

BMR Legal



*Resolution of Tax Disputes under Domestic and International
Laws involving MAP and/or Multilateral Instrument under
BEPS (Actions 14 & 15)*

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PANELISTS

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Action 14 as Minimum Standard - key objectives

- Key Objectives:
 - Treaty Obligations implemented in good faith & MAP cases resolved timely
 - Administrative processes to promote prevention & timely resolution of treaty-related disputes
 - MAP access to Eligible taxpayers
- India's history with MAP – 2014 TARC report recognised lack of MAP data as an inherent limitation
- Will India's reservation on Article 25, para 8 in 2014 OECD MC sustain
- Should India reconsider its position on Article 7(4) of MLI, at least with select treaty Partners
- Recent CBDT circular to alter its position on Article 9(2) is welcome
- Inventory of MAP/APA – timelines for progressing on bilateral APA with important treaty Partners
- India's Selective approach towards suspension of Tax demands – AP recommends suspension as best practice – is that a minimum standard ?

MAP v/s Binding Arbitration or domestic disputes – choice between devil & deep sea

- Is India's position on Arbitration on grounds of sovereignty tenable?
- Conflict between Article 246 & Article 253 of the Indian Constitution
- Article 246 deals with Parliaments exclusive rights to make laws on matters enumerated in list 1 in the seventh schedule
- Article 253 dealing with legislation to give effect to international agreements starts with a Non-obstante clause
- Article 51 of constitution deals with directive principles of the state - State to endeavour 'foster respect to international law & treaty obligations & encourage settlement of international disputes by arbitration
- Administrative Measures – select recommendations such as 'expert witness' in draft ITAT rules of 2017
- Ishwar Committee recommendations – implementation thereof.

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