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# India signs OECD pact to plug tax treaty loopholes

## BEPS convention will reduce opportunities for tax avoidance by MNCs

**KR SRIVATS**

New Delhi, June 8

India has signed a ground-breaking multilateral BEPS convention that will close loopholes in thousands of tax treaties worldwide. The multilateral instrument was signed by Finance Minister Arun Jaitley at the OECD headquarters in Paris on Wednesday.

The OECD multilateral convention aims to crack down on tax evasion around the world, be it companies or investors, anybody trying to create a structure primarily to avoid or evade taxes.

The convention will modify India's treaties to curb revenue loss through treaty abuse and BEPS (Base Erosion and Profit Shifting) strategies by ensuring that profits are taxed where substantive economic activities generating the profits are carried out.

It will swiftly implement a series of tax treaty measures to update the existing network of bilateral treaties and reduce opportunities for tax avoidance by multinational enterprises.

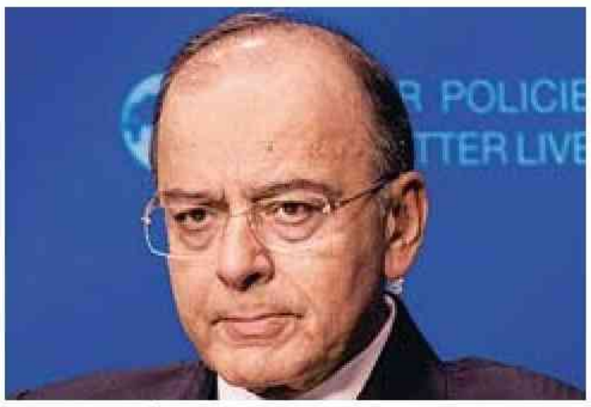
### Resolving treaty rows

It will strengthen provisions to resolve treaty disputes, including mandatory binding arbitration, thereby reducing double taxation and increasing tax certainty.

The new convention was developed through negotiations involving more than 100 countries and jurisdictions, under a mandate delivered by G20 Finance Ministers and Central Bank Governors at their February 2015 meeting. Ministers and high-level officials from 76 countries and jurisdictions have signed or formally expressed their intention to sign the multilateral convention.

According to OECD Secretary-General Angel Gurría: "We are moving towards rapid implementation of the far-reaching reforms agreed under the BEPS project in more than 1,100 tax treaties worldwide, and radically transforming the way that tax treaties are modified."

Beyond saving signatories from the burden of re-negotiating these treaties bilaterally, the new convention will result in more certainty and predictability for businesses, and a better functioning international tax system "for the benefit of our citizens", according to Gurria.




Arun Jaitley, Finance Minister

**Historic pact**

- Multilateral instrument will result in certainty and predictability for businesses
- Fastest way to strengthen tax treaties
- 68 jurisdictions covered; 1,100+ matched treaties
- Will help the fight against BEPS
- Annual revenue loss globally due to BEPS: $100-240 billion

### Checking tax evasion

The OECD/G20 BEPS project delivers solutions for governments to close the gaps in existing international rules that allow corporate profits to "disappear" or be artificially shifted to low- or no-tax environments, where companies have little or no economic activity. Revenue losses from BEPS are conservatively estimated at $100-240 billion annually, or the equivalent of 4-10 per cent of global corporate income tax revenues.

Rakesh Nangia, Managing Partner, Nangia & Co LLP, said that governments worldwide have been patient with cross-border aggressive tax planning till now. However, with the signing of this multilateral instrument, corporates have been told that their game of funnelling income to low tax or no tax jurisdiction is up. "Though the implementation by each country would be subject to its reservations, the message is clear that treaty abuse is not acceptable and dispute resolution will become faster."

The Central Board of Direct Taxes said this 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.

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