President Jean-Claude Juncker
European Commission
200, Rue de la Loi
1049 Brussels

Brussels, 14 December 2015

Negotiations on public country by country reporting for multinational corporations under the Shareholder Rights Directive

Dear President Juncker,

We, the undersigned civil society organisations, are writing to you to highlight the importance of the ongoing negotiations on **public country-by-country reporting** (CBCR) for multinational corporations (MNCs) under the **Shareholder Rights Directive** (SRD).

MNCs' structures, operations and tax-related information are still highly opaque. MNCs operate globally and report separately to tax authorities in each country where their subsidiaries are located or are doing business. However, MNCs rarely present their financial information on a country-by-country basis to the public. They report it on a consolidated basis, only highlighting some financial data in selected countries or with respect to selected subsidiaries.

Ending the secrecy surrounding the activities and tax payments of MNCs is a crucial step towards curbing corporate tax avoidance and re-establishing public trust in our tax systems. We believe that **citizens, including those in developing countries, have the right to have access to key financial information on the activities of the companies that operate in their territories.** These businesses generate revenues and profits locally, and are expected to contribute to the public budget through taxes and community contributions.

The current opacity of MNCs' operations may give rise to **corruption risks** both through the use of offshore jurisdictions, which may be used for corrupt purposes such as money-laundering or bribery, and through the lack of transparency around individual companies' tax treatment.

Public CBCR enables public scrutiny of **MNCs' use of subsidiaries**. It can help shed light on aggressive tax planning practices and special tax arrangements between individual companies and the tax authorities in particular countries, which may be the outcome of collusion. For instance, this would have been the case in the recent European Commission rulings on Starbucks and Fiat Chrysler, which received illegal state aid through tax agreements granted by the governments of the Netherlands and Luxembourg.[1]

By requiring MNCs to report publicly on key financial data on a country by country basis, governments will also dramatically increase the incentive for these corporations to pay their taxes in the jurisdictions where the economic activity takes place and value is created. This is not only key to achieving financial stability and development in Europe, but also in the world's poorest countries, where tax revenues are direly needed to fund quality basic social services such as education and health care. In these countries corporate tax payments make up for a relatively large share of the total tax base. **Public CBCR would therefore strongly support sustainable development goals and the fight against poverty.**[2]

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[1] European Commission (October 2015): Commission decides selective tax advantages for Fiat in Luxembourg and Starbucks in the Netherlands are illegal under EU state aid rules

[2] For more information on corporate tax transparency in developing countries, see Action Aid's report "Levelling Up: Ensuring a fairer share of corporate tax for developing countries" (July 2015).

Greater tax transparency would help **promote investment** due to the increased transparency which investors would benefit from, and also **contribute to fairer competition** between MNCs and SMEs.

Public CBCR already exists for banks, which have not faced a negative impact since. Moreover, some companies already voluntarily publish CBC reports.[3] In a 2013 report, Transparency International (TI) assessed a sample of emerging market MNCs and found that the ones that scored the highest results in CBCR were 20 Indian companies in the sample. This is due to the fact that Indian law requires companies to report key financial information on their subsidiaries.[4] This proves that such disclosure does not result in competitive disadvantage. A survey of FTSE100 companies by Christian Aid showed that most companies are not actively opposed to legislation for public CBCR.[5]

For all these reasons, we believe that the EU should go further than the OECD BEPS plan, which foresees CBCR only towards tax authorities, and live up to its commitments to tax transparency by making it public.[6] We are therefore strongly encouraged by the fact that the European Parliament, with a large majority, voted in favour of including public CBCR in the Accounting Directive, through its review of the Shareholder Rights Directive.

A year ago, the European Commission and PricewaterhouseCoopers conducted an impact assessment of public CBCR for the financial sector.[7] The conclusion was that disclosing CBCR information *"was unlikely to have a significant negative economic impact, and could have a small positive economic impact"*. Following this finding, public CBCR was introduced for MNCs in the financial sector, which now serves as an example how such a policy can work.

On various occasions, and most recently on 24 November 2015 before the European Parliament's plenary, Commissioner Moscovici expressed his support for public CBCR.[8] Similarly, we urge you to show your strong support for the proposal to introduce public CBCR for MNCs during the negotiations of the Shareholder Rights Directive.

Yours sincerely,

Transparency International EU

European Network on Debt and Development (Eurodad)

Oxfam International

Action Aid International

Global Financial Integrity

Tax Justice Network

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[3] Deutsche Telekom, TELUS and Telefonica score good results on CBCR in Transparency International's recently published report on the transparency of the world's largest telecommunications companies. However, the results are still poor, which demonstrates that the approach towards companies' public financial disclosure needs to urgently shift from a voluntary to a mandatory one with clear and harmonised standards.

[4] Transparency International (2013): "Transparency in Corporate Reporting: Assessing Emerging Market Multinationals"

[5] Christian Aid (2015): Country by country reporting. A survey of FTSE100 companies' views

[6] The elements to be publicly discloses should be, as a bare minimum, the ones included in the Capital Requirement Directive IV.

[7] PwC (September 2014): "Study prepared by PwC for European Commission DG Markt following the contract 2014/S 102-177729. General assessment of potential economic consequences of country-by-country reporting under CRD IV".

[8] Video: Commissioner Pierre Moscovici, European Parliament's plenary sitting, 24 November 2015.

Christian Aid

Tax Research UK

Methodist Tax Justice Network UK

Attac Ireland

ShareAction

Centre national de coopération au développement, CNCD-11.11.11

CCFD – Terre Solidaire

Plateforme Paradis Fiscaux et Judiciaires, France

War on Want

GLOPOLIS

Kairos Europe

KOO - Coordination office of the Austrian Bishops Conference for Development and Mission

WEED – World Economy, Ecology and Development

Institute of Global Responsibility (IGO), Poland

IBIS Denmark

Diakonia Sweden

Forum Syd, Sweden

APIT Portugal

SOMO – Centre for Research on Multinational Corporations

Change Partnership

Financial Transparency Coalition (FTC)

Tax Justice Network Norway

Christian Aid Ireland

Financial Accountability and Corporate Transparency (FACT) Coalition

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