

SATURDAY INTERNATIONAL TAX GYAN !!!

#taxmadeeasy

MLI For Beginners PART- 7



SITG No.
143



Article 6: Purpose of CTA (Minimum Standard)

Hey Jethalal

Why Article 6 is
Minimum
Standard ?

Is it that
Important !



Iyer

Jain Shrimal & Co.

Iyer Bhai

Article 6 is Important as
the Intent behind Article 6 is to

- Eliminate Double Taxation
- To Avoid Non-taxation
- Discourage Treaty Shopping

Thus, Article 6 is as
Important as
Colors in Holi



Jethalal

Preamble Text to be Added to CTA

As a Minimum
Standard added to
every CTA

Optional addition
to Preamble

"Intending to eliminate double taxation with respect to the taxes covered by this agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of third jurisdictions)" of third jurisdictions)"

"Desiring to further develop their economic relationship and to enhance their cooperation in tax matters"

Being a Minimum Standard, countries need to adopt the Language of Preamble **in place of or in absence of the current text**

This is an additional Language to be included **only when parties to CTA are agreed to expressly adopt** the additional language

India's Position



India is Silent on adoption of Article 6

**Minimum
Standard
Preamble**

**Optional
Addition to
Preamble**

Deemed to be adopted

**India has not adopted
hence not applicable**



India's Treaty ~ Major Investment Countries



India and Mauritius

Mauritius has not notified India as its treaty partner therefore India- Mauritius treaty continues to subsist without any change



India and UK

UK has notified India as its treaty partner therefore India-UK preamble language will change by addition of text prescribed under Article 6



India and USA

USA is not Signatory to MLI



India and Russia

UK has notified India as its treaty partner therefore India-UK preamble language will change by addition of text prescribed under Article 6



India and China

India - China tax treaty has been recently amended therefore the text as suggested by Article 6 is already included in the treaty

Documents can be referred for Interpretation of MLI

Basic Documents:

- BEPS Action Plan 15
- Explanatory Statement to MLI
- MLI Positions adopted and deposited by Various MLI signatories with OECD
- Report on BEPS Action Plan 2,6,7,14
- Existing tax treaty
- OECD Model Convention of Tax treaty and OECD Commentaries
- Synthesized text of MLI between parties to CTA

Other Documents available on OECD website:

- List of Signatories and parties to MLI
- Frequently Asked Questions (FAQs) on MLI
- Flow chart on matching of reservations and notifications of MLI
- Legal note on functioning on MLI under public international law
- Step by step on applying the MLI
- MLI Matching Database

Link of OECD Website: <https://www.oecd.org/>

Reference of Previous SITG of MLI for beginners Series

S.No	Particulars	Link
1.	Basic (BEPS)	<u>Click here</u>
2.	Introduction to MLI	<u>Click Here</u>
3.	Structure and Framework of MLI	<u>Click here</u>
4.	India's position on MLI	<u>Click Here</u>
5.	Dual Residency of Entities	<u>Click Here</u>
6.	Application of Methods for Elimination of Double Taxation	<u>Click here</u>

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