

FACTI-Panel position note

On behalf of several Norwegian civil society organizations, we would like to present the following topics to the panel's attention. We thank the panel for the opportunity to contribute to your process and hope you will find our input valuable. We hope the panel will continue its good dialogue with civil society for the remainder of this process.

True participation

The institutional architecture governing issues such as transparency, tax, anti-corruption, and money-laundering is very fragmented over multiple international institutions. This is a problem in itself for developing coherent policies across these topics. Furthermore, developing countries are systematically under-represented in these bodies which means that issues and solutions addressing poor countries and poor people's concerns remain largely unaddressed.

One example is the negotiating of global tax reforms currently taking place through the OECD and the Global Forum. We need a truly global platform for international tax matters and call for the establishment of an intergovernmental UN-body on tax. We ask the panel to consider if a UN-convention could be a way to work toward international consensus on this and other issues in an inclusive manner.

On defining illicit financial flows

In recent years, there has been international pressure to limit the work on illicit financial flows strictly to a focus on money laundering, corruption, and other financial crimes, and largely defining out the challenges associated with tax evasion and profit shifting by multinational corporations. This is in our view a mistake. While different uses and abuses of tax havens require different targeted measures, they are interlinked and it is crucial that these efforts are conducted within a policy framework that views them as such. Financial crime and tax avoidance have similar enabling factors in the current financial and legal international structure, and they also have similar negative effects on the state finances, possibilities for economic development and equality.

Unitary taxation

It has been pointed out by many, including the IMF, the UN, and the OECD, that today's tax system relying on transfer-pricing is ill-suited to the modern global economy. It is clear that major reforms are needed. It is our position that unitary principles of taxation using formulary apportionment and with a minimum global tax rate should be adopted. We encourage the panel to consider such a policy.

Country by country reporting

Country-by-country reporting, where companies report on how much and where they have earnings and pay taxes, is widely acknowledged as one of the most important tools with which to tackle profit shifting. Such CBCR is now implemented as an OECD-standard, but developing countries have very limited real opportunities to access this information, as it is reported from companies headquartered in rich countries, to tax authorities in the same countries. Developing countries do in theory have access, but requesting this access represents a major bureaucratic obstacle. In any case, the CBCR

data cannot be considered confidential information in any respect, and should be made accessible for the public, the press, civil society actors etc. Public CBCR-reporting has been successfully implemented in certain sectors and jurisdictions already, for example for the EU banking sector and the Norwegian extractive industry. The panel should consider advancing public CBCR as a general international standard for financial and tax transparency.

Beneficiary Ownership

It is a very important step towards more financial transparency that many countries now support the principle that information about the physical persons who control and own companies should not only be reported to the authorities, but also be available in public records. Nevertheless, we see that such registers have not yet come into place in most countries. The panel should consider how the public beneficial ownership registries can more effectively be implemented at a faster pace, and which measures will ensure that the quality of the registries are sufficient.

Automatic tax information exchange

Automatic exchange of information between countries is a very important tool for tax authorities. However, not all developing countries receive this information. Here, the panel must consider how developing countries, who do not have the capacity to submit such information according to OECD standards, can still receive information from tax authorities in other countries. Both in the form of information about individuals and country-by-country reports.

Today, the effectiveness of information exchange agreements is difficult to evaluate for researchers, journalists and civil society. Some countries and subnational regions have chosen to publish macro data from these exchanges, such as Argentina, but this kind of transparency is rare. The panel should consider whether it should be a requirement that all countries publish macro data, enabling more public scrutiny of the informational exchange agreements. This transparency over time could also greatly aid the evaluation of the effectiveness of other AML and anti-avoidance policies on financial flows to and from various jurisdictions.

Multi-donor funds

Donors are increasingly relying on multi-partner funds for delivering results on challenging development and humanitarian issues and in difficult situations. Such funds are therefore growing in number and sophistication in delivery mechanisms. This provides new options for reaching targets, but also poses new risks that donors may not fully grasp. A fundamental concern is achieving a shared understanding of risk appetite and risk sharing between the stakeholders.

<https://www.u4.no/publications/addressing-corruption-risks-in-multi-partner-funds>

International anti-corruption court

Impunity and the transnational nature of corruption have led to calls for an international anti-corruption court that could hold kleptocrats accountable and spur governments to improve national justice systems. But there are concerns that such a court is not politically feasible, that pressuring countries to join it would do more harm than good, and that the court would not be sufficiently effective in combating grand corruption to justify its costs.

<https://www.u4.no/publications/an-international-anti-corruption-court-a-synopsis-of-the-debate>

Tax-evasion and aid

There is a concern that a percentage of foreign aid is captured by elites. The link below presents a World Bank paper that highlights how aid disbursements to highly aid-dependent countries coincide with sharp increases in bank deposits in offshore financial centers known for bank secrecy and private wealth management, but not in other financial centers. The paper also shows that estimates are not confounded by contemporaneous shocks such as civil conflicts, natural disasters, and financial crises, and are robust to instrumenting with predetermined aid commitments. The issue accounts for a substantial amount of aid, with the paper suggesting an implied leakage rate of around 7.5 percent at the sample mean. Furthermore, the paper shows how the leakage rate tends to increase with the ratio of aid to GDP. These findings are consistent with aid capture in the most aid-dependent countries.

<http://documents.worldbank.org/curated/en/493201582052636710/Elite-Capture-of-Foreign-Aid-Evidence-from-Offshore-Bank-Accounts>

Transparency for tax advisors

All major document leaks from tax havens (Panama Papers, Lux Leaks, Paradise papers) have their origins from accountancy or law offices. The EU and the OECD have called for measures to ensure that tax advisors (accountants, lawyers etc.) report their tax schemes to their governments. This is an important development, acknowledging the role of tax advisors as architects behind the tax dodging schemes. However, as these standards are being implemented, we see that law firms are being exempted from reporting due to their historic client confidentiality privileges. These privileges are being exploited as a competitive advantage for law firms in the tax advising industry. The panel should consider recommending that the legal profession not be exempt from reporting.

Other comments

TI Norway would like to endorse the summary of the FACTI-meeting with CSOs on 28 April, where we were represented by our Interim Executive Director, Daniel Eriksson from the secretariat of Transparency International (Berlin).

We also endorse the statement made by the Civil Society for Financing for Development Group to the FACTI-panel at the global town hall meeting for Civil Society. We also point to the letter sent by the Financial Transparency Coalition.

Signatories:

The Norwegian Forum for Development and Environment

Tax Justice Network Norway

Transparency International Norway

Save the Children Norway

Norwegian Church Aid

Attac Norway

The Norwegian Council for Africa

Changemaker Norway