7.Double Taxation- Economy

India and France sign Amending Protocol to update Double Taxation Avoidance Convention (DTAC). The 2026 Amending Protocol transitions the India–France tax relationship from a "protectionist/traditional" model to a "compliance-heavy/BEPS-aligned" model. By shifting Capital Gains taxing rights to the source and introducing a tiered Dividend tax, the two nations have balanced the need for attracting investment with the necessity of preventing tax evasion.

1. Understanding Double Taxation and DTAC

The Problem- Double taxation arises when the same income is taxed in two different jurisdictions—usually the Source Country (where the income is earned) and the Residence Country (where the earner is based).

The Impact- Unresolved double taxation creates a heavy financial burden, discourages foreign direct investment (FDI), restricts the mobility of professionals, and creates "tax friction" in cross-border trade.

The Solution- A Double Taxation Avoidance Convention (DTAC) or Treaty (DTAA) provides a clear set of rules to allocate taxing rights between the two nations, preventing the same income from being taxed twice.

2. Key Updates- The 2026 Amending Protocol

The protocol introduces several high-impact changes to align the treaty with the OECD/G20 Base Erosion and Profit Shifting (BEPS) standards.

A. Fundamental Tax Shifts

Revised Capital Gains Taxation- Taxing rights on capital gains arising from the sale of shares are now granted exclusively to the country where the company is a tax resident. This prevents "treaty shopping" where investors use shell companies in third-party countries to avoid capital gains tax.

Removal of the MFN Clause- The Most-Favoured-Nation (MFN) clause has been deleted.

1. Why? The MFN clause previously allowed France to automatically claim lower tax rates if India granted them to another country (like the Netherlands or Switzerland). This led to frequent litigation and "rate-leakage." Its removal provides fixed, certain rates.

B. Dividend and Service Tax Restructuring

Item	Old Provision (1992)	New Provision (2026 Protocol)
Dividend Tax Rate	Uniform 10% for all.	Split Rate- • 5% if the shareholder holds at least 10% equity (Promoters/Large Investors). • 15% in all other cases (Retail/Small Investors).
Fees for Technical Services (FTS)	Broad/General definition.	Aligned with India–US DTAA standards, narrowing the scope to specific high-end technical services.
Permanent Establishment (PE)	Limited to physical offices.	Expanded to include Service PE, allowing India to tax profits if a French company provides services in India beyond a certain duration.

3. Alignment with Global BEPS Standards

The protocol incorporates the Multilateral Instrument (MLI) provisions to combat Base Erosion and Profit Shifting (BEPS).

BEPS Prevention- Stops multinational companies from artificially shifting profits to low-tax jurisdictions where little economic activity occurs.

Exchange of Information- Strengthens the framework for the automatic exchange of tax-related data to curb tax evasion and black money.

Assistance in Collection- Both countries have committed to assisting each other in the legal recovery of tax dues from defaulting taxpayers located in the other's territory.

4. Significance of the Protocol

Tax Certainty- By removing ambiguous clauses like the MFN and clarifying "Service PE," the protocol reduces the "litigation backlog" for French investors in India and vice versa.

Economic Cooperation- These updates are expected to boost Technology Transfer and the mobility of skilled professionals between the two nations.

Predictability- Clearer tax brackets for dividends (5% vs 15%) allow large institutional investors to plan their cash flows with greater accuracy.

Global Compliance- Demonstrates India's commitment to being a transparent and rule-compliant destination for global capital, strictly adhering to the G20-led tax reforms.

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