

Tax Treaty

July 1, 2019

The ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI)

Economy– Taxation & **International Relations**– Important International institutions, agencies and their mandate

Recently the Union Cabinet, chaired by the Prime Minister has approved the ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI)

Background

The Convention is one of the outcomes of the OECD/G20 project, of which India is a member, to tackle base erosion and profit shifting. The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting was signed by the Finance Minister in 2017. The Convention enables countries to implement the tax treaty related changes to achieve anti-abuse BEPS outcomes through the multilateral route without the need to bilaterally re-negotiate each such agreement which is burdensome and time consuming.

It ensures consistency and certainty in the implementation of the BEPS Project in a multilateral context. Ratification of the Multilateral Convention will enable application of BEPS outcomes through modification of existing tax treaties of India in a swift manner.

Key highlights

- **The Multilateral Convention is an outcome of the OECD / G20 Project** to tackle Base Erosion and Profit Shifting (the “**BEPS Project**”) i.e., tax planning strategies that

exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no tax being paid.

- The BEPS Project identified 15 actions to address base erosion and profit shifting (BEPS) in a comprehensive manner.
- India was part of the Ad Hoc Group of more than 100 countries and jurisdictions from G20, OECD, BEPS associates and other interested countries, which worked on an equal footing on the finalization of the text of the Multilateral Convention, starting May 2015.
- The text of the Convention and the accompanying Explanatory Statement was adopted by the Ad hoc Group in November 2016.
- The Convention enables all signatories, inter alia, to meet treaty-related minimum standards that were agreed as part of the Final BEPS package, including the minimum standard for the prevention of treaty abuse under Action 6 (**Action 6** of the OECD/G20 Base Erosion and Profit Shifting (**BEPS**) Project identifies treaty abuse, and in particular treaty shopping, as one of the most important sources of **BEPS** concerns)
- The Convention will operate to modify tax treaties between two or more Parties to the Convention. It will not function in the same way as an amending protocol to a single existing treaty, which would directly amend the text of the Covered Tax Agreement. Instead, it will be applied alongside existing tax treaties, modifying their application in order to implement the BEPS measures.
- **The Convention will modify India's treaties in order to curb revenue loss through treaty abuse** and base erosion and profit shifting strategies by ensuring that profits are taxed where substantive economic activities generating the profits are carried out and where value is created.

Impact:

The Convention will modify India's treaties in order to curb revenue loss through treaty abuse and base erosion and profit shifting strategies by ensuring that profits are taxed where substantive economic activities generating the profits are carried out and where value is created.