Sharing Policy Asks ahead of ECOSOC Forum on Financing of Development | Economic and Social Commission for Asia and Pacific

(May 08, 2017)

CBGA

Centre for Budget and Governance Accountability
(www.cbgaindia.org)

Subject: '**Sharing Policy Asks on Cooperation on International Tax Matters and curtailing Illicit Financial Flows ahead of the ECOSOC Forum on Financing for Development (May 22-25, 2017)'**

With reference to the high-level side meeting at the Economic and Social Council (ECOSOC) Forum on Financing for Development (FfD) at the UN Headquarters in New York to be co-hosted by the Government of Sri Lanka and the Economic and Social Commission for Asia and the Pacific (ESCAP), we are writing to you to highlight a few policy asks on illicit financial flows and global financial institutional architecture:

Public Beneficial Ownership

One of the most common ways in which legal entities (including companies, foundations, trust or co-operative societies) obscure ownership is by appointing representatives, nominees, proxies or agents to represent the beneficial owner (BO)[1] while hiding the true BO's identity. These proxies are persons in charge of an entity only on paper and not in practice, making it harder to identify the real beneficial owners, who actually 'control' or 'own' the entity. The Panama Papers leaks reaffirmed the dangers of financial secrecy and opaque shadow structures.

To prevent the misuse of corporate vehicles, international Anti-Money Laundering (AML) guidelines issued by Financial Action Task Force (FATF) require companies to share information on beneficial ownership with their respective tax authorities. The European Parliament has recommended[2] that the threshold for an entity to report information on BOs be set at 10 per cent. It is also important to identify the true BOs through means other than shareholding ownership. Publicly accessible registries containing information on beneficial ownership entities are essential in combatting tax dodging and money laundering practices. We would be encouraged to see ESCAP further the discourse on public beneficial ownership initiative among Asia-Pacific countries.

Reforming the International Financial Institutional Architecture

Establishing an Asia-Pacific Tax Body

In order to create a conducive environment for foreign investment, many developing countries engage in aggressive tax competition in the form of tax exemptions, holidays and corporate tax incentives, which constraints mobilisation of domestic resources. A relevant problem in many Asian countries, such policies induce a 'race to the bottom', thus contributing towards regional tax competition. In fact, the

[1] "Beneficial owner' is defined as any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means." (European Parliament, Anti-Money Laundering Directive - IV).

[2] European Parliament News (2017). Citizens should get access to data on firm owners to fight money laundering. Press release. http://www.europarl.europa.eu/news/en/news-room/20170227IPR64164/citizens-should-get-access-to-data-on-firm-owners-to-fight-money-laundering

overall taxation rates in Asia at a regional scale are among the lowest in the world, below the tax levels in the European Union, the Americas, Africa and the Middle East[3].

There is a need to recognise Asia-Pacific's challenges in strengthening tax systems, a sentiment that was shared at the Fourth High-Level Follow-up Dialogue on Financing for Development in Asia and the Pacific[4]. A comparative review[5] of taxation departments in 2014 on Asian countries revealed severe capacity constraints in taxation departments with respect to their population size. In view of the Sustainable Development Goals, establishing a pan Asia-Pacific Tax Body presents itself as a robust solution. The institutionalised cooperation of Asia-Pacific governments could offer an alternative to the standards set by the Organisation for Economic Cooperation and Development (OECD) to reform the international taxation architecture and synergise regional cooperation on taxation matters.

Establishing an intergovernmental tax body under the auspices of the UN

International tax norms are currently designed by the OECD and the G20. Most developing countries do not have the policy space to shape international tax standards which affect them disproportionately. An intergovernmental global UN tax body was supported by G77 and China at the Third International Conference on Financing for Development (FfD) in July 2015. As a democratic and neutral body under ECOSOC, it is envisioned to provide all countries an equal platform to debate issues and shape policies that directly affect them.

Ecuador as the Chair of G77, is currently championing the cause for an intergovernmental global tax body under the auspices of the UN. A recent statement[6] from the G77 and China at the UN ECOSOC meeting on International Cooperation in Tax Matters[7] held on 7th April, 2017:

"(…) *the Group of 77 and China urges Member States to consider the conversion of the United Nations Committee of Experts on International Cooperation in Tax Matters into an intergovernmental subsidiary body of the Economic and Social Council, through a mechanism that is inclusive, participatory and where broad-based dialogue on international tax issues would be considered and agreed not resulting in the encroachment on the sovereignty of Member States*."

We hope you would extend your support to this long standing demand by developing countries at the high-level side meeting at ECOSOC FfD Forum, for establishing a neutral and equal space for shaping norms of international taxation.

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[3] Martinez-Vazquez, J., (2011). Taxation in Asia. Asian Development Bank

[4] ESCAP (2017). Tax policy and public expenditure management are key to financing sustainable development in Asia Pacific. Press Release. http://www.unescap.org/news/tax-policy-and-public-expenditure-management-are-key-financing-sustainable-development-asia

[5] Araki S. and Iris Claus (2014). 'A Comparative Analysis of Tax Administration in Asia and the Pacific'. Philippines: *Asian Development Bank*

[6] Financial Transparency Coalition (2017), Every government that's supported UN Tax Body https://financialtransparency.org/materials/every-government-thats-supported-un-tax-body-one-table/

[7] ECOSOC special meeting on international cooperation in tax matters. (7th April, 2017) http://www.un.org/esa/ffd/events/event/ie-2017-ictm.html