International Workshop

Civil society strategies towards tax justice – what next?

Bonn, Haus der Evangelischen Kirche, Adenaueralle 37, Germany

13 September 2011

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## Workshop Programme

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
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<tbody>
<tr>
<td>9:30</td>
<td>Registration</td>
</tr>
<tr>
<td>10:00</td>
<td><strong>Welcome and Introduction</strong>&lt;br&gt;Georg Stoll, MISEREOR</td>
</tr>
<tr>
<td><strong>PART 1</strong></td>
<td>Joint Stock Taking: Tax Justice in International Fora</td>
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<tr>
<td>10:15</td>
<td><strong>G20 – Tax Issues on the Agenda of the Cannes Summit</strong>&lt;br&gt;Mathilde Dupré, CCFD - Terre Solidaire</td>
</tr>
<tr>
<td>11:15</td>
<td>Coffee/Tea Break</td>
</tr>
<tr>
<td><strong>PART 2</strong></td>
<td>Civil Society Tax Agenda: Views from the Regions</td>
</tr>
<tr>
<td>11:45</td>
<td>Latin America&lt;br&gt;María José Romero, LATINDADD</td>
</tr>
<tr>
<td>12:30</td>
<td>Lunch Break</td>
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<tr>
<td>13:30</td>
<td>Africa&lt;br&gt;Vera Mshana, Tax Justice Network Africa</td>
</tr>
<tr>
<td></td>
<td>Asia&lt;br&gt;Pooja Parvati, Centre for Budget and Governance Accountability, New Delhi</td>
</tr>
<tr>
<td></td>
<td>Discussion&lt;br&gt;Moderation: Klaus Schilder, terre des hommes</td>
</tr>
<tr>
<td>15:00</td>
<td>Coffee/Tea Break</td>
</tr>
<tr>
<td><strong>PART 3</strong></td>
<td>What next? Advocacy Priorities for the Coming 12 Months</td>
</tr>
<tr>
<td>15:30</td>
<td><strong>Country-by-Country Reporting: Dodd-Frank and beyond</strong>&lt;br&gt;Vanessa Herringshaw, Revenue Watch Institute</td>
</tr>
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<td></td>
<td><strong>Measures against Tax Dodging: Lessons from the SABMiller and Glencore Cases</strong>&lt;br&gt;Chris Jordan, Action Aid UK&lt;br&gt;Andreas Missbach, Berne Declaration</td>
</tr>
<tr>
<td></td>
<td><strong>Update of the TJN’s Financial Secrecy Index 2011 and Cashback 2012</strong>&lt;br&gt;John Christensen, Tax Justice Network</td>
</tr>
<tr>
<td></td>
<td>Discussion&lt;br&gt;Moderation: Wolfgang Obenland, Global Policy Forum</td>
</tr>
<tr>
<td>18.00</td>
<td><strong>Summing-up: Conclusions for the Dialogue with the International Tax Compact</strong>&lt;br&gt;Moderation: Georg Stoll, MISEREOR</td>
</tr>
<tr>
<td>19.00</td>
<td><strong>Boat tour on the river Rhine with participants of the Governmental Workshop of the International Tax Compact</strong></td>
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</tbody>
</table>
Civil Society Tax Agenda: View from Latin America

María José Romero
Latindadd
Civil society strategies towards tax justice – what next?
Bonn, Germany
13 September, 2011

Enhancing cooperation among CSOs on tax and development agenda

1) Latindadd is hosting the Secretariat of the Latin American network on Fiscal Justice.

2) Latindadd is working in partnership with Eurodad and the Task Force on Financial Integrity and Economic Development.
1) Putting forward national and regional concerns – towards Fiscal Justice

- Fiscal policy is a key challenge for Latin America.
- One of the main goals of taxation is to finance public services. Thus, the level of taxation indicates, in the medium term, the level of public expenditure.
- The great challenge for Latin America is to promote economic growth with social equity.

Five challenges affect fiscal revenue-raising and income distribution

1) **Low tax revenue base**
- The tax base in the region, including social security, increased on average from 12.8% in 1990 to 18.4% in 2008 as percentage of GDP.
- This is very low, in comparison to the resource requirements implicit in the public policy demands facing Latin American countries.
- In 2007, the tax base in OECD countries was almost twice that of Latin America as a percentage of GDP.
2) highly regressive tax structure

- Two thirds of tax revenues come from indirect taxes and only one third comes from direct taxes.
- Although the revenues from corporate income tax are quite similar in Latin America and OECD countries, there are significant differences in the revenues raised by the personal income tax:
  - 0.9% of GDP in Latin America
  - almost 9% of GDP in OECD countries

- Distribution of income, after tax is even more inequitable than beforehand.
- Latin American and Caribbean region is among the most unequal on the planet.
LATIN AMERICA AND THE CARIBBEAN AND THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD): COMPARISON OF INCOME TAXATION


LATIN AMERICA AND EUROPE (SELECTED COUNTRIES): INCOME INEQUALITY BEFORE AND AFTER TAXES AND TRANSFERS, 2008
(Percentage variation of Gini coefficient)

<table>
<thead>
<tr>
<th>Latin America</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>-2.0</td>
</tr>
<tr>
<td>Brazil</td>
<td>-3.6</td>
</tr>
<tr>
<td>Chile</td>
<td>-4.2</td>
</tr>
<tr>
<td>Colombia</td>
<td>-7.0</td>
</tr>
<tr>
<td>Mexico</td>
<td>-3.8</td>
</tr>
<tr>
<td>Peru</td>
<td>-2.0</td>
</tr>
<tr>
<td>Latin America and the Caribbean (6 countries)</td>
<td>-3.8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Europe</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>-34.2</td>
</tr>
<tr>
<td>Belgium</td>
<td>-36.2</td>
</tr>
<tr>
<td>Denmark</td>
<td>-40.8</td>
</tr>
<tr>
<td>Finland</td>
<td>-34.7</td>
</tr>
<tr>
<td>France</td>
<td>-24.4</td>
</tr>
<tr>
<td>Germany</td>
<td>-34.9</td>
</tr>
<tr>
<td>Greece</td>
<td>-25.0</td>
</tr>
<tr>
<td>Ireland</td>
<td>-35.8</td>
</tr>
<tr>
<td>Italy</td>
<td>-22.9</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>-41.5</td>
</tr>
<tr>
<td>Netherlands</td>
<td>-33.3</td>
</tr>
<tr>
<td>Portugal</td>
<td>-24.0</td>
</tr>
<tr>
<td>Spain</td>
<td>-25.5</td>
</tr>
<tr>
<td>Sweden</td>
<td>-35.6</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>-34.6</td>
</tr>
<tr>
<td>Europe (15 countries)</td>
<td>-32.6</td>
</tr>
</tbody>
</table>

3) tax exemptions and tax competition

• Most of the countries afford preferential treatment to capital income.

• Favourable treatment is also often given to reinvested profits, which benefits big companies instead of small ones.

• Free trade agreements and bilateral investments treaties are great part of this picture.

4) tax evasion and avoidance

• Personal income tax evasion is very common and ranges from 40% to 65% approximately, representing a shortfall of 4.6% of GDP on average.

• Rich individuals and MNCs have even more resources to promote tax avoidance strategies.

• MNCs abuse of transfer pricing.

• Use of tax havens.
5) weak national tax administrations

• Most Latin American countries are working on tax administration reforms.

• Modernization of tax administration system:
  - Organization: large tax payers units and international taxation units
  - Technology

• Tax education and dissemination of information.

Key recommendations at national and regional level

• Commitment to increase the tax revenue base and reform tax structures, especially increasing income tax.

• Improve revenue collection, including gradual reduction and control of evasion and progressive abolition of exemptions from direct taxes.

• Improve the transparency of public expenditure.

• Strengthen regional initiatives, such as UNASUR, to increase regional coordination and cooperation on fiscal policies.

• Promote financial regulation mechanisms, such as capital controls, that enable speculation, capital outflows and mitigate the impacts of international financial crisis.
Key recommendations at global level

- Ensure country-by-country reporting of profit and taxes paid by MNCs.
- Curtail trade mispricing, through increased controls and consider revising the OECD model.
- Automatic exchange of tax information should be the standard.
- Increase transparency through the elimination of tax havens and implement beneficial ownership information of all financial accounts.
- Implement a Financial Transaction Tax at regional and global level.

To sum up...

- Taxation is a powerful tool to promote income redistribution.
- It is important to connect the national and the global agenda.
- It is important to enhance coordination among different stakeholders involved.

Thank you
What is Tax Justice?

- In a nutshell: equitably sharing the responsibilities of creating the kind of society we want.
- Why not debt, aid, or natural resource justice?
  - Most sustainable source of development finance
  - Fiscal contract - reflects the quality of governance
  - Demand for improved public service delivery as taxpayer citizens - the revenue & expenditure connection
What is TJN-A?

- Pan-African civil society network created in 2007
- 25 members across the continent
- Aspiration - to become a true leading platform for tax justice in Africa
- Our flagship publication: Tax Us if You Can: Why Africa should Stand Up for Tax Justice
- Our Demands: The Nairobi Declaration 2010
- Our website: www.taxjusticeafrica.net

Background

<table>
<thead>
<tr>
<th></th>
<th>Tax to GDP Ratio</th>
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</thead>
<tbody>
<tr>
<td>Upper middle income</td>
<td>35%</td>
</tr>
<tr>
<td>Lower middle income</td>
<td>22%</td>
</tr>
<tr>
<td>Low income</td>
<td>Below 15%</td>
</tr>
<tr>
<td>OECD</td>
<td>35.8%</td>
</tr>
</tbody>
</table>
Background

- Oil producers collect more tax revenue, BUT non-oil producers have better quality tax revenues, as they are less vulnerable to commodity price changes.
- Not all countries with a low tax to GDP ratio have a low tax effort.
- For low income countries to meet MDGs, they need to increase tax to GDP ratios by at least 4%.

Main Revenue Earners:
an example from the EAC for FY 2010/2011

<table>
<thead>
<tr>
<th>KENYA</th>
<th>TANZANIA (Mainland)</th>
</tr>
</thead>
<tbody>
<tr>
<td>VAT - 28.5%</td>
<td>VAT - 31.4%</td>
</tr>
<tr>
<td>PAYE (wage tax) - 22.2%</td>
<td>Excise Duties - 17.9%</td>
</tr>
<tr>
<td>Import duties - 15.3%*</td>
<td>PAYE (wage tax) - 16.7%</td>
</tr>
<tr>
<td>Excise Duties - 12.3%</td>
<td>Import Duties - 15.1*</td>
</tr>
<tr>
<td>CIT - 13.3%</td>
<td>CIT - 9.7%</td>
</tr>
</tbody>
</table>
Emerging Issues

- Bias towards regressive taxation—is this ‘compensated’ for by progressive public spending?
- If not the VAT, then what?
- Fiscal decentralisation - a panacea?
- How to tax income from the informal sector? (40%-60% of the economy)
- Is there scope to improve natural resource taxation?
- How do you know what you don’t know? - differing capacities of RAs/Tas
- Is there a relationship between tax and development?

TJN-A Emerging Policy Priorities

- Addressing revenue leakages:
  - Transfer mispricing and use of secrecy jurisdictions
  - harmful tax competition
  - informal sector taxation
- Addressing the regressivity of the VAT
- Gender & Tax
- Linkages between tax policy and public service delivery, governance, and development strategies
- Capacity-building – TAs
Challenges

- Data
- “Young” public issue
  - tax policy reform has been cut off from public engagement
  - Limited public understanding of the issues and their relationship to governance and development
  - Who is a taxpayer? LTOs or citizens?
- Political – tax policy reform is inherently political and can be dangerous.
- Sovereign issue – needs a champion
- EVERYBODY uses public resources, but nobody wants to pay for them!

Synergies with the International Tax Justice Agenda

- What is the International Tax Justice Agenda?!
- RECs, AU, ECA, UN, ATAF as potential sites to influence tax policy reform at country level
  - Research
  - Addressing revenue leakages (transfer price abuse, harmful tax competition)
  - Capacity building – ‘best practices’ & shared experiences
Thank you.
The Backdrop

“I see 2011-12 as a transition towards a more transparent and result oriented economic management system in India. We are taking major steps in simplifying and placing administrative procedures concerning taxation, trade and tariffs and social transfers on electronic interface, free of discretion and bureaucratic delays. This will set the tone for a newer, vibrant and more efficient economy.” - Indian FM, Budget Speech 2011-12

Indian PM devoted more than half his Independence Day speech to the issue of combating corruption

The draft Approach Paper to the 12th Five Year Plan of India finds no mention of the need for tax reforms. Positive about India stabilising post-economic crisis and aim for 9.5% growth rate
I. Fiscal Policy Space in India for Public Expenditure

- The fiscal policy space for making public investments depends to a significant extent on the magnitude of tax revenue collected by the government.

- Total magnitude of tax revenue collected in India has been lower than that in several developed countries as well as some of the developing countries.

### Total Tax Revenue as % of GDP in 2004

<table>
<thead>
<tr>
<th>Countries</th>
<th>Total Tax Revenue as % of GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sweden</td>
<td>50.7</td>
</tr>
<tr>
<td>Denmark</td>
<td>49.6</td>
</tr>
<tr>
<td>Belgium</td>
<td>45.6</td>
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<td>Netherlands</td>
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<tr>
<td>Spain</td>
<td>35.2</td>
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<tr>
<td>U.S.</td>
<td>25.4</td>
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<tr>
<td>S. Korea</td>
<td>24.6</td>
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<tr>
<td>Mexico</td>
<td>18.5</td>
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<tr>
<td><strong>India</strong></td>
<td><strong>16.0</strong></td>
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</table>

*(2004-05 BE for India), based on OECD Data*
Comparison of Tax-GDP Ratio across Selected Countries

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<thead>
<tr>
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<tbody>
<tr>
<td>Malaysia</td>
<td>17.8</td>
<td>13.2</td>
<td>14.9</td>
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<tr>
<td>Mexico</td>
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<td>14.1</td>
<td>15.2</td>
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<td>India</td>
<td>15.4</td>
<td>14.5</td>
<td>17.6</td>
</tr>
<tr>
<td>Japan</td>
<td>21.4</td>
<td>17.5</td>
<td>18.0</td>
</tr>
<tr>
<td>Korea</td>
<td>17.2</td>
<td>18.8</td>
<td>21.0</td>
</tr>
<tr>
<td>US</td>
<td>20.5</td>
<td>23.0</td>
<td>21.7</td>
</tr>
<tr>
<td>Canada</td>
<td>31.5</td>
<td>30.8</td>
<td>28.5</td>
</tr>
<tr>
<td>UK</td>
<td>29.5</td>
<td>30.2</td>
<td>29.5</td>
</tr>
</tbody>
</table>

Note: Tax-GDP Ratio figures are excluding Social Security Contributions
Source: Indian Public Finance Statistics; OECD Revenue Statistics

Fiscal Policy Space in India for Public Expenditure

- Thus, the overall public resources available to the government in India for making investments towards socio-economic development appears inadequate in comparison to several other countries.

- Consequently, the magnitude of Total Public Expenditure in India has been lower than that in several developed countries as well as some of the developing countries.
# Fiscal Policy Space in India for Public Expenditure

## Total Government Expenditure as % of GDP

<table>
<thead>
<tr>
<th>Countries</th>
<th>For various years between 1997 and 2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sweden</td>
<td>54.2</td>
</tr>
<tr>
<td>Denmark</td>
<td>53.7</td>
</tr>
<tr>
<td>Belgium</td>
<td>48.6</td>
</tr>
<tr>
<td>U.K.</td>
<td>39.2</td>
</tr>
<tr>
<td>Brazil</td>
<td>39.8</td>
</tr>
<tr>
<td>South Africa</td>
<td>33.8</td>
</tr>
<tr>
<td>U.S.</td>
<td>32.7</td>
</tr>
<tr>
<td>Argentina</td>
<td>29.6</td>
</tr>
<tr>
<td>India</td>
<td>26.5</td>
</tr>
</tbody>
</table>

## Budgetary Expenditure on Education as % of GDP: Comparison for Selected Countries (2002-2005 *)

- China: 1.9
- Tanzania: 2.2
- Pakistan: 2.3
- Bangladesh: 2.5
- India: 3.8
- Brazil: 4.4
- South Korea: 4.6
- Iran: 4.7
- United Kingdom: 5.4
- United States: 5.9
- France: 5.9
- Malaysia: 6.2
- Saudi Arabia: 6.8
- Norway: 7.7
- Denmark: 8.5
- Yemen: 9.6
- Cuba: 9.8

(*) Data source: World Bank.
Concerns pertaining to Tax Justice

- Revenue foregone owing to tax exemptions to the tune of 8% of GDP
- Black money in the economy to the tune of $1.4 trillion (2006)
- Between Apr 2000 - Mar 2009, total FDI was $81 billion, of which $35.18 bn (43%) was routed through Mauritius. (Dept of Industrial Policy & Promotion)
- 60% of investments abroad by Indian companies during 2008-09 were routed to tax havens. Of the $16 bn invested by Indian companies, almost $10 bn was routed to countries listed as tax havens (Information prov. to Parliament on Aug 7, 2009)
- Between 2002-06, yearly illicit financial outflows due to trade mispricing was of the order of $22.72 billion.
Govt. Response

- Completed negotiations of 10 new TIEAs with Bahamas, Bermuda, British Virgin Islands, Isle of Man, Cayman Islands, Jersey, Monaco, Saint Kitts & Nevis, Argentina and Marshall Islands out of 22 identified jurisdictions.
- Signing DTAAs (tax pacts with 65 countries initiated to broaden scope of provisions governing exchange of banking information and info. regarding taxpayers not covered by DTAA. Till date, a total of 14 tax exchange information agreements (TIEAs) completed and talks concluded on DTAAs with 36 countries in 2010-11.
- Strength of foreign tax division doubled. 36 officers were sent abroad for specialized training in transfer pricing and international taxation.
- Three year road map with OECD.
- Taking actions based on recommendations of FATF.

Where do we come in?

- Research and policy discussions on tax dominated by very few institutions supported by Union Ministry of Finance. Focus on - implications of a reduction in tax rates on tax revenue, revenue mobilisation potential of different forms of taxation, issues of Centre-State distribution of tax authority.
- Such conventional / academic research has substantiated the Union Government's thinking on tax issues and their proposals. No debate or disagreement.
- Other entities are - analytical units in Pvt Corporate Sector - KPMG, Deloitte, AC Nielson. Their analysis and advocacy has hardly figured in public domain, apparently because of their strategies.
Indian Civil Society Tax Agenda

- Questioning the plethora of exemptions in the Central Govt. tax system

- Highlighting the deep-rooted problem of tax evasion (which is affecting the tax base and tax revenue collections a lot);

- Highlighting the adverse implications of tax avoidance, both within the country (because of exemptions and other legal loopholes) and in the international domain (because of loopholes in India's DTAAs with some countries; weak agreements on international exchange of tax information with countries like Switzerland, among others; and because of the secrecy of tax havens).

- Highlighting the need for ending secrecy of tax havens and country by country reporting, as some of the measures that could address the problems in the international domain;

- Highlighting the problem of regressivity of India's tax system as compared to other countries (two-third of the total tax revenue in the country is collected from indirect taxes), and the need for stepping up reliance on direct taxes (like wealth tax, inheritance tax, and corporate tax); and

- Highlighting the lack of responsiveness of India's tax system to the disadvantaged sections of population.

- Highlighting the need for adopting innovative financing mechanisms
Challenges in Civil Society Tax Work

- Diverse set of stakeholders
- Mostly INGOs taking the lead; local NGOs still to develop expertise on tax advocacy
- Timely response
- Prioritizing the issues at hand

Economic Policy for “Shared” Growth?

- Ensures that all voices are heard, including those of the poor and the marginalised
- Builds accountability mechanisms, checks and balances
- Based on good technical analysis
- Monitors, evaluates and stops what is not working
- Builds effective systems for domestic resource mobilisation
Mandatory Corporate Reporting
- Dodd Frank and beyond

Vanessa Herringshaw
Director, Advocacy and Capacity Building
vherringshaw@revenuewatch.org

About Revenue Watch Institute

• Management of oil, gas and minerals for the public good

• Independent, non-profit

• Africa, Latin America Eurasia, Southeast Asia, MENA, Europe, N America

• Focused on whole “value chain” of development:

Deciding to extract  Getting a good deal  Ensuring revenue transparency  Managing Volatile resources  Investing in sustainable development
Reporting Standards – the what and why

What do we want?
• Company reporting – key financial information
  - locations, payments (e.g. taxes), profits, costs,
• Country specific and Project specific

Why?
• Corruption & governance in host countries
• Tax avoidance and evasion by companies

Why do we want ‘International’ mandatory standards?
• Comparable, reliable, timely, regular data
• One rule, multi-country and company impact
• Dealing with multi-nationals

Possible approaches and progress to date

Voluntary
• EITI – 33 countries
• Company disclosure policies (i.e. CSR reporting)

Mandatory
• National laws - Nigeria
• Accounting standards – IFRS draft for extractives
• Bank lending policies – IFC rule
• Stock market listing requirements…….
Progress to date

• Stock market listing requirements
  – London Stock Exchange’s AIM
  – Hong Kong Stock Exchange (as of 2010)
  – US Dodd-Frank Act - 1504
  – EU rules – proposals coming October 2011….

The US Dodd-Frank Act

• Section 1504: “Disclosure of Payments by Resource Extraction Issuers”

• Passed by Congress and signed into law by President Obama in July of 2011

“We are leading a global effort to combat corruption, which in many places is the single greatest barrier to prosperity, and which is a profound violation of human rights. That’s why we now require oil, gas and mining companies that raise capital in the United States to disclose all payments they make to foreign governments.” –US President Barack Obama, 22.09.2011
What the US Law Does

Requires all companies registered with the US Securities and Exchange Commission (SEC) to disclose their payments to governments:

- In standard annual reports, to be published online by SEC
- Including payments to US and foreign governments
- At the national and sub-national level
- **Country-by-country**, in all countries of operation
- **For each project**
  - Disaggregated by payment type including: royalties, signature bonuses, taxes, fees and other benefits

Benefits of Project Reporting

- **Investors** can properly assess risks, see large, up front payments made
- Gives **citizens** access to full picture of value of their resource assets, so they can:
  - Better track community development impacts of projects
  - Monitor compliance with local and subnational laws
- Helps **governments**:
  - Ensure companies are meeting their financial obligations
  - Maximize revenue collection
Who Will the Law Apply To?

- Applies to **US and foreign companies** making payments related to “the commercial development of oil, natural gas or minerals”
- **Companies under the control of and/or owned by foreign governments** will report payments
- The law covers over **90% of the major internationally operating oil and gas companies**, and eight out of 10 of the world’s most profitable mining companies
- US exchanges account for est. **40% of global market capitalization for EI sectors**

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International majors covered

- Chevron
- Exxon
- BP
- Shell
- Total
- Petrobras
- Petrochina
- Talisman
- ConocoPhillips
- Statoil
- ENI - AGIP
- Newmont
- Occidental
- Repsol
- BHP
- Sinopec
- Hess
- Anadarko
- Marathon
- Freeport
- Rio Tinto
- Vale
Implementation of US Act

- The US Securities and Exchange Commission (SEC) is charged with rulemaking and public consultation
  - Draft rules were issued in 2010
- Still awaiting final rules
- If rules in 2011, first reporting should be in 2013

Progress in Europe

- Publish What You Pay, Tax Justice Network, Eurodad
- Call by Sarcozy
- Commitment by Barroso and Barnier

PROPOSALS DUE IN OCTOBER
- Amendments to Accounting Directive and Transparency Directive
- Listed and unlisted large companies
- Good start but MUCH to negotiate and protect!
Progress in Europe

Latest intel on likely proposals….(last week)
- Country and project reporting – but latter very contested
- Oil, gas mining, adding forestry
- Payments….not clear on ‘beyond payments’
- Other issues – country exemptions, materiality
- ?? Roadmap to full CBC and regular reports from Commission

Commission – in rough order of supportiveness
- DEV (Piebalgs)
- MARKT (Barnier – lead DG, active) and TRADE (de Gucht)
- ECON (Rehn) and IND (Tajani)
- ENERGY (Oettinger) – against all?

Progress in Europe

Council – (WG in Competitiveness council: March)
We have much to do here!
- France supportive …but will this continue after G20?
- UK so-so – weak on specifics
- Denmark – depends on elections – EU presidency
  - Danish Perm Rep will lead both WGs, priority issue
- Germany and Netherlands – PRIORITIES – opposing
- Others?????

Parliament – Legal Affairs (JURI) committee
(ECON will shadow)
- Greens will likely continue to push for ‘full ask’
- Head of JURI is German, EPP (Klaus-Heiner Lehne)
- Need to push in each country
Also lining up to push

- G20 in Mexico
- Stock exchanges in:
  - Canada
  - Brazil
  - Australia
  - Shanghai

Summary and actions

- **Crucial** time in Europe and US – next 16 months
- To set new precedent of transparency
- But push back from companies is very very strong

- Need push in each European country
- And to European Parliament
- And to SEC in US

- Need messages from host countries of support
  - how important the information will be
  - how the companies arguments are weak
Thank you!

• Questions?

• For more information:

  www.revenuewatch.org
  vherringshaw@revenuewatch.org
  rmorse@revenueswatch.org
Schtopping tax dodging: lessons from SABMiller

Chris Jordan

ActionAid

What we found...

SABMiller shifts over £100 million into tax havens each year.

Developing countries lose £20 million in tax revenues

That’s enough to put an extra 250,000 children in school.
“Wow. I don’t believe it.”

Brewer accused of depriving poor countries of millions in revenue

UK-based drinks firm denies claims it diverted up to £20m through havens

Felicity Lawrence

The Guardian, Monday 29 November 2010

Marka Ladipotoff, 49, sells SABMiller beer from her stall in the shadow of the company’s Accra Brewery. Photograph: Jase Hahn/Jane Hahn/ActionAid

The world’s second-largest beer company, SABMiller, is avoiding millions of pounds of tax in India and the African countries where it makes and sells beer by routing profits through a web of tax-haven subsidiaries, according to a report published by ActionAid today.
SABMiller’s response:

“We do not engage in aggressive tax planning.”

ActionAid report contains “assumptions & inaccuracies”.

Total tax contribution in Ghana of $22 million.

Refuse to engage with us.

We publish Tax Responsibility briefing.

Governments:

Success! African governments discuss our research at ATAF.

Interest in mounting a joint investigation.

Sign bilateral tax information exchange treaties with each other.

ATAF & SARS much more open to G20 lobbying.

In the UK…

Debunked the argument that developing countries aren’t interested in this agenda.

Strengthened engagement of champions.

Opponents argue that the problems are entirely down to lack of capacity in developing countries.
The public:

Great way to explain and engage people in the issues.

Fairly simple story - makes sense to people with little prior knowledge of tax justice.

Marta’s story generates emotional engagement.

Wide range of activities, that gave people the opportunity to take tax justice into their local pub!

Wouldn’t it be nice to have expose of a multinational dodging its taxes in poor countries and in the UK too...
Measures against Tax Dodging: The Glencore/Mopani Case


EvB
Erklärung von Bern
Dichiarazione di Berna
Déclaration de Berne
GLENCORES BRUTTOGEWINNANTEILE NACH SEKTOR
1999 BIS 2009

- Arten am Bruttogewinn
- Agrar
- Energie
- Metalle und Erze

- 2009: 34, 36, 45, 26, 28, 41, 39, 23, 21, 17, 11, 9
- 2008: 32, 39, 47
- 2007: 51
- 2006: 74
- 2005: 71
- 2004: 56
- 2003: 54
- 2002: 60
- 2001: 49
- 2000: 60
- 1999: 2

EvB
Erklärung von dem
Dutchesscreare di Berna
Mediterran de Born
ABB. 1
MOPANI-PRODUKTIONSANLAGEN IN MUFULIRA

1. Säurestation
2. Lagerung und Mischung von Konzentrat
3. Konzentrator
4. Metallhütte
5. Fußballstadion (als Größenvergleich)

Quelle: Rosa et al. 2005
The Grant Thornton/Econ Pöyry Mopani Audit

- No documentation, data missing (even production figures ores and concentrate), numbers did not fit
- »(T)he international team leaders have not experienced such a lack of compliance in any other country, and (...) this attitude is also not typical for other industries/companies in Zambia.«
- No explication for 380 mn $ abnormal and growing costs
- Cobalt production figures too low
- Lose – lose »hedging«

Glencore only »Sales and Marketing Agent«
- »The Company has not been able to provide us with evidence, that the Company sales, which mostly are related party transactions, have, been entered into according to the arms length principle.« 2003 – 2008: 700 mn $ gap
Relevant Articles in the OECD-Guidelines

General Policies (II): »(E)nterprises should: (...) Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to (...) taxation...«

Taxation (X): »(E)nterprises should comply with the tax laws and regulations in all countries in which they operate and should exert every effort to act in accordance with both the letter and spirit of those laws and regulations (...) and conforming transfer pricing practices to the arm’s length principle.«

Glencore’s initial reply

»The leaked document failed to properly account for the fact that about half of the copper metal produced by Mopani is derived from third party concentrates.« This should also explain the difference to LME-prices (???)

»Mopani has been audited every year by a major international audit firm.«

»Mopani is regularly audited by the Zambian Revenue Authority. Likewise no major discrepancies have ever been noted.«
Challenges and aim

- Complexity and smoke screen tactics
- Position of Zambian government? Finance minister: Back taxes should be paid, ZRA: Audit not for public
- OECD-Guidelines: No judgement, no consequences, no official statement
- Why then? Raising awareness of tfp-practices by Swiss commodity traders and related reputational damage for Switzerland
- Federal administration as main target

Book launch:
»Commodities, Switzerland’s most dangerous business«
German/French: 19 September 2011
English: Early 2012 (Web)
THE 2011 FINANCIAL SECRECY INDEX

Measuring secrecy

The Financial Secrecy Index identifies and ranks secrecy jurisdictions according to their contribution to opacity in international finance.

The index combines qualitative and quantitative data:

- **Qualitative data** based on secrecy indicators is used to produce a secrecy score for each jurisdiction.

- **Quantitative data** is used to establish a global scale weight for each jurisdiction based on its share of the global market for cross-border financial services.

The secrecy score and the weighting is combined arithmetically to produce a ranking.
What do we mean by secrecy?

For our purposes ‘secrecy’ describes a situation in which relevant information is not readily available on public record, where public record means a register that can be accessed free of charge or at low cost via the internet from anywhere in the world.


- Goal 1: collect data and provide analytical framework to show how selected jurisdictions facilitate illicit financial flows

- Goal 2: create scientific indicators to measure the financial secrecy offered to non-residents by selected jurisdictions, and encourage policy changes

- Goal 3: provide basis for assessing secrecy scores used in compiling the Financial Secrecy Index
Principal changes between 2009 and 2011

- Geographical coverage extended from 60 to 73 jurisdictions
- Secrecy indicators increased from 12 to 15, dropping 3, adding 6
- Database enlarged from 208 to 221 variables
- Arithmetic steps to subdue impact of global scale weights
- More detailed jurisdiction reports issued for Dirty Half Dozen

Methodological matters

- Principle of the lowest available transparency requirement in all database
- Built-in logic of display: sections are omitted if prior questions are answered in the negative
- Cut-off date 31 December 2010 (in most instances)
- TJN country chapters have been involved in preparation of database reports
## 15 financial secrecy indicators

<table>
<thead>
<tr>
<th>Knowledge of beneficial ownership</th>
<th>Key aspects of corporate transparency regulation</th>
<th>Efficiency of tax and financial regulation</th>
<th>International standards and cooperation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Banking secrecy</td>
<td>4 Public company ownership</td>
<td>7 Fit for information exchange</td>
<td>11 Anti-money laundering</td>
</tr>
<tr>
<td>2 Trust and foundation register</td>
<td>5 Public company accounts</td>
<td>8 Efficiency of tax administration</td>
<td>12 Automatic information exchange</td>
</tr>
<tr>
<td>3 Recorded company ownership</td>
<td>6 Country-by-country reporting</td>
<td>9 Avoids promoting tax evasion</td>
<td>13 Bilateral treaties</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10 Harmful legal vehicles</td>
<td>14 International transparency commitments</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>15 International judicial cooperation</td>
</tr>
</tbody>
</table>

### KFSI 1 – Banking Secrecy

<table>
<thead>
<tr>
<th>Dimensions</th>
<th>Condition(s)</th>
<th>Assessment</th>
<th>Source(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statutory standing</td>
<td>Banking secrecy does not have legal standing</td>
<td>0.2 credit points</td>
<td>OECD Tax-Cooperation report 2010, table B.1</td>
</tr>
<tr>
<td>Availability of relevant information</td>
<td>No anonymous accounts – FATF Rec. 5</td>
<td>0.2 credit points</td>
<td>FATF, FATF-like regional bodies, or IMF</td>
</tr>
<tr>
<td></td>
<td>Maintain on record transactions – FATF Rec. 10</td>
<td>0.2 credit points</td>
<td>Bureau for International Narcotics and Law Enforcement Affairs (INCSR 2010)</td>
</tr>
<tr>
<td></td>
<td>Maintain records of large transactions</td>
<td>0.1 credit points</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Maintain records for specified period of time (e.g. Five years)</td>
<td>0.1 credit points</td>
<td></td>
</tr>
<tr>
<td>Effective access</td>
<td>(1) Eol in both criminal and civil tax matters</td>
<td>(1) + (2) = 0.2 credit points</td>
<td>OECD Tax-Cooperation report 2010, table B.2 and B.3</td>
</tr>
<tr>
<td></td>
<td>(2) Not within a DTA or TIEA</td>
<td>(1) = 0.1 credit points</td>
<td></td>
</tr>
</tbody>
</table>
MESSAGING IDEAS

As in 2009:
- major secrecy players are OECD
- corruption debate needs shifting to supply side infrastructure
- OECD listings were flawed and political

New possible messages:
- G20 has failed to deliver the end of banking secrecy - and recent Swiss / German / GB arrangements threaten to reverse past progress
- Cloak of secrecy incubating financial crisis has not been removed
- Trusts - the hidden weapons of secrecy - remain to be tackled

Positive trends
- Belgium, Guernsey and Isle of Man have improved (AIE)
- 1988 CoE/OECD Convention open to other countries

Negative trends:
- Spread of private foundations
- Data availability is deteriorating (OECD and GF)
European countries including overseas dependencies by secrecy score – source: 2011 Financial Secrecy Index

**Exceptionally secretive**

91-100

AN, BM, LI, MS, TC

81-90

AD, AI, CH, GG, GH, GI, JE, KY, MC, SM, VG

71-80

AT, IM, LU

61-70

BE, CY, DE, FR, PT

51-60

GB, HU, IE, IT, LV, MT, NL

41-50

MC, SM, VG

31-40

AT, IM, LU

**Moderately secretive**

31-40

BE, CY, DE, FR, PT

41-50

GB, HU, IE, IT, LV, MT, NL

51-60

MC, SM, VG

61-70

AT, IM, LU

71-80

AD, AI, CH, GG, GH, GI, JE, KY, MC, SM, VG

81-90

AN, BM, LI, MS, TC

91-100

Exceptionally secretive

NOTE: this website is work in progress
Financial Secrecy Index

Shining light into dark places

Secrecy is a central feature of the global financial system. Jurisdictions compete with each other to provide it, in order to attract financial flows — with appalling effects elsewhere. It is essential to identify the worst culprits in providing this secrecy. But nobody has ever tried to do this in a systematic, objective way — until now.

The Financial Secrecy Index (FSI) creates a ranking which identifies the jurisdictions that are most aggressive in providing secrecy in international finance, and which most actively thwart cooperation with other jurisdictions. It attaches a weighting to each jurisdiction, according to the scale of cross-border financial services activity that it hosts.

The two measures — the opacity score, and the weighting, are combined to create the Financial Secrecy Index. Nothing like this has been done before.

Click here for the ranking and the supporting data...

Contents
- Overview of the Index
- What the Index reveals
- Implications
- Who is included?
- Mapping the Failures
- Methodology
- Jurisdiction Reports
- The Corruption Link
- The OECD Blacklist
- The British connection
- The Economic Crisis
- The FSI team

www.financialsecrecyindex.com
“Shaxson comes as close as anyone ever has in getting to the crux of the tax haven conundrum, which is to attempt to answer the question: why are they tolerated?”

Evening Standard

“Shaxson combines meticulous research with amusing anecdotes, resulting in a very readable account of the murky world of offshore and a strong moral message that the system needs to be changed.”

Financial Times

“This excellent book … is breathtaking and terrifying.”

Irish Times

“..the most important book… since the Spirit Level.”

OpenDemocracy

“Shaxson is an imbecile….”

Tony Travers

Clancy, Cayman Islands Financial Services Authority