From tax secrecy to tax transparency:

Introducing public country-by-country reporting (CBCR) that is fit for purpose

On April 12th 2016 the European Commission released an important proposal on so-called public Country-by Country Reporting (CBCR) for multinational corporations (amendment to *Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches*[1]*)*. If implemented comprehensively, public CBCR would increase corporate and tax transparency by enabling citizens worldwide to 'follow the money'. It will also contribute to ensuring that taxes are paid where they are due, thus providing adequate revenue for critical public services.

Unfortunately, the Proposal does not live up to these expectations. Unless the European Parliament and EU member states agree to amend it in a meaningful way, the EU will miss a key opportunity to increase tax transparency, not only in Europe but worldwide.

Here are the 3 key elements that must be improved if we are to pass public CBCR legislation that is fit for purpose.

1. Which countries do companies have to report on

Country-by-country reporting means multinationals should report basic information and data for EACH country where they have operations.

Where are we now?

The Proposal obliges multinationals to publicly report information on a country-by-country basis only about operations in EU member states and in yet-to-be determined tax havens. For the rest of the world companies would only be required to publish a global figure, making it impossible to follow where profits are really made and taxes paid. The current proposal effectively allows multinationals to continue shifting their profits out of the EU, while still keeping citizens in the dark. It also makes the measure useless for the governments and citizens of developing countries, making it impossible for them to identify illicit flows and take appropriate measures to unlock much-needed funding for their development.

What needs to change?

Public CBCR should provide the public with key information on the activities of multinationals, including the taxes paid on profits made in EVERY country in which they operate. This can be achieved by:

- **requiring multinationals to publish data broken down on a country-by-country basis for each country and jurisdiction of operation, both inside and outside the EU; and consequently**
- **dropping the yet to be drafted and negotiated list of tax havens, which would create a geographical limitation.**

2. Who has to report

The European Union already has a definition of large groups of companies (€40 million annual consolidated turnover[2]). This should be the threshold for companies covered by the public CBCR requirement.

Where are we now?

The Proposal sets a threshold for companies obliged to report at €750 million in annual consolidated turnover. This would, according to OECD's estimates, exclude 85-90 per cent of multinationals from reporting. This excessively high threshold is particularly problematic for developing countries, which typically host smaller multinational companies which can still be the country's largest foreign direct investors and can have enormous impact on the national economy. Just by way of illustration, €750 million is roughly equivalent to the total government revenue of Liberia and Burundi combined[3].

[1] http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2016/0198/COM_COM(2016)0198_EN.pdf

[2] Directive 2013/34/EU (Accounting Directive), Article 3 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0034

[3] IMF, Regional Economic Outlook: Sub-Saharan Africa, April 2015: https://www.imf.org/external/pubs/ft/reo/2015/afr/eng/pdf/sreo0415.pdf; The Guardian, Assisting countries in avoiding the pitfalls of transfer pricing, 2013: http://www.theguardian.com/global-development-professionals-network/adam-smith-international-partner-zone/assisting-countries-in-avoiding-the-pitfalls-of-transfer-pricing

What needs to change?

A lower threshold would prevent companies of significant size from being omitted from the reporting requirement. It would also level the playing field among EU companies which already report similar information. This can be achieved by:

- **applying EU's own existing definition of "large undertakings", including a threshold of €40 million in turnover as stated in the Accounting Directive.**

> 7. Large groups shall be groups consisting of parent and subsidiary undertakings to be included in a consolidation and which, on a consolidated basis, exceed the limits of at least two of the three following criteria on the balance sheet date of the parent undertaking:
>
> (a) balance sheet total: EUR 20.000.000;
>
> (b) net turnover: EUR 40.000.000;
>
> (c) average number of employees during the financial year: 250.

Directive 2013/34/EU (Accounting Directive), Article 3

3. What they need to report

The disclosure elements are critical for determining a company's economic activity, structure, and tax payments in EVERY country in which it operates. Each piece is meaningless on its own and only reveals useful information when disclosed alongside the others.

Where are we now?

The current Commission's proposal leaves out many important elements – such as assets, sales and a full list of subsidiaries, – contrary to the templates developed by the OECD under BEPS Action 13 and the European Parliament in the Shareholders Rights Directive. Lack of information on the economic activity and assets of a multinational in a jurisdiction makes it nearly impossible to assess whether it is paying its fair share of tax.

What needs to change?

Only a comprehensive common reporting template can provide the public with the necessary information and allow adequate comparability. This can be achieved by:

- **adopting a common template, uploaded to a central register in an open data format;**
- **including the following elements in the template:**

Elements in bold below are currently not included in the European Commission's Proposal.

- Name(s), nature of activities ***and geographical location;***
- the number of employees ***on a full-time equivalent basis;***
- the amount of the net turnover ***including turnover with related parties, turnover with unrelated parties, and total turnover,***
- the amount of profit or loss before income tax;
- the amount of income tax accrued (current year) which is the current tax expense recognized on taxable profits or losses of the financial year by undertakings and branches resident for tax purposes in the relevant tax jurisdiction;
- the amount of income tax paid which is the amount of income tax paid during the relevant financial year by undertakings and branches resident for tax purposes in the relevant tax jurisdiction;
- the amount of accumulated earnings;
- ***sales and purchases,***
- ***value of assets and annual cost of maintaining those assets,***
- ***tangible assets other than cash or cash equivalents,***
- ***stated capital,***
- ***public subsidies received,***
- ***payments to governments, and***
- ***list of subsidiaries operating in each Member State or third country alongside the relevant data.***

More information in a joint civil society organisations' Q&A on the European Commission's legislative proposal on public "CBCR"

ActionAid, Eurodad, European Public Service Union, Financial Transparency Coalition, Open Society European Policy Institute, ONE, Oxfam International, Transparency International