



# Background memo

In response to the call for submissions to the thematic report of the Special Rapporteur on Freedom of Opinion and Expression to the UN (United Nations) Human Rights Council: “Freedom of Opinion and Expression and Sustainable Development - Why Voice Matters”

February 2023





## Summary

Transparency and public access to information is a core human rights principle and reflects a crucial component of tax justice.<sup>1</sup> Tax and fiscal policy regimes have a pivotal role in strengthening and facilitating the enjoyment of the freedom of expression and sustainable development.

This background memo summarises the underpinning linkages between tax justice, illicit financial flows, and sustainable development. We briefly explain the impact of illicit financial flows on financial transparency and sovereignty over nations' policy development. Moreover, we summarise the current policy context in which illicit financial flows and secrecy can flourish. We provide some scale estimates of revenue losses which drive countries' vulnerability to opacity and retrogression. Finally, the memo sets out the progressive and credible policy measures that can safeguard democracy, public interest and the freedom of expression and strengthen sustainable development. We highlight four critical recommendations for strengthening transparency and for the governance and regulation of international tax and financial architecture.

## Illicit Financial Flows: Impact on democracy, public participation, and sustainable development

Illicit financial flows, “an umbrella term which covers cross-border movements related to tax avoidance, tax evasion, regulatory abuses, bribery and the theft of state assets, the laundering of the proceeds of crime and the financing of terrorism” poses one of the greatest modern threats to democracy and public participation.<sup>2</sup> Illicit financial flows are facilitated by laws and policies which allow corporations, wealthy elites, and criminals to circumvent regulatory measures and law enforcement. As such, they present a systemic risk to all human rights, including to the freedom of expression. The existing international financial system facilitates movement of assets and wealth across borders with anonymity and impunity. The overall effect of this opacity reduces the domestic revenue available to states and further risks weakening progressive governance in which freedom of expression can be practiced. This curtails available expenditure for the public good by reducing resources for social protections, public services, welfare benefits and the realisation of human rights.<sup>3</sup> As a consequence, this undermines opportunities to realise human rights, such as the right to health and education, as well as a broader set of rights including freedom of speech and to sustain human development and wellbeing.<sup>4</sup>


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<sup>1</sup> Dayana Blanco and others, ‘Principles for Human Rights in Fiscal Policy’, *CESR*, 2021 <<https://www.cesr.org/principles-human-rights-fiscal-policy>> [accessed 20 June 2021].

<sup>2</sup> Cobham, Alex, ‘Target 2030: Illicit Financial Flows’, *Elcano Royal Institute*, 2018 <<https://www.realinstitutoelcano.org/en/analyses/target-2030-illicit-financial-flows/>> [accessed 3 February 2023].

<sup>3</sup> Cobham, Alex, and Petr Janský. *Estimating Illicit Financial Flows: A Critical Guide to the Data, Methodologies and Findings*, n.d.

<sup>4</sup> Stephen Hall and others, *Lost Government Revenues Due to Tax Abuse – the Impact on the Determinants of Health and Mortality Rates, Government Revenue and Development Estimation (2021)* <<https://med.st-andrews.ac.uk/grade/wp-content/uploads/sites/13/2021/04/Lost-government-revenues-due-to-tax-abuses-5.4.2021-1.pdf>> [accessed 2 July 2021].



The system that enables illicit financial flows not only reduces the resources available for governments, but also ensures that powerful elites and corporate entities are complicit and therefore unable and unwilling to combat the system that inflates their own offshore bank accounts. The very people with the power to combat illicit financial flows are those who most benefit from ignoring the problem.

## Scale of Illicit Financial Flows

In 2020, the Tax Justice Network estimated that an annual tax revenue of US\$427 billion was lost to direct tax abuse worldwide.<sup>5</sup> This increased to US\$483 billion in 2021.<sup>6</sup> While high income countries lose more revenue in dollar amounts, lower income countries lose a larger proportion of their tax revenue, 4.2% compared to the 2.8% lost by high income countries. The revenue lower income countries are losing ends up overwhelmingly in high income countries.<sup>3</sup>

The scale of illicit outflows from the region of Africa has been estimated “as much as US\$1.4 trillion over 3 decades. Corporate commercial activity stands out as the biggest culprit – accounting for as much as 65% of all illicit outflows”.<sup>7</sup> Estimates of wealth held offshore globally are between some US\$21 trillion to US\$32 trillion.<sup>8</sup>

Leading economists and tax justice advocates have explored the best ways to estimate the scale of illicit financial flows, either in total or by streams of financial flow. The lack of definitive information and transparency around the money flowing through the deliberately opaque financial system requires complex modelling and statistical analysis and estimation.<sup>9</sup> The OECD (Organisation for Economic Cooperation and Development) has failed to publish aggregated country by country reporting data on time, making it impossible to hold the organisation accountable for how it is delivering on its mandate to lead international efforts against corporate tax abuse.<sup>10</sup> The one thing that all estimates and attempts to quantify the issue have in common is that the problem is expansive, Global South

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<sup>5</sup> Tax Justice Network, Global Alliance for Tax Justice, and Public Services International. “The State of Tax Justice 2020: Tax Justice in the Time of COVID-19,” November 20, 2020.

[https://www.taxjustice.net/wp-content/uploads/2020/11/The\\_State\\_of\\_Tax\\_Justice\\_2020\\_ENGLISH.pdf](https://www.taxjustice.net/wp-content/uploads/2020/11/The_State_of_Tax_Justice_2020_ENGLISH.pdf).


<sup>6</sup> Global Alliance for Tax Justice, Public Services International, and Tax Justice Network. “The State of Tax Justice: 2021.” Tax Justice Network, November 16, 2021. [https://taxjustice.net/wp-content/uploads/2021/11/State\\_of\\_Tax\\_Justice\\_Report\\_2021\\_ENGLISH.pdf](https://taxjustice.net/wp-content/uploads/2021/11/State_of_Tax_Justice_Report_2021_ENGLISH.pdf).

<sup>7</sup> AFRODAD and others, ‘Curb Illicit Financial Flows in Africa’, Stop the Bleeding Africa, 2023 <<https://stopthebleedingafrica.org/>> [accessed 5 February 2023].

<sup>8</sup> Cobham, Alex, ‘It’s Got to Be Automatic: Trillions of Dollars Offshore Revealed by Tax Justice Network Policy Success’, Tax Justice Network, 2020 <<https://taxjustice.net/2020/07/03/its-got-to-be-automatic-trillions-of-dollars-offshore-revealed-by-tax-justice-network-policy-success/>> [accessed 6 February 2023].

<sup>9</sup> Cobham, Alex, and Petr Janský. Estimating Illicit Financial Flows: A Critical Guide to the Data, Methodologies and Findings, n.d.; “Conceptual Framework for the Statistical Measurement of Illicit Financial Flows.” UNODC and UNCTAD, October 1, 2020. [https://unctad.org/system/files/official-document/IFF\\_Conceptual\\_Framework\\_EN.pdf](https://unctad.org/system/files/official-document/IFF_Conceptual_Framework_EN.pdf).; Cobham, Alex, Javier Garcia-Bernardo, Petr Jansky, and Miroslav Palansky. “Statistical Measurement of Illicit Financial Flows in Sustainable Development Goals: Tax Avoidance by Multinational Corporations.” Working Papers IES, Working Papers IES, July 2021. [https://ideas.repec.org/p/fau/wpaper/wp2021\\_24.html](https://ideas.repec.org/p/fau/wpaper/wp2021_24.html).

<sup>10</sup> Tax Justice Network, ‘State of Tax Justice 2022’, Tax Justice Network, 2022 <<https://taxjustice.net/reports/state-of-tax-justice-2022/>> [accessed 6 February 2023].



countries suffer more, and the world's richest countries and individuals are benefiting from the systems and structures they have put in place to keep their money exactly where it benefits their personal interests most.

An equitable tax and financial system is fundamental for cementing the tie between state and citizen to strengthen governance and accountability and ensure that resources are being spent where they are most needed to meet the crucial UN (United Nations) Sustainable Development Goals. An effective tax system must deliver on the 4 Rs of tax and human rights: **R**evenues to fund public services; **R**edistribution to curb inequalities; **R**epricing to address public harms such as fossil fuel extraction and tobacco consumption; and political **R**epresentation – recognising the key role of tax in ensuring governments are held accountable. The 4 Rs are a powerful tool for human rights and sustainable development<sup>11</sup>.

## ABCs of Tax Justice and Freedom of Expression

The ABCs of tax justice are fundamental in combatting illicit financial flows and the negative impacts they have on society. As the foundational policies for promoting tax justice, the ABCs heavily relate to the availability of information and transparency for the public and responsible institutions to hold powerful entities to account.

### Automatic exchange of information (AEOI)

The A, automatic exchange of information on financial accounts, has successfully given rise to a multilateral instrument, the OECD Common Reporting Standard (CRS). Less successful is that while more than 100 jurisdictions actively participate in the scheme, lower-income countries receive little or no information.<sup>12</sup> Bilateral information exchange requests can be slow, costly, and politically sensitive, especially when it comes to a nation from the Global South requesting information from a more powerful country in the Global North. Central to the goal of realising rights is tackling/addressing unequal power imbalances, making it more difficult for illicit financial flows to move between countries undetected. The largest financial centre, the United States, continues not to cooperate with the OECD Common Reporting Standard scheme, thereby facilitating significant revenue losses for those countries who need it most. This level of self interest is part of the reason the United States has, since the emergence of multilateral information exchange, risen to the top of the Financial Secrecy Index in 2022 as the biggest global offender for facilitating tax abuse, enabling money laundering, and undermining the human rights of all.

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<sup>11</sup> Liz Nelson, *Tax Justice & Human Rights: The 4 Rs and the Realisation of Rights* (7 June 2021) <<https://taxjustice.net/reports/tax-justice-human-rights-the-4-rs-and-the-realisation-of-rights/>> [accessed 8 September 2021].

<sup>12</sup> St Andrew's University GRADE, Tax Justice Network and University of Leicester, 'Submission Human Rights Council Universal Periodic Review (Fourth Cycle) United Kingdom of Great Britain & Northern Ireland', 2022 <<https://medicine.st-andrews.ac.uk/grade/wp-content/uploads/sites/39/2022/12/Submission-to-Human-Rights-Council-Universal-Periodic-Review-Fourth-Cycle-UK-NI.pdf>> [accessed 6 February 2023].

<sup>13</sup> Tax Justice Network, *Financial Secrecy Index 2022 – Tax Justice Network*, FSI (UK, 18 May 2022) <<https://fsi.taxjustice.net/>> [accessed 12 August 2022].

## Beneficial Ownership

The B of the ABCs, beneficial ownership transparency, is behind the adoption by states of a growing number of public registers of company ownership at all per capita income levels. In 2018, only 34 jurisdictions required any level of beneficial ownership registration. This increased to 97 in 2022, with European countries at the forefront of beneficial ownership transparency legislation, and Latin America and the Caribbean coming in second. No country has reached the ideal level of beneficial ownership registration for all types of legal vehicles, however.<sup>14</sup> This ensures that those intent on hiding their wealth away still have plenty of avenues to use.

Major data leaks - from Lux leaks<sup>15</sup> to the Panama Papers<sup>16</sup>, Luanda leaks<sup>17</sup>, the Malta Files<sup>18</sup>, Paradise Papers<sup>19</sup>, and most recently the Pandora Papers<sup>20</sup> - reveal how politicians, public officials, and high net worth individuals abuse complex financial structures to pay less tax and highlight the desperate need for better transparency measures. The public should not have to rely on data leaks, which risk criminalising journalists and other whistle blowers. If beneficial ownership data is in the public domain, by making registers available to the public and to journalists, it ensures better political accountability.<sup>21</sup>

The establishment of public and freely accessible beneficial ownership registers is only partial, and the risk of capital flight therefore remains.<sup>22</sup> Moreover, the threat to advances in financial transparency is only too real and illustrated by a recent ruling by the European Court of Justice which declared invalid the legal requirements on and other legal entities in the European Union to publicly disclose beneficial ownership information.

### European Court of Justice 2022 ruling threatens beneficial ownership transparency

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<sup>14</sup> Knobel, Andres, and Florencia Lorenzo. “Beneficial Ownership Registration around the World 2022.” Tax Justice Network; Financial Transparency Coalition, December 2022. <https://taxjustice.net/wp-content/uploads/2022/12/State-of-Play-of-Beneficial-Ownership-2022-Tax-Justice-Network.pdf>.

<sup>15</sup> ICIJ. “Luxembourg Leaks: Global Companies’ Secrets Exposed.” ICIJ (blog), 2014. <https://www.icij.org/investigations/luxembourg-leaks/>.

<sup>16</sup> ICIJ. “The Panama Papers: Exposing the Rogue Offshore Finance Industry,” 2018. <https://www.icij.org/investigations/panama-papers/>.

<sup>17</sup> ICIJ. “Luanda Leaks.” International Consortium of Investigative Journalists (blog), 2020. <https://www.icij.org/investigations/luanda-leaks/>.


<sup>18</sup> “Malta Files | EIC.” Accessed March 8, 2023. <https://eic.network/projects/malta-files>.

<sup>19</sup> ICIJ. “Paradise Papers: Secrets of the Global Elite,” 2017. <https://www.icij.org/investigations/paradise-papers/>.

<sup>20</sup> ICIJ. “Pandora Papers: An Offshore Data Tsunami - ICIJ,” October 3, 2021. <https://www.icij.org/investigations/pandora-papers/about-pandora-papers-leak-dataset/>.

<sup>21</sup> Tax Justice Network. “Pandora Papers Shows Transparency Failure Is an Accountability Failure,” October 3, 2021. <https://taxjustice.net/2021/10/03/pandora-papers-shows-transparency-failure-is-an-accountability-failure/>.

<sup>22</sup> Tax Justice Network, ‘Secrecy Indicators – Financial Secrecy Index’, 2022 <<https://fsi.taxjustice.net/secrecy-indicators/>> [accessed 6 February 2023]. Indicators 1 -6.



On November 22, 2022, the European Court of Justice (ECJ) issued a ruling that declared invalid the legal requirements on local corporations and other legal entities to publicly disclose beneficial ownership information, bringing into question the legality of public beneficial ownership registries which are crucial in combatting all sorts of financial crime and corruption.<sup>23</sup>

Beneficial ownership transparency is an issue that has the potential to bring together stakeholders who might normally be in opposition to each other, including civil society organisations, financial institutions, journalists, politicians, tax authorities, and law enforcement. From a practical point of view, online public access is so useful that even official authorities prefer online registers to other official channels of accessing and requesting information.<sup>24</sup>

This European Union Court ruling derails a decade of progress in combatting illicit financial flows and strengthens the hand of professional ‘enablers’ to continue exploiting the secrecy that protects criminal activity, tax abuse, and corruption.

**Further resources:**

- Article: [Dear European Court of Justice: You Were Played](#)
- Video [6 minutes]: [Why we need to know who owns EU companies](#) | Transparency International

In addition to public registries, an important policy initiative proposed variously by Thomas Piketty, the Tax Justice Network and by ICRICT (Independent Commission for the Reform of International Corporate Taxation) calls for a mechanism to move towards the interlinking of national registers for legal vehicles and assets of high value, including property. This would create a powerful tool for the public good, open to all.<sup>22</sup> There is growing support in this proposal for a global asset registry that could be followed by a regional public registry of assets and later interconnected into a Global Asset Registry.


## Country by Country Reporting

The ‘C’ of the ABCs refers to the establishment of public country-by-country reporting. Currently this reporting sits within the auspices of the OECD. This is key to curtailing the practice of “profit shifting.” It also serves to expose the misalignment between the actual economic activity of a multinational company

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<sup>23</sup> Knobel, Andres, and Florencia Lorenzo. “Beneficial Ownership Registration around the World 2022.” Tax Justice Network; Financial Transparency Coalition, December 2022. <https://taxjustice.net/wp-content/uploads/2022/12/State-of-Play-of-Beneficial-Ownership-2022-Tax-Justice-Network.pdf>.

<sup>24</sup> Knobel, Andres. “Dear European Court of Justice, You Were Played - Tax Justice Network.” Accessed December 7, 2022. <https://taxjustice.net/2022/12/05/dear-european-court-of-justice-you-were-played/>.



and where they choose to 'book' their profits for tax purposes. Addressing this misalignment ensures a stronger level of accountability between Multinational Corporations with economic activity in a particular jurisdiction and populations living there. The OECD now requires this data to be provided to home country tax authorities, based on an original Tax Justice Network proposal. However, most lower income countries never get access to the data, because as long as it is not fully *public* it will not support genuine accountability for either companies or the jurisdictions that facilitate their profit shifting and tax minimisation practices.

To make matters worse, the OECD continues to lag behind in publishing even aggregate information from this reporting; the Tax Justice Network's estimates are based on 2018 data. More accurate estimates could be gathered in the public interest if the OECD made 2020 and 2021 data available. The OECD is also yet to respond to its 2020 review, when investors and civil society were nearly unanimous in calling for the adoption of the much more robust Global Reporting Initiative standard.

More positively however, the EU is about to begin requiring publication of company-level data for operations in EU member states at least, and Australia has committed to introduce full public country-by-country reporting. A growing number of major companies are already publishing voluntarily to the Global Reporting Initiative standard, and investors with trillions of dollars of assets under management are actively demanding this from other companies<sup>25 26</sup>.

The level of transparency that can be afforded by CBCR data shifts power away from corporate and elite interests and towards the general population. Over time, addressing tax abuse of this kind, along with other indirect tax losses through policy instruments like tax incentives, subsidies, and credits, increases the proportion of corporate tax that can be raised as a percentage of government revenue. This opens greater opportunities to reform and design progressive policies and strengthen taxpayer representation and interests - which can underpin freedom of expression, strengthen civil society space and journalistic freedom. The facilitating of potential additional revenue means States can engage more deeply in achieving sustainable development goals while limiting the risks, interference and vulnerabilities created by private interests and financial services dominating.<sup>27</sup>

## Access to information


The public has the right to openly accessible and comprehensive information, which should include information on the scale and enablers of illicit financial

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<sup>26</sup> Global Reporting Initiative, 'GRI - Momentum Gathering behind Public Country-by-Country Tax Reporting', *Global Reporting Initiative*, 2021 <<https://www.globalreporting.org/news/news-center/momentum-gathering-behind-public-country-by-country-tax-reporting/>> [accessed 8 March 2023].

<sup>27</sup> Nelson, *Tax Justice & Human Rights*.





flows.<sup>28</sup> In 1999, the UN Special Rapporteur on Freedom of Expression, Abid Hussain, issued a joint statement along with the Organisation for Security and Cooperation in Europe, Representative on Freedom of the Media, and the Organisation of American States Special Rapporteur on Freedom of Expression, in which they declared that "[i]mplicit in freedom of expression is the public's right to open access to information and to know what Governments are doing on their behalf, without which truth would languish and people's participation in Government would remain fragmented". In the same joint statement, they also recognise the ramifications that freedom of expression has on economic development citing the corrective role that the media plays in bringing the public's attention to "corruption and inequitable practices".<sup>29</sup>

In 2004, the UN Special Rapporteur on Freedom of Expression, Abid Hussain, the Organisation for Security and Cooperation in Europe Representative on Freedom of the Media, and the Organisation of American States Special Rapporteur on Freedom of Expression also issued another joint declaration that further expounded on the right to access information held by public authorities and the principle of maximum disclosure, declaring that "public authorities should be required to publish proactively, even in the absence of a request, a range of information of public interest"<sup>30</sup>. National authorities clearly either fail to gather, or disclose crucial information about financial accounts and transactions, the real beneficial owners behind sometimes obscure complex financial structures, and the real economic activity of Multi-National Companies who take advantage of limited disclosure to avoid paying their fair share of taxes. These practices shift the tax burden onto ordinary people and significantly lowers potential tax revenue available for sustainable development.

To summarise on the ABCs, the OECD established the Common Reporting Standard (CRS) in 2014, to an extent making the idea of automatic exchange of information a reality. Unfortunately, its implementation has many limitations. Many Global South countries receive little to no information and the international standard established with the CRS is far from being met in many jurisdictions, thereby reducing its global effectiveness<sup>31</sup>.

Beneficial Ownership is an area that has seen great improvement, although it is not without gaps, although the recent EU Court ruling has now put at risk the availability of information that is vital to the public interest.

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<sup>28</sup> United Nations, 'Universal Declaration of Human Rights', United Nations (1948) <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> [accessed 6 February 2023]. Article 19 and United Nations, 'International Covenant on Civil and Political Rights', OHCHR, 1976 <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>> [accessed 6 February 2023]. Article 19.

<sup>29</sup> Hussain, Abid. "Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Abid Hussain, Submitted in Accordance with Commission Resolution 1999/36." UN, January 18, 2000. <https://digitallibrary.un.org/record/408177>.

<sup>30</sup> Ambeyi Ligabo and others, 'The Right to Freedom of Opinion and Report of the Special Rapporteur, Ambeyi Ligabo', United Nations, 2005 <<https://digitallibrary.un.org/record/564938>> [accessed 6 February 2023].

<sup>31</sup> Tax Justice Network, 'Secrecy Indicators – Financial Secrecy Index'. See Indicators 18, 19 and 20.





The OECD also currently holds the mandate on country by country reporting data, but it has failed to deliver and the data available is difficult to access, published irregularly or late, and grossly incomplete<sup>32</sup>.

Access to information is crucial to detecting and deterring illicit financial flows of all types and is a critical foundation of sustainable development.

## Global tax governance and movement towards greater transparency and inclusion

**Global governance** of tax in the 21<sup>st</sup> century requires a genuinely inclusive and representative forum at the UN to replace the rich country members' club, the OECD. This could emerge as one outcome of a UN framework convention on tax that could also ensure that the full benefits of the ABC of tax transparency are delivered to all countries and peoples. In December 2022 the United Nations marked a historic moment for financial and tax transparency, and for the enjoyment of human rights with a unanimous adoption of the UN resolution on "Promotion of inclusive and effective international tax cooperation at the United Nations" by all UN member states at the General Assembly. This is a pivotal moment in the development of the international tax architecture and over how global tax rules are decided. This has been a long and hard-fought journey, and one that is far from over in an effort to reprogramme the global tax system and to ensure all nation states have a say on taxing rights. The Resolution opens the way for international tax cooperation, including the proposal for a UN tax convention to be negotiated. This provides opportunities for a fully inclusive and transparent intergovernmental agreement beyond the arrangements which are currently governed by the OECD.<sup>33</sup>


It is over a hundred years since the global powers within the League of Nations gave themselves the dominant role over international tax rules. Since then, a cadre of northern colonial powers have continued to determine policy direction, embedding policies in an international architecture that has hard-wired inequalities between global north and south countries. African nations are almost totally excluded from the OECD's project to reform the tax rules and have taken the lead in righting this wrong.

In 2019 the Africa Group at the United Nations led the calls for a change in how the global tax system was governed. The UN Secretary-General's 'Financing for Development in the Era of COVID-19' initiative in 2020 identified a UN tax convention among the options for heads of state (at one stage, making it a central recommendation). Soon after the High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (the **UN FACTI (Financial Accountability, Transparency, and Integrity) Panel**) made a UN tax convention one of the key recommendations of its final report. The FACTI Panel drew upon the seminal findings of the African Union/Economic Commission

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<sup>32</sup> Cobham, Alex, 'Open Letter to G20: OECD Failure to Deliver on G20 Mandates', Tax Justice Network, 2022 <<https://taxjustice.net/2022/11/15/open-letter-to-g20-oecd-failure-to-deliver-on-g20-mandates/>> [accessed 3 February 2023].

<sup>33</sup> Tax Justice Network, '● Live Blog: UN Vote on New Tax Leadership Role', *Tax Justice Network*, 2022 <<https://taxjustice.net/2022/11/22/●-live-blog-un-vote-on-new-tax-leadership-role/>> [accessed 3 February 2023]. <https://taxjustice.net/2022/11/22/●-live-blog-un-vote-on-new-tax-leadership-role/>. [accessed 2 February 2023].



for Africa High-Level Panel on illicit financial flows out of Africa (the “Mbeki panel”). Its recommendations were set in the “context of large corporations having the means to retain the best available professional legal, accountancy, banking and other expertise to help them perpetuate their aggressive and illegal activities and their damaging impact on rights”.<sup>34</sup>

An initiative spearheaded by the Colombian government and announced by Finance Minister Jose Antonio Ocampo, replicates the leadership taken by African Ministers in May 2022. It is likely to bring further pressure to bear in the move towards an intergovernmental dialogue on international tax and financial governance.<sup>35</sup>

### **Additional Resources:**

- [The State of Tax Justice 2020](#)
- [The State of Tax Justice 2021](#)
- [The State of Tax Justice 2022](#)
- [Illicit Financial Flows Vulnerability Tracker](#)
- [Financial Secrecy Index](#)
- [Corporate Tax Haven Index](#)

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<sup>34</sup> United Nations, ‘Illicit Financial Flows: Report of the High Level Panel on Illicit Financial Flows from Africa’, 2015 <<https://repository.uneca.org/handle/10855/22695>> [accessed 3 February 2023]. P.3.

<sup>35</sup> Tax Justice Network, ‘Davos: Colombia Announces Latin America’s First Global Tax Summit as Countries Gear up for UN Tax Negotiations’, *Tax Justice Network*, 2023 <<https://taxjustice.net/press/davos-colombia-announces-latin-americas-first-global-tax-summit-as-countries-gear-up-for-un-tax-negotiations/>> [accessed 6 February 2023].

## Recommendations

Our recommendations target measures that will increase the transparency of financial systems and shift the governance of the global financial system to an intergovernmental framework which is truly inclusive and transparent.<sup>36</sup>

### 1 Publication of CRS Statistics:

Many countries are deemed to be compliant with the recognised international standard for **automatic exchange of financial information (AEOI)**, yet not every signatory to the agreement exchanges data with every other signatory. Lower income countries have fewer resources to spend on regulation, enforcement, and monitoring to identify the legal, beneficial owners of assets leaving one jurisdiction and crossing to another and they need countries to address remaining loopholes.

- Every country should publish Common Reporting Standard (CRS) statistics, following the examples of Australia and Germany to ensure full transparency.<sup>37</sup> This increased transparency would enable any jurisdiction to review data on any non-resident (regardless of whether their country is participating in the OECD system) and allows regulation and enforcement authorities to trace illicit finance.

### 2 Transparency of Legal and Real Beneficial Ownership

One of the key obstacles and challenges in bringing transparency to bear on the issue of beneficial ownership is the issue of complexity. Robust country-level policies are necessary to address beneficial ownership secrecy towards better regulation of complex ownership structures.<sup>38</sup>


- Every country should provide information on planned actions on its tax and financial transparency policies and laws, and the extra-territorial impacts of these on the right to freedom of access to information

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<sup>36</sup> GRADE and Tax Justice Network, 'Human Rights Council Universal Periodic Review (Fourth Cycle) United Kingdom of Great Britain & Northern Ireland', 2022 <<https://medicine.st-andrews.ac.uk/grade/wp-content/uploads/sites/39/2022/12/Submission-to-Human-Rights-Council-Universal-Periodic-Review-Fourth-Cycle-UK-NI.pdf>> [accessed 3 February 2023].

<sup>37</sup> Andres Knobel, 'Penguins Hold Millions in Australian Banks: Revealing Trends from Australian and German Banking Statistics', *Tax Justice Network*, 2021 <<https://taxjustice.net/2021/12/14/penguins-hold-millions-in-australian-banks-revealing-trends-from-australian-and-german-banking-statistics/>> [accessed 30 March 2022].

<sup>38</sup> Andrés Knobel, 'Addressing the Secrecy Risks of Complex Ownership Chains: Another Tool to Improve Beneficial Ownership Verification', *Tax Justice Network*, 2022 <<https://taxjustice.net/2022/02/16/addressing-the-secrecy-risks-of-complex-ownership-chains-another-tool-to-improve-beneficial-ownership-verification/>> [accessed 3 February 2023].

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- Every country should establish a publicly accessible register, free of charge, of the beneficial owners of companies, trusts, foundations, and other relevant legal vehicles

### Global Asset Registry

- All countries should establish central beneficial ownership registries for all types of legal vehicles (companies, partnerships, foundations, trusts, etc). Once beneficial ownership registries are established, countries should connect their beneficial ownership registries to other national registries (e.g. real estate, aircraft, cars, vessels, etc). This expands the potential to identify the beneficial owners of assets, identify money laundering cases, ensure asset recovery, or apply wealth taxes, which are central to addressing global inequality. The final step to close the gap in the oversight of these complex interlinkages is to connect all local, national, and regional registries in on Global Asset Register. Oversight of these complex interlinkages and a global registry should take place under a UN Convention Framework.<sup>39</sup>

## 3 Public Country by Country Reporting


- The GRI (Global Reporting Initiative) offers multinational companies the opportunity to voluntarily deliver ‘disclosure of tax payments on a CBCR [country by country reporting] basis, alongside tax strategy and governance.’ Some well known multinational companies already do this, but many other countries could set this expectation for their resident multinational companies
- The current arrangements for anonymising and aggregating MNCs’ accounting reports should end. OECD currently permits multinational corporations to privately disclose their country by country accounting reports to their governments, who are required to anonymise the reports before sharing them with the OECD who then aggregate and share the data with the public. This fails the necessary standard of transparency: for governments to be able to assess corporations’ profit shifting from source countries and the revenue foregone.<sup>40</sup>
- The G20 should move the mandate for country by country reporting from the OECD to the United Nations.

## 4 UN Convention on Tax

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<sup>39</sup> ICRICT, ‘Its Time for a Global Asset Registry To Tackle Hidden Wealth’, 2022 <<https://static1.squarespace.com/static/5a0c602bf43b5594845abb81/t/625d8347a29a317f33672802/1650295641140/ICRICT+GAR+report+EN.pdf>> [accessed 3 February 2023].

<sup>40</sup> Cobham, Alex, ‘Open Letter to G20’.



The OECD's failure to address multinational companies' profit shifting or to make any meaningful shift on how international tax rules are decided and regulated requires an **inclusive and transparent intergovernmental framework under the auspices of the United Nations**.<sup>41</sup> The UN Resolution (December 2022) sets a path towards the UN General Secretary's report on international coordination and cooperation to combat Illicit financial flows.<sup>42</sup> This requires diligence and boldness from all states to support the progressive steps reflected in the UN Resolution, which can reprogramme international tax and establish tax transparency as not only a fundamental principle of human rights, but of global tax and financial architecture. We encourage state parties, civil society and other stakeholders to support initiatives to strengthen meaningful, inclusive and transparent negotiations for an intergovernmental framework on tax including to:

- Amplify the unresolved issues on equitable taxation and financial transparency which will be identified by academics, civil society organisations, and the private sector which will be addressed in Bogota, 2-3 May 2023 and further to,
- Support the Colombian Ministry of Finance's regional initiative to create a ministerial decision-making platform for aligning Latin American and Caribbean positions on international tax matters (Cartagena, 27-28 July 2023).<sup>43</sup>

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<sup>41</sup> Tax Justice Network, 'World's First UN Tax Convention Draft Is Antidote to Sanctions-Busting Financial Secrecy, Campaigners Announce', *Tax Justice Network*, 2022 <<https://taxjustice.net/press/worlds-first-un-tax-convention-draft-is-antidote-to-sanctions-busting-financial-secrecy-campaigners-announce/>> [accessed 3 February 2023].

<sup>42</sup> United Nations Secretary General, 'International Coordination and Cooperation to Combat Illicit Financial Flows: Report of the Secretary-General', 2022 <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/466/94/PDF/N2246694.pdf?OpenElement>> [accessed 3 February 2023].

<sup>43</sup> Ministerio de Hacienda Y Credito Publico, 'Towards Inclusive Taxation', *Ministerio de Hacienda Y Credito Publico*, 2023 <[https://www.minhacienda.gov.co/webcenter/portal/TributacionIncluyente/pages\\_TributacionIncluyente/towardsinclusivetaxation](https://www.minhacienda.gov.co/webcenter/portal/TributacionIncluyente/pages_TributacionIncluyente/towardsinclusivetaxation)> [accessed 9 March 2023].