New International Taxation Rules and Tax Avoidance by Multinational Corporations (MNCs)

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Abstract

Every year tax jurisdictions around the world lose tax revenue in billions due to the aggressive tax planning by the Multinational Corporations (MNCs). The MNCs exploit the loopholes of the existing international taxation rules and create base erosion and profit shifting (BEPS). The OECD adopted 15 action plans to tackle the BEPS problem. In line with the BEPS project, the international taxation regime has witnessed a new development in recent years with the adoption of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). The MLI, being a follow-up of OECD BEPS project, aims at bringing harmony in the field of double taxation treaties among the countries. Particularly, the MLI provides effective solutions to the problems of tax avoidance and evasion by the MNCs. The purpose of this article is to discuss the issue of gargantuan tax avoidance through aggressive tax planning by the MNCs and the new MLI rules to tackle the problem. It is observed that the new MLI provides a better option to fight against the problem of BEPS by the MNCs.

Keywords: International Tax, MNCs, Tax Avoidance, Tax Evasion, BEPS, the MLI.

Introduction

The purpose of international taxation law is to facilitate cross border businesses through export and import of capital and also to monitor that same income is not taxed twice. International taxation law manifests itself in the double taxation treaties signed by two countries. So far there are 3000 double taxation treaties around the world. The international taxation issues remain a matter of concern for the tax administrations around the world. Mullins (2020) states, "International tax issues are a growing concern to both developed and developing countries. Many of these concerns arise from evidence of aggressive tax planning by multinational enterprises

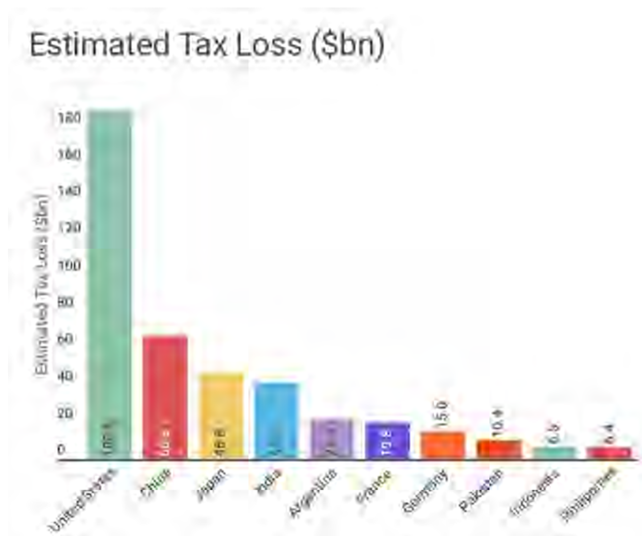
(MNEs). These tax planning opportunities often result from weaknesses in the design of the international tax framework, as well as from MNEs taking advantage of deliberate policy choices by some countries to obtain competitive advantages. The digitalization of economic activity has further complicated the international tax system." With the advance of time, it was observed that the existing international taxation rules teem with loopholes and the Multinational Corporations (MNCs) took advantage of these loopholes and evaded or avoided huge amount of taxes (Yang and Metallo, 2018). For example, in 2009-2013, Amazon, Google and Starbucks paid a combined total of only £57.7 million despite revenues of nearly £32 billion over the same period. Only 0.18% of revenues were paid in corporation tax (Connell, 2014). It is estimated that global revenue losses due to tax avoidance by corporations could be up to $600 billion each year with approximately $400 billion in developed countries (Sikka, 2018). The EU report on aggressive tax planning (2017), "Widespread aggressive tax planning implies fewer revenues for countries and leads to unfair contributions by some taxpayers, thereby reducing tax morale and creating distortions of competition between companies". The recent Lux Leaks, Panama Papers, Swiss Leaks and Bahama Leaks, tax scandals have shown the dimension of tax avoidance problem by giant Multinational Corporations (MNCs) (Vandenhende, 2017). Against this backdrop to counter the outrageous tax avoidance through aggressive tax planning by the MNCs, the OECD adopted 15 action plans called Base Erosion and Profit Shifting (BEPS) package. Later on, as per action plan 15 of the BEPS package, the Multilateral Convention (The MLI) was adopted intensive BEPS discussions initiated by the G20 in 2013, resulting in its signing in Paris on 7 June 2017. The MLI is the result of persistent search of the nations, facing tax avoidance by the MNCS. The purpose of the present article is to discuss the background and necessity of the new instrument of international taxation as it relates to the developing countries like Bangladesh. The article is arranged as follows. While part I gives an introduction, part II tries to sketch the dismal picture of tax avoidance by the MNCs by identifying the loopholes of the erstwhile international taxation rules. Part III discusses some of the provisions of the MLI emphasizing how it aims at curbing the tax avoidance problem and finally part IV makes some concluding remarks.

Dismal Picture of Tax Avoidance by MNCs

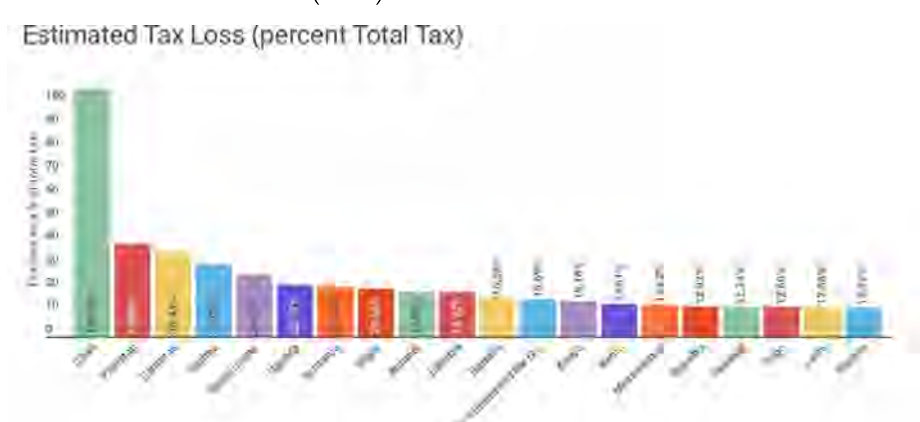
Multinational Corporations (The MNCs) are thought to be driven by profit making motive (Debaere, 2010). One of the means of profit maximization by the MNCs is the tax avoidance exploiting the loopholes that exist in the international taxation rules. Researchers found through a cautious estimate that around $500 billion is being lost due to tax avoidance by MNCs (Turner, 2017). Beer et al (2018) state, "Tax avoidance by multinational corporations (MNCs) has been on top of the international tax policy agenda since the global financial crisis. The tight fiscal constraints in the aftermath of the crisis amplified long-standing concerns in many countries that large MNCs pay very low effective tax rates." The MNCs avoid this huge amount of tax by shifting the profit of their subsidiaries from high tax jurisdictions to low or no tax jurisdictions. Turner (2017) states, "This is typically achieved by the multinational company setting up internal trades which exploit international tax rules to move taxable profits from one jurisdiction to another." For example, it was found that in the EU for the year 2015-2017, Apple has avoided paying between €4 billion and €21 billion in tax that could be collected by the EU tax authorities (Christensen and Clancy, 2018). Apple did this by using the Irish tax structure that allowed it to be used as tax haven for Apple. Briefly stated, Apple established its subsidiary in Ireland in 1980 named Apple Operations International (AOI). AOI owned four subsidiaries, Apple Sales International (ASI) in Ireland, Apple Operations Europe, Apple Singapore, and Apple Asia. ASI operates eight retail chain stores in Belgium, France, Germany, Italy, Netherlands, Spain, Switzerland, and UK. ASI outsourced the production of iPhone to China and distributed the product to all its subsidiaries for sales. Apple relocated its business to Ireland to take advantage of the lower corporate tax rate. The US corporate tax rate is 35% while in Ireland it is 12.5%. Apple argued that all income in Ireland is nontaxable on the ground that it a foreign entity. Foreign source income is tax free in Ireland. The Irish government accepted the argument as it attracted foreign investment. Later on, European Commission ruling ordered Apple to pay $14.5 billion as taxes in reference to its business and sales in Europe in general, and in Ireland in particular. Apple did this using the Irish tax structure. This is not something new and is known as transfer pricing which remains one of the mostly used mechanisms to avoid paying taxes in the source countries. Apparently, Apple complied with the Irish tax law but the problem is with the countries tax structure. However, Apple paid the €14.3 billion in back taxes and interest that was due to Ireland following the landmark EU ruling in 2016.

Apples story of gargantuan tax dodging is nothing but a drop of water in the ocean. There are other multinational corporations who avoid paying taxes by manipulating the international taxation rules. The list goes on and on by the inclusion of the names of giant MNCs. To name a few others McDonald evaded tax to the tune of euro1 billion in Luxembourg in 2015. Amazon did the same and evaded paying 400 million euros to Luxembourg in 2016. Starbucks did not pay 30 million to Netherlands in 2015 while Google evaded £130 million in the UK in 2016 and Gap, £130 million to the UK in 2016. In 2004 Microsoft avoided paying taxes in Europe amounting to euro 497 million in 2004. Ikea evaded euro 1 billion in Netherlands in 2015; and Fiat 30 million in Luxembourg in 2015.

The MNCs employ various means to exploit the international taxation rules and it is observed that they have the capacity to do the same. In this respect, McClure et al (2016) state, “Multinational corporations are in a unique position to engage in tax aggressive strategies, as they are generally large in size and highly profitable, they exhibit low levels of debt in their capital structure, and have operations across national borders that generate foreign income streams. The overall group is made up of multiple entities across a number of tax jurisdictions and most multinational corporations have at least one subsidiary in a tax haven.” The magnitude of tax avoidance by the MNCs was gauged by the researchers of international taxation. For example, Cobham (2017) found through research with data from different government sources that global estimated loss of tax revenue by the MNCs stands at around $500 billion a year. The following graphic presentation reveals the magnitude of tax avoidance by the MNCs.



Source: Cobham (2017).



However, the main avenues through which the MNCs avoid paying their fair share of corporate income tax are the transfer pricing between associated enterprises, treaty shopping, and thin capitalization, profit shifting to low or no tax jurisdictions known as tax havens. Source countries, particularly developing countries like Bangladesh also suffers because of the inappropriate use of permanent establishment. There are other means by through which the MNCs avoid paying taxes. Some of the tax avoidance methods by the MNCs are discussed below in a nutshell.

Inversion

'Inversion' is one of the means by which the US MNCs avoid paying taxes to the IRS. In this process the big US MNCs who have profits piled up offshore do not bring the money to the US to pay tax at high rate. So, they shift their headquarters to low tax countries and merge with the firm they own in those countries. One such incident happened where $150 billion merger was unearthed between New York-based Pfizer and Dublin-based Allergan in 2016 (Contractor, 2016). A pictorial example of inversion by the US MNCs is presented below.

Source: Houlder et al (2016).

Transfer Pricing

Transfer pricing is one of the favorite means of tax avoidance by the MNCs. At this method intercompany transactions are made which are not at arm's length. For example company 'A' purchases raw materials from company B in another country which is its affiliated company at a price which is much higher than the market price. In case of export and import between two associated enterprises transfer pricing might also happen. An example is cited below to explain the issue.

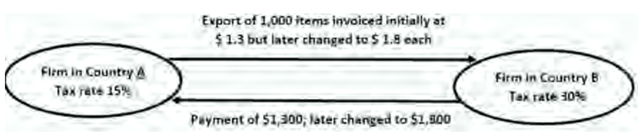


Table 1. Export of 1,000 Items — Payment of $1,300 Changed to $1,800

	Before Change in Transfer Price (Export Shipment Invoiced at $1.30 Each)		After Change in Transfer Price (Export Shipment Invoiced at $1.80 Each)	
	Firm A	Firm B	Firm A	Firm B
	Tax Rate 15%	*Tax Rate 30%*	*Tax Rate 15%*	*Tax Rate 30%*
Pretax Profit	1,000	2,000	1,500	1,500
Tax	150	600	225	450
After-tax Profit	850	1,400	1,275	1,050
Total MNC Profit	$850 + $1,400 = $2,250		$1,275 + $1,050 = $2,325	

Source: Contractor (2016).

Payment of Royalty

Tax avoidance through royalty payments happen where a company in a low tax jurisdiction charges royalty at a higher rate from a high tax jurisdiction. The royalty is charged for the use of an intangible, such as a technology royalty, licenses, brands or patents (Needham, 2013). The present international tax rules allow the transfer of the patents or brands to a holding company or subsidiary in a low-tax country, or a sham company in a zero-tax country, which then charges royalties to headquarters and other affiliates (Contractor, 2016). An example is cited below to explain the issue of royalty payments among the associated enterprises.

Favorite Money Routing for Large Multinational Companies

1. An advertiser pays money for an ad in Germany.
2. The ad agency sends money to its subsidiary in Ireland, which holds the intellectual property (IP).
3. Tax payable in Ireland is 10–12.5 percent, but the Irish company pays a royalty to a Dutch subsidiary, for which it gets an Irish tax deduction.
4. The Dutch company pays the money to yet another subsidiary in Ireland, with no withholding tax on inter-EU transactions.
5. The last subsidiary, although it is in Ireland, pays no tax because it is controlled from outside Ireland, in Bermuda or another tax haven.
6. Money is parked in the tax haven from where it can be used for other global investments.

Source: Contractor (2016).

Shell Holding Companies

Shell holding companies are active in countries with extensive treaty networks and that offer low tax rate on dividends and capital gains. Example of this type of tax jurisdictions are Belgium, Ireland, the Netherlands and Switzerland (Needham, 2013). The holding company may be a sham company where no real trading or production occurs but may be related to some other activities like aggressive financial or tax planning.

Hybrid Mismatch Arrangements through Hybrid Entities

OECD (2012) narrates, 'Hybrid mismatch arrangements may significantly reduce overall tax for taxpayers. Although there are no comprehensive data on the collective tax revenue loss caused by hybrid mismatch arrangements, anecdotal evidence shows that the amounts at stake in a single transaction or series of transactions are substantial.' Hybrid mismatch arrangement uses one more of the elements like hybrid entities, hybrid residence entities, hybrid instruments, and hybrid transfers (OECD, 2010). Mitchel (2010) states, '[A] hybrid entity is an entity that is "fiscally transparent" for U.S. tax purposes but not fiscally transparent for foreign tax purposes. In general, an entity is fiscally transparent if the entity's current year profits are currently taxable to the owners of the entity, regardless of whether the entity made any distributions to its owners during that year.' Hybrid entities aim at obtaining double deduction of the same cost from two different jurisdictions based on corporations' affiliate structure. Example of such deduction is loan interest.

Corporate Debt Interest

This is another method of avoiding payment of tax by the MNCs. In this system a company in a low tax jurisdiction pays loan to its associated enterprise in a high tax jurisdiction. It then charges interest for the loan given which reduces the income of the corporation in the high tax jurisdiction (Needham, 2013).

It is observed that the MNCs avoid paying taxes taking advantage of the loopholes of the international taxation laws. It is argued that the international taxation rules suffer from structural flaws. Morgan (2016) states, "The fundamentals of the rules governing taxation for MNCs date back to the 1920s. The rules are ad hoc, based on many bilateral agreements rather than a single coherent, binding and governing multilateral agreement." The rules are hardly capable to address the rapid changes in the global business environment. So, Morgan (206) argues that a reform in the current international taxation rules is sine qua non since it is now archaic and obsolete. Arel-Bundock (2017) cited by Yang and Metallo (2018) argues that the double taxation treaties create space for treaty shopping and in turn that pave the way for more treaties and more opportunities for the MNCs. It is also argued that the present international taxation rules have become outdated is not failed to cope up with the global technological change (Olbert and Spengel, 2017)). So, it is evident that the international taxation rules are suffering from serious structural and other problems in addressing the tax avoidance problems caused by the MNCs. The present rules provide safe ways to the MNCs to venture for gargantuan tax evasion causing loss in billions to the tax administrations around the world particularly, the developing countries like Bangladesh. The ability of the MNCs to exploit the weaknesses of international taxation rules is cemented by the help of the multinational accounting firms (Jones, 2017).

The MLI and Tax Avoidance by the MNCs

The global financial crisis in 2008 drove the countries to pay attention to the tax avoidance problems created by the MNCs. Being aware of the profit shifting and base erosion by the MNCs, the OECD took BEPS action plan in 2015. Before that the international community did not sit idle but took several initiatives to combat tax avoidance and evasion by the MNCs. The Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MCMAATM) was jointly developed by the OECD and the Council of Europe in 1988 to facilitate all forms of co-operation to curb tax evasion and avoidance. It was amended in 2010 to bring it at par with the international standard on exchange of information on request. It was open it to all countries, particularly to ensure that developing countries could benefit from the new initiative. Besides, United Nations Code of Conduct on Cooperation in Combating International Tax Evasion supports the automatic exchange of information for tax purposes as the way forward for countries generally, but recognizes that it is vital for developing countries to exchange information, even if they are not ready for automatic exchange. The G20/OECD Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for implementation of transparency and exchange of information for tax purposes. Another initiative is the exchange of country-by-country reports that refers to an annual report by MNCs to the authorities in the jurisdiction where their headquarters are situated, showing a range of financial and other relevant data for the MNCs activities in each tax jurisdiction in which they operate. In November 2016 more than 100 countries concluded negotiations, held under the auspices of the OECD, on a Multilateral Instrument (MLI) designed to implement relevant parts of the BEPS Action Plan. To bring symmetry among the existing 3000 double taxation treaties executed by countries around the world, recommendation 15 of the BEPS measures was signed as Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) in June 2017 under the auspices of the OECD. More than 100 developed and developing countries signed the MLI documents and it is expected that more countries will follow the suit. The MLI contains important legal provisions to combat tax avoidance and evasion by the MNCs. The relevant MLI provisions are mentioned below briefly.

The MLI joining countries have to adhere to minimum standard and other mandatory and optional provisions of the MLI. The relevant part of their double taxation treaties will be altered accordingly. The changed agreements will be known as Covered Tax Agreements (CTAs). Ahmed(2018) states, "Potential international tax regime redefining convention, 'The

Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the MLI) is the outgrowth of the OECD/G20 Project to curb Base Erosion and Profit Shifting (the "BEPS Project") through aggressive international tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax jurisdictions where there is little or no economic activity, resulting in little or no overall corporate tax being paid." The MLI made some important legal provisions aiming at combatting tax evasion and avoidance through aggressive tax planning. The MLI came into force from July 2018. The relevant provisions are briefly discussed below.

Preventing Treaty Abuse: Article 7

Treaty abuse refers to the aggressive tax planning by the multinational corporations to avoid tax by taking advantages of the gaps in the double tax avoidance treaty provisions or municipal tax legislations. The term "treaty shopping" comes from the practice of third-country residents searching for a country that has (1) a favorable income tax treaty say for example Bangladesh and (2) attractive municipal tax laws. Once such third country is spotted, income from the Bangladesh may be channeled through a company organized under the laws of that country. According to Article 7 of the MLI on treaty abuse all signatory countries should introduce a Principal Purpose Test (PPT), a minimum standard rule, as well as allowing them to also (optionally) apply a simplified Limitation of Benefits (LOB) provision to curb treaty abuse. Using a PPT, a country may deny treaty benefits (such as reduced taxes) where obtaining the benefit was one of the principal purposes of an arrangement unless granting the treaty benefits would be in accordance with the object and purpose of the relevant provisions of the treaty. The countries that sign the MLI may start scrutinizing every dividend or royalty flow to see if this rule is met. While no one is saying that every treaty benefit will be denied, it is likely that certain structures and transactions will meet that fate, particularly in the early days when this subjective new rule remains untested.

Artificial Avoidance of Permanent Establishment (PE) Status through Commissionaire Arrangements and Similar Strategies: Article 12

The MLI changed the definition of PE that addresses the techniques unduly used to avoid the status of PE by replacing distributors through commissionaire arrangements and other means. It means the MLI reduces the ability of companies to avoid the status of a permanent establishment by doing business through an agent that is put forward as an independent agent but in reality a dependent agent acting for the particular company. Under the existing treaties a person to work as an agent needs authorization from the principal company. But under the MLI no such authorization is necessary. It is sufficient if the person plays the key role in negotiating the business for the said company. On the other hand, under the MLI, an individual or entity that acts exclusively or almost exclusively on behalf of one or more companies with which such individual or entity is closely linked cannot be regarded as an independent agent. Consequently, the presumption of non-existence of PE is rebutted.

Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions: Article 13

Article 13 deals with the artificial avoidance of PE status through business activities that were previously seen as exempt in terms of resulting in a PE for business. Regarding PE taxation, some business activities previously considered to be merely "preparatory" or "auxiliary" in nature may nowadays correspond to main business activities. So that profits made out of core activities performed in a country can be taxed in that country, the BEPS changes modify the OECD model convention on tax so that each of the exceptions included therein is restricted to activities that are otherwise of a "preparatory or auxiliary" character. The implication is that businesses currently relying on such activities to deliver their business model in a jurisdiction will need to adapt and change their delivery model in response.

Steps Taken by Bangladesh Tax Administration to Fight against BEPS

There are quite a few number of MNCs that are operating in Bangladesh. Currently Bangladesh has double taxation agreements with 36 countries to avoid double taxation on the income that is being sourced in Bangladesh for foreign nationals and MNCs. Besides to combat the problem of BEPS Bangladesh took legal initiative. The Income Tax Ordinance 1984 contains the provisions regarding transfer pricing by the MNCs. As mentioned earlier transfer pricing remains one of the favorite means of avoiding payment of right amount of corporate taxes in the source countries. Bangladesh should not be an exception. Having realized the gravity of the issue Bangladesh adopted transfer pricing rules by incorporating a chapter on transfer pricing in its Income Tax Ordinance (Chapter XIA) through Finance Act 2012. Purpose of the new rules is to ensure that profits taxable in Bangladesh are not transferred trough transactions among associated enterprises to tax havens or to low tax jurisdictions. Due to transfer pricing activities by the MNCs, Bangladesh lose huge amount of revenue every year. For example, the Global Financial Integrity (GFI) reported that Bangladesh lost USD 75 billion due to trade misinvoicing and other unrecorded outflows between 2005 and 2014. Per annum this loss stands at 7 billion US dollar (Haider, 2019). According to a report of the GIF, in 2015 $5.9 billion was transferred through trade mis-invoicing. This is really a very alarming situation for a developing country like Bangladesh. So, to combat such a situation of profit shifting by transfer pricing the National Board of Revenue (NBR) Bangladesh adopted transfer pricing (TP) rule. Under the new TP rules, any international transaction above Tk. 3 crore by a multinational or its associated entities from Bangladesh will come under audit by the National Board of Revenue (NBR). The MNC has to submit the statement of international transaction (SIT) every year which will be audited by the TP Cell of the NBR. The TP methods prescribed by the TP legislations of Bangladesh are the followings:

- Comparable Uncontrolled Price Method (CUP)
- Resale Price Method (RPM)
- Cost Plus Method (CPM)
- Profit Split Method (PSM)
- Transactional Net Margin Method (TNMM)

Any other method subject to fulfilment of conditions.

Since introduction of the TP rules in Bangladesh, more than 100 multinational companies have submitted their statements of international transactions (SITs) along with their returns (Parvez, 2019).

One important development in the international taxation arena is the BEPS Action Plan 1 that deals with the issue of taxation of digital economy. BEPS Action 1 states, "Identify the main difficulties that the digital economy poses for the application of existing international tax rules and develop detailed options to address these difficulties, taking a holistic approach and considering both direct and indirect taxation. Issues to be examined include, but are not limited to, the ability of a company to have a significant digital presence in the economy of another country without being liable to taxation due to the lack of nexus under current international rules, the attribution of value created from the generation of marketable location-relevant data through the use of digital products and services, the characterisation of income derived from new business models, the application of related source rules, and how to ensure the effective collection of VAT/GST with respect to the cross-border supply of digital goods and services. Such work will require a thorough analysis of the various business models in this sector." However, no international consensus has yet been reached regarding the rules to be followed while taxing digital economy. But taxing the digital economy is vital particularly for the developing countries like Bangladesh. Facebook, Amazon, Google, Alibaba and other online platforms are doing businesses without necessitating their physical presence and the tax administrations cannot tax the profit of those businesses sue to the lack of coherent and agreed on taxation rules. The countries are adopting unilateral measures to tax digital economy. For example, in 2016, India introduced 6% equalization levy on certain "specified services"—such as online advertisement and any provision for digital advertising space or any other facility or service for the purpose of online advertisement. In 2020, India expanded the scope of equalization levy by virtue of section 165A of the Income Tax Act, 1961. Section 165A runs as follows:

On and from the 1st day of April, 2020, there shall be charged an equalization levy at the rate of two per cent. of the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated by it—

(i) to a person resident in India; or

(ii) to a non-resident in the specified circumstances as referred to in sub-section (3); or

(iii) to a person who buys such goods or services or both using internet protocol address located in India.

As of October 2020, Austria, France, Hungary, Italy, Poland, Spain, Turkey, and the United Kingdom have implemented a DST. Belgium, the Czech Republic, and Slovakia have published proposals to enact a DST, and Latvia, Norway, and Slovenia have either officially announced or shown intentions to implement such a tax. France has introduced a digital services tax unilaterally. The 3% digital services tax applies to revenues deemed to have been generated in France by digital companies, wherever they are established. The law makes annual supplies of taxable services of more than €25 million in France and €750m worldwide. The tax applies to two types of services: (1) online intermediary services, which are digital services that allow users to find and interact with others, and to facilitate supplies of goods and services between users (but not banking and financial services); and (2) online advertising services based on user data. French tax expert Valérie Farez states, "The digital tax is expected to contribute at least €350m to the French budget and the French government feels it is legitimate to maintain a tax for digital businesses, which it believes are not suffering as a result of the pandemic." France and other countries took the unilateral measure to tax digital economy because of the inability of the world community to reach a consensus on the issue of digital tax mainly because of the strong opposition of the United States. Thomas (2020) states, "Frustrated with the lack of global progress because of opposition from the United States where the tech giants are based, some countries like France introduced their own digital tax last year. Italy, Britain and Spain have also either already introduced their own digital taxes or plan to do so."

In Bangladesh, there is no direct tax on digital services. But the National Board of Revenue by a circular of 13 June 2020 and within the scope of service code S099.60 imposed 5% Value Added Tax (VAT) on online business income. But enforcement of the VAT law in this sector is weak and the authorities making the payments for digital services are not properly deducting VAT as per law. Under the circumstances, the Director General, VAT Intelligence Department wrote a letter dated 11/06/ 2020, to the Bangladesh Bank to give necessary order to the commercial banks to deduct VAT form payment to online entertainment platforms like Netflix, Amazon Prime, G5. However, the NBR should consider to impose income tax on the income of the digital platforms following the best practice around the world. The OECD has thrown Pillar One and Pillar to as a solution to the digital economy taxation. But more time will be required to reach a consensus regarding the Pillars. Currently, to curb the tax dodging problem by the large digital MNCs, there is no alternative to the unilateral approaches to tax digital economy. The judiciary of Bangladesh has also come forward and instructed the Bangladesh Bank, the Bangladesh Telecommunication Regulatory Authority and the National Board of Revenue to immediately collect value added tax and income tax on the income of international digital service provider platforms like Google, Facebook, Amazon, Yahoo and YouTube and the other online media outlets from Bangladesh (Moneruzzaman, 2020).

Conclusion

The MNCs activities are under close observation by the international community. The EU and the tax administrations around the world are becoming more and more conscious about the burning issue of tax avoidance by the MNCs. The new international taxation rules as enshrined in the MLI tries to address this problem along with other problems associated with international taxation. The MLI is not designed to replace the existing double taxation treaties, rather it is crafted to be used in an auxiliary manner in addition to the relevant double taxation treaties. Some provisions of the MLI set the minimum standard to be followed mandatorily once the agreement becomes a covered tax agreement. Other provisions are optional. There is debate about the effectiveness of the provisions of the MLI in addressing the challenges posed by cross border business activities. Despite the contentions from various corner the MLI throws a novel approach to bring the international taxation rules in order by modifying all the existing double tax treaties. It can be expected that MLI provisions can be powerful tools to combat the problems arising out of the application of international taxation rules. Most importantly, the MLI can help the tax jurisdictions to fight against the tax avoidance and evasion by the MNCs and save billions of much needed revenue. As of December 2020, 95 countries signed the Convention to Implement Measures to Prevent BEPS (MLI). The MLI offers the best opportunity for the developing countries to achieve the goals of tackling BEPS problems. For Bangladesh, it is time to think whether it should join the MLI or not. Particularly, the minimum standard rule can provide consistency and certainty in dealing with the international taxation problems. At the same time, it is time that Bangladesh imposes direct tax on the digital economy and also ensures strict enforcement of VAT law without further delay. A group of lawyers filed a public interest litigation with the High Court Division of the Supreme Court of Bangladesh agitating the issue that the concerned authorities failed to collect fair amount of taxes from the MNCs that provide digital services. This indicates that there is public awareness about the tax evasion in the digital economy sector.

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