Along with Dutch sandwiches, under EU attack

While the G20 and OECD countries have just committed themselves to tackle Base Erosion and Profit Shifting (BEPS) by next year, a big blow has been struck by the European Commission against Ireland. The Commission has accused Ireland, as a US Senate sub-committee did last year, of helping Apple to avoid several tens of billions of dollars of taxes by entering into questionable tax shelters—in jargon, a 'double Irish with a Dutch sandwich' is one such structure that allows firms to send profits from one Irish firm to a Dutch company and finally to a nominally Irish firm usually located in a tax haven. The Commission has accused Irish officials of giving

Apple unlawful 'state aid' by using a transfer-pricing mechanism that allowed the US firm to pay very little taxes on its incomes. Apple, for its part, has consistently denied the allegations and holds that, while it pays large amounts of tax in the US, the Irish operations are what allow it to fund more than half its global R&D. It is not just Apple that stands accused—both the firm and the Irish government have a month's time to respond to the European Commission's allegations—other big firms are also being investigated; Fiat is accused of getting such 'state aid' from the Luxembourg government.

Even if Apple loses the case and ends up paying back taxes, it is unlikely to cause too much of a problem given its huge cash piles. But the European Commission action has to be seen as an attempt to discipline individual countries that are allowing BEPS in order to gain a manufacturing/jobs advantage —indeed, when the Irish bailout package was being negotiated, the Germans wanted local tax rates to be raised but this was resisted. If the 12.5% Irish tax levels weren't bad enough, the European Commission report alleges that Irish government officials essentially 'reverse engineered' Apple's tax bill by discussing with company representatives what kind of tax they would like to pay—the transfer-pricing agreement the Irish authorities accepted then allowed Apple's taxes to remain at the desired level, the Commission alleges. Part of the problem, of course, is the complicated US tax code that allows firms to defer taxes on profits as long as they are held in overseas subsidiaries, but the case is more than that since BEPS is a global phenomenon, and there is a larger coordinated global pushback against shopping around for better tax treatment. For countries like India, that can only be a good thing.