

Response by Eurodad to the *Discussion Draft on Transfer Pricing Documentation and CbC Reporting*

Brussels, February 23 2014

Introduction

Eurodad acknowledges the opportunity provided by the OECD to send input for the *Discussion Draft on Transfer Pricing Documentation and CbC Reporting*. Our submission does not directly correspond to the questions raised in the discussion draft but focuses on a few specific matters, which we find are particularly important.

General remarks

Eurodad supports the work of the BEPS Monitoring Group (BMG) and endorses the general positions of BMP. We would therefore also like to draw attention to the submission by the BMP to this consultation.

Public country-by-country reporting

In addition to the points raised in the submission by the BMG, we would like to emphasize the importance of making the information obtained from country-by-country reporting publically available.

The BEPS action plan specifies that multinational enterprises shall “*provide all relevant governments with needed information on their global allocation of the income, economic activity and taxes paid among countries...*” and that this reporting must enhance transparency for tax administrations. This wording does not entail that the reported information must be kept confidential, but rather it leaves open question about whether all or part of the reported information could be made available to the public. However, in the *Discussion Draft on Transfer Pricing Documentation and CbC Reporting*, which has been developed by the OECD in response to the BEPS action plan, it is explicitly stated that the reporting is intended to be “*confidential*” and thus, it appears, not available to the public. Furthermore, the question about public access to the information is not included as one of the questions in the discussion draft and thus it appears as if the OECD is not open to discussing this issue.

It is vitally important to ensure that tax administrations receive high quality country-by-country reporting from multinational enterprises and thus have more tools available to ensure that these enterprises comply with the tax regulations. However, the decision to make all this information confidential is problematic for a number of reasons.

Firstly, it means that a number of vital stakeholders, including journalists, parliamentarians, civil society organizations, academia, and the broader public will still not have access to the most basic information about the multinational enterprises operating in our societies. The unavailable data includes information about how much profit multinational enterprises are making in each country, how much taxes they pay in these countries, and whether or not they are channeling financial resources to tax havens. This information is

necessary if we want to ensure a meaningful public debate about taxation of multinational enterprises, as well as to ensure public scrutiny and accountability of multinational enterprises.

Secondly, as we are currently seeing in the debate around automatic exchange of information for tax purposes, there is a clear risk that the confidentiality requirements will be used as an argument for why governments in low-income countries, who do not have specific systems in place to ensure confidentiality of data, should not receive country-by-country reporting from multinational enterprises. There is thus a risk that the BEPS country-by-country reporting system will not help the world's poorest countries prevent base erosion and profit shifting from their countries, despite the fact that these countries are currently losing large amounts of financial resources due to this problem. In this context, we also find it problematic that the decision by OECD to suggest a confidential country-by-country reporting system seems to have been taken before the regional BEPS consultations of developing countries have even started.

Thirdly, the confidentiality requirements may also prevent public institutions that are not part of the tax administration from accessing the information provided through the BEPS country-by-country reporting system. In a number of situations, including when deciding on public procurement or when entering into public-private partnerships, public institutions could use this information to ensure that public resources are not being used to enhance base erosion and profit shifting or channeled to tax havens.

While we understand the need of enterprises to keep certain types of information confidential to ensure their ability to operate in a competitive market, we do not find that any of the information mentioned in the *Discussion Draft on Transfer Pricing Documentation and CbC Reporting* falls with this category of information.

Concluding remarks

The BEPS action plan came as a political response to a number of scandals concerning multinational enterprises evading and avoiding taxes. It provides an opportunity to establish the transparency needed to support a well-informed public debate about taxation of multinational enterprises. If this opportunity is missed and the current opacity is upheld, the public debate will continue to be driven by scandals and a growing level of mistrust towards multinational enterprises and the taxation system in general. Furthermore, this will also uphold the conditions needed for multinational enterprises to continue avoiding and evading taxes.

This is not in the interest of governments, the public, nor in the interest of the many national and multinational enterprises who pay their fair share of taxes.

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