THE MULTILATERAL INSTRUMENT (MLI)

(HOW) WILL IT WORK?

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BETTER POLICIES FOR BETTER LIVES

Implementing the BEPS Package



Recommendations,

(minimum) standards,

best practices

Legislative changes

Treaty changes

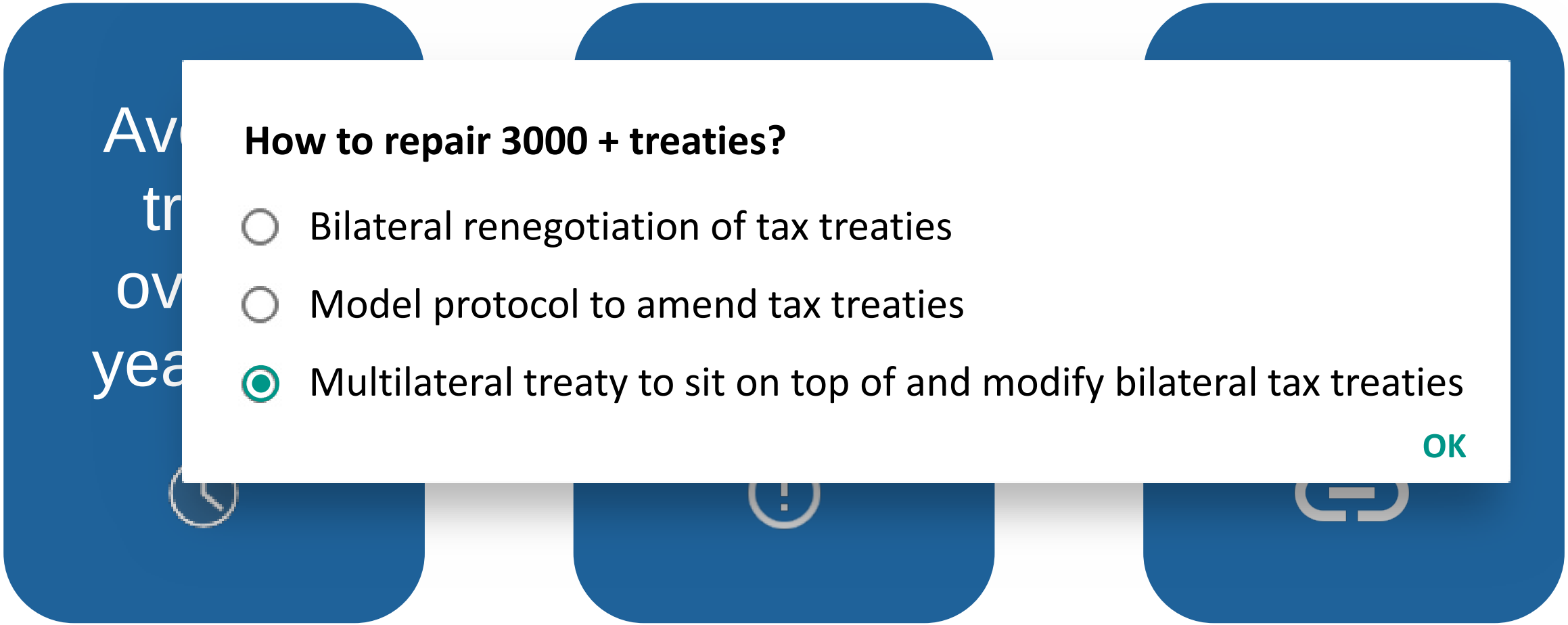
Monitoring and Peer Reviews

Contents of the BEPS Package

Tax Treaty Related Measures

- Action 2 – Hybrid Mismatches
- Action 6 – Prevention of Treaty Abuse *(Minimum Standard)*
- Action 7 – Avoidance of Permanent Establishment Status
- Action 14 – Improving Dispute Resolution *(Minimum Standard)*

Current state of the global treaty network



Ad hoc Group on the Multilateral Instrument

Open to all interested countries on an equal footing

Over 100 countries and jurisdictions participated in the negotiation

The Group had six negotiation sessions between May 2015 and November 2016

Role of the *Ad hoc* Group

Substance of tax treaty related BEPS measures was agreed in the BEPS Package

Ad Hoc Group focused on how the MLI should modify tax treaties in order to implement the measures

Separate workstream for the development of the provision on mandatory binding MAP arbitration

Flexible Instrument

- Specifying tax treaties covered
- Meeting a minimum standard in another way
- Opting out of non-minimum standard provisions
- Opting out of provisions for treaties with specific characteristics
- Choices to apply optional and alternative provisio (including opting in to Part VI on Arbitration)

2 Covered Tax Agreements of Country Y

- ☑ Tax Convention with Country B
  15 July 1953
- ☑ Tax Convention with Country F
  21 April 1981
- ☑ Tax Convention with Country G
  18 March 1983
- ☑ Tax Convention with Country T
  1 December 2001
- ☑ Tax Convention with Country Z
  18 July 2015

MLI

Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting

Preamble

I Part I (Scope and Interpretation of Terms)

II Part II (Hybrid Mismatches)

III Part III (Treaty Abuse)

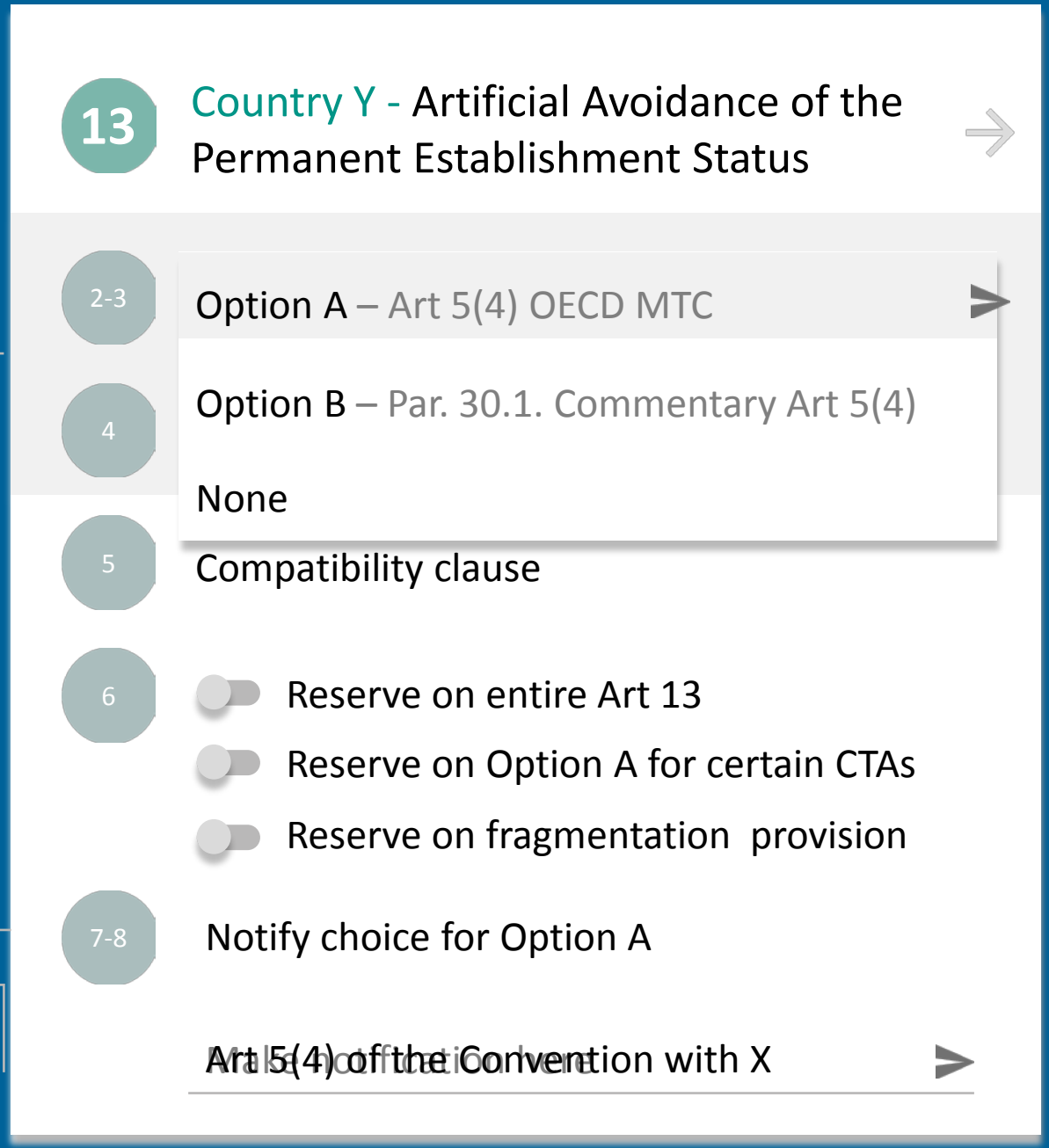
IV Part IV (Avoidance of Permanent Establishment Status)

V Part V (Improving Dispute Resolution)

VI Part VI (Arbitration)

VII Part VII (Final Provisions)

- Substantive provision
  Sometimes including different options
- Compatibility clause
- Reservation clause
- *Clarity:* Notification clause reflecting choice of options
- *Certainty:* Notification clause clarifying existing provisions within scope



It's a Covered Tax Agreement!

2 Covered Tax Agreements of Country X

- Tax Convention with Country C
  23 July 1972
- Tax Convention with Country M
  2 October 1989
- Tax Convention with Country G
  30 June 1992
- Tax Convention with Country V
  1 December 2001
- Tax Convention with Country Y
  18 July 2015

Country X

2 Covered Tax Agreements of Country Y

- Tax Convention with Country B
  1 July 1953
- Tax Convention with Country F
  21
- Tax Convention with Country G
  18
- Tax Convention with Country T
  1 December 2001
- Tax Convention with Country X
  18 July 2015

Country Y

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13 Country X - Artificial Avoidance of the Permanent Establishment Status

2-3 Option A –Art 5(4) OECD MTC

4 Art 5(4.1) OECD MTC – Fragmentation

5 Compatibility clause

6
- Reserve on entire Art 13
- Reserve on Option A for certain CTAs
- Reserve on fragmentation provision

7-8 Notified Option A

Notified Art 5(4) of the Convention with Y

13 Country Y - Artificial Avoidance of the Permanent Establishment Status

2-3 Option A –Art 5(4) OECD MTC

4 Art 5(4.1) OECD MTC – Fragmentation

5 Compatibility clause

6
- Reserve on entire Art 13
- Reserve on Option A for certain CTAs
- Reserve on fragmentation provision

7-8 Notified Option A

Notified Art 5(4) of the Convention with X

Country Roadmap for Signature of the MLI

Step 1	• Policy choices
Step 2	• Identification of tax treaties to be covered
Step 3	• Complete templates (treaty list, reservations & notifications)
Step 4	• Discussions between treaty partners
Step 5	• Submission of draft MLI position to Depositary
Step 6	• Transmission of full powers for Signatory
Step 7	• Signature ceremony in Paris (7 June 2017)



MLI – General Timeline







Domestic procedures for signature

Domestic procedures for ratification

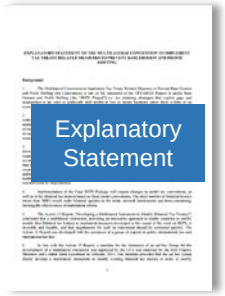
February 2015

November 2016

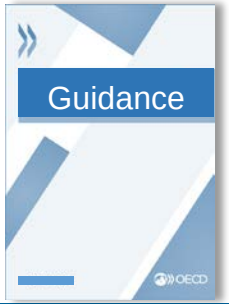
7 June 2017

Entry into Force

Entry into Effect







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