



2022 Financing for Development Forum

Session on Building a fair and effective tax system and combating illicit financial flows

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27 April, 2022

Building a fair and effective tax system requires a reform of the international tax system. The current system that sees \$240 billion dollars of corporate tax revenue lost due to tax avoidance by MNEs. The past few years have seen discussions on reform of the global tax system come to the fore. Developing countries have, however, not been able to equally contribute to these discussions.

The current discussions are being spearheaded by the OECD IF, however, out of the 54 countries in Africa, only half of the countries in Africa are members, however, less than half of the African countries have adopted the IF outcome from October given that Nigeria and Kenya have still not endorsed the proposal. Meanwhile, for both groups, 100 per cent are members of the UN which we have argued should be the platform for discussions on tax and illicit financial flows. The blueprints that have been developed by the OECD IF are unlikely to deliver an outcome that is a substantial improvement on the existing framework, but rather, reinforces the current allocation of taxing rights between source and residence countries, penalising countries in the Global South.

Pillar One which is supposed to address the allocation of taxing rights between jurisdictions and considers various proposals for new profit allocation and nexus rules fails to come up with a comprehensive solution applicable to all MNEs. It only goes 'beyond' the arm's length principle which has been widely recognised as unfit for purpose for only for 25% of the residual profits of just 100 multinationals with gross revenues of more than Euros 20 billion thereby maintain the principle unchanged for almost all multinational profits.

Pillar Two calls for the development of a coordinated set of rules to address ongoing risks from structures that allow MNEs to shift profit to jurisdictions where they are subject to no or very low taxation. It seeks to address this through the introduction of a global minimum tax rate so that multinational companies are taxed at this rate despite setting up in low tax jurisdictions. Firstly, this only applies to MNEs with revenue above EUR 750 million maintaining the existing rules for all other MNEs. Secondly at 15% this rate does little to disincentive MNEs from shifting profits to low tax jurisdictions as the weighted average rate globally is 25%. Countries in the Global South, which rely relatively more on corporate tax income as a source of government revenues remain the main losers from profit shifting.



Further to this, the proposal results in reduced taxing rights for developing countries: The rules being proposed on implementation of a top-up tax are heavily residence state-dependent. This is because a rule such as the Income Inclusion Rule focuses on the topping up tax to the resident state where the parent company is resident.

Rules that allow some taxing rights for source states such as the Undertaxed Payments Rule is only supposed to be a backup when the IIR cannot apply. This focus on resident states continues to take away the taxing rights where the value is created. The only way to develop rules that are fair and equitable rules in the international system is by developing them in a truly inclusive framework.

We support the consistent calls by G77 and China for a universal intergovernmental tax body to be established at the UN. Further, the African Group at the UN in 2019 proposed a UN Tax Convention which the group believed that the group believed could help to tackle illicit financial flows.

As civil society we have followed up by publishing a proposal for a UN Tax Convention. A Framework Convention would be a legally binding document which allows governments to take a stepwise approach towards strengthening international cooperation and governance on tax and tax-related illicit financial flows.