FACTCOALITION
Financial Accountability & Corporate Transparency

October 14, 2024

To: The Co-Facilitators of the Outcome Document, United Nations Fourth International Conference on Financing for Development (FfD 4)

Subject: Input for an Elements Paper on Financing for Development

Submission by the Financial Accountability and Corporate Transparency (FACT) Coalition

Introduction

The Financial Accountability and Corporate Transparency (FACT) Coalition welcomes the opportunity to provide input for an "Elements Paper" on Financing for Development as part of the process leading to the United Nations Fourth International Conference on Financing for Development (FfD 4). The FACT Coalition is a U.S.-based non-partisan alliance of more than 100 state, national, and international organizations. Our mission is to promote policies to combat the harmful impacts of illicit finance on communities, global security, and the environment, and to campaign for a fair international tax system. The FACT Coalition's members include global economic justice organizations, anti-corruption organizations, human rights watchdogs, labor unions, environment and climate groups, and more.

FACT's work has shown that in a globalized world, U.S. financial secrecy fuels global harms. In 2021, U.S. Treasury Secretary Janet Yellen said, "There's a good argument that, right now, the best place to hide and launder ill-gotten gains is actually the United States." Bad actors' ability to hide wealth and income in the U.S. financial system with impunity accelerates economic inequality, enables transnational crime, and robs government coffers of much-needed revenues to help advance the Financing for Development agenda.

The FACT Coalition is the leading U.S. voice working to combat money laundering, tax evasion, and the harms caused by financial secrecy. After more than a decade of dedicated advocacy to end the abuse of anonymous U.S. shell companies, FACT welcomed the passage of the bipartisan Corporate Transparency Act (CTA) in 2021 – the most significant anti-money laundering reform in two decades. The CTA establishes the first-ever registry of the true, beneficial ownership of corporate entities in the U.S.

U.S. financial secrecy also compounds existing issues with global tax rules that exacerbate economic inequality. U.S. multinational companies pay levels of tax far lower than ordinary citizens and domestic businesses on average, often enabled by the abuse of offshore tax havens. These tax schemes drain U.S. revenues and impoverish developing countries where major multinationals do business.

It is with this background in mind that the FACT Coalition offers a brief response to the question: *"What are the key financing policy reforms and solutions that the fourth International Conference on Financing for Development should deliver?* Our response focuses on the "domestic public resources" action area of the Addis Ababa Agenda for Action and **recommends two substantive policy reform recommendations to strengthen developing country tax revenue mobilization and administration and to combat global illicit financial flows.** These recommendations also align with the financing policy challenges discussed in the first session of the FfD 4 preparatory committee in Addis Ababa.

1. Public Country-by-Country Reporting by Multinational Corporations Can Help Tax Administration and Enforcement in the Global South

The 2015 Addis Ababa Action Agenda (AAAA) committed to "scaling up tax cooperation" and to "work together to strengthen transparency and adopt appropriate policies, including multinational enterprises reporting country-by-country to tax authorities where they operate." In addition, the AAAA stated that "international tax cooperation should be universal in approach and scope and should fully take into account the different needs and capacities of all countries, in particular least developed countries, landlocked developing countries, small island developing States and African countries."

Unfortunately, the current system for tax authorities to share confidential country-by-country reports produced by multinational corporations is *not universal in approach* and is failing many least-developed and lower-middle income countries.

The concept note for the first session of the Preparatory Committee for the Fourth International Conference on Financing for Development discusses how information systems for tax information are falling short. Two guiding questions for the first session roundtable on domestic public resources are related to the need for public country-by-country reporting:

- What domestic and international tax reforms are needed to enable developing countries to enhance revenue mobilization?
- How can international tax cooperation be universal in scope and respond to the needs and capacities of all countries?

The FACT Coalition recommends the global adoption of public country-by-country reporting as an important tax reform to make international tax cooperation universal in scope and to support enhanced revenue mobilization by developing countries. The FACT Coalition recently published a policy brief, *How Multinational Corporate Tax Transparency Can Help Tax Administration and Enforcement in the Global South*, and this submission draws on that brief.

Improved multinational corporate tax transparency, in the form of "public country-by-country reporting" (public CbCR), can help tax authorities in the Global South. The existing Organization for Economic Cooperation and Development's (OECD) regime of sharing confidential Country-by-Country Reporting (CbCR) reports (Base Erosion and Profit Shifting Action 13) shuts out many Global South countries.[1] OECD estimates that global tax losses from base erosion and profit shifting are in the region of $100 to $240 billion annually. According to research by the EU Tax Observatory, low and lower middle-income countries lose the most corporate tax revenue both relative to their GDP and relative to their corporate and total tax revenue.

True transparency would ensure actual and immediate access without barriers or other limitations to the use of information. CbCR reports provide tax authorities with helpful information to assess transfer pricing risks, determine where audit resources are best deployed, provide preliminary information for the commencement of audits, and highlight entities with the highest likelihood of profit-shifting activities.

A 2023 UN report highlighted that Global South countries largely lack access to these reports. For example, the U.S., home to the largest number of multinational corporations, automatically shares CbCR reports with just one African country – South Africa. While some African and least developed countries have signed onto the multilateral agreement for report exchange, **no least developed country receives reports**, and Kenya, Mauritius, Seychelles, Nigeria, and South Africa are the only African states with activated exchange relationships for CbCR that can currently receive some reports from other jurisdictions. Thus, a majority of African countries remain outside of the CbCR information exchange circle, thus limiting their tax administrations' capacities to investigate and engage in enforcement activities against multinational enterprises.

The OECD imposes many conditions on countries before they can receive CbCR reports. These conditions effectively prevent this important tax reform from being applied universally and are particularly difficult for many low-income and lower-middle income countries to meet. Adopting public CbCR reporting would overcome these obstacles.

According to the Platform for Collaboration on Tax, the seven "prerequisites to obtaining CbC Reports can be challenging for many Global South countries, which may not yet have the requisite exchange mechanisms in place. Even where they are in place, some Global South countries will face delays in entering the necessary protocols for the exchange of CbC Reports, and establishing the processes for ensuring consistency, appropriate use and confidentiality in practice. These factors may cause obstacles or delays for Global South countries in receiving CbC Reports." In addition to these obstacles, the U.S. – home to a significant portion of all multinationals globally –not signed the convention and still has limited treaty networks with Global South nations.

Public CbCR requires large multinational corporations to identify on a country-by-country basis: a list of subsidiaries; primary activities; third-party and intra-group revenues; profits; cash taxes paid; taxes accrued; an explanation regarding the difference between taxes accrued and the tax due, if the statutory tax rate was applied to profit/loss before tax; number of employees; tangible assets, etc. It requires multinational corporations to disclose similar information currently reported confidentially under Action 13. Public CbCR implementation costs would be minimal for multinational corporations already producing reports under BEPS Action 13.

A limited form of public CbCR is now required by the European Union and is being implemented by member states. Australia is advancing its own public CbCR legislation. In 2021, the report of the UN's High-level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (the FACTI Panel), recommended increased tax transparency. Recommendation 3B calls for increased tax transparency "by having all private multinational entities publish accounting and financial information on a country-by-country basis."

Recommendation 1: The FACT Coalition recommends that public CbCR requirements by member states should be included as a substantive recommendation in the elements paper in advance of the second preparatory committee meeting in New York. Public CbCR should ultimately be included in the Outcomes Document next year to advance the Financing for Development agenda. This recommendation is also aligned with the terms of reference for a UN Framework Convention on Tax Cooperation, whose principles include "transparency and accountability of all taxpayers." The terms of reference commitments also include "transparency and exchange of information for tax purposes". Public CbCR should be included as an important element in the negotiations for the UN Framework Convention.

2. Global Adoption of Beneficial Ownership Registries and Comprehensive Information Sharing Arrangements Can Help Combat Tax Evasion and Other Illicit Financial Flows

Through the 2015 Addis Ababa Action Agenda (AAAA), member states pledged "redouble efforts to substantially reduce illicit financial flows by 2030, with a view toward eventually eliminating them, including by combating tax evasion and corruption through strengthened national regulation and increased international cooperation." Member states also committed to "access to beneficial ownership information for competent authorities."

Since 2015, many jurisdictions have implemented beneficial ownership disclosure requirements to ensure that the true owners of corporate and other entities are known to tax authorities, financial crimes investigators, and in some cases, the public. In 2021, the U.S. enacted the Corporate Transparency Act which is currently being implemented by the U.S. Treasury's Financial Crimes Enforcement Network.

The concept note for the first session of the Preparatory Committee for the Fourth International Conference on Financing for Development encourages countries to "work tougher to strengthen beneficial ownership transparency." The note says that the "implementation of national beneficial ownership registries in several countries has increased transparency and reduced opportunities for IFFs in those countries." The note cautions that "cooperation between countries and joint investigations is often weak, allowing perpetrators of IFFs to exploit regulatory and enforcement gaps." Beneficial ownership registries have been effective in combating tax evasion and corruption-related IFFs. Recently, research by the FACT Coalition has demonstrated that anonymous shell companies are often key to moving the illicit proceeds from environmental crimes, such as illegal logging and mining, between source and destination countries.

Two guiding questions for the first session roundtable on domestic public resources are related to the need for increased beneficial ownership transparency:

- What strategies can be employed to strengthen the regulatory frameworks and enforcement mechanisms necessary to combat illicit financial flows effectively?
- How can international cooperation be enhanced to improve the detection, deterrence, and recovery of illicit financial flows?

The FACT Coalition believes that increased beneficial ownership transparency, and international cooperation to share beneficial ownership information, are important policy reform responses to these questions. Without comprehensive beneficial ownership registries in jurisdictions around the world, authorities are stymied in their investigations of tax evasion as well as financial crimes linked to corruption and other crimes, including environmental crimes, drug trafficking, and human trafficking. Financial crimes investigations are often thwarted when they lead to an anonymous shell company in another jurisdiction. Greater international cooperation and information sharing is crucial to successful investigations, enforcement, and prosecution of criminal activity.

Recommendation 2: In line with the recommendations of the FACTI Panel Report, all countries should create and maintain registries of the beneficial owners of corporations, trusts, and other legal entities. This requirement should be a substantive recommendation in the elements paper in advance of the second preparatory committee meeting. Where these beneficial ownership registries are not public, governments should create effective and timely channels for the exchange of beneficial ownership information to aid in investigations pertaining to tax evasion and other IFFs.

Conclusion

The FACT Coalition welcomes the opportunity to provide these recommendations for inclusion in the elements paper for the FfD4 process and look forward to further engagement in the formal and informal spaces leading up to the FfD4 Summit. In addition to the above recommendations, we broadly support the calls by civil society organizations, including the Civil Society FfD Group, for transformation of global economic governance decision making to allow equal voice for Global South countries.

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[1] According to the OECD, "under BEPS (Base Erosion and Profit Shifting) Action 13, all large multinational enterprises (MNEs) are required to prepare a country-by-country (CbC) report with aggregate data on the global allocation of income, profit, taxes paid and economic activity among tax jurisdictions in which they operate. This CbC report is shared with tax administrations in these jurisdictions for use in high level transfer pricing and BEPS risk assessments."