

Distr.: General  
6 October 2021

Original: English

---

**Committee of Experts on International  
Cooperation in Tax Matters  
Twenty-third session**

Virtual meetings of 19 to 28 October 2021

Item 5(k) of the provisional agenda

**Increasing tax transparency**

**Secretariat note**

***Summary***

The COVID-19 global pandemic has caused economic recessions and slowdowns that have led to declining tax revenues. This has threatened to derail the achievement of the SDGs as domestic revenue mobilization has been adversely affected. While many developing countries were already suffering from a narrow fiscal space, the pandemic has exacerbated the need to raise additional revenues, while using existing resources more effectively and efficiently. Increasing tax transparency especially in developing countries would contribute to strengthening public finances and promoting sustainable and resilient recovery from the pandemic.

This note examines the role that the Committee could play in promoting and supporting tax transparency initiatives in developing countries. It is *for decision* from the Committee on whether to advance this work on increasing transparency and if so, whether to form a subcommittee on the same.

**INTRODUCTION:**

1. Information asymmetry between taxpayers and tax authorities due to low tax transparency creates room for loopholes for abuse of the tax system. This asymmetry enables the hiding of wealth by wealthy individuals, as well as shifting of profits by corporations to jurisdictions of low or no tax.

2. Apart from loss of much needed revenues, this affects tax morale in a country and undermines efforts at voluntary compliance, as taxpayers feel that not everyone pays their fair share of tax. A number of high-profile tax leaks and scandals have undermined public confidence in the fairness of tax systems and generated a strong demand for effective counteraction and tax transparency.

3. As highlighted by the FACTI panel<sup>1</sup>, tax avoidance and evasion remain widespread, while corporate tax rates have fallen. A different way to do business and an exponential increase in digital services have increased challenges to financial accountability, transparency and integrity, especially in developing countries. This trend has drained resources from sustainable development, and reduced resources to invest in areas such as social protection, education and healthcare, which can reduce inequality and provide a better response to the pandemic. Countering illicit financial flows, tax evasion and corruption is a way to ensure that more resources are devoted to recovery, without the need to impose an additional tax burden on citizens and SMEs and increasing tax transparency is a critical part of that effort.

4. The FACTI panel made recommendations on transparency and international cooperation. Among others, the panel recommended that;

- International anti-money-laundering standards should require that all countries create a centralised registry for holding beneficial ownership information on all legal vehicles. The standards should encourage countries to make the information public.
- All private multinational entities should publish accounting and financial information on a country-by-country basis to improve tax transparency.
- Information sharing asymmetries in relation to information shared for tax purposes, should end so that all countries can receive information.
- Exchange of information internationally among law enforcement, customs and other authorities should be promoted.

5. The examination of issues in this paper is aligned with this recommendation, recognizing that tax transparency is vital in supporting domestic revenue mobilization to harness much needed revenues by developing countries.

---

<sup>1</sup> Report of the High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda  
[https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c\\_FACTI\\_Panel\\_Report.pdf](https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf)

## ACHIEVING TRANSPARENCY

### a.) Exchange of Information

6. Exchange of Information (EOI) between jurisdictions is one of the means by which revenue administrations have achieved tax transparency. This exchange has been anchored in tax treaty provisions and in various multilateral agreements like the OECD's Convention on Mutual Administrative Assistance in Tax Matters.

7. The UN Tax Committee, in its last update to the UN Model Double Taxation Convention between Developed and Developing Countries, sought to amend Article 26 of the Model to:

- a.) Expressly provide for the possibility of sharing information by tax authorities with other law enforcement agencies and judicial authorities if certain conditions were met.
- b.) Expand the Commentary to develop the interpretation of the standard of "foreseeable relevance" and to explicitly refer to the term "fishing expeditions" as an element within the determination of foreseeable relevance.
- c.) Make clarifications in respect of the identification of the person believed to be in possession of requested information; and
- d.) Include optional language in the Commentary for Contracting States wishing to improve the speediness and timeliness of exchange of information under Article 26.

### Exchange of Information on Request (EOIR)

8. Many developing countries do not have extensive treaty networks, limiting the number of countries with which they can exchange information. A number of these countries are members of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes (OECD Global Forum) and have ratified the OECD's Convention on Mutual Administrative Assistance in Tax Matters, giving them a wider EOI network. These countries, however, do not fully utilize this agreement, and only a small percentage of requests for information are by developing countries.

9. This could be because of several factors. Many of these countries have not developed their EOI capacity in terms of technical and technological capacity, hence do not get the full benefit of EOI. Also, the pool of staff trained on EOI within revenue authorities is small and these staff are regularly reassigned to other duties, resulting in a loss of skill to other areas.

10. EOI is also not widely recognized as a tool for generating additional revenue and in most instances is seen as a tool to increase compliance and hence is widely overlooked. Further to this, it is viewed as being limited to transfer pricing divisions only, as opposed to being a support function for the entire revenue administration.

11. Further, the investment in technology to facilitate this exchange is rather low in many developing countries. Policy makers lack the will to prioritize this technology for enhanced EOI in a jurisdiction, as the scarce resources are mainly focused on BEPS and Transfer Pricing, while EOI is largely ignored. In some jurisdictions, EOI units do not exist, making it difficult to have cohesive and effective EOI.

### Automatic Exchange of Information (AEOI)

12. AEOI aims at allowing countries to exchange bulk financial information of foreigners, like names, addresses, tax identification numbers and account balance information, at regular

intervals with the account-holder's home country government. This does not require any requests. This is a major step in the fight against offshore tax evasion, as governments have at their disposal information that is crucial in this fight.

13. However, implementation of AEOI faces several challenges for the Least Developed Countries and other developing countries, who stand to derive great benefit from this cross-border exchange. One major challenge is the requirement for reciprocity. Countries are required to participate reciprocally, that is, to receive information a country needs to have the capacity and will to share their information as well.

14. This is problematic for many developing countries, as they often lack the technological capacity and staffing levels to compile this information. Developing countries often face capacity constraints and therefore have very limited numbers of staff dedicated solely to international tax matters. The flow of illicit funds is often from poor countries to richer ones, making it extremely vital for these countries to access financial information from where the monies are held.

15. Another challenge faced by developing countries is a lack of prioritization of the investment needed to make AEOI a reality. Confidentiality and data safeguard requirements are extensive, and tax administrations require physical security, e.g. biometrics or access control for all staff in the revenue administration, security software, and encryption tools to meet these requirements. In addition to this, they must have in place policies and procedures guiding their AEOI processes. This could be extremely costly for a poorly financed and resourced tax administration to implement.

16. Obtaining financial information could also be a cumbersome process in the context of limited administrative capacity in developing countries, as the information received from financial institutions is bulk information which needs to be analyzed and shared with different countries. Further to this, cooperation is required between stakeholders in the financial industry for AEOI to be successful; these relationships need to be fostered and driven by the tax administration which, with scarce staffing resources, could find this to be an onerous task. To benefit from information received under AEOI, tax authorities must also invest in risk identification systems and auditing skills to ensure information is effectively used, which could prove to be costly.

#### **b.) BEPS recommendations**

17. The OECD BEPS project outlined tax transparency as one of its pillars. It recognized that prevention of BEPS is only possible if more transparency is ensured by ending asymmetry of information between taxpayers and tax administrations. Post BEPS, the following were the transparency requirements:<sup>2</sup>

- Improving the availability and analysis of data on BEPS

---

<sup>2</sup> OECD (2015), *Explanatory Statement*, OECD/G20 Base Erosion and Profit Shifting Project, OECD. [www.oecd.org/tax/beps-explanatory-statement-2015.pdf](http://www.oecd.org/tax/beps-explanatory-statement-2015.pdf)

- Ensuring better information flow between tax administrations
- Make sure that timely, targeted, and comprehensive information is available
- Ensuring disclosure by taxpayers
- Comprehensive and relevant information on tax planning strategies
- Providing improved Transfer Pricing documentation.

18. These were contained in several actions but more specifically in:
- Action 5 - Countering Harmful Tax Practices More Effectively
  - Action 12 - Mandatory Disclosure Rules
  - Action 13 - Transfer Pricing Documentation and Country-by-Country Reporting.

19. Action 5 revamped the work on harmful tax practices with a focus on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes. Whilst this is a great step towards promoting transparency, the challenges faced by developing countries in EOIR and AEOI are present here as well. In addition to these, developing countries face the challenge of lacking a cohesive system of issuing rulings: one will often find situations where different rulings on the same issue are issued, given the lack of a centralized mechanism for issuing these rulings. This points to the challenge in capacity and manual processes that limit the cohesive issuing of rulings.

20. Action 12 contains recommendations regarding the design of mandatory disclosure rules for aggressive tax planning schemes, taking into consideration the administrative costs for tax administrations and business, and drawing on experiences of the increasing number of countries that have such rules. Developing countries need to draft these rules and often without prior experience may run into challenges finding the best possible fit for their unique and specific circumstances.

21. Action 13 contains revised guidance on transfer pricing documentation, including the template for country-by-country reporting (CbCR), to enhance transparency while taking into consideration compliance costs. In some developing countries, transfer pricing is just taking off and as such, the capacity to deal with CbCR is limited.

## **ISSUE(S)**

22. The Committee work in this area would seek to offer guidance on tax transparency to revenue authorities on tax authorities and policy makers like Ministries of Finance. This work would include providing guidance on designing a system for tax information sharing that serves the needs of developing countries. In developing this guidance, it would be important to consider measures that are fit for purpose for developing countries. The focus should not be limited to adapting existing standards, as these may not effectively meet the needs of these countries. These measures should be discussed in a fully inclusive way to benefit from diverse views. Such discussions should include the OECD Global Forum (since it has a mandate to work on these issues), regional tax organizations and other organizations like the World Bank and IMF.

23. As part of these discussions, awareness would need to be raised on the policy, legal and administrative interventions and cooperation required to effect tax transparency and exchange of information. Developing countries need technical assistance when drafting mandatory disclosure rules and CbCR legislation to make sure it is fit for purpose and considers their needs and priorities. This assistance could also extend to designing voluntary disclosure and Amnesty Programs that allow taxpayers to voluntarily offer information to tax authorities on previously undeclared income.

24. To increase the use of these processes, there may be need to consider allowing flexibilities for developing countries regarding the standards, given their capacities, and/or to modify the standards or their implementation or to complement them with additional measures to consider the needs of developing countries. This would include looking for ways to address the various challenges faced, e.g. the requirement for reciprocity for AEOI. This includes offering developing countries a grace period when they can receive information without sending their own as they build up their capacity to share their own.

25. Further to this, the Committee could lead in discussions on business models to be adopted by developing countries with the aim of reducing the cost of implementing EOIR and AEOI to reduce the burden of implementation of tax transparency measures. These discussions could also focus on the benefits to developing countries of implementing the AEOI standard developed by the OECD Global Forum, as it may be unclear. Practical guidance in this area could assist developing countries, for instance, in making use of the data collection that has already started under AEOI, which would allow them to better assess the costs and benefits of joining the AEOI (e.g. increased compliance, increased number of audits conducted, improvement in case selection systems, modernised tax administrations, etc.). The Committee could also advise on how to provide financial and technical support to these processes.

## **RECOMMENDATIONS**

26. Whereas work on tax transparency is being carried on by the OECD through the OECD Global Forum, the UN Tax Committee would bring on board stakeholders who are not involved in the OECD Global Forum work directly, e.g. academia and other non-governmental parties. The Committee membership is diverse with a mix of experts from developed and developing countries allowing for broad sharing of experiences and expertise. It also focusses on the realities and priorities of least developed countries and other developing countries, making its guidance particularly relevant for these countries.

27. The Committee is in a position to draw from the work and expertise of other organizations, while still maintaining an independent view that address the specific needs and priorities of developing countries. Given that the uptake of some of the measures like AEOI remains very low for developing countries, the Committee can seek to bridge the gap that exists for developing countries and support them in utilising these tools. It is therefore proposed that the Committee should form a Subcommittee on Increasing Tax Transparency. This Subcommittee would be multistakeholder, mandated to give guidance on the issues highlighted as well as identify areas for capacity development

28. A possible mandate for a Subcommittee on Increasing Tax Transparency could read as follows:

“The Subcommittee is mandated to

- a.) Address the issue of increasing tax transparency in developing countries by:
  - Developing an illustrative manual/handbook on Exchange of information covering all aspects of EOI
  - Developing guidelines on the drafting of mandatory disclosure rules
  - Developing guidelines on implementation of Voluntary disclosure programs.
- b.) Identify the challenges existing in implementation of international standards by developing countries and develop solutions to address the challenges.
- c.) Advice on ways to provide technical and financial support to developing countries to enhance their capacity to better utilise Exchange of Information in boosting their tax revenues.”