Emergence of cross-border taxation and firm behaviour

Goyal, Ashima and Garg, Sandhya

Indira Gandhi Institute of Development Research, National Council of Applied Economic Research

November 2015

Preprint from Shome, P. (ed.) Base Erosion and Profit Shifting (BEPS): The Global Taxation Agenda, Chapter 4, pp. 73-93, Wolters Kluwer (India) Pvt Ltd: Mohalli, Punjab, 2016.

Emergence of cross-border taxation and firm behaviour*

November 5, 2015

Ashima Goyal# and Sandhya Garg

#Professor IGIDR

Associate Fellow, National Council of Applied Economic Research (NCAER), New Delhi

Abstract

The chapter discusses the evolution of Base Erosion and Profit Shifting (BEPS) from an emerging market (EM) perspective. It shows how treaties meant to prevent double taxation were used for double non-taxation and the problem was especially severe in EMs. It presents evidence of BEPS in India using firm level panel data. Since one country acting alone can frighten away foreign capital, global co-ordination is necessary. This makes BEPS one of the most productive initiatives G-20 has taken up. It aims to build global norms and agreements to ensure that taxes are paid where profit is earned. India should reform its corporate tax and regimes and bilateral investment treaties in line with international developments even while simplifying them and making them more business friendly.

Keywords: Base Erosion and Profit Shifting (BEPS); emerging market; firm panel data

JEL codes: F23, F59, F36, E61

* Part of the material gained from presentation at the 2014 ICRIER G20 conference. Comments from Montek Singh Ahluwalia, Jaimini Bhagwati, Satya Poddar and Thomas Richardson are gratefully acknowledged. We thank Parthasarathi Shome for the invitation and valuable inputs, and Reshma Aguiar for assistance. This is an earlier more expanded version of the book chapter.

1. Introduction

From an economics perspective, the structure of taxes should meet efficiency and equity criteria. That is, they should be such as to minimize distortion of production and of consumption, while the burden imposed is equitable so that overall equity does not worsen. Taxes on consumption rather than on intermediate goods are preferred because they are not passed through the supply chain and, therefore, change the relative price structure the least. Income taxes are more equitable than consumption taxes, but high marginal income tax rates tend to reduce work effort, curtailing somewhat their revenue productivity.

In addition to these general considerations, the G20 discussions on tax raise conceptual issues of arbitrage, compliance costs, stability and co-ordination. A tax structure that creates arbitrage opportunities, distorting the allocation of resources, is not efficient. But neither is one where high compliance costs raise the opportunity cost of undertaking activity, or where arbitrary tax changes make it difficult to plan or to make business decisions. An inequitable structure that favours firms too much can also be unstable, as the global financial crisis (GFC) demonstrated. Light financial regulations contributed to instability. Reforms the G20 is supporting aim to make these regulations stronger. Similarly, tax reforms are also moderating cross-border taxation agreements that gave firms too many opportunities to evade taxes.

Co-ordination is another major concept in the context of cross-border movements. Nations working together can implement changes that a nation alone cannot. If only one country tried to apply stricter norms for firms, they would go to other countries. Unilateral action by one country can be costly for the country as well as impose costs on firms through arbitrary tax actions. Instead of stricter norms, which have a higher opportunity cost, competitive concessions tend to be given, especially in EDEs (emerging and developing economies) that want to attract foreign direct investment (FDI). Since everyone is doing it, however, these do not work. Moreover, loss of tax revenues worsens other factors that can be more attractive for FDI. Therefore, they are not successful in encouraging FDI either. Co-ordination based on global agreements, therefore, leads to an outcome that is better than one where each nation acts on its own.

In India, tax treatment of multinational enterprises (MNEs) is an emotive issue that generates extreme views that appear not to be informed by global developments that have shaped international debate on the issue. Recent tax related controversies have given India a reputation for imposing arbitrary taxes. One of the aims of this chapter is to bring the evolution of global views on cross-border taxation to bear on this debate. It examines the key issues for developing economies from the global initiative, led by the OECD and G20, against base erosion and profit shifting (BEPS). This is a response to MNEs' strategic use of cross-border location to avoid taxes. The initiative is to build global norms and agreements to ensure that taxes are paid where profit is earned. Issues involving international co-ordination are the most productive areas for G20, because discussions in its fora can lead to agreement on common standards, among a critical number of otherwise diverse nations. These standards can then more easily spread to others. Firms have the advantage of mobility, so countries have to act together to reverse BEPS.

India can best obtain its legitimate tax by participating in such global initiatives, not by unilateral action. Awareness of global thinking on these issues is lacking in the Indian public debate, which seems to regard foreign investors either as sinners or as sinned against, as we will illustrate with the tax demand on Vodafone, including retrospective taxation, and general anti-avoidance rules (GAAR).

Following global initiatives, however, also requires following best practices in tax administration (OECD, 2001) such as applying laws in a fair, reliable and transparent manner, communicating their rights and as well as obligations to taxpayers, providing them quality information, responding promptly to their queries, giving them opportunities to comment on changes, and maintaining good working relationships with them and the larger community.

Limits are required on tax sovereignty in order to prevent misuse of sovereign power and encourage cross-border trade and investment. Bilateral investment treaties (BITs) are an example of international treaties that aimed to put such limits. But their working in practice showed power had swung too much in favour of foreign capital, and needed to be moderated. Stylised facts on portfolio flows into India indicate misuse of treaties. An empirical exercise establishes that Indian MNEs do tend to shift profits to lower tax destinations. BEPS, therefore, is highly relevant to India and is likely to become more so, as the government's 'Make in India' initiative opens the doors wider to foreign capital.

This paper is structured as follows: Section 2 takes a critical look at cross border taxation and regulation; Section 3 raises some issues relevant to developing economies including on BITs; Section 4 turns to evidence on tax arbitrage by foreign investors and MNEs in India; and Section 5 concludes with implications for policy.

2. The evolution of thinking on cross-border taxation

More firms ventured abroad to make investments outside their home territories as economies opened up in the post-Second World War era. Countries, therefore, entered into bilateral treaties, often based on OECD norms, to encourage cross-border trade and investment in an environment that would enhance rules, transparency and certainty. For decades, these norms were focused on eliminating double taxation on business investing and earning incomes in multiple destinations.

But tax planning by MNEs led to very low effective tax rates, although there was no illegality involved in such tax behaviour. For example, although the US corporate tax rate was above 35 per cent, the average amount 14 cash rich hi-tech firms paid was just 10-11 per cent over 2004-2013.[1] Rules did not keep up with 21st century business practices. They accommodated tax avoidance leading to what has been termed double non-taxation, whereby MNEs legally managed to pay insignificant taxes anywhere out of their global profits. Double taxation avoidance treaties were used effectively to pay no tax. This went increasingly against the spirit of the treaties. The emerging global view is that course correction is urgently needed.

Under the OECD model tax convention, only profits of a non-resident company with a permanent establishment (PE) in a country are taxable in that country. Bilateral tax treaties tend to follow this convention. Such tax-by-residence clauses favour advanced economies (AEs) from where most cross-border investments originate. But most of all, they favour mobile firms, who can set up residence in low tax countries with lax rules leading to tax base erosion in countries where the real economic activity of an MNE actually occurs. MNE location becomes strategic, using treaties that were originally designed to avoid double

[1] See Houlder (2014). Financial Times also has a global tax map. This shows that the US, despite having one of the highest tax rates, raised one of the lowest shares of GDP (2 per cent) from corporation tax, among advanced countries (see http://www.ft.com/intl/cms/s/0/c8cc5dea-9189-11e2-b4c9-00144feabdc0.html#axzz3sazTwvjo). See also Zucman (2014).

taxation to instead achieve double non-taxation. For example, the India-Mauritius treaty allows tax by domicile. Mauritius accepts registration as domicile so that FPIs came into India through the Mauritius route.

But international opinion has turned against such aggressive tax planning. After the global economic crisis of 2008, the G20 asked the OECD to conduct analysis and make recommendations to reduce global tax avoidance, even while maintaining the position that double taxation should be avoided. This agenda item became one of the most effective G20 initiatives. It was decided to add to tax conventions and treaties appropriate means to close loopholes, increase disclosure by MNEs, and ensure information sharing across tax administrations, even while reducing compliance costs for firms and for consumers with norms for developing business friendly tax administrations. The model convention was to be replaced by 'mutual agreement on place of residence', in order to close loopholes. The PE concept could no longer be a good measure of dominant economic activity, which was the underlying principle on which it had been based, since global capital had become too mobile. At the 2013 G20 meeting in St. Petersburg, it was decided that, under a new model tax convention, 'profits should be taxed where economic activities deriving the profits are performed and where value is created'.[2]

Tax arbitrage[3] is possible in several ways. For example, a PE may be established in a third country with low taxes where profits are transferred, so that the source country loses revenue. Transfer pricing is used to artificially assign costs in high tax jurisdictions. Even arm's length (market based) pricing under transfer pricing rules for related parties can lead to large transfers of profits to low corporate tax locations if key risks are allocated there. Contractual arrangements allocate capital, intangibles including intellectual property, and risks to low tax environments such as Ireland, Singapore, or Luxembourg, where the returns of these factors of production are allocated, resulting in low tax incidence. Deductions such as interest, royalties and service fees paid abroad are stocked up in high tax countries. VAT collection

[2]See the tax annex to the Saint Petersburg G20 leaders declaration (G20 2013).
[3] Many studies provide indirect evidence of profit shifting to lower tax jurisdictions. Huizinga and Laeven (2008) argue that this leads to substantial redistribution of corporate tax revenue between national governments. Profit shifting significantly depends upon the tax regime a multinational faces in its operating country. Germany with the highest tax rates in 1999 lost considerable tax revenues due to such profit shifting. Cristea and Nguyen (2015) provide evidence for profit shifting through transfer pricing, which refers to the pricing of goods exchanged between related parties. Arm's length pricing imposes market prices even for cross-border transfers between related firms. But market prices are not always available allowing considerable degrees of freedom.

falls due to remote supplies, exempt and multi-location businesses (OECD, 2014c). MNEs under-price exports sent from a high to a low tax jurisdiction. It is easy for MNEs to locate strategically, using treaty provisions. For example, since the US has one of the highest corporate tax rates, US MNE profits from abroad tend to exceed sales made abroad.

MNE aggressive tax planning is unfair to other taxpaying entities that then have to pay higher taxes if a government has to meet fixed expenditure goals. Since domestic firms and young start-ups cannot afford to set up dummy PEs, they pay more taxes. Competition is hurt. On the other hand, MNE resources are tied up in tax planning and in non-commercial arbitrage, creating costs for MNEs also. For example, since profits made abroad are not taxed if they are reinvested, firms tend to borrow at high cost and increase their balance sheet size in order to defer tax. This is an example of the misallocation of resources in response to tax arbitrage opportunities.

Cross-border trade also creates complex tax issues. Consider VAT on cross-border retail sales. Under VAT the final incidence is on consumers. Firms are just the collection agencies for GST/VAT on all types of sales. Withheld input taxes are credited to firms so they only remit tax on their value added. Exports are zero rated and imports are taxed at the same rate as domestic goods. But in practice the basic principles tax systems are expected to satisfy, such as neutrality, efficiency, certainty and simplicity, effectiveness and fairness, flexibility (Ottawa, 1998)[4] were flouted. For example, financial services, which tend anyway to be under-taxed reflecting the mobility of finance, are, more often than not, able to escape taxes. Financial services are VAT exempt and self-assess input VAT. They have to pay VAT on inputs used from domestic firms but are able to escape paying input VAT by using inputs from abroad or from related firms.

The BEPS project addresses these issues by recommending means to achieve greater transparency. These include mandatory disclosure of aggressive tax planning arrangements, a template for country-by-country reporting, and uniform transfer pricing documentation requirements. Firms do file tax returns in each country they are in. The main benefits are expected to come from information sharing across jurisdictions. Nevertheless, there are views

[4] These were part of the *Ottawa Taxation Framework Conditions* adopted in the Ottawa Ministerial Conference on Electronic Commerce in October 1998.

on whether this may or may not involve significant additional compliance burden, beyond the initial standardization and consistency requirements. An alternative proposed by critics of the BEPS method is to allocate profit across countries on some combination of sales, employment and capital instead of relying on transfer pricing. This is done in sub-national jurisdictions. But profit is not always highly correlated with these variables. Another proposal is to do away with corporate tax and tax shareholders instead. But then more profit would be retained in firms (Zucman, 2014).

3. Particular problems for developing economies

The digital economy aggravates many of these problems since large business can be carried out with minimal physical presence. It is easier to allocate key functions, in ways that do not correspond to functions performed or to risks taken, in order to minimize taxation. Tax rules of an earlier era become outdated. Application of tax rules to new types of products or services becomes unclear. It is difficult to classify transactions and allocate profit across countries. For example, are payments for cloud services royalty, fees for technical services, or business profits for treaty purposes? Normally, under tax treaties business profits can be taxed only if there is a PE, while royalties are subject to withholding tax, so the classification affects tax payable. New global norms have to be developed. India is especially vulnerable since in 2012 it was the world's largest exporter of ICT services (USD 50 bn), followed by Ireland, USA, Germany, UK, China in that order. These 6 countries accounted for 60 per cent of total exports (OECD, 2014b).

Multiple location entities that abound in this area, escape input VAT since many countries do not presently apply VAT to transactions between constituents of one legal entity. It is as costly for small enterprises to pay taxes on large volume low value consumer sales to multiple tax authorities as it is for the authorities to administer these.

Proposed solutions include expanding the definition of PE to apply if there is a 'significant digital presence', and expanding the applicability of withholding taxes, which would be collected by the financial institutions involved in digital payments. At the same time, registration regimes and thresholds also need to be simplified so as to reduce compliance costs for business.

Developing economies (DEs) have taxation systems that are less prepared to deal with emerging international tax issues. This makes aggressive MNE tax planning easier.[5] The G20 discussion on DEs has emphasized transfer pricing, profit shifting in supply chains, and lack of information. In supply chains, the parent company is often located in a low tax jurisdiction. Challenging such structures requires interaction across rules covering transfer pricing, tax treaties, non-resident taxation, and taxation of asset transfers. Even if one loophole is closed, incomplete rules create another loophole that could be utilized. For example, if transfer pricing rules are tightened, MNEs could divert the focus by increasing the size or interest cost of foreign debt. To adequately confront such MNE strategies, the information available to tax authorities and their technical capacity both have to be strengthened (OECD, 2014a).

The tax GDP ratio of DEs at about15 per cent was much lower than that of AEs (25-30 per cent) in 2012 (IMF 2014) and continues to be so. India's tax-GDP ratio was at 11 per cent at the central government level, and at 17 per cent including state levies. The informal economy, which pays little tax, is large in DEs; so the corporate share of taxes is larger— about 12-17per cent— in DEs compared to 8 per cent in AEs. Therefore, a loss of corporate income tax is more serious in DEs. The development of infrastructure and other essential public services suffers because of low tax revenue and, in turn, acts as a disincentive for further MNE investment in DEs. Competitive tax incentives given by countries make matters worse, and are often not the most effective way to attract FDI, although there is intense lobbying by firms for such incentives (Keen and Mansour, 2009).[6] In the long-run, they only erode tax bases.

Co-ordination across countries is required for harmonization of tax rates and exemptions. Since MNEs obtain treaty benefits in situations where they were often not intended, there is some argument in favour of the treaties being renegotiated so that MNEs could be taxed in line with their economic value added operations in a country. India, as one of the larger DEs, could take the lead on this issue. However, such leadership requires Indian government

[5]The tax staff per 1000 citizens was 0.087 in Tanzania compared to 0.82 in AEs in 2010 (OECD, 2014b).
[6]For example, the number of sub-Saharan African countries offering tax holidays in 2005 had doubled from about 40 per cent in 1980. Withholding taxes on royalties (which tend to be about10-20 per cent) have been brought to zero using tax treaties (OECD, 2014a, pp.18).

policies themselves to be consistent, but they have often worked at cross purposes.[7] Thus, double non-taxation of foreign institutional investors (FIIs) income is allowed but Vodafone, an important MNE, was issued a tax demand on the purchase of Indian assets abroad, when it bought shares from Hutchison India in the Cayman Islands in order to take over its Indian operations. The case was aggressively pursued by both Vodafone and the Indian tax authorities.

The IMF (2014) has classified indirect transfers, involving sale of shares rather than of the asset itself, as a form of abuse. It is a common technique used to avoid paying tax when DE assets are sold. The issue was appealed in the courts, but the Bombay high court and Indian Supreme Court gave contrary judgments. While the high court used the principle that it is tax avoidance if an arrangement serves no commercial purpose, the Supreme Court chose to interpret existing law – on the basis of which asset sales abroad could not be taxed. When, in 2011, the government brought in a retrospective amendment to bring such transactions into the tax net, international and domestic reaction was largely negative, followed by a large outflow of foreign investment that put pressure on the government to change course.

In a bid to make the system more predictable and user friendly, the 2015 Indian budget announced that minimum alternate taxation (MAT) would henceforth not apply to foreign portfolio investors (FPIs), meeting a long-standing demand. This greater clarity should have led to more inflows. But shortly after that, following a judgement by a quasi-judicial body set up to increase independence and transparency, the Indian tax administration decided to impose minimum alternate taxation (MAT) on foreign portfolio investors for the period prior to the current tax year. Indian equity prices fell sharply. The foreign portfolio outflows were largely due to global factors, such as fragility in bond markets, and a rebalancing towards Chinese equity, which had risen sharply due to a Chinese monetary stimulus. Even so, the outflows had a strong effect on perceptions, and were used to hammer home the point about the sensitiveness of inflows to arbitrary tax decisions (Goyal, 2015). The government hastily set up the Shah Commission (2015), which predictably decided that MAT did not apply on foreign portfolio investors for the prior period, showing the power of foreign capital to affect

[7]When, in 2009, the government made several retrospective amendments, FDI suffered. See the data for 2010-11 in Table 1.

domestic policy. In a globalized world, tax reform is better carried out as part of a global agreement.

Netherlands, Vodafone’s home jurisdiction, is itself reviewing tax treaties with DEs to reduce abuse. In the UK too, for specified tax avoidance schemes, upfront payment has to be made even before a case is decided. Loopholes in tax laws have to be closed, but this should not be done retrospectively, since it interferes with tax transparency and corporate business plans.

3.1 Bilateral investment treaties

FDI does need to be reassured that there will be no arbitrary expropriation or other exercise of sovereign power. Regional and bilateral agreements are meant to ensure this, and encourage potentially productive investment inflows. BITS aimed to give investors rights against States’ abuse of sovereign power in order to encourage investment, but are increasingly used to extract lucrative penalties from countries. It is easier to do this with DEs, as part of aggressive tax planning. But Germany also was a recent victim. Again, this illustrates clever use of treaties for purposes for which they were not intended. Like for taxation, BITs also need to be fine-tuned so that they reduce sovereign power yet do not increase MNE power too much.

White Industries received an arbitration award of Australian $10m award for delays in Indian courts. If every industry was awarded compensation for delays in India’s notoriously slow legal system the government would soon be bankrupt. The Most Favoured Nation (MFN) clause was used to import the ‘effective means’ clause from the India-Kuwait BIT, although it was not there in the BIT with Australia. There were other cases of arbitration against the State, so the department of industrial promotion and policy (DIPP) planned to renegotiate 82 Indian BITs.

There is a global backlash against investment treaty arbitration (ITA) since arbitration is done by a small non-diverse non-transparent club. Germany and Australia have stopped signing BITs with ITA clauses. Even AEs such as Netherlands and Australia have become more cautious in designing their BITs, after cases such as Philip Morris Asia initiating an investor-state dispute settlement (ISDS) claim in 2011 over Australia’s tobacco plain packaging law. Similar claims were raised in a number of countries. Thus BITs have become a way for MNEs to profit from litigation. Rethink is due on clauses on ISDS, MFN, public welfare, and environmental issues in BITs to ensure fairness, transparency, and a balance of power. Umbrella clauses have to be avoided and exemptions given for other valid policy objectives.

The OECD plans to come out with a new model BITs, which would replace the dominant US, Japan template. EU is renegotiating the format of ISDS to include more transparency. Negotiations on the India US BIT are also prolonged because of such issues. India wants to allow for State-initiated arbitration. The extra advantages given to MNEs need to be moderated, even as deep negotiations take place to homogenize standards that can facilitate the development of supply chains.

The proposed Trans-Pacific Partnership (TPP), for example, imposed Western regulatory norms on EDEs. But the latter need to strengthen complementary institutions before such norms can be adopted. They also raise the issue of instability from one-sided regulation that the G20 is working to change in a number of areas. The TPP needed similar moderation. It strengthened MNEs too much by even allowing them to sue sovereign powers that erode their profits. There are many provisions against the exercise of state economic power. TPP would enforce these provisions over those in bilateral treaties such as BITs.

Some features of TPP, such as prohibiting preferential treatment of state-owned enterprises, strict provisions on intellectual property, environmental and labour protection while inviting investments, may also require a longer lead time and some adaptation in EDEs, but would eventually contribute to improving their regulations. Indeed, the Regional Comprehensive Economic Partnership (RCEP) should not be seen as anti TPP, but as allowing the ASEAN + 6 countries the time needed to strengthen their institutions and reduce regional trade barriers, so that they eventually join a moderated TPP. The flexibilities in RCEP should not be used to prevent standards from improving over time.

In the absence of domestic trade facilitation improvements, India has not benefitted from the large number of bilateral Asian FTAs it has signed—its imports have increased faster than exports. Improving ease of doing business and infrastructure is essential. For example, India's per container trade costs were more than twice the East Asia average in 2014[8]. It

[8] World Bank ease of doing business http://www.worldbank.org/

needs to focus on these, even as it actively works with regional trade agreements that allow development space and could eventually fit into a revived WTO.

Moreover, DE tax officers are often no match for astute MNE tax lawyers or for their opinion-making ability. Smaller DEs, with less tax capacity that are subject to even greater pressures in confronting tax avoidance, are carefully watching the outcomes of Indian cases. Participating in the BEPS project is the way forward for DEs and should also reveal the way for course correction and moderation in double taxation avoidance agreements (DTAA). In this environment, it is important to seek and find evidence of tax arbitrage if any. This is what is attempted in the discussion that follows, using statistical and econometric evidence for India.

4. Evidence of arbitrage

We first look at data on the geographical dispersion of Indian capital flows and, second, estimate the impact of tax differentials on profit-reporting of foreign MNEs in India.

4.1 Origin and destination of Indian cross-border flows

Mauritius, compared to its size, has a disproportionate share in these cross-border flows (Tables 1 and 2). In addition, RBI (2015) data shows that Mauritius, UAE, UK, USA and Singapore had a 45.6 per cent share at market value and 41.9 per cent share at face value, in total mutual fund units issued to non-residents in March 2015. For mutual fund equity securities held abroad, Luxembourg, with a share of 59.6 per cent, was the major overseas investment destination in March 2015 followed by the USA with a 26.6 per cent share.

India's DTAA with Mauritius partly explains the latter's large share. Residents of Mauritius, who obtain capital gains from selling shares of Indian companies, are exempt from tax in India. The US has a large share since many of the funds originate in the US and have a PE there; that is, if they have not moved to Luxembourg or Singapore to take advantage of lower taxes. But the US also gives a significant tax advantage to mutual funds. Carried interest, or the profit share received by private equity managers, gets treated as capital gains, with a top basic tax rate of 20 per cent, as opposed to the ordinary income tax rate of 39.6 per cent.[9]

[9]The top tax rate on capital gains is 20 per cent in the US, significantly lower than the top tax rate of more than 40 per cent on regular income. Democrats, and even some Republicans, have been trying to change the law

Table 1: India: Share of Top Investing Countries FDI Equity Inflows (In Rs. Crore)								
	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total 2000-14	% with total FDI Inflows
Mauritius	49,633	31,855	46,710	51,654	29,360	55,172	395,600.65	35.65
Singapore	11,295	7,730	24,712	12,594	35,625	41,350	140,319.70	12.01
U.K.	3,094	3,434	45,229	5,797	20,426	8,769	105,903.36	9.31
Japan	5,670	7,063	14,089	12,243	10,550	12,752	86,267.33	7.41
Netherlands	4,283	5,501	6,698	10,054	13,920	20,960	68,169.41	5.69
U.S.A.	9,230	5,353	5,347	3,033	4,807	11,150	62,942.67	5.65
Germany	2,980	908	7,452	4,684	6,093	6,904	33,898.73	2.97
Cyprus	7,728	4,171	7,722	2,658	3,401	3,634	38,065.75	3.38
France	1,437	3,349	3,110	3,487	1,842	3,881	20,991.99	1.83
Switzerland				987	2,084	2,066	14,013.36	1.23
Total FDI Inflows from All Countries	123,120	88,520	173,946	121,907	147,518	86,939		

Source: Calculated with data from http://dipp.nic.in/English/Publications/FDI_Statistics/FDI_Statistics.aspx.

Table 2: India: Asset Management Companies-Country-wise Distribution of Foreign Liabilities (In Rs. Million at Market Value)			
Country	March 2014	March 2015	% Share in Total (2015)
UK	8198	10052	26.4
Mauritius	8816	9188	24.1
Japan	3456	4606	12.1
Canada	2422	3041	8.0
Singapore	2371	2892	7.6
Hong Kong	1892	2124	5.6
France	1640	1990	5.2
USA	1463	1290	3.4
Korea	1241	1245	3.2
Cayman Islands	588	583	1.5
Others	1163	1095	2.9
Total	33250	38106	100%

Source: Calculated with data from RBI (2015).

Indian foreign investment flows are classified into FDI and foreign portfolio investors (FPI) as explained above. Investment in real assets such as factories, capital goods and infrastructure, is termed as FDI. On the other hand, investment in the form of financial assets such as shares, debentures or bonds, are referred to as FPI. In order to reduce transaction

since 2007. That nurses and teachers pay more tax than those who earn profits has been regarded as unfair for long. Thus, the proposed reform is part of a move to remove exemptions and lower tax rates. But those who argue that the lower rate encourages long-term capital investment have prevailed so far.

costs for FPI, channels of investment through foreign institutional investors (FII), qualified foreign investors (QFI) and sub-accounts of FIIs were clubbed in one category, FPI. In addition, income arising from FPI has been classified as capital gains in India's 2014-15 budget, so it is subject to lower tax rates.

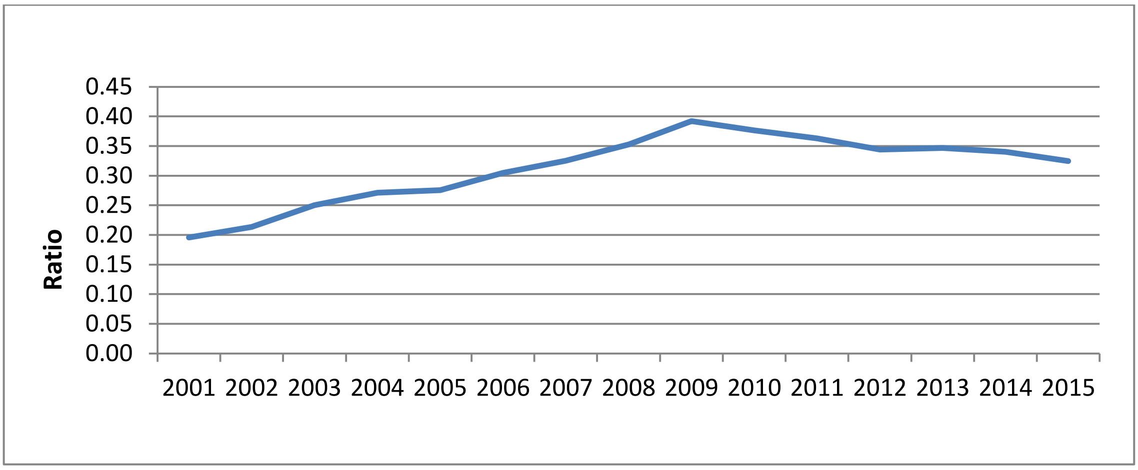
DTAA with Mauritius was signed in 1998, and was valid for ten years, after which it may be terminated with a notice period of 12 months. Rewriting it in line with new global norms would require basing taxes on profit earned rather than on the legal existence of a PE or not. This would resolve the vexed issue of defining a PE. For example, despite the 2015 decision to exempt FPIs from MAT, they could still have been made liable for MAT if the tax administration decided that use of domestic brokers constitutes a PE. This matter has not yet been legally resolved though the government has indicated that it would not apply MAT to FPIs. The flip-flop in tax policy manifests itself in the FDI and FPI figures for India.

Model BITs originating in the US want to extend protections available to FDI to FPI. FPI is to be treated like FDI. This was in the TPP, which aimed to over-ride BITs signed earlier. This is inconsistent since FPI is given special tax rights at home. Since it is not treated like FDI at home, why should it get such treatment abroad?

After liberalization in the 1990s, economic activity by MNEs increased in India. This makes the question of whether BEPS occurs in MNEs relevant. Addressing the question of BEPS is also important for the Indian economy since corporate tax contributes a large share of the total tax revenue of the central government (Figure 1). India has one of the highest corporate tax rates (Figure 2); therefore foreign firms have an embedded incentive to shift profits out to low tax jurisdictions with a concomitant adverse impact on tax revenue. Corporate tax rates have been stable in the US (at around 39 per cent) in India, and in low tax countries such as Ireland. But they have fallen in many countries (Figure 2). Even so, large differentials continue. It may be seen from Figure 1 that the share of corporate tax in the Indian Government's total revenues has declined since 2009, a period around which many other countries decreased their tax rates.

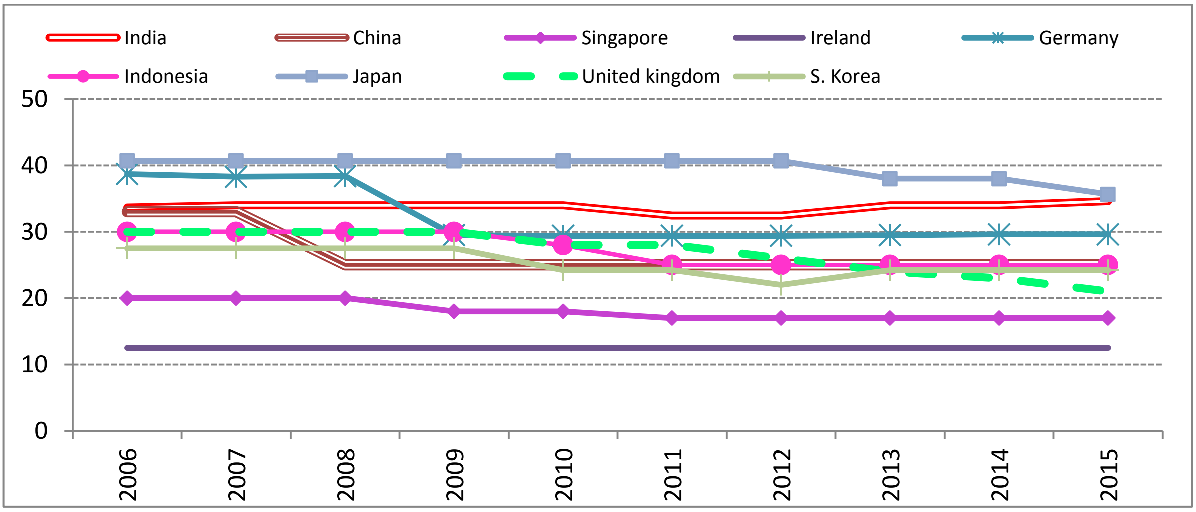
UAE has the highest corporate tax rate followed by Japan. Countries such as Ireland and Singapore have very low corporate tax rates.

Figure 1: Share of Corporate Tax Revenue in Total Tax Revenue of Central Government 2001-2015



Source: Data from EPW Research Foundation, http://www.epwrfits.in/

Figure 2: Country-Wise Comparison of Corporate Tax Rates



Source: data from http://www.tradingeconomics.com/

There is some evidence of p*rofit shifting* in the recent literature. Hines and Rice (1994) show that pre-tax profit reported by US MNEs was negatively associated with the corporate tax rate in the US, giving indirect evidence of profit shifting to low tax havens. Weichenrieder (2009) finds that profitability of German affiliates increases by roughly half a percentage point with a 10 percentage increase in the company's home country tax rate, corroborating the evidence from the US. Huizinga and Laeven (2008) using MNE level data on parent companies and subsidiaries of European MNEs, found that many European countries gained tax revenue due to higher taxes in Germany. Thus, tax must have been effectively diverted from Germany. Dharmapala and Reidel (2012) found evidence that pre-tax profits of affiliates in low tax jurisdictions increased more than those of pre-tax profits of affiliates in high tax jurisdictions if there was any earning shock at the parent firm, thus providing similar evidence for European Union firms. Heckemeyer and Overesch (2013) collate evidence from 25 studies in the form of meta-data and conclude that transfer pricing and licensing fee in the form of royalty payment are the dominant ways of profit shifting. The overall evidence indicates, therefore, that countries with lower tax rates tend to gain in terms of tax revenue at the expense of countries with higher tax rates.

There are few studies in the Indian context. Rao and Sengupta (2014) point to the rise in royalty payments as an indicator of profit shifting out of India by foreign firms. Non-domestic firms are found to report higher levels of both interest rate and royalty payments than domestic firms. Janksy and Prat (2013) have found that, in 2010, MNEs operating in India with some linkage to tax havens, reported 1.5 per cent less profits, and paid (17.4 per cent) less in taxes per unit of assets as compared to MNEs with no connection to tax havens. Studies have not, however, formally tested the effect of a tax rate differential across countries. This is attempted below.

4.2 An econometric estimation for India

To carry the analytical evidence forward, a simple estimation has been conducted for India.

4.1 Methodology

Hines and Rice (1994) link the profit before tax (PBT) reported by MNEs with the tax rates observed in the host country and tax rates faced by affiliates of MNEs. Further, PBT has been related with tax differential between the home country and the affiliate's country (Dharmapala, 2014; Dischinger et al. 2014; Huizinga and Laeven, 2008 etc.). Following this literature, we estimate regression equations (1) – (3):

$$\text{Log PBT}_{it} = \beta_0 + \alpha_i + \beta_1 \text{ Tax\_India} + \beta_2 X_{it} + \varepsilon_{it} \quad \text{......................(1)}$$

$$\text{Log PBT}_{it} = \beta_0 + \alpha_i + \beta_3 \text{ Tax\_headquarter} + \beta_4 X_{it} + \varepsilon_{it} \quad \text{.............(2)}$$

A negative β_1 in equation (1) and positive β_3 in equation (2) would indicate indirect evidence of profit shifting out of India. A decline in corporate tax rate in India may lead to higher profits reported, holding other variables constant and vice-versa. Similarly, if corporate tax in the parent country rises, then foreign firms may report higher profits in India, holding other variables constant. X_{it} stands for various control variables described below in the data section. Further, we test the association of PBT with the tax differential, which is the difference between tax rates in India and in the parent country.

$$\text{Log PBT}_{it} = \beta_0 + \alpha_i + \beta_1 \text{ Taxdiff} + \beta_2 X_{it} + \varepsilon_{it} \quad \text{..............................(3)}$$

If MNEs operating in India engage in profit shifting between India and their headquarter country, a negative β_1 is expected in equation (3). For robustness, we re-estimate our model dividing the sample into two parts. The first part includes observations where the tax differential > 0, that is, tax rate in India is higher than the home country tax rate. The second part contains observations where tax differential < 0, that is, tax rate in India is lower than the home country tax rate. There are 2438 observations in the former category and 268 observations in the latter. If profit shifting is taking place in and out of India, then we expect PBT to be negatively associated with the tax differential in the first part and positively in the second part. In other words, we expect profit reported in India to decline when Indian corporate tax rate is higher than that of home country tax rate. Similarly, we expect profit reported in India to increase when the Indian corporate tax rate is lower than that of the home country tax rate. While the first case would lead to loss in potential tax revenue, there could be profit shifting into India in the second case.

4.2. Data and variables

Data are obtained from PROWESS Database at the Centre for Monitoring Indian Economy Pvt. Ltd. (CMIE), which provides micro level financial data for foreign business groups and private foreign firms that is suitable for this study. After dropping missing values from the large CMIE dataset, we are left with 575 foreign firms for the time period of 2006-07 to 2014-15. This provides us 2848 observations. This sample of firms includes foreign groups, individual foreign firms, private foreign firms, and NRI firms. For calculating tax rate differential, we collated data on corporate tax in India and parent countries of foreign firms operating in India. Variables included in this study are as follows:

Dependent Variable: We consider profit before tax reported in India by foreign firms operating in India. This has an average value of Rs.1190 million.

Independent Variables: Our primary independent variable is the *tax differential* between India and the parent country of the MNE. We also use individual tax rates. Hines and Rice (1994) consider US corporate tax rates and the tax rates of all other affiliates of these MNEs in their estimation strategy. The tax rates faced by all other affiliates are combined into an average term. A similar estimation approach is followed by Dharmapala (2014). Using cross-sectional data on European firms, Huizinga and Laeven (2008) consider a tax differential consisting of tax rate faced by all the affiliates of multinational groups. The tax differential is taken as a weighted bilateral tax differential of all countries where the MNE is active. Therefore, a detailed financial statement of all affiliates of MNEs, as well as their headquarters, is required for such an analysis on BEPS. An affiliate could be located in a high tax or a low tax jurisdiction. This information would have allowed us to compute the tax differential between India and every other country where foreign firms (operating in India) have a physical presence. These firms could be shifting profits to their low tax affiliates as well as to their parent country. Due to non-availability of information on various other country-wise affiliates of MNEs operating in India, we consider only the Indian tax rate and the tax rate of the headquarters (home country) of these MNEs. To that extent, profit shifting is likely to exceed that estimated in this study.

The tax differential in this study, thus, is defined as follows:

Tax differential = Corporate tax in India – Corporate tax in home country of MNEs operating in India

The corporate tax in India varies from 32.4 to 34 per cent for the period of 2006-07 to 2014-15. Corporate tax rate in parent countries varies from 0.0 per cent (for Bermuda and Bahrain) to 40.7 per cent (Japan). As a result, the average tax differential is 26.2 per cent and varies from -8.3 per cent to 34.0 per cent.

Control Variables: Apart from establishing tax differential as an incentive for profit shifting, the literature has also included several firm specific and country specific control variables. Considering a simple production function with labour and capital as inputs, income or profit of a firm would be influenced by its own inputs and scale of production. Hines and Rice (1994) related pre-tax financial income with the tax rate faced by all affiliates of MNEs and some affiliate specific characteristics such as employee compensation; size of plant, property and equipment; and GDP of tax havens etc. Dischinger et al. (2014) also related profit before tax with tax differential and several control variables related to corporate inputs such as fixed assets, management, wage costs etc. Some country specific factors included are GDP to account for market size, per-capita GDP as a proxy for overall development, and a corruption index to account for the quality of governance.

Therefore, firms' own assets and sales have been included in the present analysis to account for firm specific characteristics. The average total assets are found to be Rs.9445.5 million varying from Rs.0.3 million to Rs.426847 million (Table 3). The total net sales of firms vary from 0 to Rs.495748 million with an average of Rs.8896 million. These variables are expected to have a positive association with reported profit before tax.

In order to control for the possible effects of the host country's growth rate, we add India's GDP growth rate. The higher the host country's GDP growth rate, the higher MNEs' reported profits are expected to be. A few firm specific dummies are also used.

Table 3: Summary Statistics

Variable	Observation	Mean	Std. Dev.	Min	Max
Number of Firms	575				
Period	2006-07 to 2014-15				
Profit Before Tax (Rs. million)	2848	1190.6	3647.0	0.1	61526.1
Net Sales (Rs. million)	2848	8895.5	28442.7	0.1	495748.0
Total Assets (Rs. million)	2848	9445.5	25658.6	0.3	426847.0
Corporate Tax Rate (India) (per cent)	2848	33.6	0.6	32.4	34.0
Corporate Tax Rate (Headquarter) (per cent)	2848	7.5	14.0	0.0	40.7
Tax Differential (percentage point)	2848	26.2	14.0	-8.3	34.0
Indian GDP Growth (per cent)	2848	7.3	1.89	4.50	9.6

4.3 Results

Results reported in Table 4, by and large, indicate that foreign firms' Indian PBT is negatively associated with corporate tax rate in India (Model 1) and positively associated with corporate tax rate in their parent country (Model 2).

It follows that, if the corporate tax rate in India decreases, then profit reported in India would increase, holding other variables constant and vice-versa. Similarly, if corporate tax in the

Table 4: Evidence of Profit Shifting

Dependent Variable: Ln (Profit Before Tax reported in India)	ln (PBT)	ln (PBT)	ln (PBT)	ln (PBT)	ln (PBT), if Tax Differential >0	ln (PBT) if Tax Differential <0
	(1)	(2)	(3)	(4)	(5)	(6)
Corporate Tax in India	-0.672***					
	(0.000)					
Corporate Tax in Headquarter		0.009**				
		(0.01)				
Tax Differential			-0.01***	-0.01**	-0.012**	-0.029
			(0.009)	(0.012)	(0.020)	(0.622)
Ln (Total Asset)	0.60***	0.60***	0.595***	0.597***	0.61***	0.568***
	(0.000)	(0.000)	(0.00)	(0.00)	(0.00)	(0.00)
Ln (Net Sale)	0.34***	0.34***	0.341***	0.337***	0.333***	0.353***
	(0.000)	(0.000)	(0.00)	(0.00)	(0.00)	(0.00)
India GDP Growth Rate				0.041***	0.036**	0.095**
				(0.003)	(0.013)	(0.024)
Type Dummy	0.154	0.03	0.006	0.032	0.035	0.116
	(0.216)	(0.813)	(0.961)	(0.813)	(0.812)	(0.645)
Bank Dummy	1.165	1.00	0.891	1.004	0.886	
	(0.293)	(0.364)	(0.411)	(0.364)	(0.424)	
Constant	20.64***	-1.93***	-1.63***	-2.02***	-1.91***	-2.72***
	(0.003)	(0.000)	(0.00)	(0.00)	(0.00)	(0.00)
Time Dummy	Yes	Yes	Yes	Yes	Yes	Yes
Fixed Effect Dummy[@]	No	No	No	No	No	No
N	2706	2706	2848	2706	2438	268
R-Square	0.77	0.773	0.775	0.773	0.76	0.82

Note: (i) P value is given in brackets. (ii) Significance Levels: *** - p<0.01, ** - p<0.05, and * - p<0.1. (iii) @ Fixed effect dummy could not be considered due to type dummies and bank dummies.

partner country rises, then foreign firms would report higher profits in India, holding other variables constant. Further, we test the association of PBT with the tax differential, which is the difference between tax rates in India and in the parent country. Results indicate a negative and significant association of PBT and the tax differential. It follows, under the assumption that the home country tax rate remains constant, that if the Indian tax rate increases, then foreign firms report lower profits in India and vice-versa. Therefore, these results provide evidence of tax shifting behaviour.

In Model 5, we compute results when tax differential is greater than zero. It is observed that, when the Indian corporate tax rate is higher than the home country tax rate, profit shifting is taking place out of India. A positive and significant association is not, however, found between the two when the tax differential is less than zero (Model 6). It indicates, therefore, that profit shifting is taking place out of India but not into India even when the tax rate in India is relatively lower. Whether non-tax factors play a role in the latter case could not be tested. There are, however, only few countries with tax rates higher than in India.

The coefficients of the control variables have the expected association with PBT. Higher levels of PBT are associated with better performance by a firm, captured by higher assets and higher net sales. Further, India's GDP growth rate is positively associated with PBT – firms' PBT rises with higher GDP growth. We also tried to observe the effect on PBT of foreign firms that operate in the field of banking, and of firms other than private foreign firms. But these dummies did not give significant results.

5. Policy Implications

Tax treaties were meant to avoid double taxation of MNEs. But cross-border flows have been used in aggressive tax planning, making double non-taxation possible for these firms. Excessive inflows to India from the small island of Mauritius show aggressive use of an Indian treaty for tax avoidance. A firm-level panel regression shows profit shifting by MNEs based in India.

India's attempts on its own to reduce tax arbitrage, however, have given it a reputation for tax arbitrariness. The OECD's BEPS project under the auspices of the G20 may provide the means for the required course correction in response to arbitrage, even as following global norms of transparency and simplicity makes local tax administrations more business friendly. The BEPS recommendations should enable DEs to tax foreign entities more appropriately in line with the economic substance of operations, by making it easier to establish taxable presence. Digitization and standardization should prevent new compliance requirements from becoming too onerous. While MNEs have to be protected from sovereign risk, they tend to misuse protective treaties, which therefore need to be adjusted.

Model agreements will facilitate the exchange of country-by-country reports among tax administrations to provide aggregate information annually. This enhanced transparency will provide tax administrations with information to assess high-level transfer pricing and other BEPS-related risks. Information sharing will allow banks to identify clients' tax residence, offshore accounts, and other types of tax evasion. As evasion falls, so can tax rates, without compromising revenue. Moreover, if tax rates converge, the primary motivation for tax arbitrage goes. In the current system, high tax countries are at a disadvantage. Indian corporate tax rates have scope to fall towards East Asian levels.

While capacity building is required in tax administration, general awareness of these issues also has to be raised.[10] Public opinion can create reputational risks for tax avoiders, and impose a code of conduct for banks and deal-makers. Co-ordination across government ministries in giving tax incentives can reduce inconsistencies in decisions affecting finance, trade and investment. As tax rates fall, exemptions should also reduce.

Preventing double non-taxation and closing loopholes is consistent with a friendly tax administration. This needs to be clearly understood at all levels of the tax hierarchy, with restructuring to reduce multiple centres of power and discretion. Junior officers in India have too much power and make arbitrary demands as part of chasing tax targets.

In the MAT issue the delayed imposition of the tax, after FPI's had settled their accounts, was a valid grievance. It reinforced the reputation of an administration out to squeeze as much revenue as possible. But the quasi-judicial bodies that took the decision to levy MAT were created partly to make the tax system free of political interference. There were legal remedies since rulings could be contested in the higher courts.

[10] There is an argument that clever tax lawyers will always find ways to escape taxes. In the US, for example, short-term trades are routed to 'basket' options of securities held for a year to claim lower long-term capital gains tax at 20 per cent. Discovered loopholes have to be closed even while simplifying systems to remove arbitrage possibilities.

India needs to develop its capital markets, and opened up to foreign investors partly for that purpose. It has to honour its contract with them, but tax concessions given at a development stage cannot last for ever. In order to move towards a transparent, friendly, low tax regime, which foreign investors say they want; exemptions will eventually have to be removed. The 2015 budget did announce a phased reduction of corporate tax rates to 25 per cent together with a removal of exemptions. This should apply uniformly to Indian and to foreign firms earning profits in India, subject to tax treaties. But then financial services will have to pay more than their current levels of tax. Rao (2014) shows that across industrial sectors only 50 per cent of firms pay tax above 25 per cent at present, and this is the lowest in financial and business services at only 7 per cent. The rationale of MAT was to ensure a minimum uniform level of tax despite the many concessions given, and it should go if the concessions evaporate.

There is a requirement therefore for simple tax regimes that prevent both double taxation and double non-taxation. The problem is one country acting alone can frighten away foreign capital, leading to the kind of pressures Indian has seen recently. Global co-ordination is necessary. G-20 has the potential to be very productive in such areas that require co-ordination across countries.

Where there is treaty abuse, or any other kind of abuse, taxes are being applied on past incomes internationally. Many countries face this kind of action as part of the BEPS process. Countries that offer unfair tax advantages are also being pressured. They can no longer freely give tax concessions to attract foreign business to locate in the country.[11] Yet, taxation should be appropriate and not excessive. Specific anti-avoidance rules (SAAR) instead of GAAR and tax councils can help give businesses tax predictability and remove the fear of tax

[11]For example, the European Commission (EC) is investigating tax breaks given to companies including Starbucks, Fiat, Apple and Amazon. In a preliminary decision, the EC found Irish authorities had given a tax advantage to Apple, whose European headquarters are in Cork. If the EC concludes the Irish government broke European state-aid rules and Apple paid less tax than if it had properly applied arm's length transfer-pricing principle between its subsidiaries, it could require Ireland to recover up to past 10 years of taxes due under the disallowed tax breaks. If tax planning is found to be legal, penalties would not apply. Apple has warned in its filing to the US Securities and Exchange Commission that "such amount could be material." That is, it could exceed 5 per cent of the company's three year average pre-tax earnings – more than 2 billion dollars in Apple's case. In that case, Apple would have to pay taxes on past profits like the Indian FPIs were asked to pay. Indian statutory authorities have the right to find that the government gave an unwarranted tax break under existing laws. Legal processes are part of tax systems all over the world, not just in India.

arbitrariness. A GOI (2012) Report on GAAR also cautions against the improper use of these rules.

For example, the European Commission is investigating tax breaks given to companies including Starbucks, Fiat, Apple and Amazon. In a preliminary decision, the commission found Irish authorities had given a tax advantage to Apple, whose European headquarters are in Cork. If the commission concludes the Irish government broke European state-aid rules and Apple paid less tax than if it had properly applied arm's length transfer-pricing principle between its subsidiaries, it can require Ireland to recover up to past 10 years of taxes due under the disallowed tax breaks. Apple has warned in its filing to the US Securities and Exchange Commission that "such amount could be material." That is, it could exceed 5 per cent of the company's three year average pre-tax earnings—more than 2 billion dollars in Apple's case. In that case Apple would have to pay taxes on past profits like the Indian FPIs were asked to pay. Indian statutory authorities have the right to find the government gave an unwarranted tax break under existing laws. Legal processes are part of tax systems all over the world, not just in India. The media misreads aggression as being only on one side.

References

Cristea, A. D. and D. X. Nguyen, 2015. 'Transfer Pricing by Multinational Firms: New Evidence from Foreign Firm Ownerships,' *American Economic Journal: Economic Policy*, forthcoming.

Department of Industrial Policy and Promotion (DIPP). 2015. Fact Sheet on Foreign Direct Investment (FDI), From April, 2000 to June 2015. Government of India, Available at http://dipp.nic.in/English/Publications/FDI_Statistics/2015/india_FDI_June2015.pdf. (Accessed in October 2015).

Dharmapala, D. and N. Riedel. 2012. 'Earnings Shocks and Tax-Motivated Income-Shifting: Evidence from European Multinationals,' *5th Annual Conference on Empirical Legal Studies Paper; Illinois Program in Law, Behavior and Social Science* Paper No. LBSS11-09. Available at SSRN: http://ssrn.com/abstract=1629792. (Accessed in September 2015).

G20. 2013. 'Tax Annex to the St. Petersburg G20 Leaders' Declaration,' September. Available at https://g20.org/wp-content/uploads/2014/12/Saint-Petersburg-G20-Leaders-Declaration-Tax-Annex.pdf. (Accessed in October 2015).

Government of India. 2012. *Report of the Committee on General Anti Avoidance Rules*, Ministry of Finance, New Delhi

Goyal, A. 2015. 'Foreign Investors Ask For Too Much,' *Hindu Business Line*, May 27. Available at http://www.thehindubusinessline.com/opinion/foreign-investors-ask-for-too-much/article7252239.ece. (Accessed in October 2015).

Heckemeyer, J and M. Overesch. 2013. 'Multinationals' Profit Response to Tax Differentials: Effect Size and Shifting Channels,' *ZEW - Centre for European Economic Research* Discussion Paper No. 13-045. Available at SSRN: http://ssrn.com/abstract=2303679. (Accessed in September 2015).

Hines, J. and E. Rice. 1994. 'Fiscal Paradise: Foreign Tax Havens and American Business,' *The Quarterly Journal of Economics*, 109 (1): 149-182.

Houlder, V. 2014. 'Taxing Time Ahead as Offshore Rules Come under More Scrutiny,' *Financial Times*, June 12, available at http://www.ft.com/cms/s/0/2b4c7be8-f233-11e3-ac7a-00144feabdc0.html#ixzz38CN0voiR. (Accessed in October 2015).

Huizinga, H. and L. Laeven. 2008. 'International Profit Shifting Within Multinationals: A multi-country perspective,' *Journal of Public Economics*, 92 (5–6): 1164–1182. June.

International Monetary Fund. 2014. 'Spillovers in International Corporate Taxation,' *IMF Policy Paper,* Washington, DC, www.imf.org/external/np/pp/eng/2014/050914.pdf. (Accessed in September 2015).

Jansky P. and Prats A. 2013. 'Multinational Corporations and the Profit -Shifting Lure of Tax Havens,' *Christian Aid Occasional Paper no.9*, available at: http://www.christianaid.org.uk/images/ca-op-9-multinational-corporations-tax-havens-march-2013.pdf. (Accessed in September 2015).

Keen, M. and Mansour, M. 2009. 'Revenue Mobilization in Sub-Saharan Africa: Challenges from Globalization,' *IMF Working Paper*, IMF WP/09/157, IMF Fiscal Affairs Department, Washington, DC, www.imf.org/external/pubs/ft/wp/2009/wp09157.pdf. (Accessed in September 2015).

OECD. 2014a. *Part 1 of a Report to G20 Development Working Group on the Impact of BEPS in Low Income Countries*. Available at http://www.oecd.org/tax/part-1-of-report-to-g20-dwg-on-the-impact-of-beps-in-low-income-countries.pdf. (Accessed in October 2015)

----- 2014b. Bringing the International Tax Rules into the 21st Century: Update on Base Erosion and Profit Shifting (BEPS), Exchange of Information, and the Tax and Development Programme. *Meeting of the OECD Council at Ministerial Level, May 2014*. Available at http://www.oecd.org/mcm/C-MIN(2014)6-ENG.pdf. (Accessed in October 2015).

----- 2014c. International VAT/GST Guidelines. *Global Forum on VAT, 17-18 April 2014*. Available at http://www.oecd.org/ctp/consumption/international-vat-gst-guidelines.pdf. (Accessed in October 2015).

OECD. 2001. *Taxation and Electronic Commerce: Implementing the Ottawa Taxation Framework Conditions*, OECD, Paris. Available at http://www.oecd.org/tax/consumption/Taxation%20and%20eCommerce%202001.pdf (Accessed in November 2015).

RBI (Reserve Bank of India). 2015. *Survey of Foreign Liabilities and Assets of Mutual Fund Companies: 2014-15 – Data Release*. Available at https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=34688. (Accessed in November 2015).

Rao, R. K. and D. P. Sengupta. 2014. 'Action Plan on Base Erosion and Profit Shifting: An Indian Perspective,' *Working Paper No. 2014-133*, NIPFP, New Delhi, India.

Shah Commission Report. 2015. 'Report on Applicability of Minimum Alternate Tax (MAT) on FIIs/FPIs for the period prior to 01.04.2015,' Committee on Direct Tax Matters, 25 August. Available at http://finmin.nic.in/reports/ReportonApplicabilityofMinimumAlternateTax%20onFIIsFPIs.pdf. (Accessed in October 2015).

Weichenrieder, A. 2009. 'Profit Shifting in the EU: Evidence from Germany,' *International Tax and Public Finance*, 16(3): 281-297.

Zucman, G. 2014. 'Taxing across Borders: Tracking personal wealth and corporate profits,' *Journal of Economic Perspectives*, 28(4): 121-148.