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Global Minimum Tax (OECD Pillar Two) and India's Corporate Tax Regime: A Critical Legal and Policy Analysis

Jain Mary S *

Student, LL.M. (Taxation Law), School of Law, Joy University, Vadakankulam, Tirunelveli, Tamil Nadu, India

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Abstract

There have been drastic changes in the global corporate tax system since the arrival of the OECD's Pillar Two policy, popularly known as Global Minimum Tax (GMT). Pillar Two was designed within the BEPS 2.0 project and sets a minimum effective tax rate of 15% for Multinational Enterprises (MNEs) that report consolidated income of more than 750 million euros annually. It aims to counter base erosion, eliminate tax competitions, and make sure that multinationals pay their fair share of taxes regardless of their location. Since India is an active member of the Inclusive Framework of OECD/G20, it has contributed towards designing such international tax standards; nevertheless, it has not passed domestic laws to enact the Global Anti-Base Erosion (GloBE) Rules. This paper analyzes whether the current system of corporate taxation in India is consistent with the OECD Pillar Two framework from the legal and policy perspectives. With the help of a doctrinal and analytical approach to research, the consequences of the application of the Global Minimum Tax for India's concessional corporate tax rates, fiscal incentives, fiscal autonomy, and investment policies are considered. Further, the possible use of a Qualified Domestic Minimum Top-up Tax (QDMTT) will be examined. The difficulties connected with the implementation of this approach will be discussed. Despite the fact that the OECD Pillar Two project is an important step towards international tax justice, India's strategy should take into account its development goals.

Corresponding Author:
Jain Mary S *
Student, LL.M. (Taxation Law), School of Law, Joy University, Vadakankulam, Tirunelveli, Tamil Nadu, India
advjainmary@gmail.com

1. INTRODUCTION

The processes of globalisation of business activities and growth of the digital economy have greatly changed the taxation system for multinationals. MNEs conduct their business activities in different countries and have complicated structures of companies which allow them to benefit from differences between domestic laws of different states. Such techniques as profit shifting, treaty shopping and relocation of intellectual property assets of multinationals are used by multinational companies in order to shift their profits to countries with lower taxes and reduce their global tax burden. Thus, this raises questions about tax justice and sustainability of revenues. The Organisation for Economic Co-operation and Development (OECD) together with the G20, responded with launching the Base Erosion and Profit Shifting (BEPS) Project in 2013 to prevent multinational companies avoiding tax. From this project, the OECD developed the BEPS 2.0 programme that incorporates both pillars. The first pillar mainly changes the jurisdiction on certain taxed businesses whereas the second will set a Global Minimum Tax (GMT) in which companies with revenue more than 750 million. The second pillar aims to decrease profit shifting and also discourage harmful competition that tax regimes provide, Because of this achieving a fairer balance for the international taxation system through GloBE Rules. India has been deeply involved in the OECD/G20 Inclusive Setup and at the same time has been pushing its domestic corporate tax reforms to attract investment and to gain economic competitive edge. It is the Taxation Laws (Amendment) Act, 2019 that lowered the corporate tax rates and the Income Act, 2025, currently being the chief corporate tax law of India. The Act, though it Mainly makes the law cleaner and easier to use the existing legal setup, Really India still resorts to tax incentives and the introduction of concessional tax regimes, raises very critical issues as to, if these instruments conform to GMT standards. Implementing OECD Pillar Two in India comes with several opportunities and a few drawbacks. This new regime not only is the avenue for making the tax system more impartial and helping in the reduction of profit shifting, it could also affect the effectiveness of the previous investment incentive policies and be a catalyst for major legislative and administrative changes. Possible drawbacks to implementation are problems on tax sovereignty, compliance costs, and whether QDMTT may finally be a reality. Considering these issues, this study sets out to scrutinize OECD Pillar Two and its compatibility with the Indian corporate tax regime. This paper brings forth the legal and policy related aspects of the GMT as well as pinpoints the challenges in their implementation. In addition, the paper raises the need for major reforms with a dual angle of international tax commitments and India's fiscal and developmental goals.

2. LITERATURE REVIEW

Under Pillar Two of the OECD initiative, the concept of Global Minimum Tax has attracted the attention of policy makers and academia alike who view it as one of the major transformations in international corporate taxation. Most of the available works in this area are focused on whether this tool can efficiently solve base erosion, profit shifting and harmful tax competition. While it seems to be an important reform updating the international tax structure and system, a number of legal scholars remain concerned about its feasibility and implementation challenges which are Mainly relevant for less developed countries. The OECD understands Pillar Two as an approach that guarantees multinationals will always face an effective corporate minimum tax rate of 15 percent wherever the business makes profits. The GMT, as noted by the OECD, is aimed at limiting profit shifting, eliminating harmful tax competition and creating a more balanced and open international tax system. Most leading scholars have endorsed the reform while pointing out practical difficulties. Firstly, Reuven S. Avi-Yonah regards the GMT as an important step in restoring international tax balance through decreasing aggressive tax planning. Secondly, according to Michael Devereux and John Vella, Pillar Two is about shifting from tax competition to tax coordination. However, they highlight that the successful work of this mechanism is connected with its consistent implementation domestically and internationally. Implications for the developing nations through Pillar Two has been another subject area that has gained some attention. Various research works have found out that although there might be some gains for developed countries through additional revenue collection via taxes, developing countries generally rely on concessions in form of lower corporate taxation and investment incentives in order to attract foreign direct investment. The implementation of the GMT would result in diminishing effect of such incentives and reducing fiscal flexibility of emerging economies. This is specifically important for India, where tax incentives have traditionally supported manufacturing industries, infrastructure development, exports and industrial development. Indian literature on the GMT is rather limited and has been concentrated mostly on the economic and investment aspects of this initiative. Research papers investigate India's involvement in the Inclusive Framework of OECD/G20, adoption of QDMTT and the impact of Pillar Two on foreign investments. On the other hand, there has not been enough discussion about the possible interaction of the OECD approach and India's domestic corporate taxation laws, constitutional provisions and objectives of income tax policies set under ITA, 2025. The existing body of literature, however, shows a clear research gap. Whereas much has been written about the economic reasons behind the GMT and its international dimensions, not enough legal and policy-related research exists on the impact of the said policy on the Indian corporate taxation framework. This study will aim to fill this research gap by assessing the feasibility of OECD Pillar Two in India.

3. RATIONALE OF THE STUDY

OECD's Global Minimum Tax under Pillar Two can be considered a revolutionary step in international corporate taxation, which provides for a unified approach to combating base erosion and profit shifting (BEPS). In the context of multinational corporations operating in various jurisdictions, the countries need to harmonize their domestic laws with the changing international requirements. From the point of view of India, one of the fastest-growing economies in the world and the largest destination of foreign direct investments, implementation of Pillar Two has legal, economic and policy dimensions. Notwithstanding the active participation of India in the OECD/G20 Inclusive Framework, the country has not adopted comprehensive legislation regulating GloBE rules. The tax system for corporations in India has been significantly revised through several amendments to the existing tax laws, including the Taxation Laws (Amendment) Act, 2019 and the ITA, 2025. while continuing to be investor friendly through concessional tax rates and fiscal incentives. Nonetheless, the imposition of a global minimum effective tax rate of 15 percent is likely to undermine the relevance of the tax incentives in view of possible top-up taxes imposed in other jurisdictions where India's effective tax rate is lower than the prescribed threshold. The adoption of the Pillar Two poses legal implications with regard to issues of tax sovereignty, legislative reforms, treaty obligations and administration. In this context, the current research attempts to examine the compatibility of the OECD Pillar Two scheme with the corporate tax system in India. The research will focus on the identification of legal issues and policy gaps, thereby suggesting possible reform actions.

4. THEORETICAL FRAMEWORK

The current research is founded in the theories of international tax governance, tax neutrality and fiscal sovereignty, forming the theoretical framework to be used in investigating the implications of the OECD Pillar Two framework on the corporate tax system of India. The theories highlight the link between domestic tax policies and international tax norms while at the same time exploring how countries can strike a balance between global collaboration and fiscal autonomy. Tax neutrality theory proposes that taxes should reduce economic distortions through the provision of tax rules that do not affect business and investment decisions but are driven by commercial factors. The OECD's GMT framework supports the tax neutrality theory through stipulating a minimum effective tax rate of 15 percent for multinational companies. In regard to the idea of fiscal sovereignty, every State has the natural right to decide on its tax policies based on its own constitutional and economic interests. For example, corporate tax concessions in India have always been used for the promotion of foreign investments, industrial growth and job creation. Thus, it can be seen that the introduction of a globally harmonized minimum tax leads to many questions regarding the impact that international tax practices can have on national fiscal policies. This research paper also involves the notion of international tax cooperation facilitated by the BEPS project initiated by the OECD/G20 group of countries. This notion presupposes that unilateral tax policies are not enough to prevent tax avoidance cases, which is why coordinated tax regimes, such as GloBE Rules, should be developed. Taking into account all of these theoretical aspects, it is necessary to find out how the OECD Pillar Two finds a proper balance between international tax coordination and fiscal sovereignty of India.

5. METHODOLOGY

For this research, a doctrinal legal research methodology will be used to analyze the impact of the OECD Pillar Two model on the Indian corporate tax system. Doctrinal legal research mainly involves the review of statutory laws, international law instruments, policies, court judgments, and academic literature. It is appropriate for this study since the research will analyze the present legal framework that governs corporate taxation in India in relation to the OECD's GMT. The sources used in this research are both primary and secondary. The main materials used in this research are the Income-tax Act 1961and 2025, Taxation Laws (Amendment) Act 2019, relevant Finance Acts, Double Taxation Avoidance Agreements (DTAAs), OECD Model Rules, OECD Administrative Guidance, and reports of the OECD/G20 Inclusive Setup on BEPS. Materials supporting primary documents as sources are various kinds of books journals official reports, and commentaries as well as publications coming out of international organizations such as the OECD, the International Monetary Fund (IMF) and the World Bank. Along with the doctrine-oriented analysis, a comparative and analytical methodology will be adopted through the consideration of the implementation of OECD Pillar Two in certain countries in order to assess its applicability to the corporate tax structure of India. Special attention will be paid to the legal, administrative, and policy implications of the introduction of the GloBE Rules, specifically with respect to tax sovereignty, investment incentives, competitiveness of the tax system, and the potential use of a QDMTT. The study is qualitative in its nature.

6. DISCUSSION

6.1. The Development of the GMT: From BEPS to OECD Pillar Two

The GMT is a radical reform in the development of international corporate tax rules. Historically, international taxation was based on the principles of residence and source of income, being relevant for the time when firms operated through establishments. However, in times of globalization, digitalization and expansion of MNEs, many problems of that framework became apparent. Many MNEs misused various forms of tax evasion to the benefit of their offshore low tax jurisdictions, and such actions effectively led to a major reduction in domestic public revenues. To prevent these harmful effects, the OECD together with the G20 launched the base erosion and profit shifting (BEPS) initiative in 2013. It involved fifteen Action Plans intended to prevent the misuse of treaties, improve transfer pricing rules, increase transparency and cooperate internationally in tax issues. Even though the measures have reduced many cases of tax avoidance, they have not fully removed the incentives to shift profits. Acknowledging these drawbacks, OECD/G20 Inclusive Framework launched the BEPS 2.0 project consisting of Pillar One and Pillar Two. On one hand, Pillar One aims at reallocation of taxing rights in respect of certain digitised businesses, while Pillar Two lays down GMT, under which a minimum effective corporate tax rate of 15% will be charged to multinational enterprise groups having consolidated annual revenues above 750 million euros. The system is being implemented through the GloBE Rules, namely, Income Inclusion Rule (IIR), Undertaxed Profits Rule (UTPR), and the QDMTT. In terms of India, the concept of GMT marks the change in the practice of tax competition based on concessional tax systems to an internationally coordinated tax system, which is more transparent and fairer. This way, India should pay attention to its corporate tax policies.

6.2. OECD Pillar Two: Legal Structure of the GMT

OECDs GMT foundation is one of the most significant reforms enacted within the OECD/G20 inclusive framework on base erosion and profit shifting (BEPS 2.0). The mechanism seeks to guarantee that MNEs pay a global minimum tax rate of 15% regardless of where the MNEs operate. Through minimizing profit shifting to jurisdictions with low tax rates, the GMT system seeks to ensure that there is international tax cooperation. The GMT model targets multinational enterprise groups whose revenues from their business operations amount to at least €750 million in any two out of the previous four years. This requirement corresponds to the requirement by the OECD to provide country-by-country reports. The legal structure relies upon the application of the two components of the GloBE rules: the Income Inclusion Rule (IIR) and the Undertaxed Profits Rule (UTPR). The IIR compels the parent company of a multinational enterprise to levy a top-up tax when the subsidiary companies' effective tax rate is lower than the required minimum. In case the IIR cannot be applied, the UTPR allows another jurisdiction to prevent a deduction or make an adjustment to obtain the top-up tax and thus avoid the situation of avoidance of the minimum tax by the multinational groups. Pillar Two includes the QDMTT, according to which a state can obtain the top-up tax in the territory of one jurisdiction rather than permit another state to do that. For India, the introduction of QDMTT will ensure the protection of tax revenues while making its corporate tax system comply with international norms. Moreover, the Subject to Tax Rule (STTR) ensures the capability for the development countries to introduce a withholding tax on specific cross-border payments. Despite being a global tax regime set up in Pillar Two, its success is contingent on domestic adoption. For this reason, it is crucial for India to consider the legal, administrative, and policy implications of adoption of such rules into its corporate tax mechanism as laid down in the ITA, 2025.

6.3. India's Corporate Tax Regime and GMT

The corporate tax system in India has been reformed considerably in the past in order to achieve economic growth, facilitate doing business in the country, and attract both domestic and foreign investments. India being one of the fastest growing countries in the world, the government has always used corporate taxes as an instrument of fiscal policy by maintaining a balance between revenue and investment. But the advent of GMT by OECD in Pillar Two has created doubts about the same. The statutory provisions for corporate taxation currently in existence are the provisions of the ITA, 2025, effective from 1 April 2026, in place of the provisions of the ITA, 1961. Though the new act largely serves the purpose of streamlining the previous tax system, it keeps intact the corporate taxation regime established in previous amendments to the tax laws. An important development in this context was the Taxation Laws (Amendment) Act, 2019, which lowered the corporate tax rate to 22 percent for established domestic companies that agreed to forego certain exemptions and tax deductions, and to 15 percent for domestic manufacturing companies incorporated newly and eligible under the law. Besides tax concessions, India has traditionally offered investment incentives in the form of SEZs, deductions based on investments, accelerated depreciation, and sector-specific tax exemptions in order to attract investment in priority areas. Many of these have since been rationalised but they still serve some part in India's investment policy. The adoption of the OECD Pillar Two poses new issues for the above approach. The GMT obliges multinational enterprise groups with annual consolidated revenue of over €750 million to have an effective tax rate of at least 15 percent in each country where they operate. Although the statutory corporate tax rate in India is more than the minimum threshold, there are various deductions, tax credits, and incentives which make the actual tax rate less than the minimum prescribed under GMA. Consequently, another jurisdiction which implements the IIR or UTPR can claim the excess tax thus minimizing the effect of India's tax incentives. In this case, the introduction of QDMTT becomes very important. By adopting the QDMTT, India will be able to charge any additional tax within the country without allowing other jurisdictions to do so. This will help protect the national revenue as well as conform to the OECD Pillar Two principles. Generally, the corporate tax system of India seems compatible with Pillar Two since its statutory rates are more than the minimum threshold set by OECD. However, the use of tax incentives needs to be reviewed due to various reasons.

6.4. Legal and Constitutional Implications of Applying OECD Pillar Two in India

The adoption of the OECD Pillar Two provisions in India poses certain legal and constitutional challenges going far beyond taxation. As the GMT does not entail any legal effect but is only a set of recommendations, its application would require legal adaptation into the existing system. Such an adoption should be in accordance with the Constitution of India, the 2025 Act, as well as other aspects of fiscal and constitutional law in India. One of the main problems would be that of fiscal sovereignty. According to the Constitution of India, Parliament possesses the right to make laws relating to taxation, making the latter one of the main aspects of fiscal governance in India. The country has traditionally employed reduced corporate tax rates and fiscal incentives for the purpose of attracting investments, developing industry and creating jobs. While the Pillar Two does not oblige countries to raise their statutory corporate tax rates, it makes the use of the above-mentioned preferential tax system ineffective since the effective rate should be higher than 15% or otherwise another jurisdiction would apply the IIR or UTPR. It might have an indirect effect on India's ability to create independent taxation policies. In addition to these considerations, an equally crucial issue is the interaction between the national laws on tax and international obligations. There are several DTAAs which India is a signatory to for providing certainty in cross border taxation. While the OECD has structured Pillar Two to work largely independent of the treaty, the implementation of Pillar Two will have to be in accordance with India's treaty obligations and not conflict with the laws related to corporate tax, transfer pricing, foreign tax credit and international business under ITA, 2025. An equally important factor is the potential introduction of QDMTT. Introduction of a QDMTT would enable India to levy the tax domestically even before another country levies its top-up tax in accordance with the OECD standards. Thus, introduction of QDMTT would help India in protecting its revenue base without any contradiction to international tax standards. However, effective implementation would require appropriate legislation, simplification of compliance and effective administration processes backed up by digital technology. However, in the end, the enforcement of OECD Pillar Two should respect the constitutional values of legal predictability, equality, and justice. This will improve taxpayer security and allow India to take part actively in international tax collaboration. The ability to balance tax obligations at the international level and fiscal sovereignty will be critical in order to ensure the sustainability of the new system.

6.5. Policy Challenges and Opportunities for India under OECD Pillar Two

The introduction of OECD Pillar Two is a new paradigm of competition between states. It means that besides lowering corporate taxes, there is a need to make more efforts to increase the strength of economic fundamentals. This change creates a good opportunity for India to rethink its investment strategy while maintaining a tax policy consistent with development priorities. Recalibrating investment promotion policies is another major challenge before India. For years now, fiscal inducements have been used by governments all around the world to attract investments in manufacturing, infrastructure, exports, and industries of tomorrow. However, under the new international tax regime, these measures alone may not influence the investment decisions of large multinationals. Therefore, India will need to increase its focus on enhancing the effectiveness of regulations, contract implementation, logistics, digital infrastructure, and innovation systems in order to become a desirable destination for investments.

The GMT calls for a reconsideration of the current industrial policies of India as well. By avoiding competition through fiscal concessions, India can focus on promoting production-based incentives, capital subsidies, workforce development programs, and technological cooperation aimed at increasing productivity. In this way, India will have instruments that cannot be influenced by international tax policies. India's position in the global value chain is also an important issue. With the global shift in supply chains, the stability of a country, access to skilled labor, manufacturing capabilities, and presence of a vast domestic market become critical. India's demographic dividend, infrastructure, and digital economy make it well positioned to reap the benefits of this evolving investment environment, assuming continued complementary reforms in policies. The emergence of this new international tax environment presents the country an opportunity to enhance fiscal planning. The funds raised in the process of implementing such policies in the future can be invested in infrastructure, education, technology, and greening programs. Effective use of public funds will help India to improve its competitiveness in the long run much better than tax incentives. Lastly, India must continue playing an active part in the international tax policy-making through OECD/G20 Inclusive Framework. Being one of the top emerging economies, India has all the necessary means to promote reforms, taking into account the interests of developing nations, which include fair allocation of taxing right, simplification of compliance standards, and more administrative discretion. In general, OECD Pillar Two should be considered not only as a tax reform, but as a stimulus for economic transformation of India. Shifting the focus of national policy from tax competition to productivity, innovation, institutional quality, and investment facilitation will help India improve its competitiveness on the international stage.

6.6. Comparative Analysis: Position of India in the GMT Regime

The rollout of OECD's Pillar Two has been carried out at different paces depending on varying economic interests, capacities, and intentions regarding tax policy among other factors. Some countries swiftly incorporated GMT tax rules in their own laws, while others have implemented the regime with more caution. This is a learning opportunity for India that is on the way of updating its legislation on a national level to match international standards. The UK has been at the forefront for Pillar Two by passing laws of the details and together offering comprehensive administrative directions. Even, the UK was daring sufficient enough to look at these changes not just as a way of collecting the tax revenue but also integrating them with other corporate tax provisions. Because of this, it is a great demonstration just in how critical it is to have clear laws and being prepared legally before bringing in the changes in the international level of taxation. Similar has been done in Australia. The government ensured that the businesses, tax practitioners, and stakeholders from industries would be actively involved in sharing about the actual problems that would occur due to these changes through a series of consultations. As such, the process of consulting has been one of the key reasons why the tax overhaul has not been a headache but a smooth implementation, resulting in higher levels of compliance. On the contrary, Japan has been trying very hard to preserve and at the same time the integrity of its corporate tax system. The country has chosen the way of administrative cooperation and tax governance digitally instead of relying on changes in laws to get the job done. Sometimes it even seems that the country under question does not exist at all, which is in fact the case for Singapore, a country which is well known for its international competitiveness for tax policies. Its reliance on tax incentives has been complemented by factors that are non-tax, for example technology good infrastructure, high quality labor, and predictable regulations. This way, the country has attracted investors and maintained competitiveness even without providing major tax breaks. Compared to these countries, India's scenario is entirely different. Rather than being an economy which is a mere capital exporter India is characterized by a mix of domestic consumer demand, growing manufacturing sector and digital economy. This setup allows the country to rely less on just tax competition, that means putting India relatively in the strong position to achieve this by making the regulatory systems, infrastructures legal regime, business environment, and etc. all operating efficiently while having a regular corporate tax. From the comparative experience, it's clear that just doing away with the rules of implementation will not be enough for OECD Pillar Two. Countries that have successfully adopted the mechanism have done so by harmonizing legislative changes, preparation of institutions, stakeholder involvement, tech development, and economic planning. For India adopting such a multifaceted approach will not be only the path of least resistance in rolling out the scheme but will also be of great help if the country wishes to maintain economic growth.

6.7. Recommendations: Enhancing India's Corporate Tax System in the Age of GMT

- The Government of India must implement the GMT mechanism using a step-by-step approach via legislation with the ITA, 2025. Instead of making scattered changes, the government must have a system of provisions that cover applicability, compliance, assessment and dispute resolution.
- Corporate tax policy should be developed slowly from being dependent on tax benefits to creating a beneficial corporate environment. Increased investment in infrastructure, digital tech, research and development, human capital and efficient regulation can help create sustainable competitive advantage that will work despite any change in cross-border tax law.
- The State must update its taxation system and develop digital skills in the IT department. This would make it easier to administer taxes, minimize costs of compliance, and create more transparency while working with multinational companies.
- An ongoing dialogue with business associations, foreign companies, tax experts, and academics should be an integral component of future tax reforms. A collective approach will help the policy makers to determine the issues which may delay the implementation of the international tax standards.
- India should continue its constructive participation in the Inclusive Framework, ensuring the positions hold during international negotiations adequately represent the interests of the developing countries. This will allow India to be a contributing member of the process of balancing taxing rights distribution as well as maintaining enough room for economic development.
- The concluding observations made by the report is that state needs to formulate a strategy of corporate taxation that takes into account the goals of economic evolution including industrial growth, innovation, sustainable development, and employment generation.

These recommendations together would allow India to react appropriately to the GMT while maintaining competitiveness, tax certainty, and sustainability of its fiscal management. An approach that integrates legislation, capacity, and economic policy making in one strategy is the right way to ensure that India's tax system is strong enough in the modern world of international cooperation in taxes.

7. CONCLUSION

The GMT solution is a significant step forward on the ongoing path of transformation of international corporate taxation. The establishment of the coordinated minimum tax standard demonstrates the understanding the cross-border tax issues that need joint actions rather than separate solutions of states. For India, this solution is more than just tax administration and includes a wider range of topics regarding corporate taxation, investment policy and international economic relations. This paper shows that India's corporate tax system is reasonably prepared to handle the purposes of the GMT. The adoption of the ITA, 2025, combination with past corporate tax reforms, has already resulted in streamlining the national tax system and raising its level of competitiveness internationally. Still, a constantly evolving international tax system calls for periodic reassessment of the domestic legal system in order to make sure that it stays relevant to new international standards and does not undermine the country's economic interests. However, that for the purpose of successful implementation, what matters less is the adherence to international standards than the quality of domestic organizations that would be in charge of their enforcement. More broadly speaking, the Global Minimum Tax needs to be considered in terms of the changing nature of international tax system. With tax competition becoming less common and more cooperation becoming prevalent, countries will find themselves competing on the basis of institutional quality, innovation, infrastructure, and policy stability, not only on the basis of preferential tax policies. For India, this development means that there is a chance to improve its economic stability in the long run while retaining its significant influence in international tax policy. Ultimately, this success of the Pillar Two implementation in India will depends upon striking the right balance between international cooperation and national policy independence.

Conflict of Interest
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