Seminar V

Inbound Investments In India & Outbound Investments From India – Post BEPS

Planning and Challenges (For GAAR, PoEm/CFC & Transfer Pricing)

18th June, 2016

Chair:

Kuntal Dave – Nanubhai Desai & Co.

Panel:

Ms. Geeta Jani – EY, India

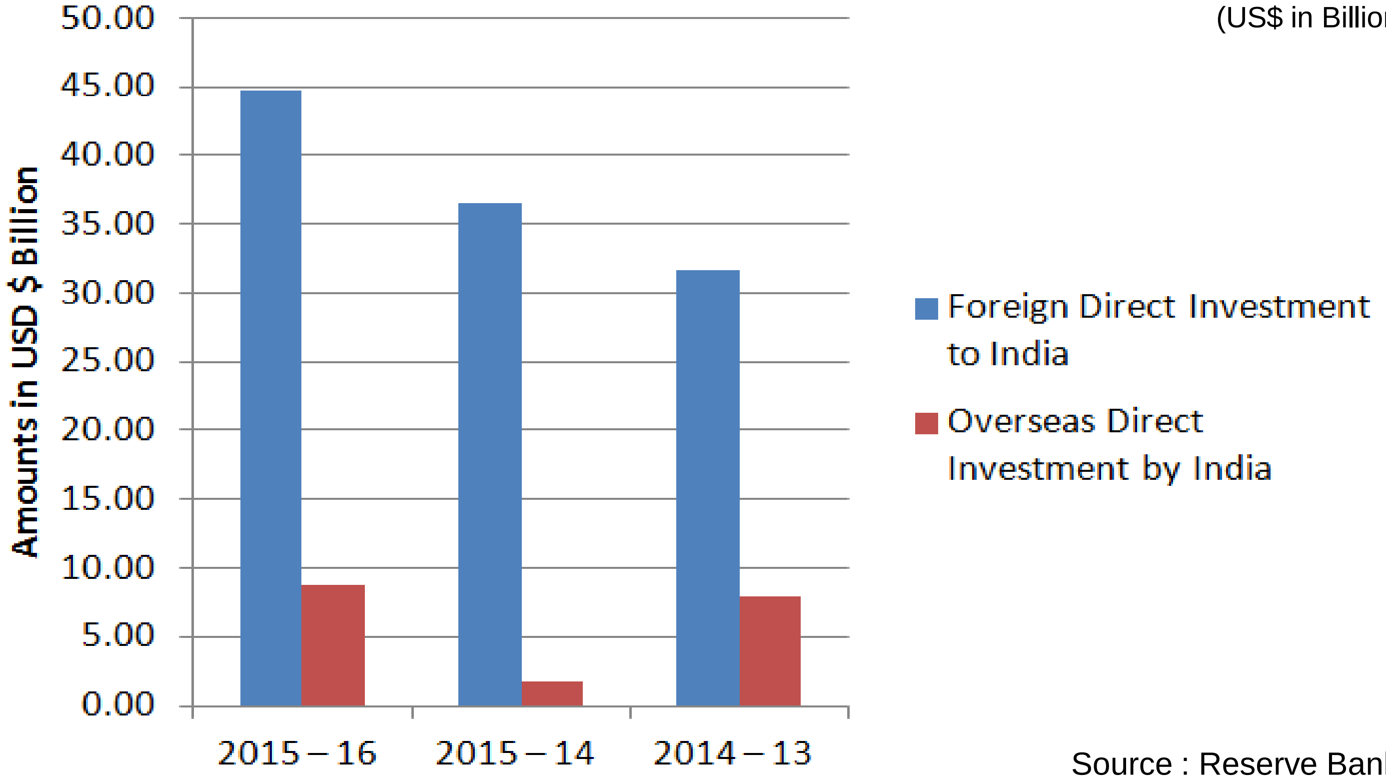
Mr. Vishal Gada – Dhruva Advisors LLP

Chairman	Kuntal Dave – Nanubhai Desai & Co.
Panellists	Ms. Geeta Jani – EY, India Mr. Vishal Gada – Dhruva Advisors LLP

Investment flows

Particulars	2015 – 16	2015 – 14	2014 – 13
Foreign Direct Investment to India	44.79	36.55	31.66
Overseas Direct Investment by India	8.83	1.68	7.89

(US$ in Billions)

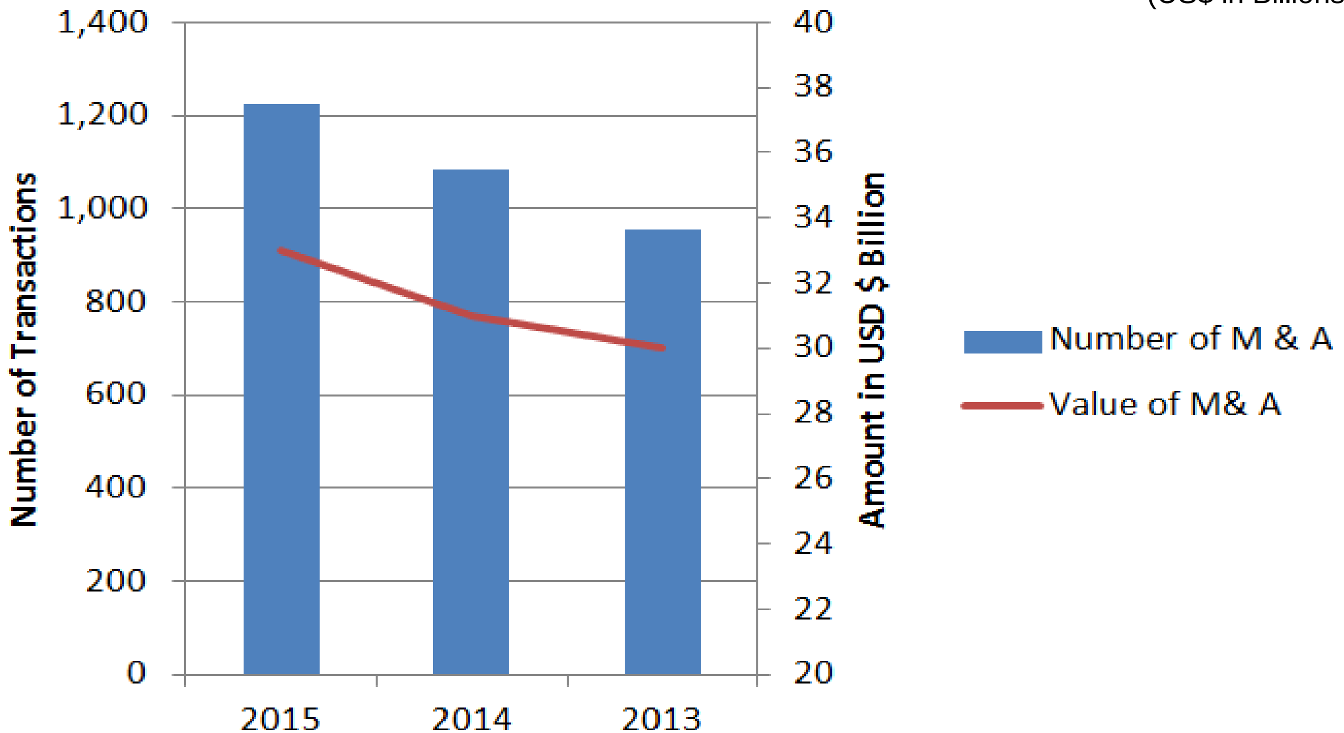


Source : Reserve Bank of India

Mergers & Acquisitions

Particulars	2015	2014	2013
Number of M & A	1,225	1,082	955
Value of M& A	33	31	30

(US$ in Billions)



Source : Institute for Mergers, Acquisitions and Alliances

FDI Inflows, Cross-border M&As, by Region and Major Economy

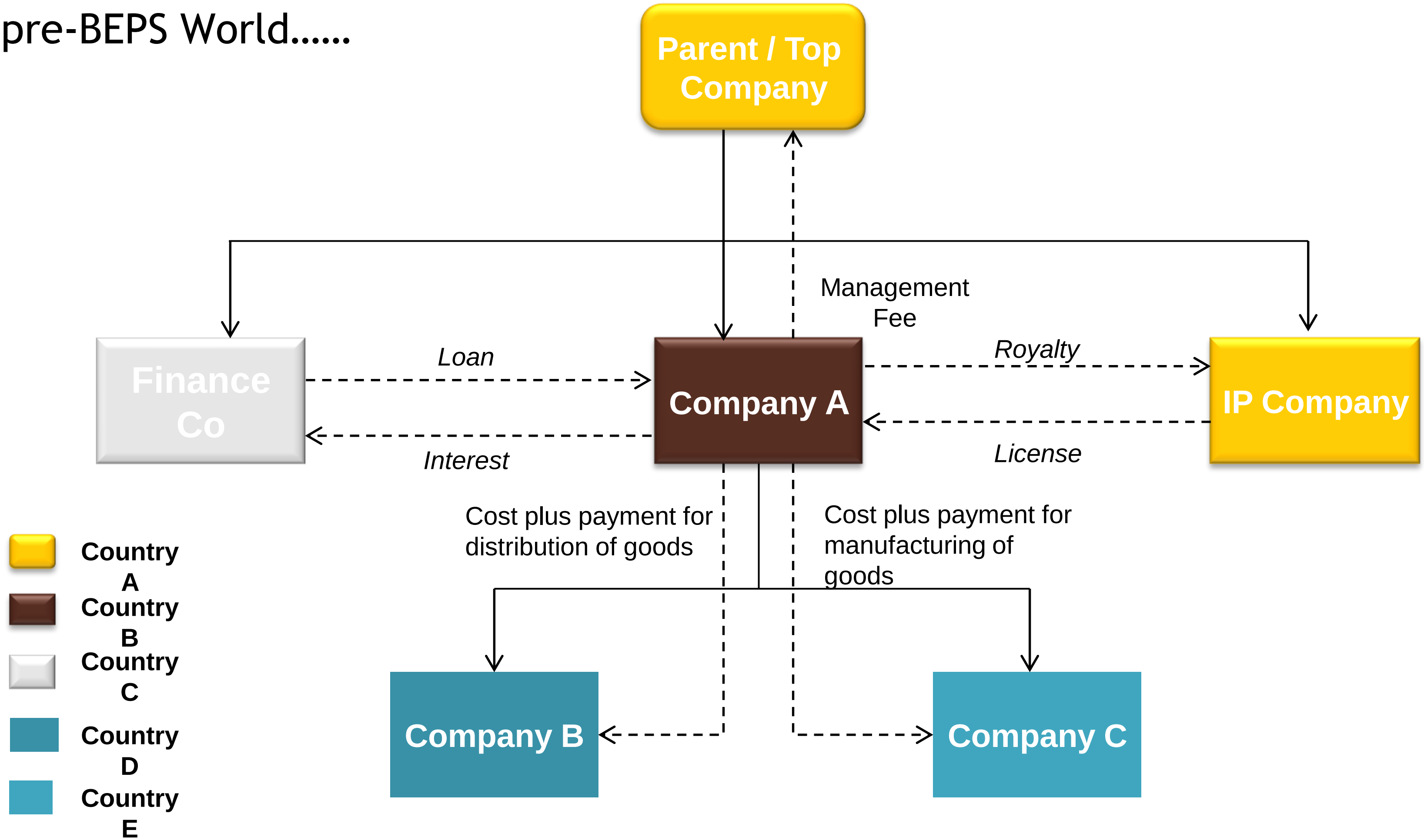
Region / Economy	FDI Inflows		Cross - Border M & As	
	2015	2014	2015	2014
World	1,699	1,245	643.7	398.9
Developed Economies	936	493	566.8	274.5
Europe Union	426	254	269.2	160.6
North America	429	146	242.3	44.1
Developing Economies	741	703	67.6	120.1
Africa	38	55	20.4	5.1
Latin Africa and the Caribbean	151	170	10.1	25.5
Developing Aisa	548	475	35.3	89.3
Transition Economies	22	49	9.3	4.2

(US$ in Billions)

Source : United Nation Conference on Trade and Development

Business Model of a Typical MNC Structure

A "brilliant" tax structure in a pre-BEPS World……



Effect of BEPS

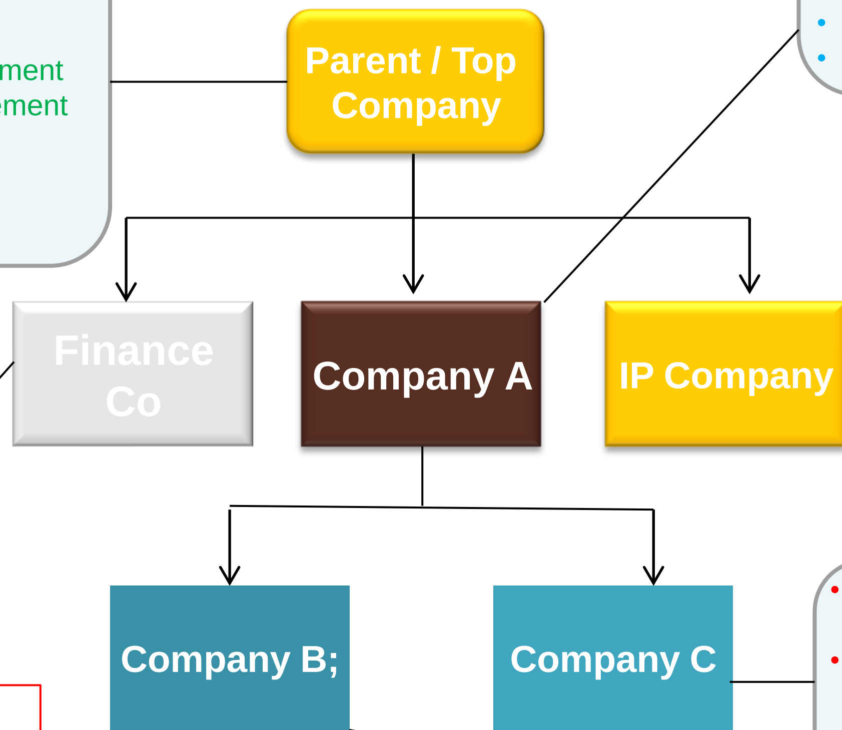
Loss of 1/4th Trillion dollars of tax revenue per annum

And effects of BEPS……

Potential BEPS impact

- Immediate
- Medium term
- Longer term;

- Increased risk of place of management PE
- Increased reporting and disclosure requirement
- Increased TP documentation requirement
- Increased risk of intra-group management charge
- Increased use of CFC rule in more jurisdictions



- Alignment for substance and return
- Treaty abuse
- Level of substance
- TP arrangement
- Taxation of income from online sale
- Use of hybrid entities
- Treaty abuse

- Hybrid mismatch
- Base erosion limitations
- TP for treasury arrangements
- Preferential regimes – increased disclosure and substance requirement
- Treaty abuse

- Risk of Hybrid structure
- TP alignment with value creation and exploitation of intangibles
- R&D arrangement
- Level of substance, particularly where preferential ruling obtained

- Increased tax authority aggression
- Focus on PEs – commissionaire, place of management
- Disclosure requirements for TP
- Threat of re – characterisation increase

Harm to Govt.
Harm to individual tax payers
Harm to business

Country A | Country B | Country C | Country D | Country E

India

Recent Developments

- Indirect Transfer
- PoEM
- India Mauritius Protocol
- GAAR draft guidelines
- Finance Act 2016

India Treaty Network

- By & large UN model
- Treaty over ride
- Capital Gains
- LOB