

9th BRICS Summit- Sharing Best Practices

Policy Submission to Ministry of External Affairs

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

Subject: Sharing a few best practices on financial transparency measures for curtailing illicit financial flows and cooperation on international tax matters ahead of the 9th BRICS Summit (September 03-05, 2017)

We heartily welcome the crucial role played by Government of India (GoI) in furthering the support for developing country participation in the subcommittee meetings of the UN Tax Committee in the global financial system by becoming the first country to voluntarily contribute to the UN Tax Trust Fund. As a part of the BRICS and the G77, India has also supported the demand for an intergovernmental tax body under the auspices of the United Nations.

BRICS countries represent 40 per cent of the world's population and almost 17 per cent of the world trade. However, the BRICS countries continue to lose revenue through tax evasion practices employed by multinational corporations (MNCs) and big businesses. The issue of illicit financial flows (IFFs)¹ or black money is urgent and complex, that concerns authorities all across the world. In 2015 alone, developing countries all across the world lost over \$1.1 trillion to IFFs. The **institutionalized cooperation of BRICS** could offer an alternative to the Organisation for Economic Cooperation and Development (OECD) standards to reform the international taxation architecture.²

In reference to the annual BRICS Summit to be held on September 03-05, 2017, we are writing to you to highlight some of the best practices to further financial transparency and a just international tax system:

Beneficial Ownership:

One of the most common ways in which companies obscure ownership is by appointing representatives, nominees, proxies or agents to represent the beneficial owner (BO)³, while hiding the true BO's identity. These proxies are persons in charge of a company only on paper and not in practice, therefore making it crucial to establish public registries of beneficial owners. It is also important to identify the true BO through means other than shareholding ownership. 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 recommended⁴ that the threshold for an entity to report information on BOs be set at 10 per cent. The presence of a twenty-five per cent threshold is vulnerable to abuse and should be lowered to 10 per cent. Publicly accessible registries containing information on beneficial ownership entities are essential in combatting tax dodging and money laundering practices.

¹ Illicit financial flows are funds that are illegally earned, transferred or utilized that originate from tax evasion, trade manipulation, crime and corruption, but also include tax avoidance by multi-national corporations. Common to illicit flows is that they tend to be hidden by those carrying them out.

² http://www.internationaltaxreview.com/pdfs/special-reports/brics-special_jan2013.pdf

³ "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).

⁴ 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>

Reforming the International Financial Institutional Architecture:

International tax norms are currently designed by the OECD and the G20. Most developing countries therefore, do not have the policy space to shape international tax standards that affect them directly. The then Minister of State for Finance, Mr. Jayant Sinha stated at the Third International Conference on Financing for Development (FfD) in July 2015:

“In today’s interconnected world, tax policy is a global public interest, having ramifications far beyond national borders. Greater information exchange is good, but not a substitute for genuine and equitable multilateralism in deciding global norms and standards on taxation. If this is truly a universal agenda, then all of us must have an equal seat at the table to legislate on global issues. The lack of an ambitious decision on upgrading the UN Committee of Experts on international cooperation on tax matters into an intergovernmental body, in our view, is a historic missed opportunity.”

We hope that the BRICS countries would use the 9th Annual Summit to reaffirm their position and commitment towards the UN intergovernmental tax body, as a truly neutral and democratic space for shaping norms of international taxation for all countries.

We would be glad to provide further information on these issues.

(For further information on these issues, please contact us at sakshi@cbgaindia.org or neeti@cbgaindia.org at 011-4920 0400 / 401 / 402).