



**Giving with one hand
and taking with the other:**
Europe's role in tax-related capital flight
from developing countries 2013



A report coordinated by Eurodad

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Norad

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Glossary

Automatic Exchange of Information

A system by which relevant information about the wealth and income of a taxpayer – individual or company – is automatically passed by the country where the income is earned to the taxpayer's country of residence. As a result, the tax authority of a tax payer's country of residence can check its tax records to verify that the taxpayer has accurately reported their foreign-source income.

Base Erosion and Profit Shifting

This term is used by the OECD and others to describe the shifting of taxable income out of countries where the income was earned, usually to zero- or low-tax countries, which results in 'erosion' of the tax base of the countries affected, and therefore reduces their revenues.

Beneficial ownership

A legal term used to describe anyone who has the benefit of ownership of an asset (for example, bank account, trust, property) and yet nominally does not own the asset because it is registered under another name.

Country-by-country reporting

Country-by-country reporting would require multinational companies to provide a breakdown of profits earned and taxes paid in every country where they have subsidiaries, including offshore jurisdictions. Ideally it would require disclosure of the following information by each multinational corporation in its annual financial statement:

- A global overview of the corporation (or group): The name of each country where it operates and the names of all its subsidiary companies trading in each country of operation.
- The financial performance of the group in every country where it operates, making the distinction between sales within the group and to other companies, including profits, sales, purchases and labour costs.
- The assets: All the property the company owns in that country, its value and cost to maintain.
- Tax information i.e. full details of the amounts owed and actually paid for each specific tax.

Financial Action Task Force (FATF)

The Financial Action Task Force is the independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction.

Illicit financial flows

Definitions of this term restrict it to the transfer of illegally earned assets (according to the OECD), or in some cases to include the hiding of legally earned assets for the purpose of (illegal) tax evasion (Global Financial Integrity – GFI). Neither definition includes (legal) aggressive tax planning (i.e. tax avoidance).

Offshore jurisdictions or centres

Usually known as low-tax jurisdictions specialising in providing corporate and commercial services to non-resident offshore companies and individuals, and for the investment of offshore funds. This is often combined with a certain degree of secrecy.¹ 'Offshore' can be used as another word for tax havens or secrecy jurisdictions.

Predicate Offence

A predicate offence is a crime that, as a matter of logic or statutory provision, is or must be a part of another crime.

Tax avoidance

Technically legal activity that results in the minimisation of tax payments.

Tax evasion

Illegal activity that results in not paying or under-paying taxes.

Tax-related capital flight

For the purposes of this report, tax-related capital flight is defined as the process whereby wealth holders perform activities to ensure the transfer of their funds and other assets offshore rather than in the banks of their country of residence and thereby avoid or evade taxation in the country where the wealth is generated. The result is that assets and income are often not declared for tax purposes in the country where a person resides or where a company has generated this wealth. Capital flight, tax evasion and tax avoidance or 'aggressive tax planning', are intimately linked phenomena.² This report is not only concerned about illegal activities related to tax evasion and illicit financial flows, but the overall moral obligation to pay taxes and governments' responsibility to regulate accordingly to ensure this happens. Therefore, this broad definition of tax-related capital flight is applied throughout the report.

Acronyms

ABF	Associated British Foods	IFAD	International Fund for Agricultural Development
AEI	Automatic exchange of information	IFI	International financial institution
AML	Anti-money laundering	IMF	International Monetary Fund
AMLD	Anti-money laundering directive	LDC	Least developed country
BO	Beneficial ownership	MDG	Millennium Development Goal
CBCR	Country-by-country reporting	MFA	Ministry of Foreign Affairs
BEPS	Base Erosion Profit Shifting	MF	Ministry of Finance
BRIC	Brazil, Russia, India and China	MONEYVAL	Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
CFT	Combating the financing of terrorism	MNC	Multinational corporation
CRD	Capital requirements directive	NGO	Non-governmental organisation
CSO	Civil society organisation	ODA	Official development assistance
DAC	Development Assistance Committee	OECD	Organisation for Economic Co-operation and Development
DRM	Domestic resource mobilisation	PCD	Policy Coherence for Development
DTA	Double taxation agreement	RCS	Register of companies
ECOSOC	Economic and Social Council	SFI	Special financial institutions
EU	European Union	SME	Small and medium-sized enterprises
Eurodad	European Network on Debt and Development	STR	Suspicious transaction reports
FAO	Food and Agriculture Organization	TIEA	Tax information exchange agreements
FATCA	Foreign Account Tax Compliance Act	US	United States
FATF	Financial Action Task Force	UN	United Nations
FDI	Foreign direct investment	UNCTAD	United Nations Conference on Trade and Development
FIU	Financial Intelligence Unit	UNODC	United Nations Office on Drugs and Crime
GDP	Gross domestic product	VAT	Value Added Tax
GFT	Global Forum on Transparency and Exchange of Information for Tax Purposes		
GNI	Gross National Income		
GST	Good and Services Tax		

Executive summary

Tax-related capital flight is a major problem the world over, particularly for the poorest people, who are unfairly losing billions of euro every year as a result of this practice. In Europe, the loss of income caused by tax evasion and avoidance³ is estimated to be around €1 trillion per year. When it comes to the world's developing countries, conservative estimates report that these countries lose between €660 and €870 billion each year through illicit financial flows, mainly in the form of tax evasion by multinational corporations.

Civil society organisations (CSOs) in 13 European countries have come together to produce this report – the first of three over the next three years. In the report, the CSOs examine the tax-related capital flight policies in their respective countries; the actions taken by their national governments to tackle money laundering and tax avoidance and evasion; and attitudes towards EU laws that could help solve the problem. They highlight the efforts, and the shortcomings, of European leaders on this issue, and propose ways forward.

The report finds that there is a significant discrepancy between tough political rhetoric from the governments surveyed and their actions. This is having a particularly damaging impact on developing countries. Specifically, this report finds that:

- All governments surveyed are failing to demand sufficient levels of tax transparency from companies as no government has implemented full country-by-country financial reporting requirements for multi-national companies.
- The majority of governments surveyed are reluctant to establish public access to information on the beneficial owners of companies, trusts or foundations in their jurisdictions.
- Data to monitor the information that governments are exchanging with each other on tax matters is rarely publicly accessible. And findings from this report indicate that countries from the global south are barely participating in this form of information exchange.
- None of the governments surveyed support the equal inclusion of developing countries in policy making in this area in practice. All the governments surveyed support the European Union (EU) position, which is that the Organisation for Economic Co-operation and Development (OECD) should be the leading decision-making forum. This is despite concerns about the OECD's legitimacy for this task and the lack of decision-making power in this area for governments in the global south.

A summary overview of the report

Global overview

The report begins with a global overview, explaining the scale of the problem, and its severe impact on global efforts to fight poverty in the poorest countries. It looks at some of the opportunities for change in the area of tax-related capital flight. Currently, it is the richest countries – some of which contain offshore centres – that are controlling the debate through the G20 and OECD. However, this report highlights some important political opportunities at EU level that should be grasped by member states. Furthermore, the global overview chapter points to the importance of ensuring that rules and policies are consistent with, and supportive of, international commitments to eradicate poverty. Finally, it stresses that, to achieve real impact, it is of paramount importance that governments of the poorest countries in the world have genuine decision-making power and are central participants in identifying solutions over the coming years.

National reviews

Each national chapter provides an overview of that government's policy position in relation to tax evasion and aggressive tax avoidance. Each chapter also maps national responses to current EU and global policy making processes. High-profile cases of tax avoidance are examined, which in some cases have led to improved political commitments in the fight against tax-related capital flight. However, serious discrepancies between governments' rhetoric and actions are highlighted. For example in the UK, despite significant political rhetoric in the last year on financial cooperation, the main political focus of the UK Government has been to ensure it has the most 'competitive' tax regime in the G20.

The second part of each national chapter examines national anti-money laundering regulation, including the outcomes of the recent Financial Action Task Force (FATF) evaluations. It explores how efforts in this area are structured across the ministries involved, and whether the laundering proceeds of tax evasion are considered a criminal offence.

National transparency levels in relation to tax payments by corporations, beneficial ownership of companies, and country-by-country reporting are also examined. Most governments surveyed have registries or other structures in place to capture information about ownership, or require banks to do so. However, this information is rarely made publicly accessible and available information does not seem to form a basis for better regulation.

The fourth section of each national chapter examines positions on EU regulation currently being negotiated, mapping approaches to three key proposals:

1. Public access to beneficial ownership information in the fourth revision of the EU Anti-Money Laundering Directive.
2. Tax evasion as a predicate offence to money laundering in the fourth revision of the Anti-Money Laundering Directive.
3. Country-by-country reporting by large companies as part of the ongoing revision to the Accounting Directive.

Among the governments surveyed, there are mixed opinions on these directives. The French government is promoting the idea of adopting EU regulation requiring country-by-country reporting for all sectors, although only for very large companies. However, only a few other governments have expressed support for this and none of them is actively championing the issue at home or at the EU level.

Most governments acknowledge the need for greater transparency relating to identification of the beneficial owners of companies, trusts and foundations but do not go as far as recognising the significant benefits of making this information publicly accessible.

With regards to making tax evasion a predicate offence⁴ of money laundering, the report finds that this is already the case in a number of member states surveyed and the majority also support this being included in the fourth revision of the anti-money laundering directive.

When examining decision-making on global regulation, the report shows that, while a small number of governments recognise the need for the inclusion of developing countries, not one government surveyed expresses support for a strengthened United Nations (UN) body to address tax-related capital flight.

Finally, the national chapters examine each country's approach to tax-related capital flight through their official development assistance (ODA) programme. The development cooperation strategies of some countries surveyed recognise the need to enhance domestic resource mobilisation in developing countries, and that capital flight plays a role in undermining these efforts. In some countries, the ministries of finance are directly engaged in the area of policy coherence in ODA programming, albeit with mixed results. In most cases there is a complete failure to mainstream tax justice concerns for developing countries across government decision-making. In the worst cases, development cooperation strategies are directly contradicted by the surveyed countries' tax policies. In other words, EU member states are giving with one hand and taking with the other.

Recommendations

The report calls on all EU member states to:

- Adopt EU-wide rules to establish publicly accessible registries of the beneficial owners of companies, trusts and foundations.
- Adopt full country-by-country reporting for all large companies,⁵ which should include:
 - A global overview of the corporation (or group): The name of each country where it operates and the names of all its subsidiary companies trading in each country of operation.
 - The financial performance of the group in every country where it operates, making the distinction between sales within the group and to other companies, including profits, sales, purchases and labour costs.
 - The assets i.e. All the property the company owns in that country, its value and cost to maintain.
 - Tax information i.e. full details of the amounts owed and actually paid for each specific tax.
- Make tax evasion a predicate offence to money laundering.
- Develop mechanisms to measure the impact of tax-related capital flight on Developing countries and carry out spill over analyses of their national tax policies, in order to strengthen policy coherence for global development.

We further urge European governments to:

- Proactively support the creation of a global standard on Automatic Information Exchange, which includes a transition period for developing countries that cannot currently meet reciprocal automatic information exchange requirements due to lack of administrative capacity.
- Undertake a rigorous study jointly with developing countries, of the merits, risks and feasibility of more fundamental alternatives to the current international tax system, such as unitary taxation, with special attention to the likely impact of these alternatives on developing countries.
- Establish an intergovernmental tax forum under the auspices of the UN. This forum should become the decision-making body on current tax policy decision-making and ensure that developing countries can participate equally in the global reform of existing international tax rules.

The global perspective

As the world struggles to overcome the economic crisis, tax-related capital flight continues to redirect much-needed financial resources away from citizens and societies in some of the poorest countries in the global south. These resources are being directed into offshore jurisdictions or tax havens or hidden in private bank accounts, controlled in some of the richest countries in the world. This is a massive transfer of wealth from the poor to the rich and far outweighs official development assistance, which is in decline, to countries in the global south.

Tax evasion and tax avoidance are global challenges that have an impact on us all. Taxable profit is shifted around different tax jurisdictions or offshore centres, to places that provide a veil of secrecy or particular corporate structures that facilitate tax avoidance. This erodes national tax bases by limiting tax revenues and creates real problems for our societies that depend on taxation to ensure funding for public goods and services.

The European Commission estimates the financial loss of income caused by tax evasion and avoidance to be around €1 trillion per year in Europe alone.⁶ When it comes to the world's developing countries, conservative estimates say these countries lose between €660 and €870 billion each year through illicit financial flows, mainly in the form of tax evasion by multinational corporations.⁷ This figure does not include the further tax-related capital flight from tax avoiding practices that can lead to no taxation at all.⁸

Christian Aid estimates that the cost to the developing world in lost tax revenue of just two forms of tax evasion – transfer mispricing and false invoicing – amounts to well over €100 billion per year, which is higher than the total amount of aid received by these countries.⁹ While aid remains a critical tool in financing the fight against poverty, these astronomical tax losses could provide the resources needed to turn the fortunes of developing countries around. To put these figures into context, the cost of preventing, diagnosing and treating malaria globally is estimated at €3.8 billion per year. Less than half of this amount is currently being provided. Malaria remains one of the main causes of child mortality in the world's least developed countries and after years of progress in the fight against malaria, the UN is warning of a serious risk of resurgence.¹⁰ More generally, developing countries face a financing gap of over €112 billion annually in the coming years in order to meet the Millennium Development Goals (MDGs), which aim to deliver basic social goods like education, health, water and sanitation, and food security.¹¹

Financial crisis and austerity

Currently, most governments across the world are struggling to generate enough revenue from taxes as the crisis continues to reverberate around the world. A recent study by the Initiative for Policy Dialogue and the South Centre found that around 80% of the world's population will be affected by austerity in 2013, and this number is expected to grow to 90% by 2015. The study also shows that fiscal contraction is currently most severe in countries in the global south.¹²

Currently, 98 countries have introduced or are considering wage bill caps or cuts, including in the education and public health sectors; 86 are working on pension 'reforms'; 80 countries are reconsidering their safety nets; and 100 countries are revising and reducing subsidies, including on food products.¹³ Meanwhile large amounts of wealth are still escaping the tax net through tax evasion and tax avoidance. As more and more people are being pushed into poverty, others are growing richer by escaping taxation.

Who pays taxes?

Government revenue from taxation declines in times of economic crisis. This increases pressure on the funding of essential services and the maintenance of roads, schools, public buildings and infrastructure. Whether a country is rich or poor, taxes are an essential part of the funding needed for effective governance, and they create a more accountable relationship between taxpayers and governments. The payment of taxes based on capacity is a fundamental obligation and the bedrock of society. Aggressive tax avoidance is a fundamentally anti-social act.

According to Eurostat's 2013 assessment of the taxation trends in the European Union (EU), nearly half of the tax revenues in 27 EU member states (not including Croatia) are currently collected from taxation on labour, and roughly one third by taxation on consumption, including value added tax (VAT). Taxation of capital provides around one fifth of the European tax income.¹⁴ At the global level, the use of consumption taxes such as VAT and Goods and Services Tax (GST) has grown dramatically, in terms of the number of countries applying it (now more than 150 countries) and in terms of scope.¹⁵ Meanwhile, corporate taxes keep declining in all regions except Africa.¹⁶

Consumption taxes fall disproportionately on the poorest people, as it is a higher share of their relative wealth that is affected – money that they spend primarily on food and daily goods. For the poorest people, increasing the tax contribution, whether directly or indirectly, can significantly affect their levels of food security and living standards.



Googies Art Cafe in Folkestone, UK, responds to media reports about Starbucks.

And who does not pay taxes?

There has been a lot of recent public attention on multinational corporations avoiding taxes, and large brands including Starbucks, Google, Amazon and Apple have received heavy criticism. Across Europe, public outcries have followed media reports that Starbucks has paid less than 1% in taxes on the €3.5 billion it has made in sales in the UK since 1998.^{17,18} Multinational corporations' use of creative measures to escape taxation raises concerns about the tax burden falling disproportionately elsewhere, as well as draining financial resources from economies that are already struggling to pull themselves out of the financial crisis by imposing strict austerity policies on their populations and societies.

It is primarily multinational corporations that benefit from so called 'aggressive tax planning' across jurisdictions. Small and medium-sized enterprises cannot 'compete' with these practices, as they do not have the means to outsource their tax planning to such specialists. Or simply the geographical locations of their economic activity do not lend themselves to profit shifting across jurisdictions. Most family-run businesses operate within a domestic economy and cannot engage in such forms of 'tax competition'.

While not all actors are complicit in this behaviour, all countries in the world are affected. Developing countries are struggling with multinational corporations dodging taxes – just as developed countries are. In developing

countries the impacts of the missing tax revenues are felt directly by the world's poorest people, who depend on their public sector to provide education, healthcare and basic social services.

There has also been increasing focus on the wealthy individuals who profit from tax dodging and hide their wealth in tax havens. In spring 2013, the world witnessed a flood of scandals revealing billions of dollars hidden in tax havens around the world. The International Consortium of Investigative Journalists had dug through two million leaked documents and summarised up to 260 gigabytes of information.²² The information they found concerned more than 170 countries globally and documented an artificial web of shell companies and hidden bank accounts tied together in structures designed to confuse, mislead and create a dead end for tax authorities and citizens.

This global financial scandal, which quickly got nicknamed 'offshore leaks', included details about how major European banks – including the French banks PNB Paribas and Cr dit Agricole,²³ and Germany's largest bank, Deutsche Bank²⁴ – had been setting up shell companies in offshore tax havens to offer clients financial secrecy and low or no taxes. In the UK, an unknown person was revealed as official director of more than 1,200 companies – a number so high it immediately created suspicion and debate about ownership manipulation of shell companies and money laundering.²⁵ And in crisis-hit Greece, journalists found more than 100 Greek-owned offshore companies that were not known to the Greek authorities.²⁶

Box 1: Sweet Nothings

In the report *Sweet Nothings*, ActionAid revealed how the UK food giant Associated British Foods (ABF), through their subsidiary Zambia Sugar Plc, managed to take home a record annual revenue of US\$200 million over five years through sugar production, and generate over \$18 million in profits. And yet the company has paid less than 0.5% of its income in taxes to the Zambian government. To achieve this, ActionAid argued that Zambia Sugar Plc has applied a range of different creative – but legal – tax dodging tactics.

For example, the company bought nearly \$2.6 million worth of "purchasing and management fees" from an Irish sister company, which – according to its own audited Irish accounts – has no employees in Ireland.¹⁹ ABF denied that Zambia Sugar paid fees to other parts of the group to reduce tax and said that the payments were for export services, third party contractors and expatriate personnel in Zambia, which had nothing to do with tax planning. The report stated that the company has also made use of treaty loopholes, tax havens and the opportunity to re-shuffle company ownership through Irish, Mauritanian and Dutch holding companies. Finally, through a lawsuit against the Zambian Revenue Authority, the company managed to win the right to reclassify its income as 'farming income', and thereby exploit a tax break originally intended for domestic Zambian farmers.²⁰

The result is a company that, by ActionAid's calculations, from 2008-2010, paid less income tax in absolute terms than a Zambian agricultural labourer while making high profits producing sugar for African and European consumers. ActionAid estimates that the tax revenue the Zambian government has lost due to the company's tax haven transactions is enough to put a child in primary school every 12 minutes.²¹

Tax havens and money laundering: The tip of the iceberg

Tax haven secrecy was far from unknown, but 'offshore leaks' provided concrete examples for the public to see. However, what the world saw was only a tiny fraction of the truth. According to comprehensive research conducted by James Henry for the Tax Justice Network, the stash of wealth hidden away offshore is probably in the range of €16 to €25 trillion.²⁷ This hidden wealth is not included in analyses of inequality in society, leaving us with a very incomplete picture of how wealth is actually distributed in the world. What we do know is that one third of this wealth is leaving developing countries. In other words, Africa is not a net debtor to the world, but a net creditor.²⁸

These financial resources escaping taxation, whether held by individuals or shell companies (a company serving as a vehicle for transactions without active business operations or significant assets) are guarded by a wall of secrecy making them invisible to tax authorities and to the countries from which they originate. Through an international maze of shell companies and other creative legal structures designed to disguise the real (or 'beneficial') owners of the money, these resources can then be laundered and brought back into the economy disguised as legitimately earned financial resources.²⁹

It is time to change the system of rules that are allowing these practices to happen year after year. This report looks at how a number of European countries are tackling these challenges and the global links between tax-related capital flight and the fight against poverty.



Campaign stunt organised by Christian Aid and ActionAid in London in June 2013 on the eve of the G8 summit in Northern Ireland.

Solutions are already on the table

While it can be argued that paying taxes and contributing to society is a moral obligation, it is ultimately elected political representatives who are responsible for creating effective legislation that will ensure this. Only elected politicians representing the citizens' wishes can dismantle the structures that currently enable these dodgy activities. Political representatives are starting to show renewed interest in the technical solutions available. In Europe, numerous proposals, outlined in the section below, are already being considered by the European Parliament and the Council of Ministers.

The challenges affect all countries and are global in nature, but steps must be taken at an EU level to show responsibility and willingness to take action. It is also imperative to tackle the international web of opacity and secrecy to ensure fair taxation globally. Therefore this report examines European countries' understanding of the connection between tax-related capital flight and the global fight against poverty, and their attitudes toward creating inclusive global solutions to end it.

Fighting secrecy

A key step towards ending tax dodging – and building a more sustainable global financial structure – is to ensure the full transparency of transactions by multinational corporations across countries. This can be achieved by requesting multinational corporations to report on a country-by-country basis on:

- **A global overview of the corporation (or group):** The name of each country where it operates and the names of all its subsidiary companies trading in each country of operation.
- **Financial performance** in every country where it operates, making the distinction between sales within the group and to other companies, including profits, sales, purchases and labour costs.
- **Its assets:** All the property the company owns in that country, its value and cost to maintain.
- **Its tax information:** Full details of the amounts owed and actually paid for each specific tax.

Through this kind of improved transparency, it would be possible to compare profits, tax payments and economic activity in individual countries and thereby examine suspicions and risks of tax dodging. It would also provide a clearer picture of the results of the interactions between national and international tax systems. The value of this type of reporting system was acknowledged by the EU in early 2013 when improvements to the Accounting Directive for country-by-country reporting of forestry and mining companies was agreed, and a more rigorous version of country-by-country reporting for banks was adopted through the Capital Requirements Directive IV.³⁰

There are currently discussions in the EU about introducing proposals for country-by-country reporting that would be applied to large companies.³¹ However, until now no legislative proposal has been put forward to the European Parliament and the Council of Ministers, although some actors within these two institutions have expressed their support for this.³²

In addition to country-by-country reporting, there is a need for greater clarity about who actually controls the money in the various entities where they are held. The real owners, those who benefit from owning or controlling an entity (hence the term beneficial owner), can hide behind a veil of secrecy (e.g. nominees or other companies in other countries) making it impossible for either authorities or the public to know who is really behind companies and other entities. The importance of clarifying the real, or beneficial, owners has been recognised by the standards developed by the Financial Action Task Force (FATF) – the main agency evaluating countries' efforts to fight corruption and money laundering.³³ Without transparency in relation to ownership and control over the structures in which money is held or transferred, these structures serve as the get-away cars for crimes, corruption and tax dodging.³⁴

Different systems exist across the EU. Currently, a discussion about creating an EU-wide system of registries of beneficial owners is happening as part of the fourth review of the EU Anti Money Laundering Directive. However, it is crucial that these registries are public and allow citizens – who are also taxpayers – civil society organisations, and other governments access to this information. This review also includes negotiations about penalties for money laundering offences or, more specifically, whether tax evasion should be made a predicate offence to money laundering, which, with effective enforcement, could ensure very severe penalties for these activities.³⁷

This fourth revision is part of a larger action plan published by the European Commission with initiatives to strengthen the fight against tax fraud and tax evasion.³⁸ This action plan has a range of initiatives, and two specific recommendations, one of which is to agree to common criteria to define tax havens and enable the establishment of a blacklist. This could be a further opportunity for the EU to lead by example in the fight against tax-related capital flight by placing pressure on secrecy jurisdictions to change their rules and regulations and become partners in meeting the global challenges, rather than complicit actors.

Exchange of information

To assess and enforce the tax liabilities of internationally operating companies and wealthy individuals, revenue authorities generally need to know about foreign-held assets or income. This information needs to be exchanged with the jurisdictions or countries where these assets or incomes are held. Until now, most tax authorities access this information by filing individual requests with foreign tax authorities, with whom they have treaties to enable it, when they suspect their residents of tax dodging. The main problem with this is that in order to make an effective request, a substantial amount of information must already be known by the filing authority. This means that many tax dodgers will never be held accountable, as tax authorities do not necessarily initially possess adequate information on which to base a request. Because of this, the need for exchange of tax information to be automatic

has been recognised by governments, not least by the G20 ministers in September 2013.³⁹ The OECD has outlined in their action plan that the ambition is to move towards a global standard for automatic exchange of information (AEI).

There is an EU pilot initiative originally proposed by five large member states to bring in AEI. Many more EU and non-EU countries have also signed up.⁴⁰ In a similar vein, the amended Savings Tax Directive – which includes elements of automatic information exchange among the participating countries regarding tax paid on savings in the EU – has recently been put back on the political agenda after having been blocked for years due to a lack of participation by all EU member states.⁴¹

However, a large concern with all of these initiatives is that the challenges experienced by the world's poorest countries, and their views, are not taken into account. Some might not currently have the capacity to fully reciprocate the sharing of tax information from the outset. However, they are seriously affected by tax-related capital flight, as the case of ABF sugar reveals (see Box 1). Where it has been independently proven that a country does not have the administrative capacity to reciprocate automatic information sharing, there should be an option to allow countries a transition period to establish their capacity to meet the requirements while still being considered part of a global AEI agreement. However, political support among richer countries for this fairer approach is weak.⁴²

Box 2: Financial Action Task Force (FATF)

FATF is an inter-governmental body created in 1989 to combat money laundering, the financing of terrorism and proliferation of weapons of mass destruction. A European branch called the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) was established in 1997 within the Council of Europe with the aim of evaluating whether its member states follow the standards created by FATF.

Experts within MONEYVAL regularly carry out reviews in each of its 30 member states, evaluating each state according to its level of compliance with each of the FATF recommendations. The scale goes from non-compliant (NC) through partially compliant (PC) and largely compliant (LC) to compliant (C).

Evaluation is managed by an international committee of experts and takes place regularly in four to seven year cycles. Unfortunately, lists of non-cooperative jurisdictions published by FATF remain very political. In 2011, for example, Luxembourg was not included on this list when many developing countries with higher compliance scores were.³⁵ Luxembourg features as number two on the ranking made by the Financial Secrecy Index in 2013.³⁶

Fixing the cracks

Transparency through public access to company information in all countries and automatic exchange of information are the core building blocks to changing the broken system that allows massive flows of capital to shift location for tax purposes. It is now acknowledged that certain activities are eroding the tax bases of countries and profits are escaping taxation completely. The current rules of the system fail to address these challenges. The G20 has recognised this and the need for change to assist the poorest countries affected. The OECD has been commissioned to support this work and has named this the challenge of BEPS – or Base Erosion (of countries' tax base) and Profit Shifting (by multinational corporations).

The problems that a global tax reform process, like the OECD Action Plan on BEPS, seek to address, are enormous in scale. International agreements designed to avoid double-taxation are now allowing double 'non-taxation'. Multinationals (MNCs) can set up conduit companies or shell companies without economic substance in countries in order to benefit from tax treaty advantages and other fiscal arrangements, including taking advantage of certain types of investment tax reliefs and low barriers to company incorporation (in so-called 'conduit' countries).

Despite the expressed political will to tackle this, governments are still a long way from actually implementing solutions. The OECD's two-year action plan leaves the decision-making power with the OECD participating states (34 countries) and the G20 membership. These are fora that exclude the poorest countries in the world, and are comprised of the richest, including many secrecy jurisdictions. This creates a serious credibility problem with the entire process because OECD and G20 members are the countries that benefit the most from the existing system.

To address this, vague references have been made by the OECD⁴³ to the UN's Committee of Experts on Tax Matters, hosted under the Economic and Social Council (ECOSOC) of the UN,⁴⁴ includes views of the poorest countries but has no decision-making power. The justification for this approach, and details of how it would work in practice, are completely absent.

Developing countries, supported by Norway⁴⁵ and a large group of civil society organisations,⁴⁶ have suggested that an intergovernmental body should be created under the UN to steer international negotiations in tax matters. This would be a political body, as opposed to the existing Expert Committee. However, many developed country governments have remained silent or publicly opposed to this proposal,

and are instead promoting fora such as the G8, G20 and the OECD to be the central bodies for intergovernmental tax matters.⁴⁷

ODA and policy coherence for development

In the long-term, domestic tax revenue should replace the need for ODA. However, ODA is still critical for funding essential services and improving the lives of the poorest people, particularly in least developed countries (LDCs), where aid still accounts for over 10% of gross national income (GNI) in some instances. If used appropriately, ODA could be a resource for building capacity and securing better domestic resource mobilisation in the longer term. It could be used to support accountability in governance and promote transparency.⁴⁸

The stated objective of ODA is to assist in the eradication of poverty and improve the lives of poor and marginalised people. However, donor practices can undermine these goals. This happens through the promotion of tied aid (foreign aid that must be spent in the country providing the aid or in a group of selected countries); through inappropriate technical assistance; informally tied aid via public procurement contracts; and through problems with aid predictability. These problems inherent in ODA practice demonstrate the urgent need to build developing country governments' capacity for more effective domestic resource mobilisation.



A discussion about creating an EU-wide system of registries of beneficial owners is happening as part of the fourth review of the EU AntiMoney Laundering Directive. [credit: Images_of_money 2011 <http://www.flickr.com/photos/59937401@N07/5857336815/in/photostream/> some rights reserved]

ODA could be better targeted to build administrative and policy capacities in developing countries. The return on investment for supporting domestic resource mobilisation (DRM) would be high as ODA is four times more volatile as a source of financing than income generated through taxation.⁴⁹ Currently only a small fraction of ODA spending is used for the purpose of capacity development in DRM. This should be scaled up if developing countries are to be able to unlock the potential resources that effective and fair taxation could provide. If developing countries chose to prioritise DRM, more and better coordinated aid spending would help in this area.

The net outflow of capital from Africa is much higher than the net inflow of ODA to the continent in 2013.⁵⁰ EU member states could act to change this through effective policy coherence for development (PCD). Mechanisms should be developed to measure the impact of tax-related capital flight on developing countries and spill over analyses of national tax policies should be part of EU member states' PCD efforts. This could help ensure that governments stop giving with one hand what they take away with the other.

To make real progress towards international tax justice, European governments must take responsibility to end tax-related capital flight from some of the poorest countries in the world through making the reforms outlined here. More robust assessments of the impact on the people living in the poorest countries are required, and the public debate on the solutions should include civil society. This report seeks to add to this objective.

Conclusion

This report finds that, in the 13 countries reviewed, government action on tax-related capital flight is deeply insufficient to combat the scale of the challenge. At a national level, the report highlights that most of the governments studied require limited financial reporting and other data disclosure from companies, and are unwilling to provide more meaningful information to citizens that would enable action to tackle tax-related capital flight.

At the EU level, while greater momentum exists due to some recent progress on country-by-country financial reporting, this has not gone nearly far enough. Some governments have indicated support for full country-by-country reporting, but others are holding back from supporting this. And while many governments indicate a rhetorical commitment to automatic information exchange, serious concerns relate to the process through which such a mechanism should be developed.

The vast majority of countries surveyed indicated their support for the G20/OECD-led process towards achieving automatic information exchange on tax matters. This points to a high level of risk that this global 'standard' will not include – or apply to – countries with limited capacity to exchange information, and that there will be no accommodation for periods of transition for countries that need time to develop their capacities in this regard.

Across all reviewed countries, it is of great concern that there is virtually no political will to act decisively to ensure policy coherence for global development between governments' domestic policies and their positions in EU and global negotiations. While a number of governments surveyed

recognise the importance of mobilising domestic resources to reduce aid dependency and to fight global poverty, this is not reflected in existing domestic and multilateral policies and regulations. Indeed, examples linked to several focus countries in this report highlight that potential tax revenues for developing countries are directly reduced through the tax policies of those governments.

Also of deep concern is the willingness of the governments surveyed to allow the OECD to dominate decision-making in this policy area. The OECD's membership is limited and many of its members bear significant responsibility for the problem of tax-related capital flight. Locating decision-making powers within the OECD greatly reduces the possibility of achieving fair and inclusive outcomes for citizens of all countries, especially for people living in developing countries.

As austerity measures are implemented throughout the globe, millions of people are paying every day for the financially unjust behaviour of unaccountable corporations. The corporations have been left unchecked, and have even been actively facilitated, by our governments.

Tax injustice is one of the greatest scandals of our time. It is one of the major barriers to achieving sustainable, equitable development for all countries. As poverty increases, people are suffering the impacts of tax-related capital flight in their daily lives. It is high time for international tax justice. The people know it and our governments are beginning to realise that they must act. It is time they delivered on their rhetoric.

Czech Republic

Figure 1: Czech Republic – economic picture

General government deficit	4.4% of GDP in 2012
General government gross debt	45.8% of GDP in 2012
Total tax-to-GDP ratio	34.4% in 2011 (below EU27 average of 38.8%)
Tax revenues from social contributions	44.7% (highest in the EU – 33.5% av)
Tax revenue from direct taxes	21.1 % (below EU average – 33.2%)

General overview

The Czech Republic's economy has experienced an economic downturn since 2012, mainly caused by a fall in consumer confidence and drop in public investments. The recovery is not expected to begin until the second half of 2013.⁵¹

Over the last decade, there have been an increasing number of corporations moving from the Czech Republic to offshore centres. In 2006, there were 7,522 Czech companies registered in offshore centres. By 2012, the number rose to more than 12,500, which represents 3.4% of all companies registered in the Czech Republic.⁵² The real number is probably higher, as the calculation is based only on publicly available information. In 2013, new legislation abolishing bearer shares – shares that can be transferred without needing to register ownership – was passed. As more than half of the Czech joint-stock companies favour bearer shares, it is possible that the flight to tax havens, especially those that offer high secrecy, will be even more intense in the coming years.

According to rough estimates by the Czech Social Watch coalition published in 2011, nearly CZK 140 billion (€5.6 billion) left the country between 2000 and 2008 without being taxed.⁵³ Thus, the state budget lost about CZK 30 billion (€1.2 billion) in tax revenue from income and another 10 billion CZK (€0.4 billion) from consumption tax, which would have been paid if the resources had been spent in the Czech Republic. Less investment means fewer jobs. In the case of the Czech Republic, the authors of the study estimate that around 60,000 jobs were lost due to illicit capital flight.⁵⁴ According to the latest report by MONEYVAL, the total damage from economic crime⁵⁵ was over €1 billion in 2009.⁵⁶

Previous governments⁵⁷ have not considered this to be a major problem. According to a recent Minister of Finance Miroslav Kalousek (in office until June 2013) "it is not tens of billions but 'only' units of billions which are lost. Even if these companies had stayed at home and optimised their taxes, certainly they wouldn't have brought tens of billions into state budget".⁵⁸ The only way how to lure back such companies is, according to the minister, sharp reduction of income tax.⁵⁹

National anti-money laundering regulation

In 1996, the Ministry of Finance established the Financial Intelligence Unit (FIU).⁶⁰ The main objective of FIU is to investigate all announcements on suspicious transactions (STRs) and if an offence is suspected, it is obliged to file a complaint. FIU also approves and controls internal anti-money laundering standards of legal entities and individuals that offer financial services or can execute money transfers. It can impose fines in case of shortcomings in the system.

Over the past five years, FIU analysed between 1,900 to 2,300 STRs each year. While the number of STRs has remained more or less stable, the number of STRs submitted to law enforcement authorities has sharply increased from 78 in 2008 to 429 in 2012.⁶¹ In 2012 alone, the FIU secured over 1 billion CZK (€40 million).⁶² However, it is difficult to find out how many cases submitted by the FIU ended up in court or how many people were convicted, as the FIU does not record these kinds of statistics.⁶³

According to latest MONEYVAL report from 2011, the Czech Republic had made partial progress since its report four years earlier. In 2007, it was found to be non-compliant with recommendations regarding the issue of transparency of legal persons and beneficial owners, mostly due to the existence of freely transferable bearer shares, which will be abolished in January 2014.

National transparency around tax payments and beneficial ownership

Information about annual profits and tax payments by corporations in the Czech Republic was also not available. It is the same situation for countries that have requested an exchange of tax information with the Czech Republic, as well as countries that the Czech Republic has requested information from.⁶⁴

According to the Czech FIU, there was an increase in the number of requests received from foreign governments between 2010 and 2011,⁶⁵ and all requests were always

fully answered. The same applies to requests sent by the Czech FIU. However, due to the lack of information about the sender and recipient countries, it is not possible to assess whether any information was exchanged with developing countries.

Responsibility for a company register (electronically accessible since 2007 and free of charge) stays with the Commercial Register Court. However, while the access to data has improved, the accuracy, veracity and reliability of the registered data is questionable. Also the ultimate beneficial owner cannot always be identified. The Czech approach to beneficial ownership is currently undergoing important changes, which are linked to the new law on bearer shares, detailed below, as well as to the revision of the Civil Code, which is one of the major modifications in the Czech legal system.

In May 2013, the Czech Parliament passed a new law that abolishes bearer shares from 1 January 2014. The new legislation gives the companies with bearer shares three options for bringing these shares into the system. Those shareholders who will not disclose their shares will lose the power to exercise their shareholders' rights.

However, some do not see the new law as sufficient enough, as it does not exclude companies with unregistered bearer shares from public procurements.⁶⁶ Another shortcoming of the new law lies in the limited access to information. All shares will need to be registered at the central depository or in banks. However, only bodies active in criminal proceedings will have the access to them.

Support for EU regulation

The Czech position on the revision of the third Anti-Money Laundering Directive is problematic. The current Czech legislation does not recognise the legal form of trust. However, according to the new Czech Civil Code, it should be possible in future to establish a type of organisation close to this legal form. Therefore, motivation to support the creation of a register of trusts is lower.

The Czech Republic does not have a strong opinion on the subject of creating a public register of beneficial owners. At this moment, it is neither for nor against the idea. However, some government officials have raised concerns that the establishment of a new register will require the harmonisation of legal norms, collection of data and creating an infrastructure that will mean additional human and financial resources. Due to the fact it would use the register less than other countries, the Czech government may be unwilling to incur these costs.

Regarding the extension of the Anti-Money Laundering Directive to include tax crimes, the Czech government's position is to "wait and see" how the situation develops. The Czech Republic holds a similar view on country-by-country reporting and considers extending country-by-country reporting to other sectors to be a logical step in the future. At the same time, it is in favour of a slower process. According to the representatives consulted for this report, it is better to first assess the effects of similar steps in the field of the extractive industries and banking sector before extending the principles to other sectors.

Overall, the Czech Republic would prefer a thorough evaluation of these three initiatives before going further. Administrative, technical and financial costs of the new regulations would affect the final decision.

Support for global regulation

Regarding a global system for automatic exchange of information, the Czech Ministry of Foreign Affairs (MFA) and Ministry of Finance (MF) have issued a statement in support of a joint system of automatic exchange of information for tax matters.

The joint statement says: "[The] Ministry of Finance has strong interest in a fair determination of a tax base which is difficult without free exchange of information." The question of the possible effect on entrepreneurs plays an important role. The statement also says: "joint format of an exchange of information is necessary to minimise the administrative burden". Although there are several organisations – OECD, EU, G8, G20 and others – that work on the joint format, the statement mentions the US model⁶⁷ as appropriate and also mentions that the OECD/G20 model is moving ahead with a global format based on this.

The MFA, in cooperation with the MF, has said that it does not support an inter-governmental body dealing with tax issues under the auspices of the UN, which corresponds with the view from other EU member states. The Czech government clearly supports the OECD/G20 led approach. In their statement, the ministries specify that they would not support the proposal of establishing a more inclusive forum. The reason is that "it is already very difficult to harmonise the approaches of current transnational actors. New 'players' would make the situation only more complicated".⁶⁸

The problem with this approach is that it is de facto causing an exclusion of the world's poorest countries from the information exchange. Where there are clearly challenges related to creating a global standard that all countries can agree upon, there are also significant difficulties in creating

a standard among a few countries that all other countries are expected to sign up to without having given their input into the process. This former approach does reflect a genuine understanding of the global challenges of tax-related capital flight.

ODA and policy coherence for development

The Development Cooperation Strategy of the Czech Republic for 2010-2017 mentions the programme of 'Financial transformation and economic cooperation', under the auspices of the Ministry of Finance. This programme, which has existed since 2007 as a part of Czech bilateral ODA, seeks to use the Czech Republic's own experience with economic transformation and offers this expertise to other countries.⁶⁹

The Ministry of Finance has stated that the programme consists of "study trips of government officials from resort ministries and public institutions in developing countries. The issue of good governance in the field of public finance is an integral part of these activities. Issues like tax legislation, methodology of tax administration and international tax cooperation are often on the agenda of the study visits."⁷⁰

Although the Czech Ministry of Foreign Affairs says it considers tax issues to be very important regarding development policy and in general supports initiatives that would limit illicit capital flight, there are no special programmes or projects besides the one mentioned above, which is operated by the Ministry of Finance. Given the Czech government's approach to global and regional solutions, it could be concluded that they do not have a strong sense of policy coherence for development with regards to fighting tax-related capital flight. Instead, they are interested in this agenda from a national perspective separated from the MFA's comments on the importance of this in the fight against poverty.

Conclusion

In conclusion, the Czech Republic is clearly interested in complying with international recommendations related to anti-money laundering and improving its national system accordingly, as seen, for example, with the new law on bearer shares. This new legislation is an important step towards the more transparent structure of Czech companies. However, some loopholes still remain and need to be addressed.⁷¹

Tax-related capital flight does not appear to be a real priority for the government. Instead, it is viewed as an issue where the Czech Republic can follow the lead of the EU and OECD and where concerns over achieving uncomplicated solutions dominate, rather than the concern to create effective and lasting solutions.

Much more could be done to take progressive positions in the EU region and at global level to reflect the importance that the fight against tax-related capital flight has for the poorest countries. To ensure thorough PCD, much more must be done to increase understanding of the role of domestic and EU-level action and the impacts it can have globally. This understanding should spark a public debate that should also include the concerns of citizens and civil society.

Denmark

General overview

Denmark's fiscal position remains among the strongest in the EU, although the GDP growth rate has decreased to -0.5%. Public debt was about 45% of GDP in 2012, well within EU approved levels. The tax rate in Denmark is very high at 45-55%, second only to Sweden in the EU. The corporate tax rate is slightly below the European average at 22%.⁷²

Denmark's ODA in 2013 was €2.15 billion, at 0.83% of GDP, with no projected rise in percentage of GDP for 2014.⁷³ Denmark is the third biggest donor in the EU, relative to GDP, after Sweden and Luxembourg (and also Norway), even though the Danish ODA/GDP ratio has dropped 0.23% since 2000.

Tax evasion is attracting a lot of attention in the Danish media. An article in a digital newspaper revealed in September 2013 that Danish funds totalling €36.8 billion are currently hidden away in tax havens.⁷⁴ In December 2012, an analysis showed that two out of three companies in Denmark pay no corporate tax whatsoever.⁷⁵ The Danish Minister for Taxation has publicly condemned dodgy tax practice, and has authorised the Danish tax authority to seek out information on banks suspected of sneaking money out of the country – the so-called Project Money Transfer.⁷⁶ So far it has earned the Danish government €160 million, and is expanding to 14 unnamed tax havens.

In the Financial Secrecy Index for 2013, Denmark comes in 66th out of 82 countries, receiving marks for not maintaining official records of company ownership and not requiring such information to be publicly available online.⁷⁷

National anti-money laundering regulation

In the Financial Secrecy Index for 2013, Denmark receives the relatively low compliance score on anti-money laundering (AML) of 49.7%. The low rating can probably be related to the fact that a new AML law was entered into force only on 1 March 2006 (FATF 2006: 8). According to the FATF follow up report (2010): "Denmark has taken sufficient action in remedying the identified deficiencies for the above mentioned Recommendations, and that all the Core and most of the Key Recommendations are at a level essentially equivalent to compliant (C) or largely compliant (LC), and that substantial progress has also been made on the overall set of Recommendations which were rated NC or PC".⁷⁸

The Danish FIU is known as the Public Prosecutor for Serious Economic and International Crime (SØIK), and was established in 1973. Although it has not increased in size since 2008 (with around 20 employees), the number of Suspicious Transaction Reports has increased by almost 300% since then, with banks and money transfer companies being the main whistleblowers. In 2012, a total of 4,511 reports were filed, out of which 766 were submitted to law enforcement. Only a few STRs provide the grounds for criminal cases each year, which some argue is due to insufficient funding. However, the FIU claim this is due to the diligence of Danish financial institutions, whose reports of suspicious activities often prove to be either baseless, or provide grounds for cases that can be settled out of court.

National transparency around tax payments and beneficial ownership

Denmark has signed 52 Tax Information Exchange Agreements and 69 Double Tax Conventions. There is no blacklist of non-cooperative jurisdictions, although the Danish Prime Minister has come out in favour of creating one.⁷⁹

The Danish Business Authority will launch a publicly accessible ownership register in 2014, for all Danish private limited companies. However, this will not contain information on companies' beneficial owners, but only on the immediate owner, which obscures the ownership of companies owned by foreign holding companies.

In July 2012, the Danish Tax Authority was tasked with making the tax payments of companies in Denmark public, with the exception of individual enterprises (law number 591). Unfortunately, the tax payments of subsidiaries are aggregated under the parent company, and tax payments of previous years are not available, so it does not provide full transparency.⁸⁰

Denmark does not require companies to report their tax payments on a country-by-country basis. The Danish Minister of Taxation has made several progressive remarks on tax havens,⁸¹ but there are currently no initiatives towards introducing country-by-country legislation, except for the discussions that might lead to its inclusion in the forthcoming EU Non-Financial Reporting Directive.

Denmark is fairly progressive on tax transparency. The level of corporate tax makes it undesirable as a tax haven, which could explain why the regulation regarding transparency in companies' tax payments, transparency of beneficial ownership and country-by-country reporting, is not as stringent as in other countries.

Support for EU regulation

Denmark is generally supportive of EU efforts to combat tax evasion and money laundering. The government is supportive of the EU Action Plan to Tackle Tax Evasion & Avoidance,⁸² and has explicitly come out in favour of blacklisting tax havens.⁸³

Denmark is also supportive of country-by-country reporting, although it is not at the forefront within the EU. Major Danish companies are required to report on their corporate social responsibility in their annual financial report. According to the Danish Business Authority, there is a growing trend towards Danish companies making their tax payments available as part of this report, although they are free not to do so.

At the EU level, Denmark is advocating for making information about beneficial ownership publicly accessible and has declared that it will abide by the EU's decision.

While tax evasion is not a predicate offence to money laundering in Denmark, the penalty for tax evasion is already higher than for money laundering and the Danish Business Authority states that Denmark is expected to support this legislation.

Denmark is motivated to combat tax evasion and promote financial transparency, and is supportive of the ongoing EU initiatives to do so. If asked, they would support even greater improvements, but in practice they have not yet played a proactive role.

Support for global regulation

Denmark fully supports and engages actively with the OECD, and does not support the establishment of an intergovernmental body on tax matters under the auspices of the UN. Although it is introducing innovative and progressive measures on policy coherence for development on tax matters, Denmark is not actively working to get the voice of developing countries to the negotiation table. Danish officials point out that such a body already exists, under the auspices of the UN ECOSOC, and there is little political motivation in Denmark for creating something in the same vein.

On the subject of automatic exchange of information, the Danish Minister of Taxation is very progressive, and Denmark would definitely support international legislation on this issue. In November 2012, Denmark signed the FATCA exchange agreement with US.

The Danish government appears progressive on matters of global tax justice, but reconciles its ambitions to those of the OECD. It does not subscribe to the perspective that it is important to construct a new body, with a wider presence of countries from the global south.

ODA and policy coherence for development

The Strategy for Denmark's Development Cooperation, 'The Right to a Better Life', emphasises that Denmark will strengthen efforts in the fight against tax loopholes, address capital flight and promote a fair taxation of natural resources in the world's poorest countries. In 2013, Danida – the Danish development cooperation agency – started to implement a plan on tax and development. This includes increased support to international networks for transparency in extractive industries and tax matters, advisory support to measures against capital flight in five partner countries, including tax issues in the budget support dialogue with partner countries on governance and other specific measures.

While Denmark boasts strong rhetoric on tax justice as part of its developmental policy, there is a lack of internal consistency on the issue. Beneficial ownership information for companies is not registered, and Danish companies are not made to publish their annual payments on a country-by-country basis. The unwillingness on the part of Danish politicians to support a UN body on tax matters that would include a broader representation of developing countries also suggests that tax justice is not seriously pursued as part of Denmark's developmental policy.

In 2011, the former Danish Minister of Development created the African Guarantee Fund in the tax haven Mauritius.⁸⁴ This caused a stir in the Danish media, although the minister cited low levels of corruption and a robust financial architecture as the reasons for placing the fund in this tax haven. Despite the current Minister of Development condemning the placement of the fund, it is currently still based in Mauritius. However, recently there have been discussions about moving the fund to Kenya..

Denmark is among the top donors, relative to GDP, in the EU. Additionally, tax justice and fair taxation are on the developmental agenda and specific and positive measures are taken through development support. Unfortunately, however, there is a lack of substance behind this policy-making, when Danish development finance institutions are routing some of the ODA through a tax haven, and not efficiently promoting transparency at home. And it is more serious that Denmark is not proactively promoting strong EU regulation on BO and country-by-country reporting.

Conclusion

Denmark has adopted strong rhetoric against tax evasion and tax havens. To a large extent, this has translated into cleaning up the country's own systems, with the introduction of many new measures to strengthen transparency and fight tax evasion. Through development aid, Denmark has also started implementing specific actions to support partner countries to curtail capital flight. However, despite the strong rhetoric and many specific measures, Denmark has not taken a lead on the Nordic, European or global scene to crack down on tax havens, increase transparency or fight tax-related capital flight. Furthermore, it appears that Danish representatives in the EU and other international settings, when negotiating initiatives to curtail capital flight, tend to forget to consider the voice and interests of developing countries.

The Danish authorities have been forthcoming and have shared nearly all the information that was asked for in compiling this report. There is both public and political motivation towards greater financial transparency in the country, as well as determination to crack down on tax evaders and facilitators.

Finland

General overview

Tax evasion and avoidance has been a much-debated topic in the Finnish public sphere in recent years. There has been particular concern about scandals related to the aggressive tax planning of companies in the health sector,⁸⁵ as well as rich individuals hiding money in bank accounts in Luxembourg and Liechtenstein.⁸⁶ Information leaked to the International Consortium of Investigative Journalists (ICIJ) in April 2013 also revealed that the ownership of the Finnish postal service company, Itella, was linked to the tax havens of Cyprus and the British Virgin Islands.⁸⁷ However, the losses caused by tax dodging to the global south has received only marginal interest.

Tax officials have calculated the losses that Finland has suffered due to capital flight. In 2008, Finland lost approximately €12 billion because of national and international tax evasion and avoidance. This is equal to about 6.9% of the country's GDP. The annual losses vary between €10-14 billion. Of this amount, international tax evasion and avoidance by private investors amounts to at least €700 million.⁸⁸ Furthermore, in a 2012 report to the Parliamentary Audit Committee, the tax administration estimated the losses from Finnish companies' transfer mispricing practices to €320 million annually.⁸⁹

In general, Finns tend to relate positively to taxes. Finland has one of the highest tax-to-GDP ratios in Europe – 43.4% in 2011. The ratio of the corporate sector is 6.3%, whereas the ratio of taxation of individuals is 29.4%.^{90,91} The taxation rate for the corporate sector has been decreasing over the past few years. In 2013, a substantial change to the Finnish corporate tax policy was initiated as the government decreased the corporate tax rate from 24.5% to 20%. The Finnish Prime Minister argues that it is important for Finland to join a "fair tax competition race" in order to attract foreign investment and to reduce the Finnish private sector's tax burden.⁹²

Despite the tax competition, Finland is not considered a tax haven by any standards.⁹³ Nonetheless, there is one tax haven-like character in the Finnish regulation concerning the ownership of shares. Finland has a so-called 'nominees registry', which allows foreign investors to own shares anonymously in publicly listed companies. This registry provides an opportunity for Finnish investors to avoid taxes by investing through foreign shell companies.

National anti-money laundering regulation

In 2007, Finland was placed by the Financial Action Task Force (FATF) under a regular follow-up process due to a number of deficiencies found in its mutual evaluation. Some recommendations for regulatory changes concerned the access of beneficial ownership information. For example, Finland did not have proper customer due diligence requirements or sufficient and supervised beneficial ownership registries.⁹⁴

In June 2013, Finland was released from the process after nine follow-up reports. The final report concluded that Finland had improved its due diligence procedures related to beneficial ownership to a compliant level, but that information on beneficial owners was not accessible, and the information was not up to date in all cases.⁹⁵

National transparency around tax payments and beneficial ownership

Finnish regulation on tax transparency affects a little fewer than 570,000 companies and 3,000 foundations that are registered in Finland.⁹⁶ The Finnish legal system does not allow for the creation of trusts but foreign trusts may operate in Finland.

Finland has made some progress regarding the transparency around companies' tax payments. In October 2012, the Finnish government decided to publish information regarding annual tax payments by all forms of corporations.⁹⁷ The information is published annually on 1 November and is available also for the public and civil society to access. However, country-by-country reporting on turnover, the number of employees, subsidies received, profits, tax payments and company structures is not required to be published. This means that figures about Finnish companies' tax behaviour in developing countries is not available.⁹⁸

Some non-public, country-by-country information is available for tax authorities. Reporting requirements include:⁹⁹

- the turnover of all permanent establishments abroad
- information about shareholders with a >10% ownership
- transfer pricing documentation to cover the transactions made with associated enterprises and information on the company's subsidiaries.

However, this information does not give a thorough view of companies' tax practices abroad.

Another key aspect of corporate transparency is the information about beneficial owners of companies. The government has not made information regarding beneficial owners of companies and foundations available to the public and is currently not planning to do so. At this time, information about beneficial owners is only available publicly regarding Finnish owners of listed companies. According to the Finnish Limited Liability Companies Act, share registers and shareholder registers shall be kept accessible to everyone at the head office of the company. Everyone has the right to receive copies if they provide compensation for the expenses of the company to provide them. Requirements to maintain share registers and shareholder registers are not supervised by a government authority, and hence there are no guarantees of accuracy.

Furthermore, Finland's nominees registry allows foreign investors to own shares anonymously in listed companies. The current government is even considering expanding this register to cover Finnish shareholders. This would hide beneficial ownership of listed companies totally from the public. This trend is not a good sign in terms of Finland pushing for public ownership registries in the global fight against capital flight.

The transparency requirements of beneficial ownership of non-listed companies are different. All Finnish companies have to register with the National Board of Patents and Registration.¹⁰⁰ They must also be entered in the trade register, the associations register, the foundations register or the register of persons subject to business prohibition and floating charges. However, the information required is insufficient to determine beneficial ownership and is not verified by the relevant authorities.¹⁰¹

Finally, the current system of request-based information exchange with other countries is difficult to assess, as limited information is available. The Finnish Tax Administration does not give precise public information on how the current information exchange system works with its Tax Information Exchange Agreement partners. In 2012, Finland received 202 information requests from other countries. It does not reveal any of their names.¹⁰² Furthermore, the tax administration does not provide any figures about how many information requests it has made to other countries. The only information available is that most of the current requests go to countries that are geographically close by, such as Germany, Estonia and Sweden.¹⁰³

Support for EU regulation

The Finnish Government's position on publicly accessible government registries of beneficial owners of companies, trusts and foundations as a part of the revised Anti-Money Laundering Directive is currently being formulated. The Finnish government supports the general aim of the directive proposal on preventing money laundering and terrorist financing and supports making tax crimes a predicate offence in all EU countries.¹⁰⁴ However, the Ministry of Finance considers that it is important to have some clarification on the proposal in order to make a final decision on whether to support it or not.¹⁰⁵ According to government sources, at the time of writing, Finland is leaning towards supporting non-public BO registries that are kept and administered by legal persons and accessible only to the relevant authorities.¹⁰⁶

The Finnish government's programme states that Finland supports country-by-country reporting. Controversially, the Ministry of Finance – in a questionnaire for the purpose of this report – states that it does not have a position on country-by-country reporting for all large companies due to the fact that there has not been any concrete European Commission proposal yet to take a stand on (this is currently in process). In summary, the government seems to support country-by-country reporting in principle, but the details of its position remain unclear.

Finland also plans to take an active part in the implementation of the European Union Action Plan to strengthen the fight against tax fraud and tax evasion.¹⁰⁷

Support for global regulation

The current government claims to prioritise the fight against international tax evasion. In addition to some of the aforementioned actions and positions, Finland supports the development of a global standard for the automatic exchange of information and will actively take part in the OECD/G20 initiative on Base Erosion and Profit Shifting (BEPS).¹⁰⁸ Finland considers the OECD to be the main authority¹⁰⁹ in international tax affairs and does not support the UN Tax Committee with any resources or experts. It remains unclear if and how Finland considers an equal and representative global tax policy system relevant.

It is positive that Finland is committed to the development and implementation of automatic information exchange. However, the Finnish position on how the countries with little administrative capacity can participate in such a system remains unclear. This is another symptom of a lack of policy coherence for development in the government's generally ambitious commitments (more on policy coherence below).

Within global development policy, Finland emphasises tax as a key element of domestic resource mobilisation in the UN's post-2015 agenda and in the related Sustainable Development Financing Committee, which Finland currently co-chairs. In general, Finland considers the OECD, the International Monetary Fund (IMF) and the World Bank to be the most relevant expert bodies on matters related to tax and development.

Finland wants to actively influence work on tax matters, particularly in the World Bank and the African Development Bank. Furthermore, Finland is participating in the OECD tax and development related work and is considering prioritising tax matters while being on the board of the Extractive Industries Transparency Initiative during 2013-2014.¹¹⁰

Overseas development assistance and policy coherence for development

Unfortunately, policy coherence for development seems to be more of a priority for the Ministry for Foreign Affairs than for other ministries.¹¹¹ Frequently the ministries of finance and employment and the economy, which deal with company regulation and taxation, seem to neglect the global and developing country aspect when drafting positions on transparency regulation. However, efforts to improve the situation have been made, especially on a political level: the ministries are drafting a joint action plan on tackling international tax evasion and avoidance and development non-governmental organisations (NGOs) are being heard more often when policy positions are drafted.

Furthermore, the Finnish Development Policy (2012) includes the fight against capital flight as one of its priorities. It also states that the exchange of tax information between states must be improved and increased, and that the reporting obligations of enterprises must be more stringent. The measures identified for this purpose are:

- 1) strengthening partner countries' tax systems, as well as public financial management and its transparency
- 2) acting for the reduction of illicit capital flight and the closure of tax havens, and
- 3) advancing corporate social responsibility and international standards and guidelines related to it.

Other measures taken by the MFA are support to the Tax Justice Network on transfer pricing work in Finland and in Tanzania and membership in the Financial Transparency Coalition's Partnership Panel.

At the beginning of 2013, the MFA established a tax haven policy for the Finnish Development Financing Institute, Finnfund. The attempt was a positive step but fell short as the policy relies on the OECD Global Forum's 'list' of non-compliant countries, which have received remarks in the Transparency and Exchange of Information for Tax Purposes. This group of countries is not complete in terms of covering all tax havens. In practice, this means that Finnfund still has a number of investments going through financial intermediaries in tax havens.¹¹² Furthermore, there is currently no requirement for country-by-country reporting for companies that receive funding through Finnfund or other ODA-based private sector instruments.

Conclusion

In general, Finland has shown a serious commitment to tackling global tax-related capital flight. However there is a gap between rhetoric and praxis as well as in policy coherence for development in other ministries than the MFA.

More needs to be done in relation to transparency. The so-called nominees registry, as well as the Finnish position on beneficial ownership registries, create cause for concern, and more progress is also needed nationally in relation to country-by-country reporting. The latter should include a clearer understanding among relevant ministries that this is a declared part of the government programme and should be promoted and implemented as such.

France

General overview

France has undoubtedly been affected by the economic crisis, with GDP shrinking by 3.1% in 2009 compared to 2008.¹¹³ Since 2010, France has been implementing rounds of austerity measures involving an increase in taxation, cuts in public spending and unpopular reforms such as the revision of the pension system. These reforms are fuelling social resentment and are failing to address the fact that both poverty and inequality have increased in France in the last decade.¹¹⁴

Meanwhile, French overseas development aid has decreased from 0.5% of GNI in 2010 to 0.46% in 2011 and 0.45% in 2012. The total ODA delivered by France in 2011 amounted to €9.8 million. With this figure, France is far from attaining the 0.7% objective set for 2015, and has missed the 2010 European interim target of 0.56%.

In the current economic context, tax avoidance and tax fraud became particularly unacceptable for the people hit by austerity policies. According to a recent parliamentary report, tax evasion in France costs the state around €60 to €80 billion a year, while corporate income tax brings in €53 billion.¹¹⁵ Of the €60 to €80 billion in lost revenues, €30 to €36 billion are due to international tax evasion.¹¹⁶

Since 2005, through a campaign called “Stop Tax Havens”,¹¹⁷ civil society organisations, citizens, unions, local authorities and national decision-makers have been mobilising to fight against offshore financial centres.¹¹⁸ The presence of French banks and companies in offshore financial centres has been repeatedly denounced. Besides influencing several legislations, 18 regions and other local authorities have been convinced to demand more transparency from their financial partners regarding their offshore subsidiaries.¹¹⁹ A series of scandals helped to focus attention on the matter. Most recently, in early 2013, it was revealed that the Minister of Budget himself was hiding money in an undeclared Swiss bank account.¹²⁰ The Minister resigned in March 2013.

National anti-money laundering regulation

Tracfin (Traitement du renseignement et action contre les circuits financiers clandestins) is the French Financial Intelligence Unit (FIU). Created in 1990, it collects, analyses and reports on suspicious transactions and other information regarding actions that could potentially constitute money laundering and terrorist financing.

In its third mutual evaluation report (MER), FATF finds that France’s overall degree of compliance with the FATF 40+9 Recommendations is very high. Tracfin specifically

is considered as being largely compliant with these recommendations. However, the FATF report outlines some weaknesses in the system:

- the weak coordination between the different services of the state
- the lack of human, technical and financial resources of the authority
- the low participation of the non-financial sector
- the uncertainty regarding the efficiency of AML/CLT measures in overseas France.

A 2012 Court of Auditors’ report¹²¹ reiterates some of these concerns and also criticises Tracfin’s lack of overall analysis of the scale and nature of illicit financial flows contributing to money laundering, as well as its lack of strategy.

Tracfin does not provide any statistics about the number of cases being initiated by the legal authorities or the number of prosecutions following its transmissions of STRs. Therefore, the efficiency of the system is difficult to assess. It should also be noted that the French system is characterised by the lack of independence of prosecutors who, despite being under the Ministry of Justice’s control, have a quasi-monopoly in deciding whether to investigate matters. This is likely to affect the fight against money laundering.

National transparency around tax payments and beneficial ownership

In terms of exchange of information with other governments, France has been quite active in signing tax information exchange agreements (TIEA) with non-cooperative jurisdictions (as of June 2012, 25 TIEAs with non-cooperative jurisdictions had been signed).¹²²

Details about the number of requests for information exchange under these TIEAs received/sent by France are available since 2009 in a specific annex to the national budget. These provide figures by country, with the response times regarding when France introduced the request.¹²³ However, the information is still missing for 2010 and 2012. In 2011, France sent 1,922 requests for information (666 more than in 2009).

From a qualitative point of view, the budgetary annexes note a number of difficulties experienced in collecting this information, notably the restrictive interpretation of the scope of the agreements, or of what constitutes information that is

“foreseeable [as] relevant to the administration” by certain countries. According to the former Minister of Budget Valérie Pécresse (who is not the former Minister of Budget referred to on the previous page): “some States seem to think that cooperation aims at confirming information that French authorities already have, rather than providing new information”.¹²⁴ Other countries inform the holder of the data or even the taxpayers about the request, which can compromise a future investigation. And finally, a number of requests are simply not answered. On 31 December 2011, 113 requests had not been responded to, mainly by Switzerland and Luxembourg.¹²⁵ Generally, it appears that there are very few demands from developing countries. However, a comprehensive statistical analysis does not exist yet.

Regarding information requests received by France, the Global Forum Peer Review Report on France from 2011 considers that France receives an important number of requests and that France’s regular partners are, on the whole, satisfied with the way in which France replies to their requests, even though several of them commented on the time that France takes to respond to requests.¹²⁶ In a 2011 questionnaire sent by the Tax Justice Network, the Ministry of Finance indicated they had received around 600 requests for information in 2009 and that France answered all of them.

In terms of transparency of legal persons and beneficial ownership, France was found largely compliant in the last FATF MER. The legislation to create and register a company requires the publication of a number of details on the *Registre du Commerce et des Sociétés* (RCS – Register of Companies) kept by the Registrars of Commercial Courts. However, in the case of capital companies, the elements of the RCS are not enough to determine the beneficial ownership and only the tax administration has access to the shareholders receiving dividends. Furthermore, when the partner or the shareholder is a legal person, only this entity and its representative are identified in the RCS. It is then more complex to find out who the beneficial owners are.¹²⁷

Companies have to produce annual accounts that should be made public if they are listed on the stock market. In practice, however, many companies do not send their annual accounts to the registrars. The sanctions for this are very weak (a fine of €1,500 or €3,000) and are only applied if there is a complaint from a third party.¹²⁸

Trusts do not exist in France in the same form as in the UK. In 2007, a similar structure was created: *la fiducie*. Its regime is stricter than for the trusts and includes a registration requirement. However, this register is not public but is only accessible by a number of public authorities, including Tracfin. Until now, there were only very few *fiducies* in France (only four at the time of the last FATF MER).

Since a new law was introduced in July 2011, there is also a declaration obligation for foreign trusts with tax obligations in France (assets, settlor or beneficiary domiciled in France).¹²⁹ However, this declaration requirement only involved tax administration and could not be used for information exchange purposes. This will change if the amendment adopted in the law on tax evasion in 2013, creating a public registry for trusts (including foreign trusts administrated in France), is properly implemented.

Finally, a very important step was taken in July 2013 with the adoption of new legislation (*Loi Bancaire*). It requires that banks report their activities on a country-by-country basis, including the number of employees and the tax paid by each subsidiary. This law is similar to the newly adopted EU capital requirements directive (CRD) IV. However, this must be seen as significant progressive implementation by France in advance of the required transposition of CRD IV.

Support for EU regulation

Regarding the fourth revision of the Anti-Money Laundering Directive (AMLD), France is promoting centralised public registers of companies and trusts. Yet, France is supporting a 25% threshold – as one indicator among others – to identify the beneficial ownership, and this opens the door to the risk of manipulation.

The French government is actively promoting country-by-country reporting for all sectors in the Council of Ministers, with the same scope as for banks. However, they suggest it should only apply to very large companies, i.e. companies exceeding 5,000 employees and a balance sheet of €2 billion or a net turnover of €1.5 billion. It is claimed that these restrictions will preserve small and medium-sized enterprises (SMEs) from an extra administrative burden, but the thresholds proposed are extremely high.¹³⁰ Hopefully, this proposal will be improved by the Council and/or the European Parliament to apply full country-by-country reporting to all sectors and a broader range of companies.

Finally, France is supporting automatic exchange of information (AEI) at the EU level, and is among the five countries that have agreed to work on a pilot multilateral exchange facility based on the bilateral agreement concluded with the US, after the adoption of FATCA. However, France is not interested in promoting ad hoc unilateral agreements with developing countries in order to test AEI with them too. This gives reason to believe that, even if AEI was promoted among EU member states in a more complete format than currently exists, France would not be supportive of extending this to apply to developing countries as well.

In conclusion, within the EU, France is being progressive and is clearly promoting positive developments. However, there is some concern that there might be a discrepancy between the political rhetoric and the actual actions in Brussels. Moreover, France's focus on the EU level and neglect of the impacts on and concerns of developing countries - by excluding them from the initiative on automatic exchange of information for example - is worrying. EU initiatives are important, but for now they leave aside developing countries despite the severe impact this could have on the fight against capital flight from the global south to the global north.

Support for global regulation

At the global level, France also seems to be very supportive of any kind of measure to tackle tax evasion. However, apart from vocal support, the government does not try to tackle the weaknesses of the global processes, or to push for more stringent decisions. It only shows more willingness when it comes to introducing new tax rules specifically targeting digital companies.¹³¹

The French government has not so far expressed a willingness to open the discussion to developing countries. Rather France appears content with the OECD and G8/G20 forum leading the process for change. France should seek to develop broader international cooperation that includes all countries, notably through the UN (with the EU, France opposed the upgrading of the UN tax committee in 2011). Generally, the fight against tax-related capital flows appears to be focused on French interests without taking into account their global impacts and the need to involve all countries beyond the G20 members. This is expressed in France's narrow focus on the role of digital companies or the unwillingness to open the AEL agreement to developing countries.

Overseas development assistance and policy coherence for development

The French government has established a list of offshore jurisdictions, or tax havens, that include Bermuda, Botswana, Brunei, Costa Rica, Dominica, Guatemala, Jersey, Liberia, Marshall Islands, Montserrat, Nauru, Niue, Trinidad and Tobago, UAE, Vanuatu and the Virgin Islands. A range of sanctions apply to the operations companies have with the countries on this list. For instance, banks are obliged to publish information in their annual report about their activities in those territories and there are some financial sanctions for all companies operating there (withholding tax for instance) on intergroup financial transfer from or to those territories (dividends, interests, etc).

These non-cooperative territories and the countries on this list, as well as those on the list drawn up by the OECD Global Forum, can no longer operate with the French Development Agency (AFD). The AFD cannot acquire financial interests or transfer any investments through these countries. The intention is to ban operations with all of these listed countries by other French agencies too, such as the Public Investment Bank and the Caisse des Dépôts et Consignations, which would mean a more serious clampdown on offshore jurisdictions as they would not be able to continue business as usual with France.¹³²

Although the initiative is interesting, the list - which is from the Ministry of Finance - is still minimal and notably does not include Mauritius, which has received €72 million from the AFD between 2006 and 2010. Part of this sum is dedicated to "strengthening financial services."¹³³ France is also an important shareholder of a number of multilateral development banks that invest millions annually in offshore jurisdictions.¹³⁴ Therefore, despite the good initial efforts, France cannot guarantee that all its ODA is protected from passing through offshore jurisdictions.

With regards to how ODA is issued in developing countries to assist in the fight against capital flight, France offers some technical assistance to developing countries on fraud and illicit capital flows, but with limited resources.¹³⁵ More interestingly, recently France was one of the two funders of the Tax Inspectors Without Borders initiative launched by the OECD in June 2013,¹³⁶ although it is too soon to assess the impact of this initiative.

While technical assistance is a questionable way of supporting domestic resource mobilisation, France should be commended on its initial efforts to ensure that ODA is shielded from being complicit in tax-related capital flight activities. However, to ensure more thorough PCD, it is imperative that this is an approach that is not only applied to

distribution of ODA, but is a consistent measure for all French private and public activity. In order to do this, France must move from political rhetoric to action on country-by-country reporting. France must also significantly improve its understanding of the importance for access and active involvement in the regional and global transparency initiatives such as AEI and the wider BEPS process that is currently led by OECD and restricted to participation of OECD + G20 members.

Conclusion

France is one of the countries that is most active vocally about these issues, and would like to be seen as championing them at the European level. However, the concrete results of this rhetoric remain to be seen. Pressure at national level is quite high due to media reports and public awareness. However, politicians seem to prefer talk over action. France has exhibited willingness to proactively implement country-by-country reporting for banks. On PCD, France has also taken important steps to shield ODA from being siphoned through offshore jurisdictions. However, the list of these “non-cooperative jurisdictions” seems incomplete. Furthermore, the consistent support for OECD as the leading global actor is inconsistent with a genuine attempt to ensure PCD, at least as long as developing countries are excluded from active participation in these processes.

Hungary

General overview

Last year, the Hungarian economy was still in recession (the real GDP decreased by 1.7%), and the country's prospects full of uncertainties, reflecting its vulnerability. Hungary is unlikely to adopt the euro before the end of the decade, while fiscal policy tensions will probably remain and we can expect at best a moderate growth of around 1.5-2% in the medium term. The price of subsequent waves of fiscal adjustment measures has been high. It has resulted in a continuous decline in investment rates, as well as in the business environment and consumer confidence.¹³⁷

The overall Hungarian tax-to-GDP ratio (37% in 2011, including social contributions) is slightly below the EU average. The role of indirect taxes is particularly high, because of the 27% standard rate of VAT and the local business tax (HIPA). Otherwise, corporate taxation is low, and after comprehensive changes in the tax system since 2009, the role of direct taxes is moderate. The progressivity was abolished in personal income taxation, while sector-specific surtaxes were introduced on financial, energy, retail and telecommunication companies.¹³⁸

In 2004, Hungary became a fully-fledged member of the European Union and agreed to increase its ODA/GNI ratio to 0.17% by 2010 and 0.33% by 2015. Although the country has not achieved, and most probably will not achieve these targets, Hungary has managed to gradually increase its ODA contribution, both in nominal value terms (measured in euros, at constant 2011 prices) and as a percentage of GNI. The 0.11% ODA/GNI ratio achieved in 2011 is an average figure among the new EU member states and the 21st in the EU27.¹³⁹

The number of Hungarian companies that have a registered owner in one of the global financial offshore centres has been steadily rising over the last 20 years. Cyprus, the Seychelles and Switzerland are the three most popular tax haven target countries. The Tax Justice Network's in-depth July 2012 study into the size of the offshore system estimated that (excluding the most developed countries) Hungary is 13th in the world, second only to Russia, in terms of the negative consequences of capital outflows. The estimated global flight wealth from Hungary ran to €180.2 billion.¹⁴⁰ Although most Hungarian experts considered this 'shocking data' that was 'exaggerated',¹⁴¹ this news generated an intensive and unprecedented discussion among economists, civic activists, the media and political elites about the issue of fair taxation.¹⁴²

In addition, recent investigative research has explored the other side of the coin. Certain Hungarian settlements are emerging as small offshore centres. If the rate of the local industry tax (HIPA) is zero, and the geographical position of the settlement is favourable (i.e. in central Hungary, close to the capital and the international airport), the local business environment attracts offshore wealth from other countries. This includes medium-size Czech and Slovak firms, as well as large multinational companies from Brazil and Mexico.

National anti-money laundering regulation

In order to achieve full compliance with the existing EU legislation on anti-money laundering and MONEYVAL recommendations, Hungary adopted a new Act (LII:2013) on Anti-Money Laundering and Combating the Financing of Terrorism in 2013. After the recent 42nd Plenary Meeting of MONEYVAL, Hungary was removed from regular follow-up reporting, which means that FATF now finds Hungary in adequate compliance and without the need for extra monitoring or reporting outside the regular standards.¹⁴³ The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes (GFTI) also mentions Hungary among the improving jurisdictions in terms of implementing the internationally agreed tax standards.¹⁴⁴ However, the availability of information on ownership issues, especially regarding foreign companies operating in Hungary, is still insufficient.

The main institution responsible for the money laundering agenda is the Hungarian Financial Intelligence Unit (HFIU), which belongs to the Hungarian NTCA (National Tax and Customs Administration). The HFIU records the suspicious transaction reports (STRs) in its IT system.

From 2005-2009, the HFIU forwarded 235 case reports on suspicious transactions relating to money laundering offences to law enforcement agencies (no cases were forwarded regarding financing terrorism). The annual number of suspicious transactions fluctuated between 6 and 88. Comparable data for the subsequent period does not exist (STR data for 2010-2012 available from HFIU statistical reports are based on the self-reporting of financial and non-financial service providers). However, the HFIU data indicates that the reported money laundering cases are not declining in Hungary since 2009. On the contrary, it appears there is an increasing trend.

National transparency around tax payments and beneficial ownership

Basic data about the Hungarian business entities are publicly available free of charge on the website of the Service of Company Information and Electronic Company Registration of the Ministry of Public Administration and Justice. The official Hungarian business register is managed by the Courts of Registration and it contains data on registered companies and those corporate documents that serve as the basis for registration. The electronically stored data are updated on the first day of each week. However, the set of data present and available free of charge in the business register is fairly limited (all the data of the non-electronically stored company extracts are available, but are not free of charge and not always electronically). This means that the public availability of annual profits and tax payments by corporations are not guaranteed. It is a similar situation when it comes to data on ownership status (members or shareholders).¹⁴⁵

Concerning beneficial ownership, the major problem is that Hungary does not put details of trusts on public record and the country does not provide company ownership details in official records. The most critical aspects of the corporate transparency regulation are that Hungary does not require that either the ownership of companies or their accounts are available to the public. In addition, Hungary does not require country-by-country financial reporting by companies.¹⁴⁶

Some information is available on exchange with other countries concerning tax-related capital flight. While the total number of foreign requests from HFIU has been gradually increasing, the number of requests made of the HFIU from abroad decreased between 2009 and 2011, but increased last year. Based on the available information, the cooperation seems to be regular. The Tax Justice Network states that Hungary definitely cooperates with other states on money laundering and other criminal issues.¹⁴⁷ However, there is no information about which countries the information is being exchanged with. Therefore it is not possible to assess whether there was any information exchange with developing countries.

Support for EU and global regulation

Regarding Hungarian support for EU/global regulation, it is important to consider that Hungary is less active in the field of international development cooperation, than other countries. For this reason, the related financial and tax solidarity issues are missing from the public discourse. However, the country usually supports EU initiatives and is open for further discussions on most key issues.

Overseas development assistance and policy coherence for development

The Hungarian international development policy strategy is currently under revision. Preliminary documents provided to civil society actors fail to mention the issue of integrated support for combating tax-related capital flight. Nor does the strategy provide guidelines or requirements for shielding against implementing ODA through secrecy jurisdictions. It also does not provide requirements for private actors to report their financial information on a country-by-country level. At present, this issue is rather theoretical in the Hungarian context: the small size and the weak representation of Hungarian private companies as development actors, especially in developing countries, limits the empirical relevance of the issue, at least in the short and medium term.

Although there are heated political debates and an increasing public awareness about the harmful consequences of offshore flows, solidarity towards developing countries is completely missing in the Hungarian discourse about tax dodging and illicit financial flows. There are two probable causes for this phenomenon: on the one hand, a major objective of the Hungarian international development policy is to support Hungarian private companies in their market expansion in developing countries; and on the other hand, the Hungarian public appears to know significantly less about humanitarian assistance and international development cooperation activities than the EU average.

Conclusion

The Hungarian policy environment is still suffering from negative economic tendencies; after a long series of fiscal adjustment, the country's growth potential is weak and the business climate is uncertain. It is very troubling that offshore pockets seem to be emerging in Hungary. Offshore havens, illicit capital flight and tax dodging issues have generated heated political debates, but solidarity towards developing countries is completely missing from these debates. Despite recent improvements in relation to international evaluations, Hungary should do much more in relation to transparency. Furthermore, government-ordered policy evaluation reports and risk assessments have to be debated through open public forum discussions with academic experts, civil society actors and private sector representatives to raise awareness, including in relation to the connections between global poverty levels and tax-related capital flight.

During our work, face-to-face meetings with ministry officials took place. However, authorities typically provide the formally prepared and publicly available (rather limited) set of information. Investigative journalists, academic experts and civic actors supported our efforts and helped us in preparing this chapter.

Ireland

General overview

The economic crisis has taken a huge toll on Irish society, and the most vulnerable groups have been targeted each year since 2009 by government austerity policies. Ireland's debt as a percentage of GDP has risen sharply from 2007 (25%) to 2013 (123%).¹⁴⁸ In 2007, Ireland had the second lowest debt-to-GDP ratio in the Euro area – it now has the fourth highest ratio.¹⁴⁹

Ireland is recognised as an effective aid donor by the OECD.¹⁵⁰ Although the Irish government has a long-held commitment to reaching 0.7% of GNI in ODA spending, progress has seriously faltered, most recently through the Irish government's failure to publish a timetable on how it will meet the target.¹⁵¹ In 2012, ODA was 0.48% of GNI.

With the tax-to-GDP ratio in Ireland standing at 28.9%,¹⁵² the second lowest in the euro area,¹⁵³ social justice CSOs in Ireland point to the need for a broader tax base, and argue that the corporate sector is not paying an adequate share, despite high profit levels.¹⁵⁴ Campaigners are concerned that features of Ireland's tax regime, including its low corporate tax rate and range of incentives used by the Irish government to attract foreign direct investment, make Ireland open to abuse by multinational companies, which can use Ireland as a conduit for profit shifting and aggressive tax planning to minimise their tax bill.¹⁵⁵

According to the Irish government, the low corporate tax rate is a cornerstone for Ireland's economic recovery and it is '100% committed' to the 12.5% corporation tax rate, which is 'settled policy' and will not change'.¹⁵⁶ This corporate tax rate has recently been endorsed by the OECD.¹⁵⁷

National anti-money laundering regulation

The Irish Criminal Justice Act (Money Laundering and Terrorist Financing) 2010 transposes the EU 3rd Anti-Money Laundering Directive into Irish law. Ireland's Anti-Money Laundering Compliance Unit (AMLCU) was established in 2010. In 2011, as part of adhering to Article 33 of the Directive, and responding to criticism of Ireland in the Financial Action Task Force (FATF)¹⁶⁴ Mutual Evaluation 2006, the AMLCU initiated the annual publication of a *Report on Money Laundering Statistics*.¹⁶⁵ Tax crimes are a predicate offence for money laundering under Irish law; however, prosecutions remain low. Suspicious transaction reports (STRs) are submitted to both the Garda Bureau of Fraud Investigation and the Revenue Commissioners.

Box 3: Ireland's tax regime in the spotlight

In 2013, the Apple tax scandal saw the Irish government implicated in facilitating a large corporation to effectively pay extremely low levels of tax on their profits. According to the US Senators Levin and McCain, records obtained during their inquiry into the issue show that "Apple paid Irish tax authorities a nominal rate, far below Ireland's statutory rate of 12.5%, on trading income. According to the Senate Subcommittee, Apple had an arrangement with the Irish government that, since 2003, resulted in an effective tax rate of 2% or less".¹⁵⁸ This use of Ireland's tax regime prompted the EC to announce an examination of Ireland's tax rulings. In the 2014 budget, the Irish Finance Minister indicated that, from 2015, Ireland will no longer allow registered companies to be 'stateless' in terms of their place of tax residency.¹⁵⁹ However, this will not prevent companies engaging in tax dodging through schemes such as the so called 'Double Irish' in order to minimize their corporate tax contributions.¹⁶⁰

Enabling companies to minimise or almost eliminate their tax bills means that companies are not paying their fair share of tax, often to countries in the global south. An ActionAid report showed that, in the case of Associated British Foods, Ireland's tax treaty with Zambia facilitated this company to route payments, such as 'purchasing and management' fees through Ireland, depriving the Zambian government of \$8 million per year¹⁶¹ (see Box 1). Furthermore, a Christian Aid report showed that between 2005 and 2007, the estimated amount of capital flow through mispriced trade to EU countries was £229.7 billion (€275.2 billion), of which £4 billion (€4.7 billion) was to Ireland.¹⁶²

Researchers have also pointed to concerns over the international Financial Services Centre (IFSC) in Dublin in Ireland. Dr Jim Stewart argues that the IFSC creates relatively few jobs in Ireland and "may pose a considerable regulatory risk to financial firms in other countries".¹⁶³

National transparency around tax payments and beneficial ownership

In Ireland, the Companies Registration Office (CRO) is the statutory body for registering companies. This registry is available to the public, and individuals can obtain information such as annual returns or accounts information for a small fee.¹⁶⁶ Like other tax jurisdictions, while greater levels of financial information are available for publicly quoted companies, it is very difficult to gain a complete and clear annual picture of the tax paid by companies, whether private or publicly quoted. The number of registered companies in Ireland was 180,185 in 2012.¹⁶⁷

While the government "concurs with the policy objective that beneficial owners of a company should be identifiable",¹⁶⁸ it does not make information on the beneficial owners of companies (including subsidiaries) or trusts available to the public, stating that "this is an international issue where countries have to work together to achieve solutions".¹⁶⁹

In relation to trusts, Irish law allows for the setting up of trusts,¹⁷⁰ but the settlor, trustee or beneficiary is not recorded in any registry.¹⁷¹ The Criminal Justice Act 2010 contains provisions requiring individuals to obtain authorisation from the minister to carry out the business of a Trust or Company Service Provider (TCSP). Authorised TCSPs are responsible under the act for ensuring the beneficial owners of the trust are "fit and proper persons".¹⁷² Under the act, Trust or Company Service Providers must be registered,¹⁷³ and this list of TCSPs is publicly available, without charge. The number of registered TCSPs in Ireland in 2012 was 297.¹⁷⁴ FATF states that Ireland has shown 'significant progress' in relation to Recommendation 5, one of its core recommendations on 'customer due diligence'. However, the report states that, while the FATF standards state that financial institutions should be satisfied that they know who the beneficial owner of a company is, the Irish law only requires "reasonable ground to be satisfied that he knows who the beneficial owner is".¹⁷⁵

The Irish government does not go beyond recent EU directives and does not require Irish registered companies (including subsidiaries of MNCs) to provide an annual report on their turnover, number of employees, subsidies received, profits and tax payments on a country-by-country level for all countries in which they operate. The Department of Finance states that "this is an international issue where countries have to work together to achieve solutions".¹⁷⁶

The current situation regarding beneficial ownership and country-by-country reporting is that there is no public registry of beneficial owners of companies or trusts in Ireland, and the minister has not indicated any intention to establish one. There is no requirement beyond recently agreed EU-level directives for companies to provide reports on their turnover, number of employees, subsidies received, profits and tax payments on a country-by-country level for all countries in which they operate. Therefore, at a national level, the Irish government has not progressed matters in spite of commitments to do so multilaterally.

Support for EU regulation

The Irish government states that it is an active participant in the EU Code of Conduct Group examining harmful tax practices in the EU and the new EU platform for Tax Good Governance.¹⁷⁷

The Irish government has indicated that, rather than working unilaterally, it is involved in the EU processes of discussing the current opportunities on the table such as the European Commission's proposal for the 4th revision of the AMLD.¹⁷⁸ It does not give any clear statement about if or how it will advocate for more public access to information about beneficial ownership at the EU level.

In Ireland, tax crimes are already a predicate offence of money laundering in Irish legislation, but with low prosecutions. Because this is already in Irish law, it is expected that Ireland will support this at EU level.

During Ireland's Presidency of the EU, the Capital Requirements (IV) and Accounting and Transparency Directives were passed, which was a positive achievement in relation to transparency and country-by-country reporting.¹⁷⁹ The government has also indicated support for fuller country-by-country reporting in Ireland's new international tax strategy.¹⁸⁰ However, beyond the two directives progressed during the Irish EU Presidency, the government has not made it clear how it will actively pursue this policy objective.

Support for global regulation

The Irish government does not support the establishment of an intergovernmental body on tax matters under the auspices of the UN. The Irish government has acknowledged the need for inclusion of countries from the global south in ongoing processes, and the insight that the UN can bring to international tax policy work. However, ultimately the government states that the OECD is the appropriate expert body for this work. Ireland has contributed €300,000 to the OECD's three-year tax and development programme to enhance the enabling environment for countries from the global south to build appropriate and adequate tax regimes, and supports the OECD's BEPS project.

Although the Irish government indicates support for the "global move toward automatic information exchange",¹⁸¹ in line with existing and emerging EU and OECD rules,¹⁸² it has not initiated such exchanges but is rather waiting for multilateral action.

Ireland was the fourth country globally to sign a FATCA agreement – effectively an agreement for automatic exchange of information – with the US.¹⁸³ Ireland's tax treaties¹⁸⁴ are based on the OECD model rather than the UN model, and in current and forthcoming information exchange agreements, information is not shared automatically, but on request.

Overseas development assistance and policy coherence for development

Ireland has recognised the positive relationship between tax and development and is committed to supporting domestic resource mobilisation in the global south.¹⁸⁵ The Irish government has supported activities in this area, including support for the work of the African Tax Administration Forum (ATAF) and the Rwanda Revenue Authority.¹⁸⁶ Also, in key partner countries, Irish Aid points to Ireland's support for strengthening transparency and accountability in budgetary processes. Ireland supports the OECD Tax and Development Programme and is a member of the OECD's DAC Governance Network (GOVNET) task team on Taxation and Development. However, these activities must be seen in light of the negative impact of Ireland's tax regime on countries from the global south (see Box 3).

Irish Aid points to (as does the Department of Finance) Ireland's role during its Presidency of the EU in 2013 in delivering new initiatives on tackling tax evasion and avoidance, and its support for recent council conclusions, which aim to support efforts at EU, G8, G20 and OECD levels on automatic exchange of information.

Ireland's bilateral ODA does not have policy conditions relating to tax attached to it. The response received from Irish Aid through this research does not refer to conditionalities. The Department of Foreign Affairs and Trade's partnership project with the Department of Agriculture, Food and the Marine, the Africa Agri-Food Development Fund has adopted the United Nations Conference on Trade and Development (UNCTAD), Food and Agriculture Organization (FAO), International Fund for Agricultural Development (IFAD) and World Bank guidelines on Responsible Investment in Agriculture. The government does not require the corporations they work with through the ODA programme to report on a country-by-country basis. However, it is unclear within the scope of this research to what extent support for combating international capital flight and tax avoidance and evasion is a part of Ireland's activities on domestic resource mobilisation with Southern countries.

In terms of government policy coherence on tax justice, the Irish government recognises the need for support to developing countries in domestic resource mobilisation and does not apply harmful tax policy conditions in its bilateral ODA. However, this positive work in the area of development cooperation must be seen in the context of Ireland's tax regime generally, and the negative impact it is having on countries from the global south.

Conclusion

Government departments and state bodies responded readily to the questionnaire submitted to them to compile this chapter. This reflects a welcome level of openness from the Irish government to engage with CSOs working for greater tax justice.

However, besides progress achieved under the Irish EU presidency, the Irish government appears to be, at best, sitting on the fence and, at worst, waiting to be forced to act by external pressures on this issue. Rather than being pro-active in establishing public transparency on beneficial ownership of companies, extended country-by-country reporting and automatic exchange of information at both national and international levels, the Irish government consistently points to the need for multilateral agreement first. Because of this, it is difficult to identify Ireland's negotiating positions within these policy areas, although the government has stated that it does support the latter two policy areas. While Ireland indicates support for global automatic information exchange, its new information exchange agreements remain on request and are not automatic. In these important areas that impact on tax justice internationally, more proactive and visible policy stances

are desirable, with greater demonstration of commitment to transparency, not least due to Ireland's negative reputation as a consequence of its role in facilitating tax avoidance by companies. Furthermore, while Ireland acknowledges that global tax reform should be inclusive of developing countries' needs, it is failing to support the creation of new institutional structures to deliver this, such as through the UN.

While Irish Aid states that Ireland plays a strong role at the OECD and EU levels in ensuring a coordinated approach to supporting domestic resource mobilisation in developing countries, the government needs to pay attention to its own domestic policies to have a truly coherent approach. Acting for tax justice is a policy coherence issue for Ireland: the government cannot give with one hand to developing countries while facilitating tax avoidance at the same time. If Ireland is serious about identifying and preventing tax avoidance and evasion it should act and show leadership on these issues and, in the Minister of Finance's own words, become "part of the solution to th[e] global tax challenge, not part of the problem".¹⁸⁷

Italy

General overview

The overall financial situation in Italy remains quite grim. The country is still struggling to find a way out of the financial crisis after two consecutive years of recession. Austerity measures have been implemented since 2010, which has had a severe impact on the Italian population due to the decrease in public expenditure, and subsequent decline in the quality of public services. Meanwhile, taxation has increased overall, and is now 44% of GDP – the fourth highest ratio in Europe (after Belgium, France and Austria), and above both the Eurozone and EU average ratio.¹⁸⁸ This situation has prompted the general public and decision-makers to pay much more attention to tax evasion than ever before.

Tax pressure in Italy is quite high, as expressed in Figure 2.

Figure 2: Taxation levels in Italy (2013)

Taxation on labour	41.1% (average in EU27 36.3%)
VAT	22%
Corporate taxation	68.6% (average in EU27 44.2%)
Tax on financial rents	22.5% (up from 12.5% in 2010)

[Sources:^{189,190,191}]

There are still severe challenges in Italy concerning domestic tax evasion and financial crime and money laundering. According to the national statistical office and Bank of Italy, €290 billion (nearly 20% of Italian official GDP) is not currently declared.¹⁹² At the same time, €187 billion is generated through illegal activities by organised crime. This “shadow GDP” amounts to the astonishing figure of 31% of official GDP.¹⁹³ On top of this, the national Court of Auditors has said that corruption amounts up to €60 billion a year in the country.¹⁹⁴ The economic crisis is estimated to have pushed these numbers up even higher. Money laundering activities are key to making the resources from financial crime and tax evasion usable and are therefore quite significant within the Italian economy – representing up to more than 10% of the country’s entire GDP each year, according to the Central Bank of Italy.¹⁹⁵ This figure has also increased through the economic crisis.

Capital flight from Italy is another longstanding challenge and it is also thought to have increased due to the economic crisis, compounded by the recent sovereign debt crisis. The Italian government has recently estimated that there is €200 billion in Italian capital located outside Italy that is evading domestic taxation.¹⁹⁶ Other reports reveal similar figures and most point to Switzerland as the main destination for these funds.^{197,198} The relationship with

Switzerland is still a hot political issue in Italy and a bilateral treaty on tax information exchange with Switzerland is still under negotiation.

In order to enhance the repatriation of some of this capital, Italy has put in place special measures in recent years that offer a one-off low taxation (5-7.5%). This approach has proved highly contradictory to the overall fight against tax evasion – especially as it includes a provision protecting the anonymity of those bringing back capital that had been illegally exported.

Meanwhile, tax authorities have become more aggressive in clamping down on tax dodging in recent years. In 2012, Google, Facebook, Ryanair and Amazon were placed under investigation in Italy for tax-related capital flight and profit shifting.^{199,200} The case of Dolce & Gabbana in 2013 remains the most striking so far. The famous fashion company settled

a case with the Italian tax authorities for evading about €400 million in taxes through a controversial sale of the trademark to a Luxembourg company that belonged to the same group.²⁰¹

National anti-money laundering regulation

Given the historical need to fight organised crime on its territory, Italian anti-money laundering legislation and its implementation is quite advanced. In 2011, Italy received a largely positive assessment by FATF concerning the implementation of its recommendations. Today, Italy is undergoing regular biannual mutual evaluation assessments.²⁰² At the moment, the government is considering adopting into law some of the recent recommendations agreed by FATF in 2012. This is in the run up to the new assessment scheduled for Italy in 2014, but looks set to go ahead without waiting for the outcome of this upcoming review. This should be seen as a genuine willingness to fight money laundering and not simply an attempt to perform well and act in accordance with specific country recommendations.

Despite a staggering rise in STRs detected (from 14,000 to more than 60,000 in the past five years) and submitted to law enforcement authorities, the number of staff employed by the national FIU has increased from just 99 people in 2008 to 116 in 2011.²⁰³ Similarly, capacity in law enforcement authorities and prosecuting bodies is still quite limited compared to the magnitude of the problem affecting the Italian economy.

National transparency around tax payments and beneficial ownership

About 6.1 million companies are registered in Italy, which has a population of about 60 million people. Since 1996²⁰⁵ any company information about owners of companies and foundations is accessible through the national registry of companies managed by Union Camere, the network of chambers of commerce in Italy. According to the Civil Code,²⁰⁶ it is up to the registry authorities to verify the authenticity of the information provided. In practice, a small fee is requested in order to get information from the registry, in particular if the information is online.²⁰⁷

However, the disaggregated data available for financial companies registered do not specify the categories of 'trusts' and 'foundations'. There are about 10,000 foundations registered in Italy.²⁰⁸ Regarding trusts, they are not regulated yet under Italian law, even though trusts that are registered with Italian notaries under Italian or foreign laws have to be recognised – under certain conditions – by national fiscal authorities.²⁰⁹ It is unclear how many trusts are fiscally recognised in Italy today.

The annual accounts of all corporations registered in Italy are publicly accessible through the national registry of companies. These accounts make public gross profits, tax payments and dividends in aggregated terms for each company. However, according to Italian law, there is no specific requirement for country-by-country reporting for Italian multinational companies.

Support for EU regulation

Concerning European negotiations on the revision of the AMLD, Italy is at the forefront and, together with several other countries, is promoting more advanced and stricter provisions to tackle money laundering at the European level.

The Italian government supports the establishment of publicly available registries, as already happens today for companies in Italy, but not for trusts. Within the current

negotiations at the European level, Italy concedes that it should be up to national authorities to decide whether to make this information public. Italy is more concerned that the quality of information contained in the registry is high and accessible by the relevant authorities, also at an international level. As a minimum, Italy requests that member states ensure that beneficial ownership information on companies incorporated within their territory is held in a centralised registry, and can be accessed in a timely manner by relevant authorities, FIUs and by responsible entities. Member states should determine, at a national level, the conditions for making information accessible to the relevant entities.

Regarding trusts, given the peculiarity of the Italian case, the government is concerned about how information about these entities could be held in public registries. Therefore, they do not have a clear position on whether information on beneficial ownership of trusts should be required in a similar vein to beneficial ownership of companies.

The Italian government strongly supports making tax evasion a predicate offence for money laundering. However, it is concerned about how the FATF recommendation in this regard could be implemented under European law. In particular, Italy suggests that the different definition of tax crimes among member states should not create any restrictions regarding the implementation of the provisions of the directive, especially as regards the reporting obligations and domestic and international cooperation between competent authorities.

Concerning country-by-country reporting, the position of the Italian government is still unclear. However, Italy is not leading action for the introduction of this provision under European law.

Support for global regulation

Although Italy has a tradition of supporting UN processes in general, on economic and financial matters Italian governments' attention has always been focused more on G8-G20 and international financial institutions (IFIs). The Italian government, and in particular the Ministry of Economy that is in charge of G8-G20 negotiations, has been quite pleased with the outcome of the G20 process in 2013. The government still prefers the BEPS process to potential new UN processes on tax matters, potentially promoting a selective enlargement of BEPS to other countries on a case-by-case basis in order to keep negotiations manageable.

At the same time, the government does not want the G20 forum itself to directly perform specific tasks by establishing its own working groups. However, it is keen to leave specific negotiating tasks to the OECD or other international organisations.

Italy strongly pushed for the automatic exchange of information to become a new global standard, as agreed by the G20 in 2013, and supported that this standard would entail an international convention instrument. At the same time, Italy is still concerned that strong supervision procedures within the G20 have to be put in place in order to monitor the implementation of commitments made by the G20 countries themselves.

Overseas development aid and policy coherence for development

Italian ODA has been shrinking in recent years. Italy is performing quite badly vis à vis other major European countries in terms of European aid goals. A severe cut of 34% in ODA took place in 2012.²¹⁰

So far very little attention has been paid by Italian development policy and aid to tax matters. There is no specific mention of the issue within guidelines for bilateral aid.²¹¹ At the same time, the promotion of Italian foreign direct investments (FDIs) is more and more prominent among the priorities of Italy's remaining aid commitments. In some cases, this is an approach that might conflict with tackling capital flight and tax justice if adequate conditions are not applied to Italian investors.

Italian aid is not made conditional on any tax-related provisions. Furthermore, no requirement of country-by-country reporting is applied to those companies that are awarded contracts financed by Italian ODA or operating in the context of Italian ODA-funded programmes and projects.

There is very limited understanding of the global impacts of tax-related capital flight from the Italian perspective. Despite the significant size of the challenge in Italy, there seems to be no regard for the impact on other countries. There is no expression of the connections between the global fight against tax-related capital flight and poverty eradication or domestic resource mobilisation in developing countries. Therefore it must be concluded that there is very limited policy coherence for development in this area in Italy.

Conclusion

Due to chronic tax evasion and money laundering related to illegal activities and capital flight out of Italy, coupled with the economic crisis and the need to raise taxes, the Italian government has tried to implement more concerted action against tax evasion in the last few years. However, the impact of this approach is still limited in practice, despite a broader public debate that has emerged in civil society on this matter.

A change in the dominant culture in the country, as well as in the overall taxation system, is needed to tackle the problem.

In the short term, the government is planning to pass a law incorporating some of the expected new FATF recommendations. While government support for the automatic exchange of information and disclosure of beneficial ownership is quite strong, much less attention is paid to capital flight from developing countries, both regarding ODA as well as the operations of Italian corporations abroad. In particular, little support has been explicitly expressed so far by the government to introduce a country-by-country reporting procedure. This remains a clear contradiction within the Italian government's overall action against tax evasion, money laundering and related capital flight.

Luxembourg

General overview

Luxembourg, a constitutional monarchy with a population of just 524,900, represents a domestic market that is inevitably limited. The financial sector is a major contributor to the Luxembourg economy,²¹² both directly and indirectly, accounting for roughly 30% of national GDP. In 2010, the financial sector's more than 63,000 jobs represented 17% of the national employment²¹³ – making it relatively easy for this sector to exert a strong degree of influence on the political system.

Information on the Luxembourg financial sector and its impact on the local economy is readily available. The Luxembourg authorities were also very helpful in providing information for the compilation of this report. However, information about the impact of Luxembourg's financial centre on developing countries is not available.

Luxembourg's professional secrecy provisions, enshrined in the banking law of 1981, are particularly strong compared to those in other jurisdictions. The country has defended its banking secrecy tooth and nail over the years, in the face of European and international efforts to promote transparency.²¹⁴ While bank customer confidentiality was never absolute, it has been progressively lifted, over the last couple of years, with regard to tax administration.²¹⁵

There has been a change in the country's official discourse on the importance of financial transparency in recent years. In April 2013, Luxembourg announced that it was "no longer strictly opposed" to the automatic exchange of information between national tax authorities.²¹⁶ However, Luxembourg still ranks second out of 82 jurisdictions on the Financial Secrecy Index compiled by the Tax Justice Network.²¹⁷

An indication for Luxembourg being a favourite jurisdiction for multinationals is the high level of foreign direct investments (FDI) in Luxembourg. According to the 2013 World Investment Report published by the UN Conference on Trade and Development (UNCTAD),²¹⁸ Luxembourg is the European country with the third largest foreign direct investments (after the UK and Ireland) and ranks 13th internationally. Recent Eurostat reports explain that this high share is linked to the use of "special purpose entities"²¹⁹ and the importance of financial intermediation activities.²²⁰

Christian Chavagneux, Deputy Editor of *Alternatives Economiques* and Editor of the journal *Political Economy*, commented on these figures: "Luxembourg is not a bigger industrial power than its European neighbours, it's just a tax

haven that provides treasury services used for aggressive tax optimization of multinationals. [...] These numbers show once again how large companies seek by all means to evade taxes."²²¹

In September 2013, Luxembourg was probed by the EU over tax deals with multinationals paving the way potentially for a formal investigation into illegal tax sweeteners.²²²

In a reaction to an article in the *Financial Times*, the Finance Minister stated that "Luxembourg supports fair taxation based on international rules and European Court of Justice jurisprudence. Double exemption and double taxation should be condemned equally. Companies must pay tax but Luxembourg is calling for 'effective' taxation."²²³

The offshore leaks revelations by ICIJ²²⁴ were met with little attention from national media or the public in Luxembourg.

In relation to ODA, Luxembourg's financial sector has recently developed its activity in the area of microfinance, impact investing and philanthropy and the country performs excellently in delivering the committed levels of official development aid. In the area of microfinance and microinsurance, both potential vehicles for alleviating poverty and reducing gender inequities, Luxembourg has positioned itself as an international centre.²²⁵

National anti-money laundering regulation

While the Luxembourg Financial Intelligence Unit is well staffed with public prosecutors specialising in economic and financial matters, economists and financial analysts,²²⁶ there is room for improvement in the area of national anti-money laundering legislation and practice. The FATF conducted a mutual evaluation on Luxembourg's anti-money laundering regulation in 2010,²²⁷ which showed that the country performed badly. Of 49 criteria assessed, only one was rated compliant, while nine rated largely compliant, 30 partially compliant, and another nine were non-compliant. In its reaction to this evaluation, the Luxembourg government took umbrage at the conclusions on most of the issues raised by the FATF.²²⁸ A number of changes to regulations have gone forward since the FATF evaluation. In the meantime, until a new evaluation is performed by the FATF, a more up-to-date assessment of current AML legislation is outstanding.

National transparency around tax payments and beneficial ownership

In November 2013, Luxembourg signed 81 double taxation treaties providing for exchange of information under the new OECD standard.²²⁹ The OECD remains careful in its appraisal of Luxembourg's transparency levels. In July 2013, the Global Forum on Transparency and Exchange of Information for Tax Purposes released a peer review report assessing Luxembourg's tax system for information exchange. This review shows that "Luxembourg's exchange of information practices during the review period were not fully in line with the standard. While its legal and regulatory framework provides for the availability of ownership, accounting and bank information, Luxembourg has not used its information gathering and enforcement powers to obtain requested information in all instances".²³⁰

In Luxembourg, information regarding annual profits by corporations is publicly available as published in the national commercial register. However, this does not include detailed information on tax payments on a country-by-country basis.

Information on beneficial owners of legal persons and legal arrangements, in particular companies (including subsidiaries), is currently not made public. However, the government clearly states its intention to comply with any updated EU directive in this regard.²³¹

While the Anglo-Saxon model of trusts is not provided for in Luxembourg law, Luxembourg has taken all the necessary provisions for foreign trusts to be administered by Luxembourg lawyers or trustees. In addition, Luxembourg provides for a similar legal structure, called 'fiduciary services'. Like the Anglo-Saxon trust, this allows investors to remain confidential through the transfer of ownership of goods to the fiduciary and through segregation of assets. Both fiduciary services and trusts need only to be registered in certain circumstances.²³²

An initiative to introduce private foundations into Luxembourg law was submitted to the Parliament in July 2013.²³³

This initiative is supposed to "contribute to the development of private banking activities in Luxembourg"²³⁴ and is being presented as "a new, flexible instrument for servicing the requirements of upmarket clients in quest of mechanisms for managing and planning their assets internationally, along the lines of the Anglo-Saxon trust".²³⁵ The draft bill, fully compliant with OECD rules, states that the new provisions impose duties on private foundations. However, these do not currently compel countries to establish full transparency concerning beneficial ownership.

Within this context, it is probably not surprising that Luxembourg does not support country-by-country reporting for all large companies and groups.²³⁶

This opposition to country-by-country reporting for multinationals, however, is difficult to reconcile with the statement that Luxembourg wants to become a transparent financial centre and hinders developing countries' capacities to raise their own financial resources.

Support for EU regulation

Despite being a fervent defender of European ideas, Luxembourg – together with Austria and Switzerland – has been undermining European efforts to promote financial transparency through the EU Savings Tax Directive over the past few years.²³⁷

Following increased international pressure, especially by Germany and France, who raised a lack of response from Luxembourg on requests for information,²³⁸ the Luxembourg Finance Minister announced on 10 April 2013 to "introduce, on 1 January 2015 and within the scope of the 2003 EU Savings Directive, the automatic exchange of information for all interest payments made by Luxembourg financial operators to individuals resident in another EU Member State".²³⁹

After having delayed automatic exchange of information for more than ten years, Luxembourg now supports this as a global standard – but under the condition that a global level playing field is ensured "in the interest of the economic development of Europe"²⁴⁰ and to avoid the "risk of delocalizing capital out of Europe".²⁴¹

In this context, in May 2013 the European Commission stated that it would start negotiations with third party countries (in particular Switzerland) in relation to the EU Savings Tax Directive. However, this did not yet yield results when the topic was put on the agenda of the Ecofin meeting on 15 November 2013.^{242,243}

There has been recent political movement on issues related to the tax justice agenda and to transparency of information. When new EU legislation is adopted, it is expected that Luxembourg will implement it accordingly. However, it seems unlikely that Luxembourg will actively champion country-by-country reporting or public access to information on beneficial ownership at the EU level, which are both crucial for developing countries to stop losing much needed resources.

Support for global regulation

In May 2013, Luxembourg signed the convention on Mutual Administration Assistance in Tax Matters,²⁴⁴ which is “an important step for Luxembourg. It shows our commitment to implement the principle of automatic exchange of information which is however only efficient if it is implemented on a global level.”²⁴⁵ The speediness of Luxembourg’s ratification of this convention on Mutual Administration Assistance in tax matters will be an important test of Luxembourg’s credibility.

Luxembourg does not yet have a clear position on the suggestion of establishing an international body under the UN auspices on tax matters to ensure a more equal representation than currently proposed by the OECD. However, “the Luxembourg government will determine its position regarding such an intergovernmental body on the basis of a clear proposal (mandate, scope, membership...), which should provide added value and avoid duplication with existing bodies or fora, as for example the OECD’s Global Forum on Transparency and Exchange of Information for Tax Purposes”.²⁴⁶ This indicates that the Luxembourg government supports the OECD lead on these matters.

In the context of the OECD/G20 Action Plan on Base Erosion and Profit Shifting (BEPS) for multinationals, Luxembourg defends ‘effective’ taxation, which is necessary for fair and transparent fiscal competition within the EU and in the world and, as it was put by Minister of Finance Luc Frieden at the OECD in May 2013, “which does not question the advantages of cross-border activities and which continues to encourage the concept of multinationals. (...) We must have tax competition in order to encourage growth.”²⁴⁷

The Luxembourg Finance Minister is of the opinion that “current tax structures are fully in line with international standards” but that “the move from double taxation to non double taxation is of course of serious concern. Insisting on the importance to preserve the advantages of cross-border activities and investments, Luxembourg will contribute to discussions on BEPS.”²⁴⁸

Official development assistance and policy coherence for development

Luxembourg is one of the few European countries – alongside Denmark, Sweden and the Netherlands – that have kept their commitment to allocate at least 0.7% of GNI to ODA in 2012. Since 2009, Luxembourg has even increased this contribution to reach 1% of GNI.²⁴⁹ In 2012, Luxembourg ranked first ahead of Sweden (0.99%), Norway (0.93%), Denmark (0.84%) and the Netherlands (0.71%) and spent €310 million on ODA.²⁵⁰

Almost 10% of this ODA (i.e. €30.8 million) has been spent on projects and initiatives led by the Ministry of Finance. Among them, since 1999 Luxembourg has been supporting the organisation of training in the field of banking sector regulation through the Agency for the Transfer of Financial Technologies (ATTF),²⁵¹ which provides technical assistance in financial matters to Luxembourg’s development cooperation partner countries. Support to the strengthening of the local financial sector is also included in Luxembourg’s bilateral development cooperation programmes with some of its partner countries (Cape Verde, El Salvador and Vietnam).

Additionally, Luxembourg is allocating a voluntary contribution to the OECD programme on tax and development for the biennium 2013-14. The inclusion of a variety of actors and the support to developing countries in the field of taxation is complementary to the bilateral programme. Luxembourg also financially supports the Stolen Asset Recovery (StAR) initiative, developed by the World Bank and the UN Office on Drugs and Crime (UNODC).

Luxembourg does not have an overarching objective for tackling the problem of tax-related capital flight from Luxembourg, as well as from developing countries, nor does it have any plans for adopting any new policy tools or initiatives. When asked specifically about this, the response was as follows: “As an international financial center, Luxembourg strongly adheres to all relevant international standards set in particular by the EU, the OECD and the FATF”.²⁵² However, this is a cause for concern as it fails to comply with Luxembourg’s commitment to policy coherence for development, which should ensure that non-development policies do not harm development objectives.

This concern has also been expressed by the OECD. During its latest peer review of Luxembourg’s development cooperation in 2012, the OECD pointed out:²⁵³ “Another sector of activity that has both positive and negative impacts on developing countries is the financial industry in Luxembourg, one of the most important in Europe. (...)

Luxembourg should pursue its efforts to minimise the risks of adverse fallout from its financial industry. In particular, money-laundering and other financial violations can threaten strategic, political and economic interests of developed and developing countries alike.”

With regards to policy coherence for development, it can be concluded that Luxembourg’s finance authorities are struggling to make a link between the national finance policy and its impact on developing countries and their ability to raise much needed domestic resources. This is despite Luxembourg’s willingness to lend its financial sector expertise through technical assistance financed by ODA.

Conclusions

Luxembourg’s financial services industry plays a key role in the global financial system. Capital flight within this global financial system has very negative impacts for developing countries. Luxembourg has recently announced its intention to start changing its position on key elements, such as automatic exchange of information and is intending to engage in the discussions about the global process for Base Erosion and Profit Shifting, which could yield benefits for developing countries.

On transparency issues, however, there is less progress. Although Luxembourg has responded with legislative changes to the FATF’s latest set of recommendations and has made an announcement in favour of automatic exchange of information between national tax authorities, there is still a significant lack of transparency concerning country-by-country reporting of multinationals and beneficial ownership.

Finally, Luxembourg is delivering very well on ODA commitments and also provides support for tax administrations in developing countries. However, Luxembourg should build on its awareness of the positive and negative impacts of its financial services industry on the world’s poorest countries and pursue efforts to ensure that its financial services policy is coherent with its commitment to combating poverty and inequalities in the world. To this end, Luxembourg should commission an impact assessment analysis by an independent, non-conflicted organisation to review and enhance policy coherence for development.

Netherlands

General overview

In 2013, Dutch economic growth shows a “fragile recovery”.²⁵⁴ Growth of 1% is predicted for 2014 but purchasing power is projected to decline for the fourth consecutive year in 2013. In September 2013, unemployment was 7% of the labour force.²⁵⁵ The country’s national deficit-to-GDP ratio was 4% in 2012. Austerity measures introduced since 2012 amount to public spending cuts totalling €26.3 billion. National debt as a percentage of GDP has risen steeply from 45.3% in 2007 to 71.5% by the end of 2012 and is projected to rise in 2014 to 75% of GDP.

The statutory tax rate for corporate income is 25.5% in the Netherlands (20% for the first €200,000). The lowest income tax bracket for personal income tax was increased to 37% in 2013 (from 33% in 2011). Although no official statistics exist, the effective corporate income tax rate for internationally operating businesses will be much lower than 25.5%, due to existing opportunities to shift profits by using a network of holding companies in the Netherlands and in secrecy jurisdictions to shift profits. There is therefore inequality with regard to higher taxation of labour vis a vis capital, as well as higher taxation of small- and medium-sized businesses vis a vis large MNCs.

A number of factors (Double Taxation Agreements (DTA) network, domestic fiscal advantages and lack of withholding tax on outgoing payments) make the Netherlands one of the world’s most important conduit havens, allowing MNCs to shift profits to low-tax jurisdictions. This is indicated by the enormous amounts of capital flowing through the country that are not related to domestic economic activities. On paper, the country is the biggest investor in the world.²⁵⁶

In early 2013, a public debate ensued about the social justice impact of the Dutch fiscal regime, including unfair competition aspects (small- and medium-sized businesses cannot make use of the structures) and negative impact on revenue in times of debt crisis and austerity.²⁵⁷ Several reports have been commissioned in the past by the financial industry to demonstrate the contribution of the financial services sector to the Dutch economy, the latest of which estimates that the trust industry contributes some €3 billion to Dutch GDP.²⁵⁸

Since 2010, Dutch development policy has undergone far-reaching reforms, with businesses increasingly benefitting from development assistance as economic growth is seen as the central driver of development.²⁵⁹ The aid budget

has been reduced by 0.1% (of GNI) in 2012 and it is expected to further decrease in coming years. The 2011 peer review by the OECD Development Assistance Committee (DAC) noted the risk of Dutch development cooperation becoming too closely linked to Dutch economic interests so that these may overrule development objectives.²⁶⁰ This assessment is shared by civil society, pointing out the danger in giving more importance to national economic interests than to improving living conditions for the poor.²⁶¹

Tax avoidance controversies, such as those arising from ActionAid’s investigation of SABMiller and Associated British Foods using the Netherlands to greatly reduce tax payments in Africa,²⁶² the UK Public Accounts Committee inquiry,²⁶³ and research on the negative impact of the Dutch double tax agreement (DTA) regime²⁶⁴ have put the Dutch government under pressure with a number of parliamentary questions and civil society critique on the issue. In particular the European debt crisis has intensified this critique. Whilst crisis-ridden governments such as Portugal and Greece are trying to balance their books by increasing corporate income tax, domestic companies avoid this tax by channeling their investment and profits through the Netherlands.²⁶⁵ The Dutch tax rulings, which in the case of the Portuguese energy company EDP have led to years of double non taxation,²⁶⁶ have come under renewed criticism as a result. In September 2013, the European Commission announced it would investigate the ruling practices of the Netherlands, Luxembourg and Ireland for potential violation of competition rules.²⁶⁷

Developing countries are also starting to screen Dutch treaties for potentially negative revenue impacts. In 2012, Mongolia famously cancelled its DTA with the Netherlands because tax from the mining sector was being avoided using these treaties.²⁶⁸ In 2010, Brazil put holding companies based in the Netherlands on a list of ‘privileged tax regimes’ to detect potential tax base erosion.²⁶⁹

The Netherlands is also seen as a risk with regard to money laundering. The IMF has found that “substantial proceeds of crime are generated in the country, mostly stemming from fraud (including tax fraud) and illicit narcotics. Presently, the proceeds of domestic crime are estimated at approximately \$14 billion, or 1.8 per cent of the GDP. In addition, work done by academics suggests a significant amount of criminal proceeds originating from foreign countries flows into the Netherlands for laundering.”²⁷⁰

National anti-money laundering regulation

The Anti-Money Laundering and Anti-Terrorist Financing Act [Wet ter voorkoming van witwassen en financieren van terrorisme, Wwft] implementing the EU's Third Anti-Money Laundering Directive entered into force on 1 August 2008.²⁷¹ The FATF concluded that the Netherlands is susceptible to money laundering, because of its large financial centre, openness to trade and the size of criminal proceeds; the main sources of criminal proceeds in the Netherlands being (tax) fraud and illicit narcotics.²⁷² While the Netherlands has preventive measures and a legal framework in place, it falls short of the international standard on beneficial ownership disclosure, simplified due diligence and the monitoring and reporting of suspicious transactions. The Financial Intelligence Unit-Netherlands²⁷³ recorded 30,358, 23,224 and 23,834 suspicious transactions in 2010, 2011 and 2012, respectively, but does not publicise data on convictions.

National transparency around tax prevention and beneficial ownership

The Netherlands has signed 29 tax information exchange agreements (TIEAs) (of which 25 are with non-cooperative jurisdictions)²⁷⁴ and 91 DTAs.²⁷⁵ Details about the number of requests under the TIEAs are not published, but the Ministry of Finance replied in a timely manner to questions that in 2011, the Netherlands received 423 information requests (527 answers to specific requests for information were provided, including some from the previous year). The Peer Review Report gives a positive rating to the Dutch tax administration's cooperation in requests, but advised the Netherlands to update exchange of information provisions in old DTAs that no longer comply with international standards.²⁷⁶

Dutch legal entities are regulated by the Civil Codes and the Commercial Register Acts.²⁷⁷ There are exemptions to the disclosure of financial accounts that allow for obscuring tax payments.²⁷⁸ The information available in the commercial register is publicly available and can be accessed online for a fee.²⁷⁹ Dutch law does not provide for the establishment of legal arrangements such as express trusts or *Treuhand*, but the country has so-called trust offices that provide material substance to mailbox companies (in the form of board members and financial administration). The Dutch Central Bank has registered around 12,000 of these Special Financial Institutions (SFIs) and it is estimated that roughly 8,500 MNCs have shell companies in the Netherlands. SFIs

fulfill conduit financing functions, channeling royalty, loans and interest payments or dividends between subsidiaries of a group.²⁸⁰ In 2010, total SFI assets amounted to €2,900 billion. The concentration of assets is considerable, for instance, only ten SFIs own 14% of the total assets.²⁸¹

Beneficial owners of legal entities only have to be disclosed to the Dutch Company Register when they own 100% of the legal entity. This has been criticised by the IMF, as well as others,²⁸² for falling short of international standards regarding the verification of the identity of beneficial owners.²⁸³ Indeed, ownership percentages are manipulated to avoid this registration requirement.²⁸⁴ The government has announced a national register with ownership data of legal entities. However, it will not be open to the public.²⁸⁵ The 2011 FATF report on the Netherlands noted that the obligation to provide information on shareholders to the tax authorities does not extend to usufructuaries²⁸⁶ and other share beneficiaries.²⁸⁷

The Dutch government does not require country-by-country reporting for companies and is not planning to introduce this kind of reporting before the end of 2013.

Support for EU regulation

In general, the Dutch government supports the European Commission's proposals on the revised Anti-Money Laundering Directive. There are three areas of concern for the current cabinet: (1) differences between the directive and the FATF standards should be as minimal as possible; (2) there should be sufficient national policy space for implementation, especially in those areas where member states have full competence; (3) there should be a consistent implementation of the a risk-based approach at all levels (government, institutions, supervisor).²⁸⁸

On the question of whether publicly accessible beneficial owner registries should be agreed as a part of the revised AMLD, the Dutch authorities responded negatively.²⁸⁹ The government refers to the OECD as the forum where discussion on these issues takes place and suggests that the focus should be on information gathering for purposes of effective tax collection and not public accountability.

The Dutch government supports that tax crimes should be made a predicate offence of money laundering and that this should be agreed as part of the revision of the third Anti-Money Laundering Directive.²⁹⁰

There are mixed signs regarding whether the government is taking active steps to implement country-by-country (CBCR) reporting at EU level. Although the cabinet has recently confirmed that it is drafting a parliamentary resolution to support CBCR at the European level,²⁹¹ other documents refer only to the expansion of transparency requirements for banks in CRD IV to other sectors. The government does not support unilateral application of CRBC, offering the argument that this would have negative economic consequences and distort a global level playing field.²⁹² Recently, the German daily newspaper *Süddeutsche Zeitung* disclosed minutes on CBCR discussion in the Council working group meeting of 17 September 2013. This disclosed that, of all 28 member states, only France and Belgium were in favour of the inclusion of CBCR in the financial reporting package. The Dutch representative is said to have delivered a lengthy statement against CBCR.²⁹³

Support for global regulation

The Netherlands does not support an intergovernmental body on tax matters under the auspices of the UN but views the OECD as the appropriate global forum for international tax matters. It supports the development of a global system for automatic exchange of information but suggests here also the OECD to lead with the joint Council of Europe OECD Convention.²⁹⁴

Overseas development assistance and policy coherence for development

The Dutch government actively supports domestic resource mobilisation in developing countries,²⁹⁵ but it is unclear to what extent support for combating tax-related capital flight and tax avoidance is a part of this. For example, there is no concerted research into, or plans to prevent and address, Dutch conduit structures being used by large corporations operating in developing countries to avoid tax in those countries. A positive development is the review of tax treaties with a view to improving anti-abuse provisions. However, it is doubtful that this by itself is effective in preventing capital flight from those countries through the Netherlands. A recent announcement to develop a methodology for an impact assessment for Dutch foreign economic policy and development policy coherence is a welcome move in this respect.²⁹⁶

Dutch bilateral aid is unconditional on the implementation of tax rules. The government does not require the corporations they work with for ODA purposes to report on a country-by-country basis. However, some plans to exclude companies that avoid tax by profit-shifting with the help of artificial arrangements from private sector development,²⁹⁷ have been announced.

Conclusion

The Netherlands has taken some very interesting steps to advance policy coherence for development. However, there are still serious concerns relating to the role that various structures of the Dutch economy are playing in relation to tax-related capital flight. Also at the European level and in global settings, there seems to be a lack of willingness to support changes that could make a real difference when it comes to curbing tax-related capital flight and tax base erosion of developing countries.

Slovenia

Figure 3: Slovenia: The economic picture

Share of fiscal revenue (GDP)	37.6% in 2011 (2.5% below the EU27 average) Slovenia is 11th among EU27 member states.
Gross external debt	€40.8 billion in 2013
Tax revenues as a % of all collected revenues	95% in 2012 (2.6 % lower than planned)
Contribution for social security	50.2%

Sources: IMAD 2013: 104 SURS 2013a DURS 2013 b7

General information

After two years of modest economic growth, Slovenia's GDP again declined by 2.3% in 2012.²⁹⁸ This negative trend continued in 2013. Current Slovenian gross external debt is €40.8 billion. Borrowing by the general government accounted for the bulk of the total debt increase, as the gross general government debt increased by €2.4 billion to €11.1 billion.²⁹⁹

Several measures on both the revenue and the expenditure side of the budget have been taken in response to reduced economic activity and the deterioration of public finances. This includes the introduction of tax on water vehicles, tax on financial transactions, an increase in lottery taxation, and an increase of VAT in 2013.³⁰⁰ Probably as a result of these initiatives, the general government deficit (including the structural deficit) declined for the first time since the beginning of the crisis, reaching 4.2% of GDP.³⁰¹

Among all tax categories, the largest decrease in revenue in 2012 was recorded within income taxes, which decreased by 5.7% from 2011. The decline in corporate income tax revenues contributed most to this decrease. For the first time since 1995, a decrease in social contributions revenue was recorded.³⁰²

In the last year, there was an increase in scandals in relation to the use of offshore jurisdictions, money laundering and tax evasion. Some cases have led to convictions and prison sentences. In addition to court convictions, the media is highlighting 'unresolved' cases of suspicious activities of Slovenian companies or people offshore. According to media reports, the most popular tax haven for Slovenian companies or individuals is Switzerland. Increased activity is also reported in Panama, through which one of the biggest construction companies in Slovenia, Vegrad, channelled €7 million in 2010. Bermuda and Belize are also becoming more popular.³⁰³ Furthermore, there are cases of wealthy Slovenian people being owners of companies in the British Virgin Islands,^{304,305} Cyprus, the Caymans Islands and the Netherlands Antilles.³⁰⁶

Members of the Slovenian parliament have highlighted the issue of tax evasion and tax fraud, as well as making amendments to the Money Prevention Act, extending the competences of the Office of Money Laundry Prevention.

Slovenia has been a donor of ODA since 2004. There is an increasing tendency to link ODA with economic diplomacy, as well as using ODA to open the way to new markets for Slovenian companies in developing countries. In 2012, Slovenian ODA stood at €45.3 million or 0.13% of GNI and is expected to stagnate until 2015. The ratio between bilateral and multilateral ODA is now 33:67, meaning that a large share of Slovenian ODA is directed through multilateral institutions, particularly the EU.³⁰⁷ This leaves very little space for bilateral ODA, which has a lack of focus and strong direction and relatively high fragmentation.

National anti-money laundering regulation

The first Money Laundering Prevention Act (Act on the Prevention of Money Laundering and Terrorist Financing – APMLFT)³⁰⁸ was adopted in 1994 and formed the basis for the work of the Office for Money Laundering Prevention. It is part of the Ministry of Finance for the prevention and detection of money laundering and terrorist financing. In 2012, the APMLFT was amended by a group of members of the Slovenian parliament, allowing the office to publish a list of financial transfers (bank or cash transactions) for which there is a greater likelihood of money laundering or terrorist financing. The Office for Prevention of Money Laundering published the list of transactions that are carried out by legal and natural persons to countries in which there is a greater likelihood of money laundering or terrorist financing. The list of those transactions is publicly available on the website of the Office for Prevention of Money Laundering,³⁰⁹ and is expected to increase transparency and, to some extent, influence transactions to those territories.³¹⁰

In the fourth evaluation round of the Committee of the Experts of the Council of Europe on the Evaluation of Anti-Money Laundering and the Financing of Terrorism (MONEYVAL), Slovenia was one of the best evaluated countries. In the evaluation, none of the recommendations

has been evaluated as 'non-compliant'. Ten recommendations were evaluated as 'partially compliant', and the remaining recommendations were evaluated as 'largely compliant' or 'compliant'. According to the evaluation, the "national legislation is broadly in line with the international standards, but difficulties occur mainly as a result of the perceptions (of) what is required to prove the money laundering offence".³¹¹

National transparency around tax payments and beneficial ownership

The Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES) manages the Slovenian Business Register as a central public database on all business entities, their subsidiaries and other organisational segments located in Slovenia. Organisations³¹² have to present their annual reports to AJPES for the purpose of presenting them publicly (free of charge) and for tax and statistical purposes. A constituent part of the business register is the court register, which includes legal entities (companies and their subsidiaries, subsidiaries of foreign companies, cooperatives, public and private institutes, public agencies and other legal entities). This register does not include beneficial ownership. Different registration data is available for each unit recorded in the Slovenian Business Register (identification number, company name, tax number, details on representatives and founders, etc.). However, those data printouts from the Slovenian Business Register are not free of charge.³¹³

The current law on the prevention of money laundering and terrorist financing³¹⁴ demands that a bank needs to obtain information on the beneficial owners and keep a record of that. A similar request was also introduced with the Amendment of the Law on integrity and preventing corruption. According to the law, any authority or body belonging to the public administration has to obtain a statement describing the ownership structure, before signing any contract over €10,000 with the company. The purpose of this requirement is that the public sector has information about who it is really signing the contract with.³¹⁵ Slovenia also supports recommendation FATF 24 and international standards relating to it (eg the information on beneficial ownership will have to be made available to the relevant authorities and the authorised personnel will need to be dedicated for exchange of information). There is a plan to introduce these measures in the new law on prevention of money laundering and terrorist financing.

The Slovenian Tax Administration is the competent authority for the exchange of information with other countries on taxation and administrative assistance for the enforcement of tax claims. Information on the number of requests –

and the countries that have sent the requests or received them – are available. In 2012, Slovenia received 424 requests on tax matters and sent 338 requests. The majority of requests came from EU member states, but the exchange of information between 2009 and 2012 was also with other non-European countries, such as the USA and India.³¹⁶ According to the tax administration, Slovenia has provided information to all requests. Slovenia is also tackling the problem of illicit capital flight through the introduction of measures that will improve cooperation and information exchange between different institutions, both domestically and internationally. This includes signing the memorandum on mutual exchange of information based on direct electronic access by the Office for Money Laundering Prevention and the Tax Administration.

Support for EU regulation

According to the Ministry of Foreign Affairs, the Slovenian government generally supports the Proposal for a 4th Anti-Money Laundering Directive (AMLD), including provisions requiring member states to ensure that legal entities obtain and hold adequate, accurate and current information on their beneficial ownership. As the current proposal does not yet call for a central registry of beneficial ownership information or for this information to become publicly accessible, Slovenia does not currently have a formal position on this issue. However, Slovenia would support any solution to enhance the transparency of the company's ownership and would not oppose the publicly available registries. Slovenia also fully supports the call for tax crimes to be made a predicate offence of money laundering. This rule was already introduced in the Slovenian legal system in 1999.³¹⁷

However, the Slovenian government is less supportive of country-by-country reporting by large companies and groups. The Ministry of Economic Development and Technology wants to make an impact assessment clearly indicating the shortcomings of the existing system.³¹⁸ The position of the government is that small enterprises are prevalent, but large companies are important exporters with multiple effects on other Slovenian businesses and employment. Since the success of large enterprises in foreign markets is dependent on their cost-competitiveness, imposing any new (administrative) burdens should be based on objectives pursued by potential new measures.

Support for global regulation

The Slovenian government does not support the establishment of an intergovernmental body on tax matters under the auspices of the UN. Nor does it support the development of a new international convention that would establish a global system for automatic exchange of information for tax purposes.

Overseas development assistance and policy coherence for development

As well as supporting multilateral institutions (EU, IDA, EBRD funds), Slovenia supports (with grants and experts) the Centre of Excellence in Finance (CEF), which was established in 2001 by the government as one of the institutions responsible for the implementation of Slovenia's ODA. CEF offers assistance to developing countries, public administrations in the Western Balkans and Eastern Europe for public finance management reforms and central banking. Topics relate to tax auditing, taxation of land and property, transfer pricing – the settling of price levels among intra-group trading of multinational corporations, which can have a direct impact on tax-related capital flight.

This choice of focus should be seen in the light of there being an increasing tendency to link ODA with economic diplomacy and use ODA to open the way to new markets for Slovenian companies in developing countries. Very little Slovenian bilateral programmed ODA is actually directed to the poorest countries in the world. However, such a focus on technical assistance is very worrying as it indirectly imposes conditions on what types of systems are developing with relation to tax matters and thereby also tax-related capital flight.

The Slovenian government does not require companies or multinational companies involved in development assistance activities to provide an annual report on their turnover, number of employees, subsidies received, profits and tax payments on a country-by-country level for all countries in which they operate.

Conclusion

Generally, it must be concluded that Slovenian development cooperation has very limited awareness of policy coherence for development, but rather the opposite. This is also reflected in the lack of support for a global agreement on automatic information exchange or the establishment of a UN body to negotiate global solutions to tax-related capital. Both of these proposals could, with the active participation of all developing countries, enable sustainable solutions to the challenges of tax-related capital flight and significantly increase opportunities for domestic resource mobilisation in the poorest countries in the world. Lack of support for this from Slovenia is regrettable.

On the national level, Slovenia performs well in relation to international evaluations and is also very supportive of progress on beneficial ownership transparency. However, for country-by-country reporting, the government still remains mainly concerned about the negative impacts of further administrative burden. This expresses the need for the Slovenian government and legislators to broaden their understanding of fighting tax-related capital flight from simple anti-money laundering efforts to wider transparency requirements and also more progressive positioning at the global level to achieve global tax justice.

Spain

General overview

It is anticipated that the GDP in Spain will fall by 1.5%³¹⁹ in 2013, and that inflation will be less than 1%. Spain's economy is currently categorised by insufficient internal demand and significant public and private debt. Internal demand has declined due to the reduction of private consumption as a result of civil servant salary cuts, and high levels of unemployment (26% at the end of 2012)³²⁰. In 2012, a reform of the labour market was enacted in the hope of increasing labour market flexibility.³²¹ Spain has also undergone a restructuring of its financial system, which entails a decrease in loans for consumption and investment. This in turn has had an impact on internal demand.

The few improvements to the Spanish economy that have been observed concern the visible improvement in the trade balance. Exports have risen thanks to the improvement in competitiveness (cost reductions from salary restrictions and the resulting increase in productivity) and an increase in geographical diversification (to BRIC countries – Brazil, Russia, India and China). However, it is feared that this improvement cannot be maintained, given the poorer growth forecasts for next year for the BRIC countries.

National anti-money laundering regulation

Given Spain's strategic geographical situation, it runs the risk of being one of the primary money laundering centres in Europe, as indicated by the US in 2012.³²² The government in Spain has recently increased their vigilance over money coming from anonymous accounts abroad that may proceed from crimes committed outside or inside Spain.³²³

Currently, it is the Penal Code, specifically the Law 10/2010 of 28 April on the prevention of money laundering and financing of terrorism, that regulates reporting requirements, institutional organisation and the system of penalties with regard to this activity. There is a Money Laundering and Financial Offence Prevention Commission (to which the financial intelligence unit reports) that is within the Ministry of the Economy and Competitiveness (MINECO) under its Secretary of State. It is responsible for receiving, analysing and disseminating the financial information corresponding to processes on suspicious transactions.³²⁴ The different departments of many government ministries are represented in this commission, which means that the fight against money laundering has a multi-sectoral character. However, it is not centralised.

It is apparent that the fight against fraud and the corresponding money laundering in Spain requires more technical and human resources than those currently dedicated to them in the government. These resources

could also be more appropriately distributed. MINECO currently dedicates 80% of Agencia Estatal de Administración Tributaria (AEAT) staff to checking and investigating small-scale fraud, although 71% of tax evasion in 2010 was carried out by large companies and people with high incomes. With regards to the role of tax havens in money laundering, the government could also significantly strengthen their efforts, and become a champion on the international scene in fighting the existence of secrecy jurisdictions. In Spain, tax evasion is a predicate offence to money laundering.

National transparency around tax payments and beneficial ownership

Companies in Spain are obliged to provide information to the corresponding authorities on transactions carried out in Spain, profits, employees and any subsidies received, but not tax payments.³²⁵

Responding to a FATF recommendation from 2006, the Law 10/2010 defines the concept of beneficial ownership and essentially links it with natural persons as opposed to companies or other corporate structures. It also requires institutions and people to whom the law applies to gather sufficient information from their clients to be able to ascertain whether they are acting in their own names or for third parties. If there is evidence that the person is not acting for himself, any necessary information must be obtained in order to identify the individuals in whose name that person is acting. This information is collected by the financial institutions and they can provide it to the tax authorities when required to do so. However, this information is not publicly available. Furthermore, the definition of a 'natural person' leaves room for variation in interpretation that could be problematic.

Support for European regulation

Spain supports having tax crime considered as a predicate offence to money laundering in the development of the 4th revision to the AMLD. Spain also supports the directive's initiative to guarantee access to information on beneficial ownership of the accounts, companies and trusts. However, this information should only be available for the relevant authorities, and not for the general public.

Spain would also be supportive of the proposal to require large international companies to report profits, sales, taxes, employees and assets on a country-by-country basis in non-financial reports, as long as the corresponding tax authorities had access to this information.

Spain takes quite a progressive stance in the Council on fighting tax fraud at EU level. However, it severely overlooks the importance of making this information available to the public and how this could significantly increase accountability and governance.

Support for global regulation

Spain participates in the UN committee of tax experts³²⁶ “when it is appropriate”. However, Spain considers that progress in this area should take place through the European Union and OECD (G20).

There are signs that Spain supports the creation of a single global standard for the automatic exchange of information with great interest, with the goal of promoting international administrative cooperation under equal conditions for all jurisdictions. However, the ‘equal’ nature can be thrown into question, given that Spain is adamant that OECD should be the lead actor and does not actively support a greater role for the UN Tax Committee in a strengthened format.

Official development assistance and policy coherence for development

Spain has considered the strengthening of developing countries’ tax administrations as a priority in its cooperation policy, as well as avoidance of unlawful capital flows coming from them. When Spain held the presidency of the European Union, it promoted Council conclusions with very advanced proposals in this matter.³²⁷ In 2010, Spain advocated within the G20 Development Working Group for prioritisation of the area of domestic resource mobilisation and for this to be established as a work focus in developing countries with two main areas of activity: the strengthening of fiscal administrations and the avoidance of tax base erosion in those countries.³²⁸

However, with regards to other multilateral actions, there seem to be less regard for the impact on developing countries and ensuring policy coherence for development. Despite having a rather progressive position on transparency of beneficial ownership and country-by-country reporting, Spain fails to acknowledge the significant gains through accountability that would be achieved by allowing more public access to information.³²⁹

The ODA from Spain targeting the strengthening of tax administrations in developing countries has mainly been applied in Latin America with/through institutions such as the Inter-American Development Bank (IDB), the Inter-American Center of Tax Administrations (CIAT),

the Eurosocial Programme and other foundations and agencies. Tax administration technicians are trained through these programmes in important areas of taxation and the management of associated risks, and support is provided for the reforms underway in these administrations. In matters of taxation, all the support Spain offers is done without imposing policy conditions beyond the efficiency of the assistance provided and the reform launched.³²⁹

Since not much work is being done on the country-by-country reporting of large companies in Spain, this area has not had an impact on ODA. The award of a contract financed with development cooperation funds is not linked to the provision of country-by-country accounts of the companies that are awarded the contracts or upon the condition that there is no use of tax havens in the relevant companies’ transactions/use of ODA.³³⁰

Conclusion

In conclusion, Spain has a relatively good money laundering prevention system in place, in theory. However, its effective application requires additional human and technical resources and a greater focus on the investigation of fraud committed by super-wealthy individuals and large companies. It has also made some significant strides towards promoting domestic resource mobilisation in developing countries. However, in the global process of looking at tax-related capital flight, Spain is not a champion of looking at the specific impacts on developing countries.

As regards wider transparency issues, also in the scope of revising or developing new EU law, Spain has a progressive position, except on the issue of allowing public access to the information. Spain fails to acknowledge the significant gains through accountability that would be achieved by allowing for public access to information (this would include access by other countries, as well as by civil society).

Finally, with regards to improving global regulation, Spain has similarly good intentions. However, there is a failure to acknowledge the exclusive nature of the dominant fora where negotiations currently take place. Spain should recognise that a more inclusive space for negotiations to create a new global deal on AEI should take precedence. Otherwise, there is a risk of creating another system that is just as flawed and primarily serves the richest countries’ needs, rather than ensuring greater financing for development.

Sweden

General overview

Compared to many other European countries, the Swedish economy is doing reasonably well. According to the European Commission, in May 2013 the Swedish economy showed signs of recovery after a real GDP growth by a mere 0.8% in 2012. The weighted average tax on personal income for 2013 is 31.7%. Although there are high taxes on labour, the corporate tax rate has been reduced in recent years. It was 26.3% in 2011, which ranked Sweden number 17 in the EU. In 2013, it was further reduced to only 22%, slightly below the European average.³³¹

The combination of double taxation agreements and favourable domestic legislation and fiscal reforms has made Sweden a new attractive location for holding companies. In a newsletter from the Stockholm Business Region Development (SBRD), the official investment promotion agency of Stockholm, it is stated that the favourable tax rules (participation exemption) was introduced in a move to try to compete with other countries known for attracting holding companies, like Luxembourg and the Netherlands.³³² The law firm Bird&Bird is also quoted as saying that “Swedish tax law has created one of Europe’s most favourable tax environments for holding companies”.³³³

Together with Denmark, Luxembourg and the Netherlands, Sweden is the only EU member state that exceeds the 0.7% ODA/GNI mark.³³⁴ Sweden almost reached its 1% target in 2012 and has committed to the 1% target for the coming years. In 2012, Swedish ODA constituted 0.99% of Sweden’s GNI, totalling €3.87 billion.³³⁵ Sweden continues to increase flows of ODA to the private sector, including a long-term capital contribution to Swedfund, the Swedish development finance institution, amounting to €130 million in the period 2012-2014.³³⁶

According to the Swedish Tax Authority, at least 46 billion Swedish Crowns (€5.17 billion) are lost in tax revenue each year that should have been paid on international transactions. This is one third of the total faulting tax revenue each year, which is 133 billion Crowns (€14.9 billion). According to the tax authority, a large part of this money is placed in tax havens through tax avoidance schemes using foreign companies.³³⁷

At the end of 2009, the Swedish Tax Authority declared that Swedes with accounts in tax havens would not receive any penalties if they reported their hidden money voluntarily. At the same time, the Swedish tax authorities intensified their work with information exchange agreements with tax havens.

Three years later, the authority had 39 agreements in place, which they used 160 times. They received 1.2 billion Swedish Crowns (€0.13 billion) in tax revenue from accounts in tax havens that had been reported voluntarily.³³⁸

Tax evasion is increasingly being discussed in the Swedish media, but mainly from a national perspective. There is intense debate about private healthcare companies, which make profit from publicly funded healthcare and place it in tax havens. Some of the biggest players on the Swedish market are equity funds located in tax havens, which have taken over healthcare that was previously publicly owned. This has led to Swedish tax revenues invested in healthcare ending up as profit on private accounts in tax havens.³³⁹

National anti-money laundering regulation

Finanspolisen, the Swedish Financial Intelligence Unit (FIU), was established in 1994 and is part of the Swedish Police Board and the Swedish National Criminal Police. In a 2006 mutual evaluation report, the FATF raised concerns about the effectiveness of the Swedish anti-money laundering system regarding lack of resources, skills and performance monitoring. In a follow-up report in October 2010, the FATF recognised that Sweden had made significant progress in addressing the deficiencies and removed Sweden from the regular follow-up process.

The number of staff in the FIU has increased from ten people in 2008 to 15 in 2012. However, according to a report from Brottsförebyggandet – the Swedish National Council for Crime Prevention, an agency under the Ministry of Justice – the number of staff at the Swedish FIU has not kept pace with the increasing flow of reports. There are 15 officers dealing with around 12,000 reports. In the 1990s, an almost equally large workforce analysed around 1,500-2,000 STRs.³⁴⁰

In 2012, the Swedish government assigned 16 Swedish authorities with making a joint national evaluation of the anti-money laundering system in Sweden. The report was presented in August 2013 and concludes that there is a great need for more information and analysis of where, how and to what extent money is being laundered in Sweden. It also found that there are structural deficiencies in the Swedish anti-money laundering system, which could affect the ability of Sweden to effectively combat money laundering activities. It was the first time such an evaluation was carried out and the report forms the basis for a forthcoming government strategy against money laundering.³⁴¹

National transparency around tax payments and beneficial ownership

Swedish companies must register with Bolagsverket – the Swedish Companies Registration Office, an agency under the Ministry of Enterprise, Energy and Communications.³⁴² There are around 1,200,000 companies registered in Sweden and about 24,000 foundations. All limited liability companies have to file annual accounts and other companies may have to file accounts depending upon their size. Company name, registered number, status and legal form are basic information that is available free of charge.³⁴³

There is currently no public registry of beneficial owners of companies in Sweden. FATF has previously raised concerns that this information is not available. According to the Swedish Companies Act, the board of directors in a Swedish limited liability company must draw up a share register and a list of shareholders. The share register is a public document and must be kept available to the public at the office of the company. New shareholders must be entered into the share register when a share is sold.³⁴⁴ Bolagsverket does not register the ownership of the shares.

The Swedish government does not currently require multinational companies to provide an annual report that includes the key elements for country-by-country reporting. Information regarding annual profits and tax payments in Sweden by corporations are not publicly available online, but the final notice of assessment for corporations is available from the Swedish tax authorities upon request.

Sweden has signed a large number of tax information exchange agreements in recent years. In 2006, the Nordic countries started coordinating their work through the Nordic Council of Ministers, for entering into information exchange agreements with tax havens. This has resulted in the Nordic countries individually signing at least 40 bilateral information exchange agreements as of 12 June 2013. This makes the Nordic countries, together with the US and France, the countries that have signed the most information exchange agreements.³⁴⁵ The Swedish Tax Authority is only allowed to give out aggregated numbers and not information on the number of requests for information exchange by country, nor the names of the countries with which information is being exchanged. This is on the grounds of confidentiality.

The level of transparency around companies' tax payments and beneficial ownership is mediocre. Neither country-by-country reporting nor public information on beneficial ownership is available.

Support for EU regulation

The Swedish government supports tax crimes being made a predicate offence of money laundering and believes that this should be agreed as part of the 4th revision of the Anti-Money Laundering Directive. Regarding publicly accessible government registries of beneficial owners of companies, trusts and foundations, the government position is that Sweden supports efforts to promote transparency with regard to beneficial ownership, but that the concrete measures to achieve this should be left for the national authorities to decide and design.

The details of the Swedish government's own negotiating position on country-by-country reporting for all large companies and groups, similar to those adopted for banks as part of the fourth Capital Requirements Directive, remain unclear. In a questionnaire for the purpose of this report, the answer was neither yes nor no, but that "the issue was subject to discussion at the European Council on 22 May 2013 and that Sweden supported the conclusions".³⁴⁶ Sweden does not seem to be a strong champion of the issue.

The Swedish government states that counteracting tax evasion and avoidance is a high political priority for Sweden and that the government participates actively in the work in this area, both in the EU and the OECD. However, Sweden has not been a strong champion of the issue of country-by-country reporting, nor is Sweden supporting public registers of beneficial ownership as part of the 4th revision of the Anti-Money Laundering Directive.

Support for global regulation

The Swedish government states that the fight against international tax evasion and avoidance is a high political priority and that it strongly supports increased international automatic exchange of information and the development of a single global standard for automatic exchange. However, the government does not say outright that it supports this as part of an international convention. Instead, it states that one of the important issues that remains to be addressed is how to avoid that different standards for automatic exchange of information are being developed. "The joint Council of Europe/OECD convention on mutual administrative assistance in tax matters regulates exchange of information on request and is open for participation by countries and jurisdictions outside the EU and OECD".³⁴⁷ Sweden will actively take part in the OECD/G20 initiative on Base Erosion and Profit Shifting (BEPS). Sweden has

also joined the initiative taken by France, Germany, Italy, Spain and the UK to develop a pilot multilateral exchange of information and states that EU member states, as well as other countries, have been invited to join.

The Swedish government does not answer either yes or no to the question of whether Sweden supports the establishment of an intergovernmental body on tax matters under the auspices of the UN. It comments that at this point in time it is important to take advantage of the experience and competence held by the OECD with respect to tax matters. The Swedish government considers the OECD to be the appropriate and main authority in international tax affairs and sees it as gratifying that increasing numbers of developing countries have become members of the Global Forum on Transparency and Exchange of Information for Tax Purposes “in which all countries participate on equal footing”.³⁴⁸

The Swedish government has committed to prioritising the issue of tax-related capital flight as a development issue (see below), but reconciles its ambitions to those of the OECD. It does not subscribe to the perspective that it is important to construct a new body, with a larger representation of countries from the global south. The government is not supportive of an intergovernmental body on tax matters under the UN.

Overseas development assistance and policy coherence for development

Part of the Swedish ODA is focused on combating capital flight and strengthening tax administrations in developing countries. The Office for International Projects (OIP) at the Swedish tax office is receiving funds from SIDA – the Swedish International Development Agency – and is working with long-term projects in developing countries, as well as in countries that have just joined the European Union or have applied for membership. In the 1980s, the Swedish tax authorities started institutional cooperation projects with Tanzania, Zimbabwe and Vietnam.³⁴⁹ During 2012, OIP has had projects in four countries – Albania, Kosovo, Botswana and Moldova. There is also reference to increasing domestic resource mobilisation and capacity to efficiently handle these resources in the Swedish country result strategies for Zambia and Tanzania over the coming years.

In 2003, Sweden was the first DAC member to adopt a Policy for Global Development, a strategy for considering the impact of domestic policies on developing countries, known as Policy Coherence for Development (PCD). Sweden has committed to PCD at the highest political level.³⁵⁰ In the latest report from the Swedish government to the Swedish parliament on PCD 2012, it is recognised for the first time that capital flight from developing countries is a problem. This report expresses a commitment to making tax justice a priority. This is a great step forward. However, the government has not yet presented any concrete action plan, nor has it been able to show how it has championed initiatives against tax avoidance and evasion within the EU to the benefit of fighting tax-related capital flight from developing countries.

The Swedish government provides development assistance through international financial institutions such as the World Bank and regional development banks, as well as Swedfund, the Swedish development finance institution. At the moment, there is no requirement about country-by-country reporting for companies that receive such investments. The Swedish government states that the different IFIs and Swedfund have internal due diligence guidelines and procedures to make sure that their operations comply with tax legislation. It also states that it strives to ensure that the operations of IFIs and Swedfund are as transparent as possible, but that private sector operations of the IFIs and Swedfund need to follow business standards and some level of business secrecy is unavoidable.

In May 2012, the Swedish government issued new ownership guidelines for Swedfund. According to these guidelines, Swedfund cannot make investments through territories that have been defined to be lacking in transparency by the OECD Global Forum’s Peer Review Process. These ownership guidelines fall short of ending tax haven investments if they rely solely on the current OECD framework for tackling tax evasion, as the process is insufficient in defining and listing tax havens.

Sweden has a strong political commitment to PCD but still has work to do regarding its implementation, monitoring and evaluation. Sweden is one of the largest donors of ODA relative to GNI in the EU. There is some ODA going to the Swedish tax authorities for their work to strengthen tax authorities in developing countries. However, Sweden *does not require country-by-country reporting for all multinational companies involved in development assistance activities and relies solely on OECD frameworks to regulate that ODA resources through Swedfund do not end up in tax havens.*

Conclusion

In a questionnaire for the purpose of this report, the Swedish government states that counteracting tax evasion and avoidance is and will continue to be a high political priority for Sweden. It also states that Sweden will support international work in the area and promote cooperation on an international level. The Swedish government has also committed to the issue through its latest report to the parliament on PCD. The coherence and implementation at relevant ministries, however, needs to be improved.

The recognition of tax avoidance and evasion as a development issue in the PCD report was a great step in the right direction, but now the government needs to formulate an action plan and clearly state its positions in international negotiations and processes. What the Swedish position is and what has been done to promote it remain unclear. As mentioned previously in this report, many of the countries covered do not express clear support nor objections. In the questionnaire for the purpose of this report, the Swedish government could not provide a yes or no answer on four out of five questions regarding the Swedish position in the EU and UN.

United Kingdom

General overview

2013 saw the UK post three quarters of GDP growth for the first time since 2010. Growth is expected to increase slightly in 2014.³⁵¹ However, the budget deficit remains one of the largest in the G20 at 7.4% of GDP.³⁵²

The tax-to-GDP ratio in the UK is 37.4³⁵³ and the overall tax burden is slightly regressive, with the poorest 20% having a tax burden of 36.6% compared to 35.5% for the richest 20%.³⁵⁴

Tax and transparency have been a high-profile issue in the UK over the last year, with the government making it a focus of the G8 summit held in Lough Erne in Northern Ireland, and both Houses of Parliament conducting enquiries on tax issues. The House of Commons Public Accounts Committee enquiries into the tax affairs of Google, Amazon and Starbucks made international headlines, as well as producing the unprecedented result of Starbucks committing to paying a minimum of around £20 million (€24 million) in corporate income tax in the next two years.³⁵⁵

The actual scale of the tax gap in the UK is estimated by the UK government to be £35 billion (€43 billion).³⁵⁶ However, some have criticised this methodology of not capturing the full extent of the tax avoidance, the shadow economy and other significant tax losses. There are estimates that the tax gap could be significantly higher.³⁵⁷

The tax gap methodology does not appear to capture the scale of tax-related capital flight, and despite the government focus on tax and transparency there does not appear to be any government estimate. The government does point to the revenue collected via schemes such as the Liechtenstein disclosure facility to illustrate how offshore assets are increasingly being declared and regularised.³⁵⁸

The UK is set to finally reach the 0.7% GNI target for development spending this financial year, a commitment that has been maintained by both the coalition parties and the opposition. However, debate has increased on the issue, with NGOs publicly supporting the achievement, while some sections of the press have become increasingly critical. In response to this debate, there has been increasing justification for aid as being in the UK's own interests, as well as debate about spending aid more broadly (e.g. on defence issues).

There has been some minimal public discussion about the role of UK aid in helping developing countries to generate their own resources, and seemingly in response to an enquiry by the international development committee of the House of Commons, the UK has increased its support to tax

capacity building in developing countries. It was also notable that the G8 declaration wording was clear about the need for developing countries to benefit from international tax reform.

Some questions do remain, however, about how committed the UK is to international cooperation on tax and transparency reform. While there has been significant political rhetoric in the last year on cooperation, the UK's main political focus is on ensuring the UK has the most competitive tax regime in the G20. Some of the policies designed to realise this goal have been criticised as undermining international cooperation.³⁵⁹ There are also concerns about the role of the UK in facilitating tax evasion, avoidance and capital flight, especially when looked at in conjunction with its associated Overseas Territories and Crown Dependencies.

The UK is one of the biggest financial centres in the world, with 18% of the world market for offshore financial services.³⁶⁰ It is ranked 21st on the Financial Secrecy Index, with a secrecy score of 40.³⁶¹ Several of the UK Overseas Territories and the Crown Dependencies³⁶² are ranked higher than the UK on the Financial Secrecy Index and have significantly higher secrecy scores.³⁶³ Taken together, the UK and the Overseas Territories and Crown Dependencies would be ranked first on the Financial Secrecy Index.³⁶⁴

National anti-money laundering regulation

The third FATF mutual evaluation report on the UK was completed in 2007. In this report, the UK was found to be compliant in 19 of the 40 recommendations. It was largely compliant in nine, partially compliant in nine and non-compliant in three.³⁶⁵ As a result, the UK was subject to regular follow-up until 2009, when it was agreed sufficient changes had been made to procedures for the core recommendations to allow the UK to move to biennial updates.³⁶⁶ However, while the UK has improved its evaluation by FATF, there remain concerns that implementation of the UK regulations may not have improved. For example, the Financial Services Authority, in a 2011 report, found "serious weaknesses common to many firms" in their review of banks anti-money laundering procedures.³⁶⁷ This was echoed in its inaugural AML Review published in July 2013, which concluded that it was "likely that some banks were handling the proceeds of corruption and other financial crime".³⁶⁸

The UK Financial Intelligence Unit (UKFIU) has been part of the Serious Organised Crime Agency since 2006 and is now part of the National Crime Agency.

The UK Overseas Territories and Crown Dependencies are not part of FATF and so are not assessed by FATF, although the Crown Dependencies have recently become covered by MONEYVAL and the Overseas Territories are assessed by the IMF and those in the Caribbean by the Caribbean FATF. The EU does maintain a list of third countries/jurisdictions that are deemed to have equivalent standards on anti-money laundering to the 3rd AML directive. While the Crown Dependencies are included in this, the Overseas Territories are not.³⁶⁹ A report by the UK Parliament Public Accounts Committee in 2008 raised concerns at the Overseas Territories investigative capacity on money laundering, especially in the Overseas Territories with smaller financial centres.³⁷⁰

National transparency around tax payments and beneficial ownership

At the start of 2012, the UK had an estimated 4.8 million private sector businesses, of which 3 million are sole proprietorships, 1.3 million companies and 448,000 partnerships.³⁷¹ The numbers of trusts and foundations is not known, as no formal registration takes place and the government is unconvinced of the need for a register of trusts.³⁷²

Company accounts are supposed³⁷³ to be filed annually at Companies House, and can be obtained for a small fee.³⁷⁴ The accounts must meet either International Financial Reporting Standards (IFRS) or UK Generally Accepted Accounting Principles (GAAP). Statutory accounts must include:

- a 'balance sheet', which shows the value of everything the company owns and is owed on the last day of the financial year
- a 'profit and loss account', which shows the company's sales, running costs and the profit or loss it has made over the financial year
- notes about the accounts
- a director's report
- an auditor's report.

A director must sign the balance sheet and their name must be printed on it.

The UK has committed to early implementation of the requirements for reporting of payments for extractives, and will comply with Capital Requirement Directive IV for the finance sector.³⁷⁵ For other sectors, until 2013 the UK

had taken the approach that the case had not been made for the benefit of wider country-by-country reporting.³⁷⁶

That position appeared to change slightly in 2013, as the UK, primarily through the G8, has promoted a form of country-by-country reporting that would be provided to tax authorities only. This is now being taken forward by the OECD as part of the Base Erosion and Profit Shifting (BEPS) process. As a result of this commitment, the UK government position on publicly available reports is that "the Government is not minded to seek further changes requiring publicly available financial reports".³⁷⁷

The UK position on the transparency of beneficial ownership has shifted considerably in the last year, and the issue was central in the G8 summit in Lough Erne. The UK's current system had been identified as one of the worst performing in terms of preventing abuse.³⁷⁸ However, this is now due to change, with the UK committing to create a public register of company beneficial ownership.³⁷⁹ Through the G8 process, the UK also encouraged all other G8 members, and the Overseas Territories and Crown Dependencies, to commit to creating action plans on transparency of corporate ownership.³⁸⁰

Support for EU regulation

The UK has been a strong supporter of increased transparency for the extractives sector, and appears to be supportive of a strong Anti-Money Laundering Directive – both processes/initiatives led at EU level. However, the UK appears very unsupportive of further EU legislation on financial reporting after the requirements for a form of country-by-country reporting for banks was introduced with the CR DIV directive earlier this year. Following the commitment made at the G8 to provide a form of country-by-country reporting available to tax authorities, only the UK has continued its opposition to any further country-by-country reporting at the EU level. However, the rationale has changed; from the argument that the case has not been made for the value of country-by-country reporting, to an argument that the benefits can be realised by having the information available only to revenue authorities.³⁸¹

The UK Overseas Territories and Crown Dependencies are potentially a complicating factor when assessing the UK's support for European regulation. With the exception of Gibraltar none of the Overseas Territories (OT) or Crown Dependencies (CD) is part of the EU.³⁸² As such, some EU member states have used the different regimes in the OTs and CDs as an excuse for resisting further EU regulation unless there are guarantees that the OTs and CDs will match the EU.³⁸³

Support for global regulation

In 2013, the UK has publicly been a strong supporter of increased global regulation; the UK has consistently taken the line that international changes are the only viable way to produce significant change.³⁸⁴ The UK has, for example, been both publicly and financially supportive of the BEPS process, and has ensured that the G8 summit held in the UK had both tax and transparency as key themes.

The UK has been very vocal in its support for automatic information exchange. In addition to signing a FATCA compliant agreement with the US, it has signed automatic information exchange agreements with the Overseas Territories and Crown Dependencies, as well as being part of the G5 pilot on automatic information exchange. The Overseas Territories and Crown Dependencies have also all agreed to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Country-by-country details of the UK's information exchange on request with other jurisdictions was unavailable, as the UK deems providing such information a breach of the terms of the treaties enabling information exchange, although aggregate data is available.

However, there have been some criticisms that, while talking of support for global regulation, the UK is taking unilateral action that undermines global changes.³⁸⁵ The UK's support for global regulation is also limited to specific areas, as noted in their response to the International Development Committee enquiry, where the government dismissed as too difficult the idea of seeking international standards requiring accounts to be filed and made public.³⁸⁶ The significance of this is clear when the Crown Dependencies, in their response to the same recommendation, stated that they meet current international standards and suggested they would only seek to change their regulations should international standards require them to do so.³⁸⁷

There are also concerns that the UK's approach to global action is restricted to an OECD/G20 interpretation. The UK consistently supports the OECD/G20 processes for reform, and while there is mention of the need to ensure that developing countries benefit from changes,³⁸⁸ there is little talk of how this will be achieved, bar capacity building to implement OECD/G20 standards.³⁸⁹ The UK has consistently refused to contemplate an increase in either status or resources for the UN Tax Committee.

Overseas development assistance and policy coherence for development

The UK has provided support to capacity building of revenue authorities in developing countries, and has agreed to follow some of the recommendations of the International Development Committee of the House of Commons and increase the support it provides. Currently, the Department for International Development (DFID) is funding 48 tax programmes across 20 countries totalling £20 million pounds (£24 million) a year.³⁹⁰ This appears to be in line with the average over the last five years.³⁹¹ In the 2013 budget, the UK also announced a new Developing Countries Capacity Building Unit, with £3 million (£3.6 million) annual funding. The first partnership of this unit will be with South Africa on a programme to support other countries in the Southern Africa region.³⁹²

The UK does not impose any conditions on following OECD, World Bank or IMF recommended tax policies on any countries in receipt of UK ODA.³⁹³ However, the UK has been consistently opposed to any increase in either funding or status for the UN Tax Committee. There have been repeated questions asked regarding the activities of CDC (a development finance institution owned by the UK Government under DFID responsibility)³⁹⁴ and tax policies taken by the CDC. The International Development Committee has repeatedly recommended that CDC should report tax payments made by CDC fund managers and investee companies should be reported annually on a country-by-country basis.³⁹⁵ In response, the government has claimed that confidentiality agreements prevent information being made available at a company level,³⁹⁶ but does provide details of both employees and taxes paid at an aggregate level for all countries where investments are made.³⁹⁷ Questions have been raised about CDC's use of tax havens as a route for its investments³⁹⁸ and recent data shows that nearly half of investments in 2011/12 went via tax havens.³⁹⁹

Questions remain about how well the UK government is integrating tax and tax-related capital flight issues across the government beyond capacity building. The International Development Committee recommendations included that there should be a DFID minister with designated responsibility for tax and fiscal policy and that new UK primary and secondary tax legislation should assess potential impacts in developing countries. Both of these recommendations to improve the policy coherence of overall UK policy have been rejected by the government.⁴⁰⁰

Conclusion

In the UK, the G8 and the campaigning around it has advanced the debate about the impacts of tax-related capital flight. So far this has continued and looks at national and EU legislation and impacts on developing countries. Particularly at the national level, the debate is lively and has helped to keep the issue high on the political agenda. However, questions remain about how effectively the political rhetoric will translate into meaningful change, both in the UK and in the Overseas Territories and Crown Dependencies. There will be careful scrutiny of the implementation of commitments in the next few years, as well as the need to see more action in some areas. For example, concrete details about how the UK will support developing countries to play an active part of the global process, and specific steps to enable better analysis of the connections between the UK's role in tax-related capital flight and the impact on development from a PCD perspective have still not materialised.

Endnotes

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- ² For more information, see Tax Justice Network http://www.taxjustice.net/cms/front_content.php?idcat=101
- ³ See glossary for this report's use of these terms.
- ⁴ See glossary for this report's use of these terms.
- ⁵ See current EU definition of SME here <http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/>
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- ⁷ Estimate for 2010 is \$858.8 billion to \$1,138 billion. Source: Global Financial Integrity (2012), *Illicit Financial Flows from Developing Countries: 2001-2010*. GFI estimates that, in the case of Africa, around 3% of illicit financial flows are caused by corruption. Criminal activities make up 30-35% and commercial tax evasion is estimated to account for 60-65%, accessible at www.gfintegrity.org/storage/gfip/documents/reports/gfi_africareport_web.pdf
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- ²¹ ActionAid, (2013), *Sweet Nothings*, http://www.actionaid.org/sites/files/actionaid/sweet_nothings.pdf ABF's response to the ActionAid investigation at this link: http://www.abf.co.uk/media/news/2013/media_statement_on_actionaid_report ActionAid response to ABF's statement at this link: <http://www.actionaid.org.uk/news-and-views/five-questions-for-associated-british-foods-to-answer-in-relation-to-actionaids-sweet>
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- ⁵⁸ Lidovky.cz. (2013). *Kalousek: Odchod firem do daňových rájů nás stojí miliardy*. Lidovky.cz, 7 April 2013. Available at http://www.lidovky.cz/kalousek-presidenim-firem-do-danovych-raj-u-prichazime-o-miliardy-10g-zpravy-domov.aspx?c=A130407_124541_In_domov_mct (accessed in July 2013)
- ⁵⁹ Ibid
- ⁶⁰ The name of the Czech FIU is Financial Analytical Unit (FAU).
- ⁶¹ Each submission by the FIU has a form of complaint and therefore it opens an official investigation by the police.
- ⁶² Finanční analytický útvar (2013), *Výroční zpráva 2012*. Ministerstvo financí, Praha 2013. Available at <http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/vysledky-cinnosti-financniho-analytickeho>, visited in August 2013
- ⁶³ The question regarding the number of cases that lead to prosecution should be addressed to the Unit for Combating Corruption and Financial Criminality of the Police of the Czech Republic. In case of the number of convicted persons, the situation could be even more complicated. The question should be addressed to the Ministry of Justice. However, it is not very likely that such statistics are kept.
- ⁶⁴ According to the response in the questionnaire, a breakdown by countries is not processed.
- ⁶⁵ The number of requests for information from financial units abroad ranged between 142 and 191 in the past five years. In the same period, the number of requests for information by the Czech FIU ranged between 72 and 130 (source: FIU based on questionnaire).
- ⁶⁶ However, it is possible that a company with unregistered bearer shares will choose to move abroad rather than making their ownership more transparent. This company will still be eligible to compete for public procurements.
- ⁶⁷ Based on the Foreign Account Tax Compliance Act (FATCA) enacted in the USA in 2010.
- ⁶⁸ Government response to the questionnaire
- ⁶⁹ Ministerstvo zahraniční věci České republiky (2010): *Koncepce zahraniční rozvojové spolupráce České republiky na období 2010 – 2017*. Available at http://www.mzv.cz/jnp/cz/zahranicni_vztahy/rozvojova_spoluprace/koncepce_publikace/koncepce_zrs_cr_2010_2017.html, visited in August 2013
- ⁷⁰ Quote from response provided by the Ministry of Finance
- ⁷¹ Rekonstrukce státu (2013): *Zrušení anonymních akcií*. Available at http://www.rekonstrukcestatu.cz/publikace/final_fs_faq_aa.pdf, visited in August 2013.
- ⁷² Eurostat, 29 April 2013, News release, accessible at http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/2-29042013-CP/EN/2-29042013-CP-EN.PDF
- ⁷³ Ministry of Foreign Affairs of Denmark website, accessible at <http://um.dk/>
- ⁷⁴ Ugebrevet A4, 25 September 2013, *Danske Værdier i Skattely Slår rekord*, accessible at http://www.ugebreveta4.dk/da/2013/201339/Onsdag/danske_vaerdier_i_skattely_slaar_rekord.aspx
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- ⁷⁹ Jyllandsposten, 22 May 2013, *Thorning: Skattely skal sortlistes*, accessible at <http://jyllands-posten.dk/international/europa/ECE5504505/thorning-skattely-skal-sortlistes/>
- ⁸⁰ Ministry of Taxation in Denmark, accessible at <http://www.skat.dk/SKAT.aspx?old=69073>
- ⁸¹ Danmarks Radio, 21 October 2013, <http://www.HolgerK.com> om penge i Skattely: Det er tyveri, accessible at dr.dk/Nyheder/Politik/2013/10/21/210954.htm
- ⁸² European Commission (2012), *An Action Plan to strengthen the fight against tax fraud and tax evasion COM(2012) 722 final*, accessible at http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/com_2012_722_en.pdf
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- ⁸⁴ Politiken, 8 June 2013, *Pind Sender Bistand i Skattely*, accessible at <http://politiken.dk/indland/politik/ECE1302198/pind-sender-bistand-i-skattely/>

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- ⁸⁸ Hirvonen, Markku, Pekka Lith ja Risto Waden (2010), *Suomen kansainvälistyvä harmaa talous*, Eduskunnan tarkastusvaliokunnan julkaisu1/2010, accessible at <http://web.eduskunta.fi/dman/Document.phxdocumentId=so17210161302877&cmd=download>
- ⁸⁹ Parliament of Finland (2012), *Tarkastusvaliokunnan mietintö 4/2012 vp. Valtion tilinpäätöskertomus 2011*. The original report included a figure of €1.6 billion but this was later corrected to be a five-year estimate. (Helsingin Sanomat, 8 August 2012, *Veromenetyksistä uusi tulkinta*, accessible at <http://www.hs.fi/kotimaa/a1305590979631>)
- ⁹⁰ Eurostat (2013), *Eurostat News release: Taxation trends in the European Union*, 29 April 2013, accessible at http://ec.europa.eu/taxation_customs/taxation/gen_info/economic_analysis/tax_structures/
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- ⁹² Helsingin Sanomat, 22 May 2013, *Katainen: verokilpailun on oltava reilua*, accessible at <http://www.hs.fi/talous/Katainen+Verokilpailun+on+oltava+reilua/a1369189617069>
- ⁹³ For example, the Financial Transparency Index does not include Finland, accessible at www.financialsecrecyindex.com
- ⁹⁴ Financial Action Task Force (2007), *Third Mutual Evaluation Report of Finland: Anti-money laundering and Combating the Financing of Terrorism*, accessible at <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Finland%20full.pdf>
- ⁹⁵ Financial Action Task Force (2013), *Mutual Evaluation of Finland: 9th Follow-up report*, accessible at http://www.fatf-gafi.org/media/fatf/documents/reports/mer/Finland_FUR_2013.pdf
- ⁹⁶ Ibid
- ⁹⁷ Verohallinto, 1 November 2012, *Yhteisöjen ja yhteisötuksien tuloverotuksen julkisten tietojen luettelo 2011*, accessible at http://www.vero.fi/fi-FI/Tietoa_Verohallinnosta/Julkisuus_ja_tietosuojat/Verotuksen_julkiset_tiedot/Yhteisöjen_ja_yhteisötuksien_tuloverotu%2824348%29
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- ⁹⁹ More detailed information about companies' annual information return requirements: The Tax Administration: "How to file annual information returns – companies and organisations", accessible at http://www.vero.fi/en-US/Companies_and_organisations/Annual_Information_Returns
- ¹⁰⁰ The National Board of Patents and Registration in Finland, accessible at <http://www.prh.fi/en/kaupparekisteri.html>
- ¹⁰¹ Financial Action Task Force (2007), *Third Mutual Evaluation Report of Finland: Anti-money Laundering and Combating the Financing of Terrorism*, accessible at <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Finland%20full.pdf>
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- ¹⁰³ Ibid
- ¹⁰⁴ According to Finnish legislation, any crime – including tax evasion – can be a predicate offence of money laundering. Between the years 1994–2006, 64% of filed Money Laundering Suspicious Transaction Reports (STRs) related to economic crimes. The most common of these was tax fraud (39%). Source: FATF, 2007.
- ¹⁰⁵ Answers provided to questionnaire by the Ministry of Finance.
- ¹⁰⁶ Government source
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- ¹⁰⁸ Ibid
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- ¹¹¹ The Ministry for Foreign Affairs (MFA) claims to have recently increased cooperation with the Ministry of Finance and the tax administration as a key priority to take forward work against capital flight and to ensure better policy coherence for development. According to the MFA, cooperation between the ministries has increased at both political and civil servant levels. However, no such information is provided by the Ministry of Finance. Source: Answers provided to questionnaire.
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- ¹¹⁴ Oxfam (2013), *The True Cost of Austerity and Inequality: Case study France*, accessible at <http://www.oxfam.org/sites/www.oxfam.org/files/cs-true-cost-austerity-inequality-france-120913-en.pdf>
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- ¹¹⁷ Plateforme Paradis Fiscaux et Judiciaires, accessible at <http://www.stopparadisfiscaux.fr/>
- ¹¹⁸ CCFD Terre Solidaire (2013), *Aux Paradis des Impôts Perdus*, accessible at http://ccfd-terresolidaire.org/IMG/pdf/pf2013_210613.pdf
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- ¹²⁰ France 24, 19 March 2013, *French budget minister quits Swiss bank probe*, accessible at <http://www.france24.com/en/20130319-french-budget-minister-quits-swiss-bank-account-probe>
- ¹²¹ Cour des comptes (2012), TRACFIN et la lutte contre le blanchiment d'argent, February 2012.
- ¹²² <http://bofip.impots.gouv.fr/bofip/2510-PGP.html>
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- ¹³⁶ See more <http://www.oecd.org/tax/taxinspectors.htm>
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- ¹⁴² See for example atlatszo.hu/2012/08/06/magyar-offshore-vagyon-mennyi-az-annyi/ [Hungarian Offshore Wealth: How Much Is That in Reality?], available at: <http://atlatszo.hu/2012/08/06/magyar-offshore-vagyon-mennyi-az-annyi/>
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- ¹⁴⁵ See more <http://www.e-ceggyezek.hu>
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- ¹⁴⁷ Financial Secrecy Index 2011, available at: <http://www.financialsecrecyindex.com/2011results.html>
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- ¹⁴⁹ Barnes, S. and D. Smyth. (2013), *The Government's Balance Sheet after the Crisis*, Irish Fiscal Advisory Council
- ¹⁵⁰ OECD evaluation 2009, see www.dochas.ie/pages/resources/documents/OECD_Calls_on_Government_to_Meet_Aid_Target.pdf
- ¹⁵¹ One World, One Future – Ireland's Policy for International Development (2013)
- ¹⁵² Figure for 2011 published by Eurostat, 29 April 2013, sourced at http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/2-29042013-CP/EN/2-29042013-CP-EN.PDF
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- ¹⁵⁴ Social Justice Ireland Policy Briefing: Budget Choices, June 2013: 4.
- ¹⁵⁵ Stewart, J. (2013). *Is Ireland a Tax Haven?* IIS Discussion Paper No. 430. This range of incentives includes ease of incorporation for companies, relatively light touch regulation and tax and other legislation that is very responsive to the needs of multinational corporations.
- ¹⁵⁶ Minister for Finance, Budget 2014 – www.finance.gov.ie/documents/speech2013/spmn234.pdf
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- ¹⁵⁹ Minister for Finance, Budget 2014 – www.finance.gov.ie/documents/speech2013/spmn234.pdf
- ¹⁶⁰ This is where, for example, a US firm could establish two Irish subsidiaries, one incorporated in Ireland and managed and controlled in a no-tax location such as Bermuda, which in turns controls a second subsidiary incorporated and resident in Ireland. For more explanation, see Killian, S. (2011). *Driving the Getaway Car? Ireland, Tax and Development*.
- ¹⁶¹ ActionAid (2013), *Sweet nothings*, p. 17.
- ¹⁶² Christian Aid (2009), *False Profits*, p. 8.
- ¹⁶³ Stewart, J. (2013), *Low Tax Financial Centres and the Financial Crisis: The Case of the Irish Financial Services Centre*, IIS Discussion Paper, School of Business, Trinity College.
- ¹⁶⁴ See box 2 in this report
- ¹⁶⁵ The 2012 edition is due towards the end of 2013.
- ¹⁶⁶ See, for example, www.cro.ie/search/ListSubDocs.aspx?id=368047&type=C
- ¹⁶⁷ Response to questionnaire by government.
- ¹⁶⁸ The Minister further stated that "while I concur with the policy objective that beneficial owners of a company should be identifiable for the purposes of combating money laundering and terrorist financing, the Commission's proposals are currently under discussion in a Working Party of the EC...", Minister Noonan, PQ, oral answer on Tuesday, 2 July 2013.
- ¹⁶⁹ Ibid
- ¹⁷⁰ The words "trust" and "trustee" have the meanings assigned to them respectively by section 50 of the Trustee Act, 1893.
- ¹⁷¹ The Proceeds of Crime (Amendment) Act (2005) does provide for application to the court for disclosure of the identity of persons for whom property is held in trust, and under the Taxes Consolidation Act (1997), resident trustees can be obliged to give details of the name and address of every person in receipt of funds from the Trust (FAFT (2006) Summary of the Third Mutual Evaluation Report, February 2006, p. 8.).
- ¹⁷² CJA, Section 94. – (1).
- ¹⁷³ CJA, Section 104. – (1). The Minister shall establish and maintain a register of persons authorised under this Chapter to carry on business as a trust or company service provider containing— (a) the name and the address of the principal place of business of each person authorized to carry on business as a trust or company service provider, and (b) such other information as may be prescribed.
- ¹⁷⁴ See full list <http://www.amlcu.gov.ie/en/AML/TCSP%20Register%20August%202013.pdf> Files/TCSP%20Register%20August%202013.pdf
- ¹⁷⁵ MONEYVAL (2013), *Mutual Evaluation Report of Ireland: 11th follow up report*, accessible at <http://www.fatf-gafi.org/countries/d-i/ireland/documents/ireland-fur-2013.html>

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- ¹⁷⁷ *Ireland's International Tax Strategy*, Department of Finance, October 2013/9/10.
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- ¹⁷⁹ Including that "during Ireland's EU Presidency, a lot of progress was made on the issue of country-by-country reporting for international corporations and the extent of CBC reporting will now go beyond the traditional extractive industries and will be extended to the financial services sector" (Response to questionnaire)
- ¹⁸⁰ "In the event that the European Commission were to adopt a legislative proposal for an EU measure of the kind referred to ... [fuller country-by-country reporting for all large European companies], with an appropriate legal basis and supported by an impact assessment, the relevant Irish Authorities would deal with such a draft measure in the same manner as all other such Commission proposals", Minister Bruton, PQ written response, 11 June 2013 and also Department of Finance, October 2013, *Ireland's International Tax Strategy*, p. 4 and 12
- ¹⁸¹ Department of Finance, October 2013, *Ireland's International Tax Strategy*, p. 13
- ¹⁸² Department of Finance, October 2013, *Ireland's International Tax Strategy*
- ¹⁸³ Ireland signed the Foreign Account Tax Compliance Act in 2012
- ¹⁸⁴ Ireland has signed comprehensive double taxation agreements with 70 countries, of which 64 are in effect – <http://www.revenue.ie/en/practitioner/law/tax-treaties.html>
- ¹⁸⁵ Department of Foreign Affairs and Trade, Irish Aid (2013), *One World, One Future - Ireland's Policy for International Development*, p. 28, accessible at <http://reliefweb.int/sites/reliefweb.int/files/resources/one-world-one-future-irelands-new-policy.pdf>
- ¹⁸⁶ See more <http://www.ataftax.net/en/development-partners.html>
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- ¹⁸⁸ Il Messaggero online, 11 July 2013, Tasse, Italia ai vertici in Europa: pressione fiscale al 44%, accessible at http://www.ilmessaggero.it/economia/tasse_italia_ai_vertici_in_europa_pressione_fiscale_al_44/notizie/300578.shtml
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- ²⁸² Molengraaff Instituut voor Privaatrecht Multinational en Transparantie (Utrecht: Universiteit Utrecht, 2012, unpublished), p. 38.
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- ³⁰⁸ Act on the Prevention of Money Laundering and Terrorist Financing, 2007
- ³⁰⁹ Analysis of those transactions for the year 2012 can be seen on page 5
- ³¹⁰ Data shows that, in 2012, most of the transactions were carried out to Turkey (approximately 32%), Cyprus (25%), Panama (9%) and the British Virgin Islands (8%). Transactions to Turkey accounted for about €97 million, Cyprus approximately €134 million and to Panama about €27 million
- ³¹¹ MONEYVAL(2010), *Report on Fourth Assessment Visit: Anti-Money Laundering and Combating the Financing of Terrorism, Slovenia*, accessible at http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/MONEYVAL%282010%297_MERSLO_en.dw.pdf, p. 28
- ³¹² Companies (including banks, insurance companies, investment funds and cooperatives), sole proprietors, legal entities governed by public law, non-profit organisations and associations have to present their annual reports to AJPES. Annual reports intended for the public – except those of non-profit organisations – can be viewed without charge.
- ³¹³ AJPES (2013), *ePRS Business Register*, accessible at http://www.ajpes.si/Registers/ePRS_Business_Register
- ³¹⁴ Article 20 and paragraph 15 of Article 83
- ³¹⁵ Komisija za preprečevanje korupcije, 2013: 102
- ³¹⁶ Tax administration of the Republic of Slovenia response to Eurodad questionnaire, 2013
- ³¹⁷ Questionnaire to governments, 2013.
- ³¹⁸ Questionnaire to governments, 2013.
- ³¹⁹ European Commission
- ³²⁰ Active Population Survey
- ³²¹ In June of this year the debt amounted to more than 90% of GDP. €38 billion of the General State Budget for 2013 had to be reserved for the payment of interest. Additionally, Spain's private debt amounts to more than 300% of GDP (over 200% is private debt of non-financial institutions, companies, and families, and more than 100% is debt held by financial institutions).
- ³²² Annual report "International Strategy for the narcotics control" EEUU State Department.
- ³²³ The first list of tax havens was published in Spain in 1991 (Royal Decree 1080/1991) and the first law on certain money laundering protection measures was passed in 1993, evolving into the current law, 10/2010, on the prevention of money laundering and financing of terrorism. The countries on the tax haven list may have their names removed by signing a reciprocal information agreement with the Spanish government. These agreements are not made public/this is an ongoing process, which is why there is no updated, publicly-available list at this time.
- ³²⁴ In 2012, financial institutions sent 3,058 suspicious transaction notifications (2.8% more than the preceding year), of which only two were sent to the judicial authorities, four to the public prosecutor's anti-narcotics office and four to the public prosecutor's anti-corruption office.
- ³²⁵ At the same time, Directive 2011/16/EU was incorporated through Royal Decree 1558/2012 of 15 November. Under this Royal Decree, tax rules are adapted to community and international standards in the matter of mutual assistance; reporting obligations with regard to goods and rights located offshore are established; and it modifies the regulation on amicable procedures in matters of direct taxation approved by Royal Decree 1794/2008 of 3 November.
- ³²⁶ At this time, the government's agenda does not include arguing in favour of the United Nations Committee being provided with more resources or becoming inter-governmental, which does not mean that in the future it may not do so.
- ³²⁷ Council of the European Union, June 2010, *Council conclusions on tax and development - cooperating with developing countries in promoting good governance in tax matters*, accessible at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/115145.pdf
- ³²⁸ G20 (2010), *statement*, accessible at <http://www.g20.utoronto.ca/2010/g20seoul-development.pdf>
- ³²⁹ Spanish Treasury response to Eurodad questionnaire, 2013
- ³³⁰ Ministry of Foreign Affairs and Cooperation response to Eurodad questionnaire, 2013

- ³³¹ Eurostat (2013), *Taxation Trends in the European Union*, accessible at http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/economic_analysis/tax_structures/2013/report.pdf
- ³³² Invest in Stockholm online, *Sweden boosts foreign investments with low taxes*, accessible at <http://www.investstockholm.com/en/At-your-service/Stay-informed/Newsletter--Invest-in-Stockholm/Newsletter-archive/May-2013/Sweden-boosts-foreign-investments-with-low-taxes/>
- ³³³ See more <http://siguientecap.com/our-services/swedish-holding-companies/>
- ³³⁴ European Commission, 3 April 2013, Press release: *The European Commission calls on EU Member States to fulfil their commitments towards the world's poorest*, accessible at http://europa.eu/rapid/press-release_IP-13-299_en.htm
- ³³⁵ OECD newsroom, 3 April 2013, <http://www.oecd.org/newsroom/aidtopoorcountriesslipsfurtherasgovernmentstightenbudgets.htm>
- ³³⁶ Concord (2013), *AidWatch report 2013*, accessible at http://www.concord.se/wp-content/uploads/CONCORD_2013-AidWatch-Report.pdf
- ³³⁷ Skatteverket website <http://www.skatteverket.se/omskatteverket/omoss/beskattningsverksamheten/specialgranskningar/utlandstransaktioner.4.58a1634211f85df4dce800011401.html>
- ³³⁸ Skatteverket website <http://www.skatteverket.se/omskatteverket/press/pressmeddelanden/riks/2011/2011/alltflerredovisarinkomsterfranskatteparadis.5.5fc8c94513259a4ba1d800011225.html> and <http://www.skatteverket.se/omskatteverket/press/pressmeddelanden/riks/2012/2012/informationsavtaltecknatmedpanama.5.2b543913a42158acf800011112.html> and svt online, 17 February 2013, *Miljarder strömmar hem från skatteparadis*, accessible at <http://www.svt.se/agenda/miljarder-strommar-hem-fran-skatteparadis>
- ³³⁹ Expressen online, 22 March 2010, *Välfärdens vinster går till skatteparadis - som hårdgranskas*, accessible at <http://www.expressen.se/nyheter/dokument/valfardens-vinster-gar-till-skatteparadis---som-hardgranskas/>
- ³⁴⁰ Bra (2011), *Penningtvätt: Rapportering och hantering av misstänkta transaktioner*, accessible at http://www.bra.se/download/18.744c0a913040e4033180001703/1309524305762/2011_4_penningtvatt.pdf and svd online, 29 April 2011, *Polisen missar penningtvätten*, accessible online http://www.svd.se/naringsliv/polisen-missar-penningtvatten_6125033.svd
- ³⁴¹ Ministry of Finance in Sweden, 30 November 2012, *Uppdrag till Finansinspektionen m.fl. myndigheter att i samverkan ta fram en nationell riskbedömning avseende penningtvätt och finansiering av terrorism i Sverige*, accessible at <http://www.regeringen.se/sb/d/108/a/204977>
- ³⁴² See more <http://www.government.se/sb/d/3486/a/20746>
- ³⁴³ See more <http://www.bolagsverket.se/>
- ³⁴⁴ Ministry of Justice in Sweden, 16 June 2005, *Aktiebolagslag 2005:551*, accessible at http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Aktiebolagslag-2005551_sfs-2005-551/#K5
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- ³⁴⁶ Government response to questionnaire for this report
- ³⁴⁷ Government response to questionnaire for this report
- ³⁴⁸ Government response to questionnaire for this report
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- ³⁵⁰ Concord (2013), *Spotlight on Policy Coherence for Development*, accessible at <http://concordeurope.org/259-spotlight-on-eu-policy-coherence-for-development>
- ³⁵¹ HM Treasury, 16 October 2013, *Forecast for the UK economy October 2013*, accessible at <https://www.gov.uk/government/publications/forecasts-for-the-uk-economy-october-2013>
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- ³⁶⁰ Financial Secrecy Index 2013, accessible at <http://www.financialsecrecyindex.com/PDF/UnitedKingdom.pdf>
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- ³⁶² The Overseas Territories with large financial centres are Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Montserrat and Turks and Caicos. The Crown Dependencies are Jersey, Guernsey and the Isle of Man.
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- ³⁶⁷ Financial Services Authority (2011), *Banks' management of high money-laundering risk situations*, accessible at http://www.fsa.gov.uk/pubs/other/aml_final_report.pdf see also Global Witness (2012), *Briefing: How FATF can measure and promote an effective anti-money laundering system*, accessible at <http://www.globalwitness.org/sites/default/files/library/How%20FATF%20can%20measure%20and%20promote%20an%20effective%20anti-money%20laundering%20system.pdf> on the critique of the FATF methodology.
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- ³⁶⁹ See more http://ec.europa.eu/internal_market/company/docs/financial-crime/3rd-country-equivalence-list_en.pdf (NB. Gibraltar is part of the EU and so has applied the 3rd AMLD).
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- ³⁷² From Parliament.uk online, accessible at <http://www.parliament.uk/publications/parliament.uk/pa/cm201314/cmhansrd/cm130904/text/130904w0002.htm#1309054000592>

- ³⁷³ Many companies do not file documents. For further discussion on the implications of this, see <http://www.taxresearch.org.uk/Documents/500000Final.pdf>
- ³⁷⁴ There are also other companies that provide more streamlined access to companies' house data.
- ³⁷⁵ A consultation on how to implement this was being conducted at the time of writing
- ³⁷⁶ House of Commons, International Development Committee, Sixth Special Report of Session 2012/2013 "*Tax in Developing Countries: Increasing Resources for Development: Government Response to the Committee's Fourth Report of Session 2012-13*", accessible at <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmintdev/708/708.pdf>, para 12
- ³⁷⁷ From Parliament.uk online, accessible at <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130904/text/130904w0001.htm#1309053001077>
- ³⁷⁸ Findley, M. et al [year not available], *Global Shell Games: Testing Money Launderers' and Terrorist Financiers' Access to Shell Companies*, accessible at <http://www.griffith.edu.au/business-government/centre-governance-public-policy/research-publications/?a=454625>
- ³⁷⁹ Prime Minister David Cameron, 13 October 2013, Speech, available at <https://www.gov.uk/government/speeches/pm-speech-at-open-government-partnership-2013>
- ³⁸⁰ All G8 countries and Overseas Territories and Crown Dependencies have now published their action plans, whilst none have committed to public registers in their action plans several of the OTs and CDs have committed to consulting on the issue.
- ³⁸¹ From Parliament.uk online, accessible at <http://www.publications.parliament.uk/pa/cm201314/cmpublic/financeno2/130620/pm/130620s01.htm>
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- ³⁸³ See Reuters online, 11 April 2013, *Austria slams U.S., UK "tax havens" as EU turns up heat*, accessible at <http://uk.reuters.com/article/2013/04/11/uk-europe-finance/idUKBRE93A0T620130411>
- ³⁸⁴ See, for example, Prime Minister David Cameron's speech at the World Economic Forum in January 2013 - <https://www.gov.uk/government/speeches/prime-minister-david-camersons-speech-to-the-world-economic-forum-in-davos>
- ³⁸⁵ See footnote 4
- ³⁸⁶ From Parliament.uk online, accessible at <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmintdev/708/708.pdf>, para 4.
- ³⁸⁷ From Parliament.uk online, accessible at <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmintdev/708/708.pdf>, annex 1.
- ³⁸⁸ See, for example, <https://www.gov.uk/government/speeches/press-conference-prime-minister-at-end-of-g8-summit>
- ³⁸⁹ See Prime Ministers' Office, 7 June 2013, Guidance: G8 factsheet, accessible at <https://www.gov.uk/government/publications/g8-factsheet-tax/g8-factsheet-tax> where the aim is described only to 'explore' what can be done rather than specific actions.
- ³⁹⁰ From Parliament.uk online, accessible at <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130904/text/130904w0001.htm#1309053000983>
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- ³⁹² HM Treasury (2013), Budget 2013, accessible at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221885/budget2013_complete.pdf, 2.228
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- ³⁹⁴ See more <http://www.cdcgroup.com/>
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- ³⁹⁶ From Parliament.uk online, accessible at <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmintdev/708/708.pdf>, para 13
- ³⁹⁷ CDC, country-by-country data, accessible at http://www.cdcgroup.com/Documents/Transparency%20and%20reporting/CDC%20Group%20plc%20-%202013%2012%20country%20data_April%202013%20Publication.pdf
- ³⁹⁸ From Parliament.uk online, accessible at <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmintdev/607/60707.htm#a18>, para 55-60.
- ³⁹⁹ The Guardian online, 14 August 2013, *CDC used tax havens for almost 50% of aid investments, data reveals*, accessible at <http://www.theguardian.com/global-development/2013/aug/14/cdc-aid-tax-havens>
- ⁴⁰⁰ From Parliament.uk online, accessible at <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmintdev/708/708.pdf>, para 10

