

ICRICT 

Independent Commission for the Reform
of International Corporate Taxation

THE FIGHT AGAINST TAX AVOIDANCE

BEPS 2.0 : What the OECD BEPS
Process has achieved and what real
reform should look like

ABOUT ICRICT

The Independent Commission for the Reform of International Corporate Taxation aims to promote the international corporate tax reform debate through a wider and more inclusive discussion of international tax rules than is possible through any other existing forum; to consider reforms from a perspective of public interest rather than national advantage; and to seek fair, effective and sustainable tax solutions for development.

ICRICT has been established by a broad coalition of civil society and labor organizations including ActionAid, Alliance-Sud, the Arab NGO Network for Development, the Center for Economic and Social Rights, Christian Aid, the Global Alliance for Tax Justice, Oxfam, Public Services International, South Centre, Tax Justice Network and the World Council of Churches. ICRICT is supported by Friedrich-Ebert-Stiftung, The Joffe Charitable Trust and The American Assembly.

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EXECUTIVE SUMMARY

By failing to collect the revenue that is being lost through tax avoidance schemes by multinationals, governments are failing in their obligation to mobilise all available resources towards the realisation of human rights and the sustainable development goals (SDGs) and thereby condemning millions of people across the developing world to poverty, lack of opportunity and lower living standards.

The current system encourages a race to the bottom in tax rates and incentives and permits multimillionaires and multinationals to hold 10% of global GDP untaxed and inaccessible to authorities in tax havens.

The OECD work on Base Erosion and Profit Shifting is at a critical juncture. While it has proposed helpful solutions for some of the most egregious tax avoidance mechanisms, it has failed to deal with the core mechanisms of tax avoidance: the transfer pricing system and other tax avoidance mechanisms (such as the Patent Boxes) remain available to multinationals and have in a sense been legitimised by the Base Erosion and Profit Shifting (BEPS) process.

The OECD's ongoing work on the digital economy exposes all the contradictions of transfer pricing to the extreme and demonstrates that it is no longer fit for purpose.

The international community is at a crossroads: impose new marginal reforms on an inadequate system or look at radical yet principled solutions that can deliver a sustainable international tax architecture fit for the 21st century.

Multinationals are unitary businesses making profits in a global marketplace, where profit can only be achieved through the integration of their activities across jurisdictions, and the value of the multinational as a whole is bigger than the sum of its individual parts.

During the next phase of the BEPS process ("BEPS 2.0") we urge governments represented in the Inclusive Framework, the UN Tax Committee and all multilateral institutions; to move away from the transfer pricing system and towards unitary taxation of multinationals. The system would be based on formulary apportionment underpinned by a global effective minimum tax rate.

A simple, formulaic approach would result in a fair and sustainable allocation of taxing rights between developing and developed countries. It would ensure that global profits and associated taxes could then be allocated according to objective factors such as the sales, employment, resources (and even digital users) used by the company in each country, rather than where they locate their different functions (procurement, marketing, funding, etc) and claim their Intellectual Property.

In turn, a global effective minimum tax would drastically reduce the financial incentives for multinationals to shift profits between jurisdictions and for countries to cut their tax rates.

All countries, developed and developing, are impacted by the current corporate taxation system but the lack of real inclusive discussion and transparent decision-making process remains a concern in the current global tax governance. This needs to be addressed to ensure that the new international tax architecture is for the benefit of the many and not the few.

INTRODUCTION

Inequality has become the issue of our times. It is not just the large numbers of people living in poverty; it is also the struggling middle and the increasing proportion of income that goes to the top.

The share of national income captured every year by the richest people in the world keeps growing (Figure 1)¹. By contrast, even in emerging countries with rapid economic growth, many people, including a disproportionately large share of women, remain trapped in low income levels.

Inequality is the result of the institutions and policies that we adopt as a society. If inequality is the result of our actions, then we can restructure our economy to restore more equitable conditions for all. This can only happen when such actions are driven by inclusive institutions and policies, including progressive taxation on income and wealth.

Over the past few years, leaks of documents such as the “Panama Papers” and the “Paradise Papers” have exposed the dark underbelly of globalization, showing how globalization has enabled money to move to “secrecy havens” and provoked indignant denunciations of tax avoidance from people around the world.

Ordinary workers have no choice but to pay their taxes. But multinational corporations can get away with avoiding or evading their corporate tax responsibilities by using tax havens, where up to 40% of their foreign profits are shifted².

Whilst the absolute amount of revenue losses due to tax avoidance is understandably higher for developed countries, relative to Gross Domestic Product (GDP) the revenue losses are larger in developing countries, at around 1 percent of GDP³. Presently, in almost 30 of the 75 poorest countries in the world, tax revenues are below the 15 per cent threshold required to provide basic services, such as better road infrastructure, health care and public safety^{4,5}.

Corporate taxation is one of the most important tools in addressing inequality and tax avoidance by multinationals further increase top income inequality, as equity wealth mostly belong to wealthy individuals⁶.

¹<https://wir2018.wid.world/files/download/wir2018-full-report-english.pdf>

²<http://gabriel-zucman.eu/files/TWZ2018.pdf>

³<https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Base-Erosion-Profit-Shifting-and-Developing-Countries-42973>, p21

⁴<https://www.un.org/development/desa/en/news/financing/tax4dev.html>

⁵In many if not most of these countries, tax avoidance by multinationals plays an important role in limiting tax revenues.

⁶<https://hbswk.hbs.edu/item/corporate-tax-cuts-increase-income-inequality>

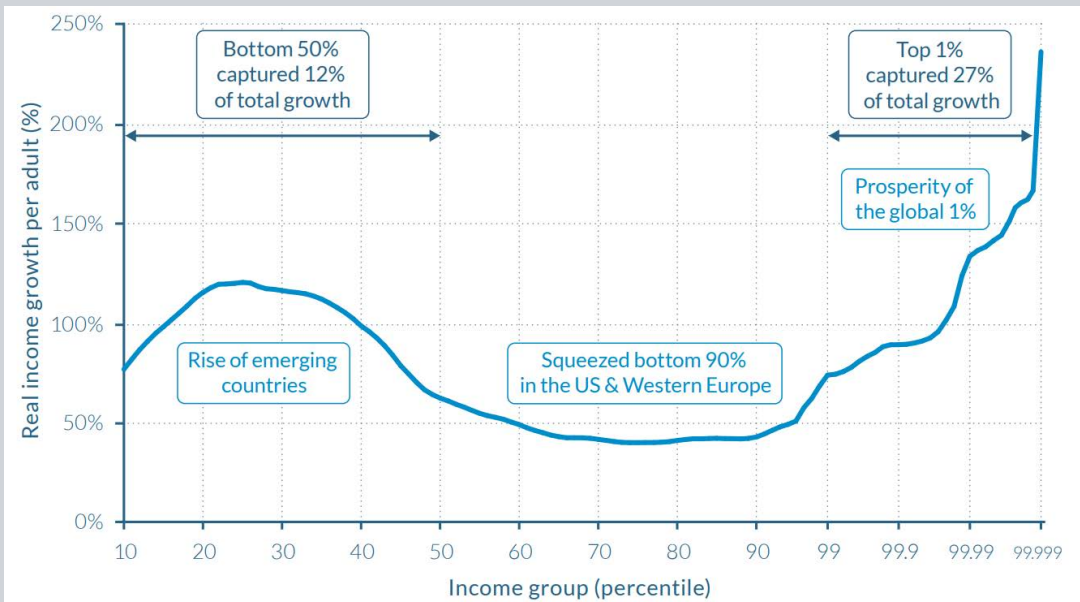


Figure 1
Global inequality and growth, 1980–2016⁷

Source: WID.world (2017)

THE FAILURE OF TRANSFER PRICING

Today’s corporate-tax-avoidance schemes is a result of powerful lobbying by multinationals and their lawyers and accountants.

At the centre of this tax avoidance industry is the exploitation of the transfer pricing system, whereby multinationals price transactions among their own subsidiaries to shift profits to low-tax countries, rather than where the real economic activity actually occurred.

Allocating a multinational’s tax base between countries based on transfer pricing was always a flawed system. But its flaws were bearable until we reached the current magnitude of globalisation, with the associated changes to the structure of production and supply chains, and the increased value allocated to patents and other intellectual property rights, which multinationals strategically place in low-tax jurisdictions as a means to avoid taxation.

The greater part of cross-border commerce takes place within multinationals, with around two-thirds of global trade involving related parties⁸. While the prices at which goods and services are bought and sold are supposed to be based on “arm’s length” transactions, the reality is that there typically is no way of judging what such an arm’s length transaction price would look like: what is the market value of a one third finished car or shirt?

This type of trade is thus susceptible to abusive exploitation of gaps and loopholes in domestic and international tax law that allow for “profit shifting” from country to country, ensuring that the profits are recorded in jurisdictions with low taxation rates. A lack of transparency makes this kind of tax avoidance difficult to quantify, let alone monitor or prevent.

Transfer pricing combined with tax competition—trying to attract businesses by offering low tax rates - has also pushed countries to lower their

⁷<https://wir2018.wid.world/files/download/wir2018-full-report-english.pdf>

⁸https://unctad.org/en/PublicationsLibrary/wir2013_en.pdf

⁹<https://www.ft.com/content/2b356956-17fc-11e8-9376-4a6390addb44>

corporate-tax rates. Since 2008, countries have cut headline corporate taxes by 5 percentage points while governments on average have increased personal taxes by 6 points⁹(Figure 2). In many cases, the result is not so much a shift in the locus of where production occurs as where the profits are recorded to have occurred, with tax revenues increasing in the low taxed jurisdiction at the expense of the high taxed jurisdiction.



Figure 2
US and OECD historic average corporate and personal income tax rate¹⁰

Source: Financial Times¹¹

This has happened at a time when the growth in corporate profits has significantly outstripped GDP growth, but this has not been matched by an increase of the overall tax take from corporate profits, as epitomised by the recent trend in US corporate profits and tax revenue (Figure 3)¹².

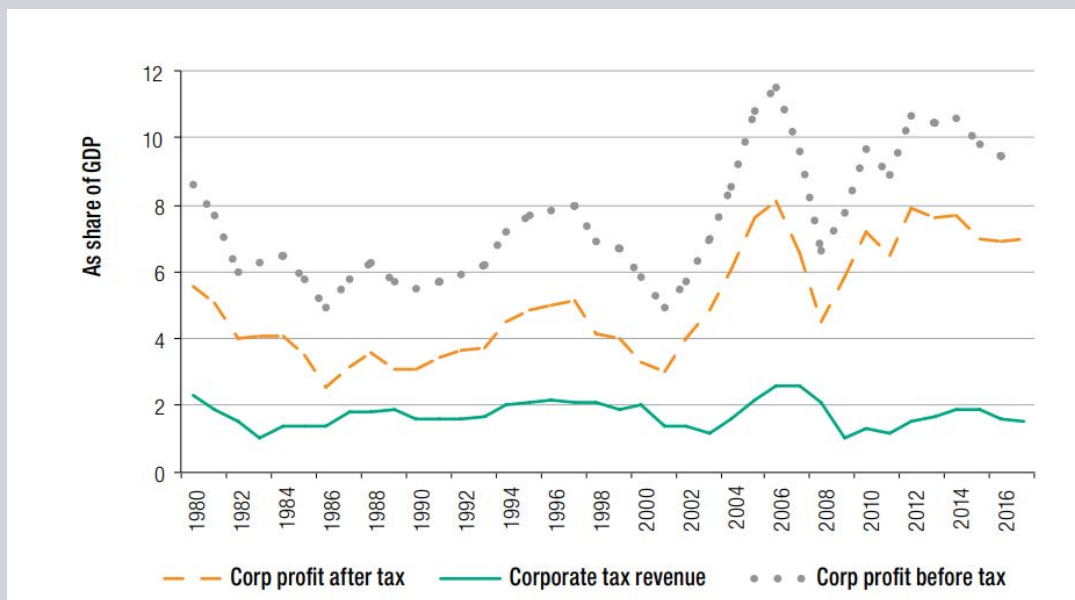


Figure 3
US corporate profits and corporate tax revenue, as percentage of GDP (1980-2018)¹³

Source: UNCTAD

One of the reasons for the low corporate tax revenues is that many multinationals can pay significantly lower effective tax rate than the “official rate”, as shown by the effective corporation tax rate paid by the world’s 10 biggest public companies by market capitalisation in each of nine different sectors (Figure 4¹⁴).

¹⁰Source: Organisation for Economic Co-operation and Development (OECD) Tax Database.

¹¹<https://www.ft.com/content/2b356956-17fc-11e8-9376-4a6390addb44>

¹²<https://data.oecd.org/tax/tax-on-corporate-profits.htm>

¹³https://unctad.org/en/PublicationsLibrary/diae2018d4_en.pdf p39

¹⁴<https://www.ft.com/content/2b356956-17fc-11e8-9376-4a6390addb44>

Figure 4
Global multinationals are paying lower taxes (effective corporation tax rates across different sectors)

Source: Financial Times¹⁵



This has adverse consequences both for vertical and horizontal inequality. Profits of multinationals are taxed at significantly lower rate than high wages, giving incentives to high earners to shelter income within companies and increasing income inequality.

Multinationals paying lower rates than domestic companies also mean that horizontal inequality has increased. This also creates significant economic distortions and vertical inequality, as the tax burden is shifted toward small and medium-sized enterprises (SMEs), which are the main source of employment generation -60 to 70% of jobs in OECD¹⁶, and a much larger magnitude in developing countries.

Now that the United States has slashed its statutory rate on federal corporate income tax from 35% to 21%, the global race to the bottom will likely intensify. Politicians in both developed and developing countries are already calling for tax cuts in order to remain competitive, attract foreign investment, and create or save jobs. This is so even as the US tax reform has so far proven relatively ineffective in stimulating growth and at a large cost in terms of foregone revenues.

When the public reacted angrily to tax avoidance scandals in 2012 and forced the G20 to act, the last thing people would have expected would have been more tax cuts for multinationals. The marginal progress made through the OECD BEPS Process in ensuring multinationals pay their fair share of corporate tax is being reversed by governments offering new tax incentives and lower tax rates.

For our economy and society to function, participants must trust that the system is fair. The lack of trust in governments this generates is exacerbated by the historically high levels of inequality that the world faces today.

The race to the bottom on corporate tax robs governments not just of revenue, but also one of the crucial policy levers to reduce inequality and promote distributions of income and wealth that are fairer and more conducive to sustained economic growth.

¹⁵<https://www.ft.com/content/2b356956-17fc-11e8-9376-4a6390adb44>
¹⁶<https://www.oecd.org/cfe/smes/2090740.pdf>

Such measures also have a gender dimension, as women are overrepresented in small and medium-sized business, at the lowest wage levels, and in the informal sector. The more regressive the tax system, the more the burden of sustaining public expenditure will fall on the shoulders of low-income earners who are predominantly women.

Taxation can be viewed in part as the price we pay for a civilised society, or the quid pro quo levied on the private sector for the provision of public infrastructure, a healthy and well-educated workforce and for a rule of law without which the private sector could not flourish. Lower tax revenue indeed means less funding for all the collective needs of society, including infrastructure, education, health, nutrition, basic research, justice systems, protection of women's rights, dealing with refugee crisis and environmental disasters.

As the UN Committee on Economic, Social and Cultural Rights recently stated, “lowering the rates of corporate taxes with a sole view to attracting investors encourages a race to the bottom that ultimately undermines the ability of all States to mobilize resources domestically to realize [economic, social and cultural] rights. As such, this practice is inconsistent with the duties of the States Parties”.¹⁷

In the end, without a real global tax reform, the promises made in the 2030 Agenda would mean that the Sustainable Development Goals (SDGs) would be no more than a utopian dream.

¹⁷Committee on Economic, Social and Cultural Right (CESCR)(2017), General Comment No. 24 on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, (E/C.12/GC/24). Par. 37.

Box 1

The OECD BEPS process - A review of what has been achieved

POSITIVE STEPS	CURRENT FAILINGS	NEGATIVE STEPS
<ul style="list-style-type: none">•A number of egregious base erosion and profit shifting techniques have been largely addressed (e.g. hybrid mismatches arrangements and treaty abuse).•The exchange between tax administrations of country-by-country reports is a major step forward, although accessibility by the tax authorities of developing countries must be improved. Country by country reporting can play an important role in ensuring that profits are declared and taxes are paid where each MNE has a real economic presence. It is critical that the threshold for country-by-country reporting be lowered to apply to a large majority of MNEs and that these reports be made public as part of the 2020 review process.•Following a string of tax scandals and resulting public pressure, countries are now establishing procedures to ensure transparency to each other of tax preferences they grant, albeit in some cases slowly and reluctantly. The 16,000 plus tax rulings identified to date shows the sheer scale of secrecy exploited by multinationals.	<ul style="list-style-type: none">•The BEPS project clearly failed to deliver agreement on the key issue of criteria for allocating multinationals profits and to move away from the arm's length principle.•The failure to reach consensus on many key issues within the scope for the BEPS process and in particular the failure to reach consensus on Action 1 on the digital economy have led to a number of unilateral measures, most notably the US tax reform, UK and Australia diverted profits taxes and the introduction of taxes based on turnover targeted at digital multinationals in many countries (e.g. India, Israel).•The process has failed to meaningfully deal with "vanilla" forms of tax avoidance, such as excessive intra-group payments of royalties and interest on intra-group funding.	<ul style="list-style-type: none">•The BEPS work on harmful tax practices has resulted in the normalisation and proliferation of "acceptable incentives" (e.g. Patent Boxes, special economic zone (SEZ) or export processing zone (EPZ) regimes) which countries therefore come under pressure to adopt. The creation of norms for acceptable incentives removes the threat of collective counter-measures.•The United States refusal to sign up to the Multilateral Instrument, which was concluded with the aim of swiftly implementing the tax treaty measures resulting from the BEPS Actions, and its selective adoption by other OECD members shows the reluctance of these countries to accept or to go beyond minimum standards in the fight against tax avoidance.•The emphasis that has been accorded to dealing with disputes, which many expect will rise even more sharply, and to do so through procedures which completely lack transparency, such as arbitration, builds compromised legitimacy into the BEPS reforms .

WHAT THE G20/OECD BASE EROSION AND PROFIT SHIFTING PROCESS HAS ACHIEVED

In 2013, the G20 called on OECD to reform the international corporate tax system through the BEPS initiative and associated processes. In 2015, a package of reforms was unveiled by the OECD.

The BEPS process is now in its implementation phase and this paper takes stock of the measures that have been introduced to date and the implications for the continuing reform process required for fair taxation of multinationals.

The reform introduced by the BEPS process largely address a number of egregious base erosion and profit shifting techniques used by multinationals (e.g. hybrid mismatches).

They have also enabled confidential exchange of information between tax authorities, through sharing of multinationals' country by country reporting data and tax rulings, and introduced provisions to prevent tax treaties abuse (e.g. treaty shopping).

However, despite some progress, the BEPS program has proved to be insufficient. It did not address the core problem of allowing multinationals to avoid taxation by shifting their profits to low or no tax jurisdictions: the arm's length principle which rules transfer pricing within multinationals.

As a Commission, we believe that the OECD BEPS Process has achieved what it could, within the constraints of political lobbying by big corporations which have a vested interest in maintaining the status quo.

It has failed to rein tax competition and has kept alive a system that provides too much opportunity for profit shifting, especially through the exploitation of intangible assets that has been legitimised under the Patent Box regimes.

The veto by a number of OECD member states of major reform measures (e.g. public country by country reporting, wider changes to permanent establishment definition) meant that the OECD reform proposals, while helpful, do not help resolve the basic challenge of ensuring that multinationals pay taxes where real economic activities take place and value is created.

By keeping the exchange of multinationals' country by country data away from public scrutiny, it has failed to understand the link between transparency and tax culture. Transparency in who pays and doesn't pay tax can be a powerful driver in shifting perceptions on tax and helps governments to convince the public that multinationals must pay their fair share. Finally, it has also failed to address tax avoidance by digital companies, whose tax avoidance exploits and associated public outcry gave rise to the BEPS project.

It is reassuring to note that a number of countries in the OECD Inclusive Framework¹⁸ working to address the tax challenges posed by digital economy believe that “the ongoing digital transformation of the economy, and more generally trends associated with globalisation, present challenges to the continued effectiveness of the existing international tax framework for business profits. Importantly, for this group of countries, these challenges are not exclusive or specific to highly digitalised business models”.¹⁹

The digital economy exposes all the contradictions of the arm’s length principle to the extreme and demonstrates that it is no longer fit for purpose. Our view is that these contradictions will become more apparent as the work of the OECD Task Force on the Digital Economy continues. As a Commission, we therefore urge governments represented in the Inclusive Framework, the UN Tax Committee and all multilateral institutions involved in efforts to reform the international tax system to evaluate alternatives to the transfer pricing system.

OUR ALTERNATIVE APPROACH TO TAXING MULTINATIONAL

It is time for more decisive and radical solutions. As outlined in our previous report *A roadmap to improve rules for taxing multinationals*, the fairest and most effective approach is for multinationals to be taxed as single firms doing business across international borders. If multinationals paid taxes as single, unified companies, the use of transfer pricing to shift profits would disappear, because their global income would be consolidated and they would not be able to shift profits through internal transactions. In turn, all countries would obtain fiscal revenues from the multinational group in proportion to the activities carried out in them – that is, to the real economic activities that take place in each territory.

The allocation of multinationals’ profits between countries for taxation purposes is a fundamentally distributive task. Multinationals are unitary businesses making profits in a global marketplace, where the profit can only be achieved through the integration of their activities across jurisdictions, and the value of the multinational as a whole is bigger than the sum of its individual parts.

A simple, formulaic approach would ensure that global profits and associated taxes could then be allocated according to objective factors such as the sales, employment, resources (and even digital users) used by the company in each country, rather where they locate their different functions (procurement, marketing, funding, etc.) and claim their Intellectual Property.

Whilst a global move to formulaic apportionment would be complex, it would not be more complex than the current system and it would be better align to the economic reality of the current modern world.

It would mean a de facto reallocation of profits which are untaxed in tax havens, affecting both developed and developing countries, as shown by

¹⁸<http://www.oecd.org/tax/beps/beps-about.htm>

¹⁹OECD (2018), Brief on the tax challenges arising from digitalization: interim report, p3 paragraph 17

IMF research carried out in 2014 (Figure 5). That research shows that using a combination of sales and employment as formulary apportionment factors will likely benefit both advanced and developing countries. It would ensure that the lion's share of the profits and associated taxes would be allocated to countries where resources are extracted, sales are made, services are provided and consumed, and products are manufactured.

The digitalisation of the economy clearly demonstrates why formulary apportionment is the efficient and equitable method to allocate taxing rights between countries. When the marginal cost of production for digital companies is zero, the revenue accruing to them is equal to a rent and it is therefore important to tax this rent effectively and fairly. Because the returns are basically rents, its taxation does not affect output.

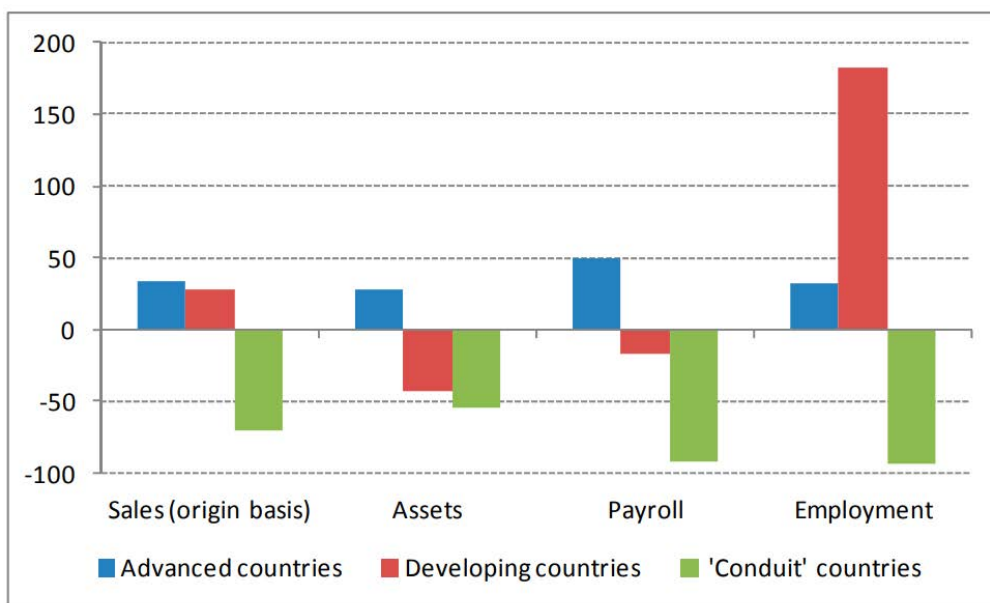


Figure 5
Reallocation of taxable income using formulary apportionment factors²⁰

Whilst for multinational taxation in general basing taxes on revenue only (sales) would be detrimental to developing countries for digital taxation, we have supported, as a Commission, the introduction of taxes based on revenue such as the Indian equalisation levy and the proposed digital services tax in the EU because of the pressing need for governments to raise revenue.

Whilst these interim measures are required to mitigate the failure of the current international tax system, the long-term solution remains the use of formulary apportionment to tax the profits of multinationals. For digital companies, using formulary apportionment will ensure that the majority of the profits are not allocated to tax havens but taxed in the countries where sales are made and most of the employment takes place.

The main objection raised to a unitary and formulary approach has been the erroneous claim that this reform could only be implemented through a global agreement on a common formula.

Individual countries (e.g. US, France, Germany but even developing countries like India or China) could unilaterally pursue such an approach or a

²⁰<https://www.imf.org/external/np/pp/eng/2014/050914.pdf> p40

coalition of countries could agree to collaborate. The EU Common Consolidated Corporate Tax Base (“EU CCCTB”) proposal, which is based on formulary apportionment, shows that a move at regional level is possible. Unsurprisingly this move is currently opposed by the tax havens within the EU, which are likely to see their current share of profits of multinationals disappear.

While double taxation would be a possible outcome, it is already happening under the current system when tax authorities disagree on how to allocate the taxable profits of multinationals and would be much more transparent under a formulary approach. A system of tax credits would ensure that double taxation is minimised. The current problem of non-taxation or under taxation is clearly far worse than the potential problem of double taxation, which could easily be remedied.

In the current system of global governance where individual or small group countries can veto reform which will benefit the majority of countries, it is time for individual or a coalition of countries to step up and introduce game-changing reforms.

Whilst coordination is preferable, and we hope that the EU can swiftly make progress in its EU CCCTB proposal (which may necessitate removing the unanimity rule on EU tax matters) we have seen how the United States has been able to unilaterally introduce measures which are contrary to the arm’s length principle and in doing so, demonstrate that it is possible for a single country to unilaterally decide to introduce alternative measures.

The US reform has set a minimum effective global corporate tax rate on offshore profits derived from the exploitation of intangible assets (at c10%). As a Commission, we strongly support the introduction of a global minimum effective corporate tax rate *on all profits* of multinationals, which will remove the incentives for countries to cut their tax rates and stop the race to the bottom. With average nominal corporation tax rate falling to around 25%, this should be set between 20% and 25%.

The most effective way to put a floor under global tax competition would be to set a minimum effective rate of corporate income tax measured by the total income taxes paid by a corporation over its total profits. Today, as we have indicated, effective rates are often much lower than the statutory rate. The minimum rate should over time be raised to narrow the gap with top personal income tax rates, so to mitigate incentives to incorporate.

This could be done through cooperation and forging a global agreement, as recently outlined by France and Germany²¹. Alternatively, or in addition, the US could build on its reform by extending the application of the minimum tax to all type of profits (by widening Controlled Foreign Companies rules), or a group of countries like the EU could set a global minimum tax for any firm operating (producing or selling) within them. This would de facto introduce a global minimum tax. Once a floor to tax competition is set by a sizeable group of countries, then other countries then countries will feel less pressured to cut corporate tax rates and more empowered to

²¹<https://global.handelsblatt.com/finance/scholz-wants-minimum-corporate-tax-rate-oecd-973944>

raise them. With a global minimum tax, the financial incentive to shift profits between jurisdictions is drastically reduced. This should open the door to more radical reforms.

The Commission also supports the use of methods for apportioning profits based on “fixed margins” (such as the Brazilian transfer pricing rules) opting for the simplicity of a fixed margin over the malleability of arm’s-length transfer pricing, as well as greater use of the OECD profit split method in a standardised manner. This method apportions the combined profits of relevant related affiliates of the MNE, based on “allocation keys” which reflect each entity’s contribution to the generation of profit, albeit at a transaction-level rather than at an entity-level. Whilst the OECD revised guidance on the application of profit split failed to standardise this approach and to mandate its widespread application, the wording included in the guidance on the use of profit split should give ample scope for tax authorities to require in practice the application of this method.

We believe that if unilaterally adopted, either as an anti-abuse rule or a safe harbour, profit apportionment methods can play an important role in ensuring that tax is paid where real economic activities take place.

Whilst a complete move away from the transfer pricing system was not contemplated during the OECD BEPS process, we believe the work on the digital economy will expose all the contradictions of the transfer pricing system and demonstrate its manifest unsustainability in the long run. Governments represented in the Inclusive Framework, the UN Tax Committee and all multilateral institutions should consider whether keeping the current system is still viable or whether the time has arrived to consider meaningful alternatives.

THE LEGITIMACY OF THE PROCESS

All countries and their citizens are all impacted by the current corporate taxation system. Therefore, there should be a wider and more inclusive discussion of international tax rules. However, this is not happening. The OECD BEPS process was developed by developed countries and largely for developed countries. Most developing countries do not have the capacity to assess and reap the benefits of it. Yet, the BEPS outcomes are being implemented as the new global standard applicable to all countries.

As stated by the 2030 Agenda for Sustainable Development, globally representative institutions are “more effective, credible, accountable and legitimate”. Tax revenues are a key component of what the Agenda calls the “means of implementation”, thus, global representation on tax matters is essential for the fairness and integrity of the global social contract.

The 2015 Addis Ababa Action Agenda emphasized the importance of international tax cooperation which should “*be universal in approach and scope and should fully take into account the different needs and capacities of all countries*”²² To this end, developing countries must be equal participants in the development of the rules of international taxation and

²²http://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf

not mere participants in processes where their views are sought merely for the appearance of broad consultation.

This can only truly be possible in a space which allows equal participation for all countries, including the poorest. This is why we recommended in our [Declaration of 2015](#), that Member States should upgrade the UN Committee of Experts on International Cooperation in Tax Matters to an intergovernmental Commission and provide it with adequate resources.

Whilst discussions towards creating a global tax body within the United Nations should continue, and particular importance should be given to the issue of how to allocate adequate resources for it, today's reality is that the OECD is playing the leading role in shaping tax standards, whilst the valuable efforts of the UN Committee of Experts are constrained by limited resources. In addition to our concerns on the legitimacy of the OECD vis-à-vis the United Nations, we are concerned about the way developing countries are allowed to engage, or more to the point, prevented from engaging, in the shaping of global tax standards.

It remains unclear how fully developing countries are able and will be allowed to participate in the OECD Inclusive Framework, which comprises over 115 countries and jurisdictions. Their participation as "Associates" on "equal footing" should be judged by reference to the active role they play in drafting and interpreting policy and their balance of power with the OECD Secretariat.

Developing countries in the Inclusive Framework should therefore carefully evaluate the opportunity cost of engaging in the Inclusive Framework, and the practicability of signing up to and implementing the BEPS outcomes that may not address their needs.

Increased technocratic cooperation in a norm-setting process potentially challenged by a political deficit raises critical questions which all participating countries and institutions need to consider carefully.

CONCLUSION

The current system of low tax revenue from multinationals is feeding record levels of inequality, impeding the fulfilment of human rights, and endangering future economic growth.

As members of this Independent Commission for the Reform of International Corporate Taxation, with backgrounds in government, academia, and civil society from across the globe, we believe that a global reform of the international tax rules is required to ensure a fair allocation of taxing rights for developed and developing countries and to stop the race to the bottom.

The OECD BEPS project, while reducing some of the glaring ways that multinationals have avoided taxation, has left ample opportunities for multinationals to engage in profit shifting to avoid paying their fair share of taxes. This is largely because it has so far missed the opportunity to fundamentally rethink the global system taxation of multinationals.

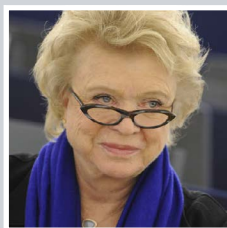
The OECD BEPS project has introduced several useful reforms but failed to rethink an inadequate system to tax multinationals in an increasingly globalized world. Many of the deficiencies of the arm's length principle persist and we believe there is now an urgency to address its failings. Unitary taxation and minimum tax rates are the way forward, but intermediate solutions such as the broader use of OECD profit split methods or the Brazilian system of fixed margins are useful. The examination of the digital economy presents the perfect opportunity for global leaders to be bold and to push for a rethink of international tax norms.

We call on governments to embrace this window of opportunity to initiate multilateral discussions to come up with transformative solutions that address the current failings of the international tax system and deliver a sustainable and fair long-term international tax architecture in a way that meets the needs and priorities of countries at all stages of development. If it is to do this, it will have to go beyond the current transfer price system.

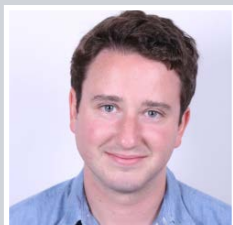
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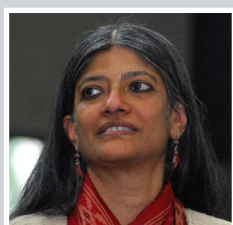
Ms. Eva Joly, is a Member of the European Parliament where she serves as Vice-Chair of the Special Committee on Tax rulings.



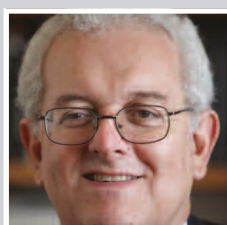
Gabriel Zucman, is assistant professor of economics at University of California, Berkeley. His work focuses on the accumulation, distribution and preservation of wealth from a historical and global perspective



Ms. Ifueko Omoigui Okauru, served as Commissioner General of Nigeria's Federal Inland Revenue Service and was a Member of the Committee of Experts on International Cooperation in Tax Matters. She is currently Managing Partner of Compliance Professionals Plc.



Jayati Ghosh, is Professor of Economics at Jawaharlal Nehru University, New Delhi. Her research interests include globalisation, international trade and finance, employment patterns, macroeconomic policy, gender issues, poverty and inequality.



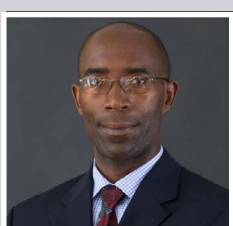
José Antonio Ocampo (Chairman), former United Nations Under-Secretary General and former Minister of Finance of Colombia. He is currently a Professor at Columbia University and board director, Banco de la Republica (Colombia).



Mr. Joseph Stiglitz, is University Professor at Columbia University. In 2001, he was awarded the Nobel Memorial Prize in Economics.



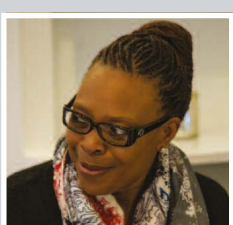
Kim S. Jacinto Henares, is an International Consultant, served as the Commissioner of the Philippines Bureau of Internal Revenue and represented her country on the OECD Global Forum's Transparency and Exchange of Information and OECD Global Forum's Base Erosion and Profit Shifting.



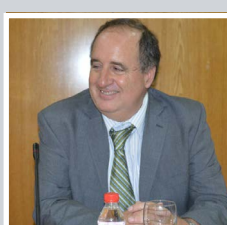
Mr. Léonce Ndikumana, is Professor of Economics and Director of the African Development Policy Program at the Political Economy Research Institute (PERI) at the University of Massachusetts at Amherst. He is a Member of the United Nations Committee on Development Policy.



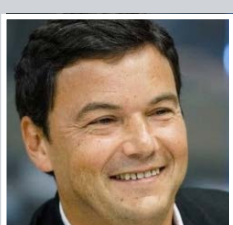
Ms. Magdalena Sepúlveda Carmona, is a Human Rights Lawyer and recently served as the United Nations Special Rapporteur on Extreme Poverty and Human Rights.



Rev. Suzanne Matala, is the Head of the Zambian Council of Churches, a membership umbrella organisation of mainline churches in Zambia.



Ricardo Martner, is now an independent economist, after serving in the United Nations for more than 30 years. As Chief of the Fiscal Affairs Unit of ECLAC, he was in charge of the discussion of the Addis Ababa Action Agenda in Latin American and Caribbean Countries.



Thomas Piketty, is professor of economics at the Paris School of Economics and at EHESS. He has done major historical and theoretical work on the interplay between economic development and the distribution of income and wealth.



Wayne Swan, served as the Treasurer of Australia (2007-2013) including three years as Deputy Prime Minister. He was re-elected for the eighth time in 2016 as the Federal Member for Lilley and has held senior roles in the Australian Labor Party since 1993.

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