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REPORT

on tax avoidance and tax evasion as challenges for governance, social protection and development in developing countries
(2015/2058(INI))

Committee on Development

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(*) Associated committee – Rule 54 of the Rules of Procedure

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(*) Associated committee – Rule 54 of the Rules of Procedure

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on tax avoidance and tax evasion as challenges for governance, social protection and development in developing countries (2015/2058(INI))

The European Parliament,

- having regard to the Declaration of Monterrey (2002), the Conference on Financing for Development in Doha (2008), the Paris Declaration (2005) and the Accra Agenda for Action (2008),
- having regard to UN General Assembly resolutions 68/204 and 68/279 on the Third International Conference on Financing for Development, to be held in Addis Ababa (Ethiopia) from 13 to 16 July 2015,
- having regard to the work of the UN Committee of Experts on International Cooperation in Tax Matters¹,
- having regard to the UN Model Double Taxation Convention between developed and developing countries²,
- having regard to the Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing³,
- having regard to the Commission communication of 21 April 2010 entitled ‘Tax and Development, Cooperating with Developing Countries on Promoting Good Governance in Tax Matters’ (COM(2010)0163),
- having regard to the Commission communication of 5 February 2015 entitled ‘A Global Partnership for Poverty Eradication and Sustainable Development after 2015’ (COM(2015)0044),
- having regard to the Commission communication of 18 March 2015 on tax transparency to fight tax evasion and avoidance (COM(2015)0136),
- having regard to its resolution of 21 May 2013 on the fight against tax fraud, tax evasion and tax havens⁴,
- having regard to its resolution of 8 March 2011 on tax and development – cooperating with developing countries on promoting good governance in tax matters⁵,

¹ <http://www.un.org/esa/ffd/tax/>

² <http://www.un.org/esa/ffd/tax/unmodel.htm>

³ OJ L 309, 25.11.2005, p. 15.

⁴ Texts adopted, P7_TA(2013)0205.

⁵ OJ C 199E, 7.7.2012, p. 37.

- having regard to its resolution of 10 February 2010 on promoting good governance in tax matters¹,
 - having regard to its resolution of 8 October 2013 on corruption in the public and private sectors: the impact on human rights in third countries²,
 - having regard to its resolution of 26 February 2014 on promoting development through responsible business practices, including the role of extractive industries in developing countries³,
 - having regard to its resolution of 25 November 2014 on the EU and the global development framework after 2015⁴,
 - having regard to its resolution of 13 March 2014 on the EU 2013 Report on Policy Coherence for Development⁵,
 - having regard to Article 208 TFEU, which establishes eradication of poverty as the primary objective of EU development policy and the principle of policy coherence for development,
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Development and the opinion of the Committee on Economic and Monetary Affairs (A8-0184/2015),
- A. whereas illicit financial flows (IFFs), i.e. all unrecorded private financial outflows involving capital that is illegally earned, transferred or utilised, typically originate from tax evasion and avoidance activities, such as abusive transfer pricing, against the principle that taxes should be paid where profits have been generated, and whereas tax evasion and avoidance have been identified as major obstacles to the mobilisation of domestic revenue for development by all major international texts and conferences on financing for development;
- B. whereas, according to the 2014 Global Financial Integrity Report, combined foreign direct investment (FDI) and official development assistance (ODA) between 2003 and 2012 represent slightly less than illicit outflows; whereas IFFs represent roughly ten times the amount of aid money received by developing countries that should be aimed at poverty eradication, welfare and sustainable development, representing an annual illicit capital flight from developing countries of an estimated USD 1 trillion;
- C. whereas the generation of public revenues from the extractive industries is essential to the development strategies of many developing countries, especially LDCs, but the potential offered by extractive industries to boost fiscal revenues is by and large not

¹ OJ C 341 E, 16.12.2010, p. 29.

² Texts adopted, P7_TA(2013)0394.

³ Texts adopted, P7_TA(2014)0163.

⁴ Texts adopted, P8_TA(2014)0059.

⁵ Texts adopted, P7_TA(2014)0251.

well exploited, owing to the inadequacy of tax rules or to difficulties in enforcing them, since arrangements between developing countries' governments and extracting companies are usually ad hoc and negotiated without transparency and clear guidelines;

- D. whereas the existence of large informal sectors in developing countries' economies makes broad-based taxation next to impossible, and whereas in countries where a large proportion of the population lives in poverty, a considerable share of GDP is not taxable;
- E. whereas fair, well-balanced, efficient and transparent tax regimes provide vital finance to governments to cover citizens' rights to basic public services, such as healthcare and education for all, and whereas effective redistributive fiscal policies contribute to decreasing the effect of growing inequalities on those who are most in need;
- F. whereas, according to UNCTAD, some 30 % of cross-border corporate investment stocks have been routed through conduit countries before reaching their destination as productive assets;
- G. whereas corporate tax revenues constitute a significant share of developing countries' national income, making them particularly affected by corporate tax avoidance, and in the past years developing countries have continually lowered corporate tax rates;
- H. whereas tax havens and secrecy jurisdictions that allow banking or financial information to be kept private, combined with 'zero-tax' regimes to attract capital and revenues that should have been taxed in other countries generate harmful tax competition, undermine the fairness of the tax system and distort trade and investment, particularly affecting developing countries, with a loss of an estimated USD 189 billion of tax revenue annually;
- I. whereas taxation can be a reliable and sustainable source of revenue in developing countries, and offers the advantage of stability in comparison with traditional development financing mechanisms like concessional loans, only if there is a fair, well-balanced, efficient and transparent taxation regime, an effective and efficient tax administration to promote tax compliance, and an accountable and responsible use of public revenue;
- J. whereas the potential benefits of effective and transparent taxation and fiscal policies go beyond the increase in available resources to foster development, and have a direct positive effect on good governance and state-building by strengthening democratic institutions, the rule of law, and the social contract between government and citizens, in order to create a reciprocal link between taxes, public and social services, and efforts to promote the stability of government budgets, thereby promoting long-term independence from foreign assistance and allowing developing countries to be responsive and accountable to national objectives and to assume ownership of their policy choices;
- K. whereas the need for an increase in domestic revenues has become more pressing in response to the financial and economic crisis;

- L. whereas the amount of resources raised by developing countries through domestic revenue mobilisation has been increasing steadily, and important progress has been made in this field with the aid of international donors;
- M. whereas developing countries face major political, administrative and technical constraints in raising tax revenues as a result of insufficient human and financial resources to collect taxes, weak administrative capacity to deal with the complexity of collecting taxes on transnational companies, lack of tax collection capacities and infrastructure, a drain of skilled personnel away from tax administrations, corruption, lack of legitimacy of the political system, lack of participation in international tax cooperation, and unfair distribution of revenues and poor tax governance;
- N. whereas while the current global context of trade liberalisation and the gradual removal of trade barriers over the past decades has increased the amount of cross-border-traded goods, it has also created difficulties for developing countries that rely heavily on taxes from trade, especially LDCs, in compensating for the decline in trade taxes and in shifting to other types of domestic resources, in particular a well-balanced tax mixture;
- O. whereas in recent years there has been a rise in the number of tax treaties between developed and developing countries that have been used to lower taxation in cross-border financial transfers, minimising developing countries' domestic resource mobilisation capacities and creating possible routes through which multinational companies may avoid taxation; whereas a recent impact assessment carried out by authorities in the Netherlands concluded that the Dutch tax system facilitated the avoidance of withholding tax, leading to foregone dividends and interest from withholding tax revenues in developing countries in the range EUR 150-550 million per year;¹
- P. whereas, comparatively speaking, developing countries raise substantially less revenue than advanced economies (with a tax-to-GDP ratio range of 10-20 %, as opposed to a range of 30-40 % for OECD economies) and are characterised by extremely narrow tax bases; whereas there is considerable potential for broadening tax bases and increasing the amount of tax revenues in order to provide the necessary means for essential governmental responsibilities;
- Q. whereas developing countries have been trying to attract investment mainly by offering various tax incentives and exemptions that are not transparent and not based on a proper cost-benefit analysis, often failing to attract real and sustainable investments, putting developing economies in competition against each other to offer the most favourable tax treatment, and leading to unsatisfactory outcomes in terms of effective and efficient tax systems and to harmful tax competition;
- R. whereas the Member States have already committed themselves to allocating 0.7 % of their GNI to ODA, and whereas the amount of aid in support of domestic resource mobilisation is still low – accounting for less than one percent of total ODA in 2011–

¹ 'Evaluation issues in financing for development Analysing effects of Dutch corporate tax policy on developing countries', Study commissioned by the Policy and Operations Evaluation Department (IOB) of the Ministry of Foreign Affairs of the Netherlands, November 2013

and only an estimated 0.1 percent (USD 118.4 million) of ODA was dedicated to capacity building in tax matters in 2012;

- S. whereas many developing countries cannot attain even the minimum tax level necessary to finance their basic functioning, their public services and their efforts to reduce poverty;
 - T. whereas the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD) and Member States' development finance institutions support private companies in developing countries directly by providing loans, or indirectly by supporting financial intermediaries such as commercial banks and private equity funds, which then on-lend to, or invest in, enterprises;
 - U. whereas developing countries should be better represented in the structures and procedures of international tax cooperation in order to participate on an equal footing in the formulation and reform of global tax policies;
 - V. whereas the Committee of Experts on International Cooperation in Tax Matters is a subsidiary body of the Economic and Social Council that pays special attention to developing countries and to countries with economies in transition;
 - W. whereas collecting sufficient levels of public finances can serve a decisive role in promoting more equitable societies that reject discrimination between men and women and that provide special support for children and other vulnerable groups;
1. Calls on the Commission promptly to put forward an ambitious action plan, in the form of a communication, to support developing countries fighting tax evasion and tax avoidance and to help them set up fair, well-balanced, efficient and transparent tax systems, taking into account the work undertaken by the Development Assistance Committee of the OECD in advance of the Financing for Development Conference in Addis Ababa, Ethiopia, to be held on 13-16 July 2015, and the impact of international tax treaties on developing countries;
 2. Insists that effective mobilisation of domestic resources and a strengthening of tax systems will be an indispensable factor in achieving the post-2015 framework that will replace the Millennium Development Goals (MDGs), which represents a viable strategy to overcome foreign aid dependency in the long term, and that efficient and fair tax systems are crucial for poverty eradication, fighting inequalities, good governance and state-building; recalls that certain transnational economic activities have affected the ability of countries to generate domestic government revenues and to choose their taxation structure, while the increased mobility of capital, combined with the use of tax havens, has greatly altered the conditions for taxation; expresses as well concerns about the level of corruption and non-transparent public administration that hinder tax revenues from being invested in state-building, public services or public infrastructure;
 3. Notes that tax resources remain low as a proportion of GDP in most developing countries, making them particularly vulnerable to the tax evasion and avoidance activities of individual taxpayers and companies; stresses that this represents a

considerable financial loss for developing countries that encourages corruption and harms EU development policy, and that taking appropriate measures at national, EU and international level against these practices should be a top priority for the EU and its Member States, taking into account the needs and constraints that developing countries face in gaining access to their tax revenues; considers that the EU should be taking a leading role in driving international efforts to combat tax havens, tax fraud and evasion, leading by example, and that it should cooperate with developing countries in counteracting aggressive tax avoidance practices by certain transnational companies, as well as in seeking ways to help them withstand pressures to engage in tax competition;

Action plan to combat tax avoidance and tax evasion in developing countries

4. Urges the Commission to take concrete and effective measures to support developing countries and regional tax administration frameworks, such as the African Tax Administration Forum and the Inter-American Centre of Tax Administrations, in the fight against tax evasion and tax avoidance, in developing fair, well-balanced, efficient and transparent tax policies, in promoting administrative reforms and in increasing the share, in terms of aid and development, of financial and technical assistance to the national tax administrations of developing countries; argues that this support should be provided to strengthen the judiciary and anti-corruption agencies in these countries; calls for the bringing together of public sector expertise from Member States and beneficiary countries with the aim of enhancing cooperative activities while yielding concrete preliminary results for beneficiary countries; supports the organisation of workshops, training sessions, expert missions, study visits and counselling;
5. Asks the Commission to give good governance in tax matters, and fair, well-balanced, efficient and transparent tax collection, a high place on the agenda in its policy dialogue (political, development and trade), and in all development cooperation agreements, with partner countries, enhancing ownership and domestic accountability by fostering an environment in which national parliaments are able to contribute meaningfully to the formulation and oversight of national budgets, including on domestic revenues and tax matters, and supporting the role of civil society in ensuring public scrutiny of tax governance and the monitoring of cases of tax fraud, inter alia by setting up effective systems for protecting whistleblowers and journalistic sources;
6. Calls urgently for information on beneficial ownership of companies, trusts and other institutions to be made publicly available in open-data formats in order to prevent anonymous shell companies and comparable legal entities from being used to launder money, finance illegal or terrorist activities, conceal the identity of corrupt and criminal individuals, and hide the theft of public funds and profits from illegal traffic and illegal tax evasion; believes, furthermore, that all countries should at minimum adopt and fully implement the Financial Action Task Force's (FAFT) anti-money laundering recommendations;
7. Calls on the EU and its Member States to enforce the principle that listed or unlisted multinational companies of all countries and sectors, and especially those companies extracting natural resources, must adopt country-by-country reporting (CBCR) as a standard, requiring them to publish, as part of their annual reporting and on a country-

by-country basis for each territory in which they operate, the names of all subsidiaries and their respective financial performance, relevant tax information, assets and number of employees, and to ensure that this information is made publicly available, while minimising administrative burdens by excluding micro-enterprises; calls on the Commission to put forward a legislative proposal to amend the Accounting Directive accordingly; recalls that public transparency is a vital step towards fixing the current tax system and building public trust; calls on the OECD to recommend that its proposed CBCR template should be made public by all multinational corporations (MNCs), to ensure that all tax authorities in all countries are able to access thorough information, allowing them to assess transfer pricing risks and determine the most effective way to deploy audit resources; underlines that tax exemptions and advantages granted to foreign investors through bilateral tax treaties provide MNCs with an unfair competitive advantage relative to domestic firms, especially SMEs;

8. Calls for the fiscal conditions and regulations under which extractive industries operate to be revised; calls on the EU to increase its assistance to developing countries in support of the aim of taxing adequately the extraction of natural resources, strengthening the bargaining position of host governments to obtain better returns from their natural resources base, and stimulating the diversification of their economy; supports the Extractive Industries Transparency Initiative (EITI) and its extension to producing firms and commodity trading companies;
9. Welcomes the adoption of an Automatic Exchange of Information mechanism, a fundamental tool for enhancing global transparency and cooperation in the fight against tax avoidance and tax evasion; acknowledges, however, that continuing support in terms of finance, technical expertise and time is needed to allow developing countries to build the required capacity to send and process information; stresses, therefore, the importance of ensuring that the new OECD Global Standard on Automatic Exchange of Information includes a transition period for developing countries, recognising that by making this standard reciprocal, those countries that do not have the resources and capacity to set up the necessary infrastructure to collect, manage and share the required information may effectively be excluded; considers, moreover, that a single standard on confidentiality should be envisaged;
10. Calls for the establishment, by the end of 2015, of an internationally agreed definition of tax havens, of penalties for operators making use of them and of a blacklist of countries, including those in the EU, that do not combat tax evasion or that accept it; calls on the EU to support the economic reconversion of those developing countries that serve as tax havens; asks those Member States with dependencies and territories that are not part of the Union to work with the administrations of these areas towards the adoption of the principles of tax transparency and to ensure that none serve as tax havens;
11. Calls on the European Union and its Member States to ensure that, when negotiating tax and investment treaties with developing countries, income or profits resulting from cross-border activities should be taxed in the source country where value is extracted or created; stresses, in this regard, that the UN Model Tax Convention ensures a fair distribution of taxing rights between source and residence countries; stresses that when negotiating tax treaties, the European Union and its Member States should comply with

the principle of policy coherence for development established in Article 208 TFEU;

12. Urges the Commission and all Member States, following the example of some Member States, to conduct impact assessments of European tax policies on developing countries, and to share 'best practices', in order to strengthen policy coherence for development and improve current practices, and to take better into account negative spill-overs on developing countries and the special needs of those countries; welcomes, in this context, the Commission's revised Action Plan on tax evasion and tax avoidance, to be presented in 2015, and urges the Member States to agree swiftly on a Common Consolidated Corporate Tax Base;
13. Strongly supports the range of existing international initiatives to reform the global system, including the OECD Base Erosion and Profit Shifting (BEPS) initiative, with a focus on the increased participation of developing countries in the structures and procedures of international tax cooperation; urges the EU and the Member States to ensure that the UN taxation committee is transformed into a genuine intergovernmental body, better equipped and with sufficient additional resources, inside the framework of the UN Economic and Social Council, ensuring that all countries can participate on an equal footing in the formulation and reform of global tax policies; stresses that sanctions should be considered both for non-cooperative jurisdictions and for financial institutions that operate within tax havens;
14. Stresses that sufficient levels of public finance can contribute to rebalancing gender inequality and provide means to support children and vulnerable groups in society in better ways, and recognises that while tax evasion has an impact on the welfare of individuals, it is especially damaging to poor and lower- income households, in many of which women are disproportionately represented;
15. Notes with concern that many developing countries find themselves in a very weak bargaining position in the face of some foreign direct investors; takes the view that companies should be required to make precise commitments in terms of the positive spillover effect of their investments on the local and/or national socio-economic development of the host country; calls on the Commission and the Council, and on partner governments, to ensure that tax incentives do not constitute additional options for tax avoidance; underlines that incentives should be made more transparent and, ideally, geared towards promoting investment in sustainable development;
16. Calls on the EIB and the EBRD, and on Member States' development finance institutions, to monitor and ensure that companies or other legal entities that receive support do not participate in tax evasion and avoidance by interacting with financial intermediaries established in offshore centres and tax havens, or by facilitating illicit capital flows, and to increase their transparency policies by, for example, making all of their reports and investigations publicly available; calls on the EIB to apply 'due diligence', requiring annual country-by-country reporting, tracing beneficial ownership and controlling transfer pricing in order to ensure the transparency of investments and prevent tax evasion and tax avoidance;
17. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

I. Understanding revenue mobilisation of domestic resources in developing countries

Why is revenue mobilisation important?

Domestic resources are and will continue to be the largest source of financing for developing countries. Though they have been growing as share of GDP over the last decade, the average **tax-to-GDP ratio** in developing countries is still too low: in comparative perspective, developing countries raise substantially less revenue than advanced economies. The tax-to-GDP ratio in low-income countries (LICs) is between 10% and 20%, and in many such countries it is less than 15% (this is generally considered the threshold below which governments find it hard to finance their basic functioning and services). For OECD economies, it is in the range of 30-40%. Experts agree that there is considerable potential to increase tax collection: calculations by Oxfam in 52 developing countries showed that an additional 269 billion USD could be mobilised to finance public services if tax collection were significantly improved. It is therefore essential to ensure that domestic tax collection becomes more predictable, stable and robust, and that all parts of society - individuals and companies - pay according to their means.

What are the problems with existing systems?

- **Trade:** In developing countries, a disproportionate share of public resources come from trade, which is easy to tax but exposes budgets to volatile commodity prices and does not provide enough scope for expanding tax revenue. Developing countries are having difficulties in compensating for the decline in trade taxes resulting from the current global context of trade liberalisation, and in shifting to other types of domestic resources.
- **Informality:** Informality represents a constraint to revenue mobilisation, particularly in developing countries where it is a widespread phenomenon both in urban and in rural areas. The administrative costs of reaching the informal sector are potentially high, since by its nature it falls under the radar of tax officials, and having a large informal sector makes broad-based taxation of income next to impossible.
- **Political constraints:** Socio-economic interest groups are likely to lobby governments to obtain fiscal benefits and to exert continuous influence on officials working in tax policy and administration, thereby promoting corruption.
- **Administrative constraints:** Tax administrations have varying capabilities when it comes to enforcing law and ensuring compliance. Especially when countries need to impose taxes on multinational corporations (MNCs), the complexity of the challenge poses a serious obstacle to developing countries. The drain of skilled personnel away from tax administrations towards international organisations and private-sector firms, the lack of tax collection infrastructure, and the need to update IT systems are further examples of the challenges that face developing countries.

- **Economic constraints:** Developing countries can often count on only a small tax base. In countries where a large proportion of the population lives in poverty, a considerable share of GDP is not taxable. Due to low economic development, the industrial sector is typically underdeveloped while the agricultural sector is large, and taxes from the former are usually easier to collect.
- **Race to the bottom:** In recent years governments of developing countries have continually lowered corporate tax rates, and have offered various tax incentives and exemptions with the aim of attracting investors and fostering economic growth. However, evidence shows that these incentives are not an important driver of foreign investment. Such practices therefore put economies against each other, competing to offer the most favourable tax treatment. This ‘race to the bottom’ brings greater benefit to MNCs than to developing countries.
- **Extractive industries:** Issues related to how resource revenue is shared between investors and governments are crucial for developing countries. The fiscal treatment of mining investments varies widely across countries, and arrangements are often ad hoc and not very transparent, negotiated directly between politicians and companies outside the tax system and without clear guidelines. There is a high potential for corruption and for a lower share of revenue.

What are the consequences?

Illicit financial flows (IFFs) represent all unrecorded private financial outflows involving capital that is illegally earned, transferred or utilised. In 2011, domestic resources lost by developing countries to IFFs added up to over 630 billion USD, equivalent to 4.3% of developing country GDP (with LICs being particularly affected). Illicit flows are only one way that developing countries lose out on tax revenues from corporations. Abusive tax avoidance - where companies try to dodge taxes through complex internal structures and by finding loopholes in tax laws - is another significant problem. Taxes on corporate profits have been declining across the world. This affects developing countries in particular because they are **highly dependent on corporate taxation**: corporate tax revenues constitute a significant share of their national income.

Literature and data on this topic are scarce, and this is partly due to the fact that the extent of tax evasion and avoidance is hard to measure. Broadly, ONE estimate that at least 1 trillion USD is taken out of developing countries each year through a web of corrupt activity involving opaque deals for natural resources, the use of anonymous shell companies, money laundering, and illegal tax evasion. Global Financial Integrity have estimated that the developing world lost 6.6 trillion USD as a result of illicit financial flows from 2003 to 2012. Oxfam reported that the amount of unpaid tax liability faced by companies in developing countries is estimated at \$104 billion USD per year. Actionaid have estimated that the typical corporate tax gap in developing countries (the difference between the actual tax collected and expected tax collected), due to tax avoidance and evasion, is around 20 %.

Relevant modes of tax evasion in developing countries:

- **Misreporting and non-declaration** of personal income or corporate profits to circumvent direct income taxation or tax obligations.
- **Trade mispricing** through faked invoices between colluding exporters and importers serves as a common way to transfer money illegally from developing countries to financial accounts abroad, with the purpose of evading taxes.
- **VAT fraud**, which involves making false statements about business transactions subject to VAT.
- **Bribery** of tax officials.

Relevant modes of tax avoidance in developing countries:

- **Profit shifting**: refers to the legal exploitation of loopholes in the legislative tax code. Typically, subsidiaries of MNCs are treated as separate entities by tax authorities. Profit shifting can be achieved by manipulating transfer prices or exploiting intra-group loans. Apart from that, MNCs can distort transfer prices to reduce the group's overall tax burden by manipulating the allocation of profits in particular high- and low-tax jurisdictions.
- The deliberate **choice of location for certain intangible assets** (patents, trademarks and copyrights) offers MNCs an opportunity to optimise their overall tax liability within the legal framework.
- **Tax incentives and exemptions** are, under certain circumstances (nepotism, corruption, low transparency) 'tax evasion with an official stamp on it'. Tax incentives can not only enable foreign firms to avoid taxation, but can give rise to domestic companies' illegal tax evasion activities, by re-labelling domestic investments as FDI ('round-tripping') or selling businesses to subsidiaries disguised as new investors as a means to become eligible for tax holidays that are exclusively granted to new investors ('double-dipping').

II. Analysing existing solutions at a global level

Tax treaties between developed and developing countries

Lost tax revenues can also be exacerbated by tax treaties, a key part of international tax regulation. Aiming at avoiding double-taxation, bilateral treaties allocate taxing rights between the two signing countries. As regards bilateral tax treaties between developed and developing countries, there is a general concern that developed countries manage to protect their interests better than developing countries. Secondly, because tax treaties have been used to lower taxation in cross-border financial transfers, they have become a key tool for transnational enterprises shifting their profits out of the countries where the profits have been earned, to jurisdictions where MNCs can pay little or no taxes.

Most of the world's tax treaties are based on the OECD Model Tax Convention, which sets a framework for how to divide taxing rights between governments for companies that are based in one country (the residence country, most often a developed country) and operating in another country (the source country, often a developing country). Since the OECD Model Tax Convention was seen as favouring residence countries (i.e. OECD countries), another Model

Tax Convention was developed under the auspices of the UN, to ensure a more balanced approach to the allocation of taxing rights. However, many developed countries still insist on using the OECD Model when negotiating with developing countries.

Action at the global level: the OECD - BEPS Action Plan

The Action Plan on Base Erosion and Profit Shifting (BEPS) proposed by the OECD and approved by the G20 seeks to redefine international tax rules to curb profit-shifting activity, and ensure that companies pay taxes where economic activity takes place and value is created. Given the heavy dependence of developing countries on corporate taxation, the process could be highly beneficial to them. However, there are several reasons why this process, in its current state, will not deliver an outcome that leads to more progressive tax systems worldwide, or will not benefit developing countries:

- BEPS is **too narrow in scope**, and concentrates too heavily on rich country interests (OECD members). Its 15-actions plan fails to address a number of their key concerns (the problem of tax incentives for example) and progress on the actions most relevant to developing countries is still slow.
- Being **designed especially for developed countries**, developing countries lack the necessary legislative measures needed to address base erosion and profit shifting. They face difficulties in building the capacity needed to implement highly complex rules and to challenge MNCs, and their action is often hindered by a lack of information.

In terms of **governance**, the OECD is only accountable to its members, and the BEPS process fails to ensure appropriate representation and accountability. Developing countries have been consulted, but consultations on the side-lines cannot compensate for the lack of opportunity to participate on an equal footing.

The need for an Action plan in the fight against tax avoidance and tax evasion in developing countries

Given the importance of better mobilisation of domestic resources and the problems that developing countries face in tackling tax evasion and tax avoidance, the rapporteur suggests a list of strong recommendations that the EP should support, in view of the FfD Conference to be held in Addis Ababa and the range of existing international initiatives to reform the global tax system.

Among them, strengthening financial and technical assistance to developing countries and regional tax administration frameworks; the adoption of strong solutions to enhance transparency and cooperation in the fight against tax dodging, such as an Automatic Exchange of Information mechanism and country-by-country reporting, taking into consideration developing countries needs and constraints; the conduction at EU and Member States' level of an impact assessment of tax policies on developing countries; the preservation of source countries' taxation rights when negotiating tax treaties and the creation of a truly intergovernmental body where developing countries could participate on an equal footing in the global reform of existing international tax rules.

8.5.2015

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS(*)

for the Committee on Development

on tax evasion and tax fraud: challenges for governance, social protection and development in developing countries
(2015/2058(INI))

Rapporteur (*): Hugues Bayet

(*) Associated committees – Rule 54 of the Rules of Procedure

SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Development, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Reiterates the pressing necessity, for developing and developed countries alike, of taxing profits where the economic activities take place; stresses that this is also the case when negotiating tax treaties with developing countries;
2. Welcomes the efforts already made, in particular within the framework of the OECD, to support developing countries in strengthening their tax systems and fighting tax fraud, tax evasion and illicit financial flows;
3. Expresses concerns about the level of corruption and non-transparent public administration in many developing countries, which hinders tax revenues from being invested in state-building, public services or public infrastructure;
4. Calls on the Member States to agree swiftly to a Common Consolidated Corporate Tax Base (CCCTB), which would initially be compulsory for European companies and European cooperative societies, and subsequently for all other companies except micro, small and medium-sized enterprises, as provided for in Parliament's legislative resolution of 19 April 2012 on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB)¹;
5. Reiterates the need to draw up a blacklist of tax havens and countries that distort

¹ OJ C 258 E, 7.9.2013, p. 134.

competition through favourable tax conditions, including those in the EU, by the end of 2015; takes the view that the definition of tax havens should at least include the criteria set out by the OECD, together with the following: ‘provision for tax measures which entail no or nominal taxes, a lack of effective exchange of information with foreign tax authorities and a lack of transparency in legislative, legal or administrative provisions, or where advantages are granted even without any real economic activity or a substantial economic presence within the country offering such tax advantages’; calls, furthermore, for a definition to be formulated at an international level (e.g. the United Nations);

6. Asks those Member States with dependencies and territories which are not part of the Union to work with them towards the adoption of tax transparency principles and to ensure that they do not serve as tax havens;
7. Calls on the Commission to set up a programme, similar to Fiscalis and Hercules, to assist developing countries in building capacity to combat tax fraud, corruption, tax evasion and aggressive tax planning, which should include, in particular, technical assistance for human resources training and the development of administrative structures; stresses the need for such assistance to be provided in a transparent manner;
8. Calls on the Commission to develop further initiatives to promote good governance in tax matters in third countries, to tackle aggressive tax planning, to address double (non-) taxation gaps and to combat artificial tax arrangements; states that double (non-) taxation agreements between Member States and third countries must be based on common standards; insists that no double (non-) taxation agreements should be entered into with tax havens or non-cooperative jurisdictions;
9. Calls on EU bodies not to cooperate with those jurisdictions that have been deemed to be uncooperative on tax matters, or with companies convicted of tax fraud, tax evasion or aggressive tax planning, for instance by ensuring that institutions such as the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD) no longer cooperate, through their financial intermediaries, with non-cooperative tax jurisdictions which provide for tax measures that entail no or nominal taxes, a lack of effective exchange of information with foreign tax authorities and a lack of transparency in legislative, legal or administrative provisions, and by committing not to grant EU funding to companies convicted of tax fraud, tax evasion or aggressive tax planning;
10. Recalls the pledge by the Member States, in the context of the Millennium Development Goals, to allocate as quickly as possible 0.7 % of their GDP to official development assistance;
11. Asks the Commission to cooperate fully with the OECD, the G20 and developing countries to address base erosion and profit-shifting (BEPS) and to report regularly to Parliament and the Council on the progress made; welcomes the upcoming 2015 revised Commission Action Plan on tax evasion and tax avoidance, and calls on the Commission to come forward with an EU anti-BEPS directive;
12. Calls for pilot projects on the automatic exchange of tax information with developing countries to be implemented for a transitional, non-reciprocal period as part of the implementation of the new global standard;

13. Calls on the Commission, furthermore, to propose changes to EU company law to effectively ban shell companies and similar entities by introducing, for example, substance requirements and limitation of multiple directorships;
14. Welcomes the OECD's Tax Inspectors Without Borders initiative, and calls on the Commission and the Member States to participate in the project;
15. Stresses the urgent need for a study on the impact of international tax treaties, and a 'spillover analysis' of the impact of Member States' corporate tax regimes and their bilateral tax treaties with developing countries, based on the principles and methodology of studies previously carried out by the International Monetary Fund; calls, also, for an impact assessment of national tax policies and of special-purpose entities and similar legal structures;
16. Calls on OECD member countries to draw up a code of conduct for their governments in order to ensure that tax systems are managed efficiently, based on a review of the work of the EU's existing Code of Conduct Group (Business Taxation);
17. Emphasises that the scope for creative tax planning for undertakings can be curtailed, for example by imposing binding global standards, with the result that practices such as profit-shifting and artificial profit reduction will no longer be worthwhile;
18. Calls on all the Member States to lend their support to the inclusion of the fight against tax fraud in the Post-2015 Development Agenda;
19. Calls on the Member States to advocate mandatory, automatic exchanges of information between national tax authorities throughout the world;
20. Calls for the EU and its Member States to enforce the principle that multinational companies must adopt country-by-country reporting as standard in all sectors and in all countries (to be published as part of their annual report), yet at the same time to minimise administrative burdens by excluding SMEs;
21. Calls for the establishment of an intergovernmental tax body under the auspices of the United Nations with the aim of ensuring that developing countries can participate on an equal footing in the formulation and reform of global tax policies;
22. Calls for the swift implementation of the Anti-Money Laundering Directive (AMLD) and the Funds Transfers Regulation; considers, however, that there is still room for improvement, and urges Member States to take advantage of the available flexibility, as provided for in the AMLD in particular, for the use of unrestricted public registers which allow access to relevant ownership information in respect of companies, trusts, foundations and other legal entities;
23. Welcomes the fact that the Commission Transparency Package included a commitment to conducting an impact assessment of the possibility of making country-by-country reporting public for all economic sectors; stresses the need to look at the costs of making country-by-country reporting public, but also at the benefits for European and developing countries; recalls that public transparency is a vital step towards fixing the current tax

system and building public trust; strongly encourages the Commission to ensure that this information is publicly available.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	6.5.2015
Result of final vote	+: 43 -: 2 0: 5
Members present for the final vote	Burkhard Balz, Hugues Bayet, Pervenche Berès, Esther de Lange, Fabio De Masi, Markus Ferber, Jonás Fernández, Sven Giegold, Neena Gill, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Cătălin Sorin Ivan, Petr Ježek, Othmar Karas, Georgios Kyrtos, Alain Lamassoure, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Fulvio Martusciello, Marisa Matias, Costas Mavrides, Bernard Monot, Luděk Niedermayer, Stanisław Ożóg, Dimitrios Papadimoulis, Dariusz Rosati, Alfred Sant, Molly Scott Cato, Peter Simon, Theodor Dumitru Stolojan, Paul Tang, Michael Theurer, Ramon Tremosa i Balcells, Marco Valli, Tom Vandenkendelaere, Cora van Nieuwenhuizen, Miguel Viegas, Jakob von Weizsäcker, Marco Zanni
Substitutes present for the final vote	Isabella De Monte, Marian Harkin, Eva Joly, Eva Kaili, Barbara Kappel, Verónica Lope Fontagné, Jacek Saryusz-Wolski, Romana Tomc, Beatrix von Storch

ROLL CALL FOR FINAL VOTE

Members in favour: 24	PPE: Teresa Jiménez-Becerril Barrio, Maurice Ponga, Cristian Dan Preda, Paul Rübig, Davor Ivo Stier, Bogdan Brunon Wenta, Rainer Wieland, Anna Záborská S-D: Enrique Guerrero Salom, Arne Lietz, Louis-Joseph Manscour, Linda McAvan, Norbert Neuser, Elly Schlein, Pedro Silva Pereira ECR: Bernd Lucke ALDE: Beatriz Becerra Basterrechea, Charles Goerens, Paavo Väyrynen GUE/NGL: Dennis De Jong, Miguel Urbán Crespo Verts/ALE: Heidi Hautala, Maria Heubuch EFDD: Ignazio Corrao
Members against: 0	
Members abstained: 0	

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	1.6.2015
Result of final vote	+: 24 -: 0 0: 0
Members present for the final vote	Beatriz Becerra Basterrechea, Ignazio Corrao, Charles Goerens, Enrique Guerrero Salom, Heidi Hautala, Maria Heubuch, Teresa Jiménez-Becerril Barrio, Arne Lietz, Linda McAvan, Norbert Neuser, Maurice Ponga, Cristian Dan Preda, Elly Schlein, Pedro Silva Pereira, Davor Ivo Stier, Paavo Väyrynen, Bogdan Brunon Wenta, Rainer Wieland, Anna Záborská
Substitutes present for the final vote	Bernd Lucke, Louis-Joseph Manscour, Paul Rübig
Substitutes under Rule 200(2) present for the final vote	Miguel Urbán Crespo, Dennis de Jong