of the University of Western Australia and an international fellow at the Centre for Business Taxation at the University of Oxford and China University of Politics and Law. He is the author of numerous research volumes, textbooks and journal articles. He has been seconded to international agencies such as the IMF and has provided tax and law design assistance for organizations such as the World Bank, Asian Development Bank and many ministries of finance and treasury departments in Asia, Africa, the Pacific region, the Caribbean, Eastern Europe and Australasia. Professor Krever was a member of the government panels that helped design the New Zealand and Australian CFC regimes and served on a number of government-appointed tax review bodies in Australia, including the panel overseeing a tax law redraft and a committee responsible for designing reforms to business taxation.

Krzysztof Lasiński-Sulecki

Krzysztof Lasiński-Sulecki is the head of the Centre of Fiscal Studies at Nicolaus Copernicus University in Torun, Poland, and an associate professor at the Department of Public Finance of this university. He holds a post-doctoral degree (*habilitacja*) and doctoral degree in law. During 2011-2012 he was senior visiting tax researcher at the Institute for Austrian and International Tax Law, Vienna University of Economics and Business (WU). He has also given lectures at, inter alia, Universidad Complutense de Madrid and Masarykova univerzita, Brno, Czech Republic. He is a tax advisor and legal counsel. He was a member of the VAT Expert Group of the European Commission (2012-2014) and a member of the Consultative Council on Tax Law advising the Ministry of Finance (2014-2016). Krzysztof is the author of around 250 papers in the field of tax and customs law.

Ivan Lazarov

Ivan Lazarov is a Senior Researcher at the Institute for Austrian and International Tax Law, Vienna University of Economics and Business (WU). He is also a Postdoctoral Research Fellow at IBFD. He holds a PhD from the WU, an LLM from KU Leuven and a master’s degree in law from Sofia University.

Dalibor Legac

Dalibor Legac holds an MA in law from the Faculty of Law, Zagreb (Croatia), University of Zagreb where he graduated in 2004. He passed the bar exam in 2009. Dalibor began working for the Croatian Tax Administration in 2006 and is now Head of the Department for Double Taxation Agreements, specializing in tax treaty negotiation, cross-border exchange of information and dispute resolution. He is also the Croatian delegate to OECD Working Party 1 on Tax Conventions and Related Questions, Working Party 11 on Aggressive Tax Planning and the OECD BEPS Inclusive Framework. He is also the Croatian contact point for the OECD for tax matters.

Na Li

Na Li is associate professor at East China University of Political Science and Law (Shanghai). She is a Chinese lawyer and a US lawyer (New York State) practising in cross-border investment and international taxation. Na obtained an LLB from Fudan University in 2001, an LLM in tax law from Boston University in 2009 and a PhD from Vienna University of Economics and Business (WU) in 2015.

Paolo Ludovici

Paolo Ludovici has been a partner of GPBL - Gatti Pavesi Bianchi Ludovici since 2021, following the merger with L&P - Ludovici Piccone & Partners, a firm he founded in 2014. Previously, he worked for 23 years at Maisto e Associati since its establishment, becoming a partner in 2000. He advises on all areas of tax law. His expertise includes domestic and international corporate reorganizations, M&A and structured finance transactions, tax planning for high net-worth individuals and trusts. He often acts as an expert in criminal and tax proceedings. He is a highly acclaimed and multi award-winning tax professional. He regularly writes for Italian leading financial newspapers as well as for other major tax reviews and magazines, and regularly speaks at tax conferences and lectures in post-graduate specialization courses. He is a member of the Tax and Legal Committee of the Italian Private Equity and Venture Capital Association (AIFI) as well as of the Legal Committee of the Italian Private Banking Association (AIPB) and a full member STEP Italy. He graduated cum laude in Business Administration at Bocconi University and has been admitted to the Italian Chartered Accountant Association in Milan.

Xiangdan Luo

Xiangdan Luo is a PhD candidate for the Doctoral Program in International Business Taxation (DIBT) at Vienna University of Economics and Business (WU). She obtained an advanced LLM in European Tax Law in 2017 from the International Tax Center (ITC), Leiden University, the Netherlands.

Henri Lyyski

Henri Lyyski is a senior associate at Alder & Sound, Finland. He holds a Master of Science in economics and business administration from the University of Tampere, Faculty of Tax Law. His masters' thesis dealt with agency permanent establishments and the OECD's BEPS Project. Lyyski has participated in several international research projects concerning international taxation and tax compliance.

Željko Martinović

Željko Martinović holds an MA in economics from the Faculty of Economics, Osijek (Croatia). He started working for the Croatian Tax Administration in 2007 and is now a senior adviser at the Department for Double

Taxation Agreements, specializing in tax treaty negotiation and cross-border dispute resolution. He is also the Croatian delegate to OECD Working Party 1 on Tax Conventions and Related Questions, the MAP Forum and the OECD BEPS Inclusive Framework.

Nikolai Milogolov

Nikolai Milogolov, ADIT Candidate of Sciences, is an economist specializing in tax law and tax policy. He is currently employed as Head of Laboratory of Tax Policy Research at the Institute of Applied Economic Research of the Russian Presidential Academy of National Economy and Public Administration (RANEPA), and also as principal academic researcher at the tax policy centre of the Financial Research Institute under the Ministry of Finance of the Russian Federation. Nikolai has prepared tax policy proposals and lectured to the staff of the Ministry of Finance and Tax authorities in Russia, Armenia and Uzbekistan. He further collaborates as an external consultant with the International Monetary Fund Fiscal Affairs Department. His area of expertise and research includes international tax policy and double tax treaties in the developed and developing world, tax system design and the tax challenges of digitalization.

Rahmat Muttaqin

Rahmat Muttaqin is a transfer pricing advisor with DDTC in Jakarta. He received his Bachelor’s Degree in Fiscal Administration Science from the University of Indonesia with *cum laude predicate*. He then obtained his LLM in International Tax Law at WU Vienna, Austria with honors predicate, under a scholarship from DDTC. Rahmat holds an Advanced Diploma in International Taxation (ADIT) Certificate from the Chartered Institute of Taxation (UK). He is listed as a Certified Tax Consultant as well as a Licensed Tax Attorney in Indonesia.

Joy Ndubai

Joy Waruguru Ndubai, LLM, is a teaching and research associate at the WU Institute of Austrian and International Tax Law, currently pursuing a Doctorate in Business Law with a focus on international tax law, at WU Vienna University of Economics. She holds an LLM in Taxation from the London School of Economics and an LLB from SOAS (University of London). Prior to working in Vienna, she served as Global Tax Advisor at ActionAid Denmark and has previously worked with Oxfam GB (Kenya office) and Tax Justice Network Africa. Joy has also gained experience in the private sector, working as a tax advisor at KPMG East Africa.

Noam Noked

Dr Noam Noked is an Assistant Professor of Law at the Chinese University of Hong Kong. His research focuses on tax law and policy. He holds a doctoral degree in law from Harvard Law School and undergraduate degrees in law and accounting from Tel Aviv University. Noam is also a tax consultant in the Hong Kong office of Baker McKenzie.

Cristóbal Pérez Jarpa

Cristóbal Pérez Jarpa was born in Santiago de Chile. He received his law degree and master of law post-graduate degree (LLM) in corporate taxation from Universidad de Los Andes, Santiago de Chile, and he obtained his second master of law (LLM) in international tax law at WU (Vienna University of Economic and Business). Cristóbal gained experience working as a tax advisor in a Chilean law firm and currently works as a research and teaching associate at the Institute for Austrian and International Tax Law, WU and is a PhD collegiate there in the Doctoral Program in International Business Taxation (DIBT).

Prerna Peshori

Prerna Peshori is a Chartered Accountant and international tax lawyer. She is a partner at Peshori Pachori & Jain, Chartered Accountants in Mumbai, India. She completed her master's degree from WU, Vienna as Foundation for International Tax Scholar 2019. She has some five years of experience in international taxation advisory and litigation services. Prerna has been delivering lectures at various professional forums and teaching international tax law to chartered accountants and to candidates in the Chartered Institute of Taxation's Advanced Diploma in International Tax programme for the international tax credential ADIT, an advanced level designation in cross-border tax.

Pasquale Pistone

Pasquale Pistone holds the Ad Personam Jean Monnet Chair in European Tax Law and Policy at WU. He is also Associate Professor of Tax Law at the University of Salerno, Italy and the Academic Chairman of IBFD.

Dejan Popović

Prof. Dr Dejan Popović is a professor of tax law at the Faculty of Law, University of Belgrade. He was a visiting professor at the University of Maribor and delivered lectures at a number of universities worldwide including Oxford, St Antony's and Zhejiang. He was the Rector of the University of Belgrade (2004-2006). He is a member of the EATLP and the president of IFA Serbia. His research areas mainly cover direct taxes and international tax law. He is author or co-author of 15 books and over 100 articles in Serbian and English. As the Deputy Minister of Finance (2001-2003), he played a major role in implementing fiscal reform in Serbia.

Ashrita Prasad Kotha

Ashrita Prasad Kotha is a DIBT collegiate (teaching and research associate) at WU, Vienna. She completed her master's in law from the University of Oxford as a KC Mahindra Scholar. During 2014-2019, Ashrita was an Assistant Professor where she taught tax law and policy at Jindal Global Law School in India. She has given guest lectures on international taxation and has advised the Fifteenth Finance Commission of India on earmarked taxes. She received the Abe Greenbaum Research Fellowship by the University of New South Wales Sydney in 2018.

Ewa Prejs

Ewa Prejs holds a master's degree in law and a PhD in law from the Nicolaus Copernicus University in Toruń (Poland). She has worked with the Department of Public Finance Law of the Faculty of Law and Administration of the Nicolaus Copernicus University since 2007 as a lecturer and a post-doctoral researcher. She has published and lectured widely on issues of Polish, international and European taxation. Ewa is a practising lawyer (attorney-at-law). As a practitioner, she has extensive experience in representing clients in the proceedings before the administrative courts in tax matters (tax litigation), tax audit and fiscal control. She is a member of the International Fiscal Association, Polish Branch, and FIDE (International Chess Foundation).

Kerrie Sadiq

Kerrie Sadiq is a professor in the Business School at the Queensland University of Technology. She is a chartered tax adviser as designated by the Taxation Institute of Australia, a CPA and a Chartered Accountant. Kerrie primarily researches in international tax, tax expenditures and capital gains tax. She is the co-editor of Australian Tax Review, an internationally recognized leading academic tax journal. She is an author of publications in both Australian and international journals, has edited books and is a co-author of leading taxation texts. Prior to joining Queensland University of Technology, Kerrie spent 20 years at the University of Queensland as a member of both their law school and business school.

Luis Eduardo Schoueri

Luis Eduardo Schoueri is a full professor of tax law at the University of São Paulo Law School (USP), the vice-president of the Brazilian Institute of Tax Law (IBDT) and a founding partner at Lacaz Martins, Pereira Neto, Gurevich & Schoueri Advogados. He obtained his master's degree in law at the University of Munich and his doctor's and free professor's degree at the University of São Paulo. He has been a professor in the area of tax law at several universities in the United States and Europe, including the University of Florida (2007) and the Vienna University of Economics and Business (2013-2020). He was also professor in residence at IBFD (2017-2018) and the Hauser Global Professor of Law for the 2016 spring semester at New York University. Besides several articles published in Brazil and abroad, he has authored various books on tax law.

Moritz Seiler

Moritz Seiler, MSc (Oxon), Rechtsanwalt, is a law clerk at the Swiss Federal Supreme Court, Lausanne, where he deals with cases relating to domestic and international tax law. Prior to his current position at the Court, he was an associate with a large Zurich law firm where he advised and represented clients in all areas of domestic and international tax.

Daniel Smit

Prof. Dr Daniel Smit, LLM, first studied classical piano at the Royal Conservatory of The Hague. After that, he attended Erasmus University Rotterdam, where he studied Netherlands law and Netherlands tax law, and graduated cum laude. In 2012, his PhD thesis was awarded the prestigious European Academic Tax Thesis Award. Currently, Daniel is professor at the Fiscal Institute of the University of Amsterdam; he also works as a counsel at Ernst & Young in Amsterdam. He is the author of more than 200 national and international publications in the field of European, international and national tax law. Daniel is a regular speaker at national and international conferences, seminars and lectures.

Marco Striato

Marco Striato is an International Tax and Transfer Pricing Senior Associate at GPBL - Gatti Pavesi Bianchi Ludovici, Milan (Italy). His main areas of expertise include transfer pricing, valuation, and international tax law. He has extensive experience in dealing with topics related to transfer pricing in a range of industries including industrial and retail clients as well as financial institutions. Before joining GPBL, he worked as a transfer pricing specialist with PwC Tax and Legal Services and, prior to that, as a financial analyst. Marco holds an MSc in Law and Business Administration from Bocconi University, Milan (Italy) and graduated cum laude. He also attended postgraduate courses in the area of international taxation and corporate finance at Peking University in Beijing (China), WU University of Economics and Business in Vienna (Austria), and American University in Dubai (UAE). He is a frequent speaker in (inter)national conferences and a lecturer in programs for tax administrations (Basque Country, Cyprus) on the behalf of governments and international organizations. He is an Italian certified public accountant.

Mari Takahashi

Mari Takahashi has been working for the National Tax Agency of Japan as a tax officer since graduating from the University of Tokyo in 2006. In 2011, she obtained her LLM degree in Taxation from the Georgetown University Law Center in the United States. She was also involved in the tax policy-making process at the Cabinet Office and the Ministry of Finance in Japan from 2012 to 2014.

Anggi Padoan Ibrahim Tambunan

Anggi Padoan Ibrahim Tambunan is Manager of Tax Compliance & Litigation Services at DDTC in Jakarta. He graduated from the Fiscal Administration Science, University of Indonesia and finished his Master's Degree in Economic Law from the same university, under a scholarship of DDTC. He then obtained his LLM in International Tax Law at WU, Vienna, also under a scholarship provided by DDTC. Anggi holds an Advanced Diploma in International Taxation (ADIT) Certificate from the Chartered Institute of Taxation (UK) and is listed as a Certified Tax Consultant as well as a Licensed Tax Attorney in Indonesia.

Axel Verstraeten

Axel Verstraeten is a lawyer from Universidad de Buenos Aires and holds an LLM in international taxation from the University of Florida. Currently, he is a lecturer at Universidad Torcuato di Tella and a partner at Estudio Levene.

Craig West

Craig West is an Associate Professor in the Commerce Faculty at the University of Cape Town, South Africa. He is a Chartered Accountant of South Africa as well as of Australia and New Zealand, and a Master Tax Practitioner in South Africa. He holds a PhD from the University of Cape Town (2009). Craig is the Managing Editor of IBFD's World Tax Journal and of the IBFD Doctoral Series.

Viktoria Wöhrer

Dr Viktoria Wöhrer, LLM, BSc, is an Expert in Automatic Exchange of Information at the Fiscal Authority of the Principality of Liechtenstein, a lecturer at Vienna University of Economics and Business (WU) and author of various publications on international, European and domestic Austrian tax law. At the time of writing the chapter on Hong Kong, she was a post-doctoral Research Fellow at the Chinese University of Hong Kong.

Felipe Yáñez Villanueva

Felipe Yáñez Villanueva graduated from the Universidad de Chile and holds a master in tax law from the Universität zu Köln, Germany. He is a lecturer in tax law at the Universidad de los Andes, Santiago, Chile, a lecturer in the Master and Management Programme at the Universidad Católica de Valparaíso and a lecturer in the tax programme at the Faculty of Economics and Business, Universidad de Chile. He is an attorney and a tax partner at Mazars.

Lidija Živković

Lidija Živković, LLM, (born in Belgrade in 1990) is a teaching assistant of Tax Law and Law of Double Taxation Conventions at the Faculty of Law, University of Belgrade. She is president of the Serbian YIN IFA (Serbian Fiscal Society). After graduating from the Faculty of Law, University of Belgrade, she continued her education in the field of international tax law at the Vienna University of Economics and Business and, in 2015, received her LLM degree. As of September 2017, she holds a master's degree in Tax Law and Public Finance from the Faculty of Law, University of Belgrade, where she is presently pursuing her PhD studies in the same field.

Notes

Notes

Contact

IBFD Head Office
Rietlandpark 301
1019 DW Amsterdam
P.O. Box 20237
1000 HE Amsterdam
The Netherlands

Tel.: +31-20-554 0100 (GMT+1)
Email: info@ibfd.org
Web: www.ibfd.org

IBFD

IBFD, Your Portal to Cross-Border Tax Expertise