



**International Tax Cooperation to Curb Illicit Financial Flows:
Policy Recommendations in the context of the Terms of
Reference (ToR) of UN Framework Convention on
International Tax Cooperation**

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UN Tax Convention

- Divided we are weak; united, Africa could become one of the greatest forces for good in the world.

- - Kwame Nkrumah, *I Speak of Freedom: A Statement of African Ideology*, 1961

UN Framework Convention on International Tax Cooperation

What to Keep in Mind

- Key Lesson from the OECD Inclusive Framework: ***Weak process leads to weak outcomes***
- Main problem of international taxation is one related to governance, so Convention should concentrate on solving that

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What to Keep in Mind

- Framework itself should avoid substantive questions of taxation eg – what should be a solution for taxing cryptocurrencies, etc; to be kept to protocols
- Additional danger that beginning a substantive discussion, such as negotiating a new solution for taxing the digital economy, may extend the negotiation endlessly, eventually killing the process

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What to Keep in Mind

- Priority should be to direct scarce negotiating resources to finish the Framework Convention as soon as possible which sets in place an appropriate governance framework;
- Technical solutions can be developed subsequently through protocols
- Simultaneous negotiation on protocols may dilute scarce negotiating resources and divert attention from core issues of governance

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What to Keep in Mind

- Developing countries should nevertheless prepare a list of substantive issues they want solved through the Framework as protocols
- Illicit Financial Flows certainly one of them

Definition and types of IFFs

Definition of IFFs

- ❖ The African Union/UNECA High Level Panel on IFFs defines it as “**money illegally earned, transferred or used that crosses borders**” which includes tax avoidance such as transfer mispricing
- ❖ UNCTAD and UNDOC define IFFs as “**financial flows that are illicit in origin, transfer or use that reflect an exchange of value and that cross country borders**”
- ❖ UNCTAD & UNODC: “This includes the category of tax and commercial IFFs that can be generated from illegal commercial activities and tax evasion, *and from legal economic activities through aggressive tax avoidance.* “

Types of IFFs

- ❖ **Commercial and tax**
- ❖ Criminal
- ❖ Corruption and the abuse of entrusted authorities
- ❖ Profit shifting through interest and royalty payments = Illicit Financial Flows
- ❖ Artificial Avoidance of Permanent Establishment = Illicit Financial Flows
- ❖ Hybrid Mismatches = Illicit Financial Flows
- ❖ Etc

In Short

**Tax Avoidance =
Illicit Financial
Flows**

❖ Five Ideas

- ❖ Clearly mention that Tax Avoidance is a part of Illicit Financial Flows **through an international legal instrument**
 - ❖ Idea is to end the argument that aggressive tax avoidance is permissible because it is 'legal'
- ❖ Consider and propose a global international standard to require publicly available country-by country reporting of financial information of MNEs so that all countries can receive information.

Shell Tax Contribution Report 2020: OUR TAX DATA BY COUNTRY AND LOCATION

	Revenues			Profit before tax (\$)	Tax paid (\$)	Tax accrued (\$)	Tangible assets (\$)	Stated capital (\$)	Accumulated earnings (\$)	Number of employees
	Third-party revenues (\$)	Related-party revenues (\$)	Total revenues (\$)							
Albania	(59,798)	51,366	(8,432)	(44,556,420)	0	0	249,976,849	0	0	60
Argentina	203,610,685	6,370,147	209,980,832	(240,462,518)	0	0	1,695,393,602	1,844,547,775	(882,586,404)	166
Australia	2,703,081,216	6,482,788,036	9,185,869,252	(11,432,704,550)	29,163,263	10,643,085	31,169,617,198	53,590,206,563	(6,492,017,103)	2,595
Austria	660,723,773	11,922,980	672,646,753	15,267,647	1,937,390	1,853,210	169,673,120	191,890,298	167,217,399	80
Bahamas	4,879,891,735	10,977,686,202	15,857,577,937	652,624,659	0	0	714,046,322	100,000	1,706,039,036	35
Barbados	0	3,972,596	3,972,596	703,245	0	0	0	775,769,000	402,131,443	0
Belgium	571,646,793	336,931,890	908,578,683	49,969,457	11,404,479	14,070,308	324,059,054	110,244,267	86,046,699	300
Bermuda	4,000,634	70,640,734	74,641,368	36,085,318	0	0	91,277	8,918,332,750	1,764,095,161	2
Bolivia	119,622,715	502,199	120,124,914	(156,582,597)	0	(618,731)	331,112,269	380,226,459	(36,924)	60
Brazil	844,625,356	4,681,335,348	5,525,960,704	(4,032,840,539)	1,826,050	20,095,844	28,563,275,322	3,600,555,379	(7,956,726,049)	837
Brunei	92,813,553	3,409,058	96,222,611	(71,265,538)	35,069,217	33,253,155	378,824,699	333,036,458	5,008,915	6
Bulgaria	125,969,145	4,916,810	130,885,955	(6,609,290)	458,140	177,770	84,455,180	42,096,691	2,095,068	59
Canada	7,980,866,767	9,957,278,570	17,938,145,337	(1,427,027,022)	(16,358,418)	14,779,138	15,667,443,505	47,099,413,948	(5,851,707,781)	3,440
Cayman Islands	0	224,239	224,239	15,593	0	0	15,495,480	80,371,117	(111,626,136)	0
China	2,335,377,496	928,045,604	3,263,423,100	562,154,958	67,413,658	90,062,526	1,943,213,873	860,930,187	1,128,059,826	1,841
Colombia	16,415	2,129,218	2,145,633	(16,289,108)	0	0	2,504,156	40,754,934	(77,011,064)	11
Cyprus	0	11,511	11,511	(11,244,062)	0	6,606	180,260,553	0	0	0

Source: [Shell](#)



Proposals for consideration in relation to tax-related IFFs

- ❖ Public Country by Country Reporting a Low-Hanging Fruit;
- ❖ Can start with the largest corporations who also tend to be the biggest tax avoiders
- ❖ EU directive on Public CBCR and moves by Australia to introduce it
- ❖ Can be boosted through such a protocol under the UN Framework Convention on International Tax to introduce it at a global level

Proposals for consideration in relation to tax-related IFFs

- ❖ Develop standards and guidelines for taxpayers and enablers of IFFs to commit to reporting aggressive tax planning schemes (reportable arrangements) building on and simplifying OECD Action 12 on BEPS.
- ❖ Provide a framework to create a centralised registry for holding beneficial ownership information on all legal vehicles. Such information should be public
- ❖ Making comparables data for transfer pricing a public good:
 - ❖ At present databases such as Orbis prohibitively expensive for developing countries which prevents their ability to curtail profit shifting

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