

To: Secretariat and Members of UN Committee of Experts on
International Cooperation in Tax Matters

Subject: Recommendations to the Proposed UN Code of Conduct on Cooperation in
Combating International Tax Evasion

Dear Sir/Ma'am,

We welcome the efforts to adopt the Proposed UN Code of Conduct on Cooperation in Combating International Tax Evasion. Though there has been progress on Automatic Exchange of Information (AEOI) globally, we believe the UN Tax Committee has a central role to play to ensure meaningful participation by developing countries in the international system and the rules that govern it.

We are concerned that as presently drafted the proposed Code of Conduct merely seeks to endorse the current OECD/G20/Global Forum process. While this process is welcome, it is limited; while it is building an AEOI system for early adopters quickly, it looks set to ensure developing countries take longer than necessary to become part of it. It also lacks a commitment to transparency and accountability, vital for restoring trust in international financial systems, as well as a commitment to making the best use of this valuable information, most notably in tackling corruption.

In this regard, we urge the members of the UN Tax Committee to consider the following recommendations, which in addition to acknowledging current initiatives, seeks to build on them to move towards a truly inclusive, effective, and multilateral automatic exchange of information system.

Members should commit to:

- Promote only multilateral engagement in Automatic Exchange of Information as the most effective system, over bilateral agreements, and with the automatic inclusion of every other cosignatory in the Multilateral Competent Authority Agreement (MCAA) or provide clear justification for excluding any jurisdiction
- Ensure that confidentiality and data safeguards do not prevent developing countries from participating
- Allow use of information for non-tax purposes, such as the fight against corruption

and money laundering

- Collect, collate and publish aggregate statistics, i.e., totals by country of residence, regardless of whether or not the resident is in a participating jurisdiction. Such data would not breach confidentiality but would enable a much better understanding of the size and composition of offshore finance and how it changes over time, thereby revealing avoidance schemes and other strategies to avoid reporting of information while encouraging developing countries to join AEOI¹;
- Promote technical assistance from developed countries, by joining the pilot programs which allow non-reciprocity, where developing countries only receive information. This would allow developing countries to gain benefits of AEOI as they adjust to the costs of setting up systems to allow full reciprocity;
- Close loopholes such as sham residency certificates "sold" by tax havens and thresholds under which there is no reporting, which reduces the effectiveness of AEOI;
- Promote collective sanctions against financial centres which do not participate in the Common Reporting Standard (CRS) or which do not choose all other co-signatories without proper justification; and
- Promote additional transparency initiatives that would complement efforts for improved exchange of information, such as central registries of Beneficial Ownership (which are crucial for banks to cross-check information on controlling persons) and prevention of avoidance mechanisms using Active NFEs.

As the UNTC sits outside of the OECD/G20/Global Forum it has a valuable role to play by moving beyond mere endorsement of the work of other international institutions, and aiming higher to include the needs of developing countries, who sit outside of many other international institutions. We believe that the above recommendations fit well within that spirit and we hope you would seek to include these provisions, thereby adding immeasurable value to current initiatives on Automatic Exchange of Information.

Thank you for your kind attention.

Sincerely,

¹ For more details on the statistics template, please see: <http://www.taxjustice.net/2016/01/05/global-automatic-exchange-of-information-a-trove-of-relevant-new-data/>

Association for Women's Rights in Development (AWID)
Bandung Institute of Governance Studies (BIGS)
Christian Aid, UK
COAST/Equity BD
Development Alternatives with Women for a New Era (DAWN), Fiji
Financial Accountability and Corporate Transparency (FACT) Coalition
Financial Transparency Coalition
Fundación Nacional para el Desarrollo
Fundación SES, Argentina
Integrity Watch Afghanistan
International NGO Forum on Indonesian Development (INFID)
International Trade Union Confederation (ITUC)
Latindadd - La Red Latinoamericana sobre Deuda, Desarrollo y Derechos
New Rules for Global Finance
Participation Center, China
Policy Forum, Tanzania
Prakarsa, Indonesia
Red Mexicana de Acción Frente al Libre Comercio (RMALC)
Tax Justice Network
Transnational Institute
Transparency International Bangladesh
Unión Internacional de Trabajadores de Organismos de Control (UITOC)
VOICE, Bangladesh