



**Findings of the 2nd TJN Survey on Automatic
Exchange of Information (AEOI)
Sanctions against financial centres, AEOI statistics
and the use of information beyond tax purposes**

Andres Knobel

January 18th, 2017

With the support of



Executive Summary

Automatic exchange of bank account information (AEOI) under the OECD's Common Reporting Standard (CRS) is set to start during 2017. While more than 100 countries have committed to implement it, there are serious [loopholes](#) and concerns with regards to access by all countries (especially developing ones), its enforcement, the limited use of the information that can be obtained and the lack of participation by the United States.

In order to understand countries' views relating to the CRS and to upgrading tools suggested by civil society organisations, the Tax Justice Network (TJN) sent an online multiple choice survey in English and Spanish to the administrations of more than 130 jurisdictions. The questionnaire was completed by respondents in 30 countries. Classified according to the World Bank's income status, those respondents were: 3 low-income economies (all African), 6 lower-middle-income economies, 9 upper-middle-income economies (mostly Latin American and Caribbean) and 12 high-income economies (including 9 EU and EU-dependent countries¹).

Answers revealed that 83% of 30 respondents would be in favour of sharing information with other local authorities to also tackle non-tax issues, such as corruption or money laundering. TJN and the Financial Transparency Coalition, sent a [letter](#) to OECD's Pascal Saint Ammans and to the Global Forum's Monica Bhatia with a proposed draft declaration inviting countries to sign it to authorise the use of information beyond tax purposes. No result has come from this proposal yet.

In terms of proposals for potential sanctions to be taken against financial centres (but not against developing countries) in order to incentivise their compliance and participation in the CRS, 67% of 30 respondents are in favour of such sanctions. Of the 20 respondents supporting them, 60% chose withholding taxes (WHTs) as their preferred type of sanction.

A similar picture arises with respect to accessing aggregate statistics of the information to be automatically exchanged, based on the [template](#) prepared by TJN. This way, countries which are unable to obtain information from other countries would at least be able to find out about their own tax residents' aggregate financial holdings in each financial centre. 83% of 29 respondents are interested in accessing AEOI statistics.

In terms of the financial centres that should publish these AEOI statistics, 48% of 29 respondents (of all four levels of income) would be interested in statistics from Switzerland, followed by 31% choosing the U.S. With regard to those countries indicating they were *not* interested in such AEOI statistics, some of their explanations for this reveal a misunderstanding. Firstly, while one country said that they would obtain this information from other countries based on the CRS legal framework, no

¹ The actual list of countries is not revealed because many of them are required to keep their answers confidential. Based on the country classification, especially for cases where all countries within a type of income level chose the same answer, it would be possible to know the position or answer of some of those countries.

country is guaranteed to receive information from all other financial centres. Secondly, the issue of taxpayers' rights (very likely to privacy) was raised. However, AEOI statistics will contain only aggregate information, and therefore they will not violate any taxpayer's rights. Thirdly, while one respondent referred to the costs already imposed on financial institutions, the truth is that financial institutions already have to collect and report this information for each account. It is the tax authorities who would have to calculate the totals (adding up all numbers) and publish that, at no extra cost to financial institutions.

We found that 27% of 30 respondents are offering amnesty or voluntary disclosure programmes. It would require further analysis to determine whether any of these schemes comply with FATF Recommendations, especially after the problematic programme that was made available in [Indonesia](#).

In relation to the U.S., even though the U.S. will implement only the FATCA standard (but not the CRS), 69% of 17 respondents have not yet determined whether they would treat the U.S. as a jurisdiction "not participating in the CRS". One high income economy says it will actually consider the U.S. as "participating", as Switzerland and Luxembourg originally considered doing. This has consequences because an anti-avoidance mechanism in the CRS is triggered only in respect of non-participating jurisdictions, meaning that if the U.S. is treated as "participating", US American entities could be used to avoid reporting under the CRS

As for the legal framework to implement the CRS, countries need to sign the Multilateral Competent Authority Agreement (MCAA) and choose among all other co-signatories with which jurisdictions they want to exchange information. Similar to a dating system, AEOI will only take place among countries that were matched together. Of the 20 respondents that signed the MCAA, 95% will choose all other co-signatories under this 'dating' system. Only one high income economy will choose specific countries because based on its previous experience, tax evasion usually occurs in specific countries. However, given that there is no extra cost in receiving information from more countries, and that tax dodgers will be able to find out which countries are exchanging information with each other (and which will not be), limiting AEOI relationships may create new opportunities to avoid transparency.

In relation to the 10 respondents not yet committed to the CRS, all of them would be interested in receiving information automatically. However, 2 of them were not aware of the process required of them for implementing the CRS. In addition, while 3 respondents explained that their domestic legal framework appeared to be the main obstacle, their answers showed some misunderstanding regarding the ability to sign the Multilateral Tax Convention *and* the MCAA, because some countries wrongly believed that the Multilateral Tax Convention was only available for OECD countries, and that being a party to that Convention was a prerequisite to signing the MCAA. Neither assumption is correct. These last answers show that both international organisations such as the OECD, the Global Forum and also civil society need to increase awareness about these processes.

Lastly, the Global Forum has been promoting pilot projects where a developed country would partner up and assist a developing one to help it implement the CRS. While only 3 out of 9 respondents were aware of these pilot projects, 8 respondents expressed interest in them. According to the Global Forum, six pilot projects are already underway: Albania and Italy; Colombia and Spain; Ghana and the United Kingdom; Morocco and France; the Philippines and Australia; and Pakistan and the United Kingdom. TJN conducted an interview with the OECD about these pilot projects and discovered that while some jurisdictions cannot collect data for non-reciprocal exchanges without a legal framework, others could use the protocol for spontaneous exchanges. One pilot project envisions non-reciprocity (ie the developed country will send information to the developing one, without expecting to receive information in return).

TJN has also sent a brief survey to all of the countries involved in pilot projects to find out more about their scope. Australia, the only country to respond the survey, explained that it has provided AEOI data to the Philippines as a trial for the Philippines to learn the process of using AEOI data for compliance purposes. Australia has also financed the pilot project and provided various forms of support and assistance to the Philippines since April 2015 through correspondence, teleconference, training/workshops, on-site visits and a high level engagement meeting.

Australia is becoming a positive example of assistance to developing countries. Not only has Australia provided assistance to the Philippines (and engaged in transparency by answering our survey), but it is also the first country to commit to publishing a basic version of AEOI statistics. The latter will enable all other countries to find out about the total of their residents' deposits in Australia, and it sets an example for other financial centres to follow. However, the fact that Australia (as well as other countries like the UK) [signed a bilateral CAA with Singapore](#) could risk endorsing the bilateral framework for implementing the CRS (instead of promoting only the multilateral approach through the MCAA).

Contents

| | |
|--|-----------|
| Executive Summary | 2 |
| 1. Introduction..... | 6 |
| 2. CRS implementation & concerns..... | 7 |
| 3. TJN 2016 Survey | 9 |
| 3.1 General questions..... | 9 |
| 3.1.1 Upgrading the CRS..... | 9 |
| 3.1.2 Concerns related to the CRS | 16 |
| 3.2 Questions for countries committed to implementing the CRS | 21 |
| 3.3 Questions for countries not yet committed to implementing the CRS | 25 |
| 3.4 TJN Survey Summary of Conclusions..... | 27 |
| 4. Pilot Projects | 29 |
| References..... | 33 |
| Annex I: Questionnaire..... | 35 |
| Annex II: Pilot Project Survey..... | 45 |

1. Introduction

Banking secrecy is usually associated with the tax haven of Switzerland, although it is way more widespread. It is key to the facilitation of money laundering, corruption, tax evasion and terrorism financing, among many other financial crimes. It allows sophisticated criminals, as well as any individual evading taxes on legally-obtained income, (e.g. from an inheritance) to keep their assets and identity protected from law enforcement and tax authorities.

For years there was little that authorities could do about it if any of their residents opened and operated a bank account in a tax haven. Even if a country had signed an international agreement with that tax haven, they could merely make a request for information about a taxpayer already under investigation, and in the best case scenario obtain some valuable data while it was still useful. However, authorities were not able to instantly find out about any resident with undeclared accounts abroad. As Meinzer notes “without provision of a ‘smoking gun’ to trigger new investigations, there is no curbing of vast illicit financial flows and little or no impact on global portfolio investment patterns” (Meinzer 2012: 2).

Since the financial crisis of 2009 the momentum for change in tax havens and banking secrecy has increased. First, the U.S. enacted its Foreign Account Tax Compliance Act (FATCA). Second authorities began purchasing CDs with (leaked) banking information. Third, there was a cyclical combination of civil society pressure coupled with several media scandals, such as Swiss Leaks². Finally, in 2013 the G20 endorsed automatic exchange of information (AEOI) as the new standard for the global exchange of information. In 2014 the OECD (a club of rich countries) published the [Common Reporting Standard \(CRS, OECD 2014a\)](#) determining the scope, requirements and all [details \(OECD 2014b\)](#) related to the automatic exchange of bank account information. In essence, by automatically sending information about bank accounts held in their territory, and receiving information from foreign countries (without the need of a specific request), all participating countries would be able to find out about any of their residents’ financial accounts held abroad.

We have written several reports [endorsing AEOI \(e.g. Meinzer 2013\)](#), especially for [developing countries \(Knobel, Meinzer 2014a\)](#). However, we have also warned about [loopholes \(Knobel, Meinzer 2014b\)](#) included in the CRS and about [other obstacles \(Knobel 2015\)](#) that are likely to [prevent access to AEOI by many developing countries](#)³.

² Former bank employee Falciani disclosed to authorities a list of undeclared bank accounts held in HSBC’s Geneva office. This was then exposed by the International Consortium of Investigative Journalist (ICIJ).

³ <http://www.taxjustice.net/2016/10/25/oecd-information-exchange-dating-game/>; 9.1.2017.

2. CRS implementation & concerns

As of November 30th 2016⁴, 54 jurisdictions [committed](#)⁵ to implementing the CRS in 2017, and 47 jurisdictions committed to do so in 2018. However, making a commitment is not enough for the exchange of information. Countries also need to have a legal basis for AEOI, ideally by becoming a party to the CoE/OECD Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Tax Convention). They then need to sign a competent authority agreement (CAA) in order to automatically exchange bank information according to the CRS standard⁶. As of November of 2016, 87 jurisdictions have signed the Multilateral CAA, or [MCAA](#)⁷. However, some countries, like [Singapore](#)⁸, [Hong Kong](#)⁹ and the [Bahamas](#)¹⁰ are refusing to do so, and instead are planning to, or have already started to sign bilateral CAAs.

However counter-intuitive it may sound, being a party to the Multilateral Convention and having signed the MCAA is necessary but not enough for the implementation of the CRS. In addition, countries need to prove that their domestic legal framework for implementing the CRS is up to standard and that they meet with confidentiality provisions. On top of all that, countries need to choose with whom to exchange information automatically, from all other co-signatories of the MCAA, similar to a dating system. Exchanges will only take place only among countries that meet all of the above conditions, *and* who also chose each other within this 'dating system'.

Furthermore, there is a high degree of secrecy around this process, and there are other concerns surrounding the implementation of the CRS. For example, there is the question of which countries will actually be able to exchange information automatically with each other. This depends not only on how countries' domestic framework and confidentiality provisions are being assessed by the OECD's Global Forum, but also on each jurisdiction's choices under the 'dating system'. The OECD does not plan to make this information public. Only the final result of matched choices

⁴ The OECD website, however, says update is as of July 2016.

⁵ <https://www.oecd.org/tax/transparency/AEOI-commitments.pdf>; 9.1.2017.

⁶ There are now other MCAAs and other standards for automatically exchanging other types of information, such as country by country reports, pursuant to BEPS Action 13.

⁷ <http://www.oecd.org/ctp/exchange-of-tax-information/MCAA-Signatories.pdf>; 9.1.2017.

⁸ <https://www.iras.gov.sg/irashome/News-and-Events/Newsroom/Media-Releases-and-Speeches/Media-Releases/2016/Singapore-and-the-United-Kingdom-Sign-Agreement-for-Automatic-Exchange-of-Financial-Account-Information/>; 9.1.2017.

⁹ <http://www.info.gov.hk/gia/general/201610/26/P2016102600614.htm>; 9.1.2017.

¹⁰ <http://www.thebahamasweekly.com/publish/bis-news-updates/Bahamas-Committed-to-CRS-Using-a-Bilateral-Approach50198.shtml>; 9.1.2017.

has been published. This raises concerns about the objectivity of the reviews, and about biases and [omissions in the dating system](#)¹¹, which [could be abused](#)¹².

The U.S. poses a risk in itself. In spite of being a major financial centre, it will not join the CRS but will only implement its own standard to automatically receive information from other countries, based on FATCA. This FATCA standard, which was the basis for the legal framework of the CRS, provides for little information to be sent from the U.S. to other countries, and only in limited circumstances. In addition, an anti-avoidance provision available in the CRS could be thwarted by giving special status to U.S. financial institutions, as [Switzerland](#)¹³ and [Luxembourg](#)¹⁴ originally planned.

As for developing countries unable to comply with the necessary steps to implement the CRS, we believe they should be offered alternative short-term solutions, such as [pilot projects](#)¹⁵ sponsored by the Global Forum, or AEOI statistics based on [a template designed by TJN](#)¹⁶. Moreover, civil society organisations question whether it is possible to enforce the CRS without sanctions for non-compliance, and why the exchanged information cannot be used and shared for purposes beyond tax issues. Lastly, amnesty programs for tax evaders have started to pop up around the world. This may be related to the fact that Switzerland requires such programmes from other countries as a condition for exchanging information (referred to by the Swiss as '[regularisation](#)¹⁷' for taxpayers).

In light of these concerns, TJN decided to undertake a survey to better understand countries' views on the CRS, and to assess their interest in alternative tools, such as AEOI statistics and pilot projects. An additional survey for countries already undergoing pilot projects has also been carried out in order to understand the scope and results of these pilot projects.

¹¹ <http://www.taxjustice.net/2016/10/25/oecd-information-exchange-dating-game/>; 9.1.2017

¹² <http://www.taxjustice.net/2016/11/28/switzerland-information-exchange-tweak-tweak-something-will-always-remain/>; 9.1.2017.

¹³ <http://www.taxjustice.net/2016/06/09/luxembourg-starts-rush-to-bolster-tax-haven-usa/>; 9.1.2017.

¹⁴ <http://www.taxjustice.net/2016/07/12/luxembourg-backs-supporting-tax-haven-usa/>; 9.1.2017.

¹⁵ For more details, see Global Forum 2014.

¹⁶ <http://www.taxjustice.net/2016/01/05/global-automatic-exchange-of-information-a-trove-of-relevant-new-data/>; 9.1.2017.

¹⁷ <https://www.admin.ch/gov/en/start/dokumentation/medienmitteilungen.msg-id-60367.html>; 9.1.2017.

3. TJN 2016 Survey

TJN prepared and sent between September and October of 2016 a multiple-choice online questionnaire, available in English and Spanish (the full questionnaire is available in Annex I). After an online search for relevant email addresses of countries' tax authorities or Ministries of Finance, a link to the questionnaire was sent to 130 jurisdictions. The questionnaire was completed by 30 respondent countries. Classified according to the World Bank's income status, respondents were: 3 low-income economies (all African), 6 lower-middle-income economies, 9 upper-middle-income economies (mostly Latin American and Caribbean) and 12 high-income economies (including 9 EU and EU-dependent countries).

The questionnaire had filter-questions to address countries' different situations in order to ask only applicable questions. (for example depending on whether the jurisdiction had committed to the CRS or not. Other general questions were asked of all countries.

3.1 General questions

3.1.1 Upgrading the CRS

3.1.1.1 *Use of Information beyond tax purposes*

Background: When speaking about international methods to exchange information, the OECD usually refers to the exchange of "tax information". This may be misleading because it is not tax information that is being exchanged, such as tax returns or tax payments, but rather information that is *relevant for tax purposes*. However, bank account information may be relevant for *non-tax* purposes, such as for tackling corruption or money laundering, which may take place regardless of whether a criminal is paying taxes or he/she is tax exempt. Information on their account balance would be especially relevant here, in case a person cannot justify the origins of those funds.

While limiting the use of information for tax purposes as the default option, the Multilateral Tax Convention still allows the jurisdiction that sends the information to explicitly authorise the recipient jurisdiction to share the information with other local authorities to tackle non-tax issues, such as corruption.

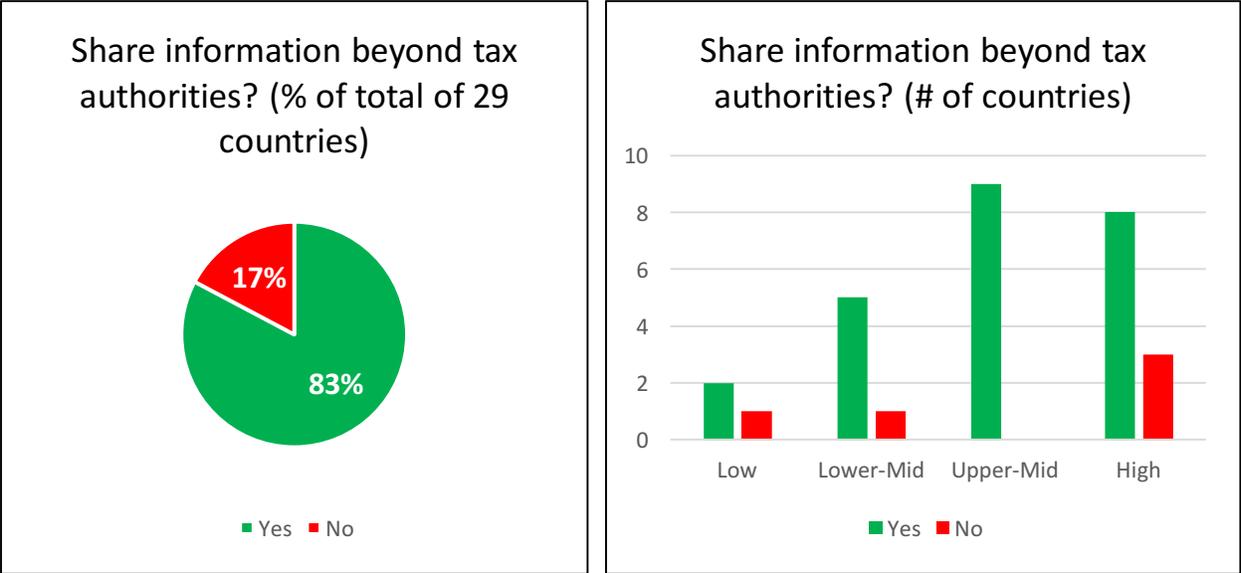
TJN and The Financial Transparency Coalition have even prepared a [draft Declaration](#)¹⁸ (sent in a letter to the OECD and Global Forum) inviting countries to

¹⁸ <https://financialtransparency.org/wp-content/uploads/2016/05/Letter-to-OECD.pdf>; 9.1.2017.

authorise the use of information for non-tax purposes. No country has yet signed that Declaration.

Question¹⁹ 1: We asked jurisdictions whether they would be in favour of sharing the received information with other local authorities (e.g. law enforcement to tackle corruption or money laundering) if the sending jurisdiction authorised it. If a jurisdiction was against sharing information, we asked whether they nevertheless considered that the information *could* be useful for other agencies (despite their opposition to sharing it), or if instead they considered that information was of no use to any other authority other than the tax authority.

Results:



Observation: All respondents except for one high-income economy answered the question. Among the high-income economies opposed to sharing information, one considered that it could nevertheless be useful for other agencies.

Conclusion: Considering all respondents together, 83% of 30 respondents would be in favour of sharing information with other local authorities to also tackle non-tax issues, such as corruption or money laundering. When arranged by income, there also is a majority of countries under each level of income (low income, high income, etc.) in favour of sharing information.

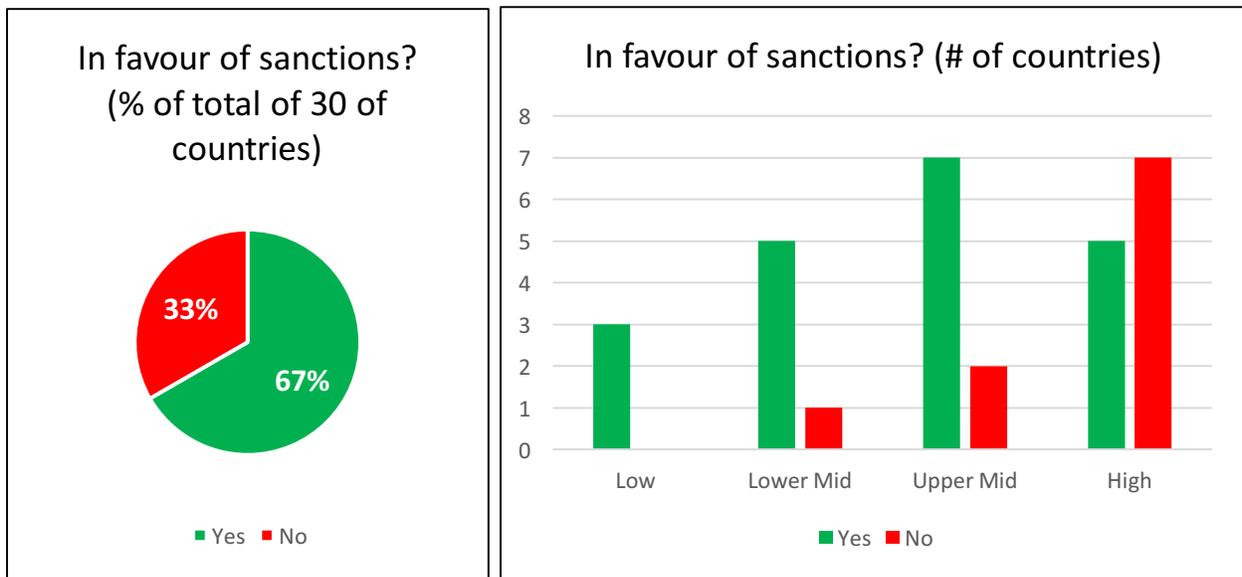
¹⁹ For the word for word language of the question asked, please refer to Annex I.

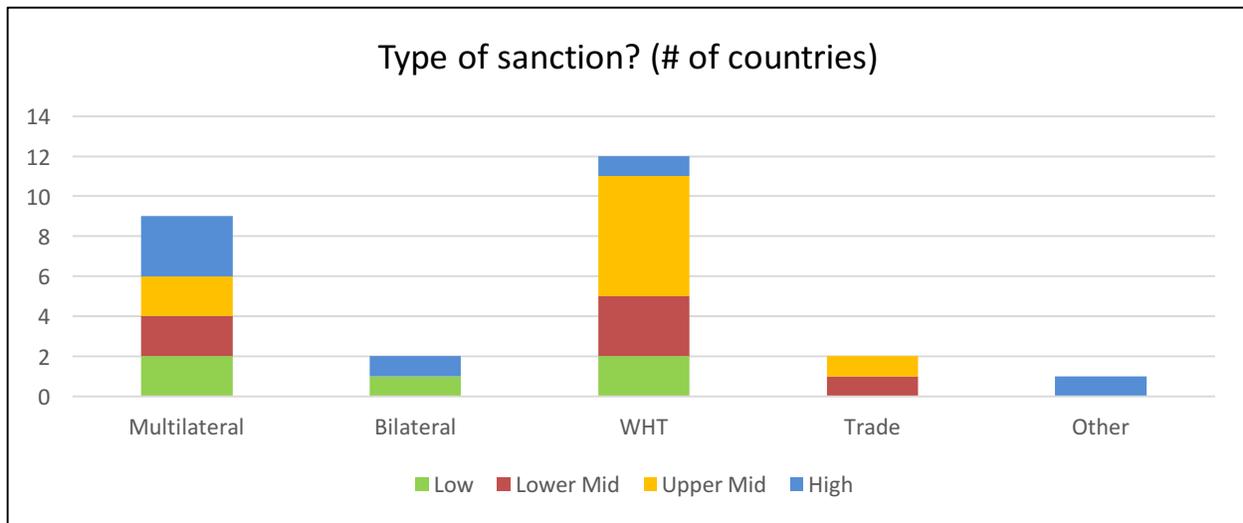
3.1.1.2 Sanctions to enforce the CRS

Background: Many argue that CRS is now a reality because of the wide spread use of the U.S. FATCA framework for AEOI (which served as the basis for the CRS). Arguably, most countries decided to join the FATCA framework in the first place because of the strong sanction for non-compliance: a 30% withholding tax on any U.S. sourced payment going to any financial institution not compliant with FATCA reporting requirements. In contrast, the CRS contains no such sanction to incentivise enforcement or participation, but merely suggests that countries should ensure domestic enforcement by financial institutions. The OECD justifies the lack of sanctions by arguing that they cannot impose them. They also believe that the peer review process to assess implementation of the CRS (to be conducted by the Global Forum) should suffice. It is understandable, however, that developing countries (which are not financial centres) that are still unable to implement the CRS, should be given time before being blacklisted or sanctioned.

Question: We asked jurisdictions whether they would be in favour of sanctions against financial centres (not against developing countries) to enforce implementation of the CRS, or if they considered that the “bad reputation” gained for not joining would be enough. We asked about different types of sanctions and gave the option to suggest others.

Results:





Observation: All respondents answered this question. Among the 10 respondents opposing sanctions, 7 (mostly high income economies) explained that a 'bad reputation' should be enough. One jurisdiction considered that a discussion or mutual understanding is better than imposing sanctions, one expressed the belief that each jurisdiction should decide on its own type of sanction and the remaining opposing country explained that the process is too new to impose sanctions. As regards the types of sanctions, one jurisdiction chose the option 'other' but merely expressed that this should be discussed.

Conclusions: When considering all countries together, 67% of 30 respondents are in favour of sanctions against financial centres for cases of non-compliance or non-participation in the CRS (20 against 10 jurisdictions). However, when classifying countries by income, there is a majority of respondents supporting sanctions in all cases except for high income economies, where a small majority opposes sanctions (7 versus 5 respondents).

For the 20 respondents supporting sanctions, 60% chose withholding taxes (WHTs) as the preferred type of sanction, followed by 10% supporting trade²⁰ sanctions. A multilateral framework for sanctions got support from 45% compared to 10% supporting a bilateral framework.

²⁰ While 'trade sanctions' were not specified, this could refer to import taxes, quotas or any other type of trade sanction.

3.1.1.3 AEOI Statistics

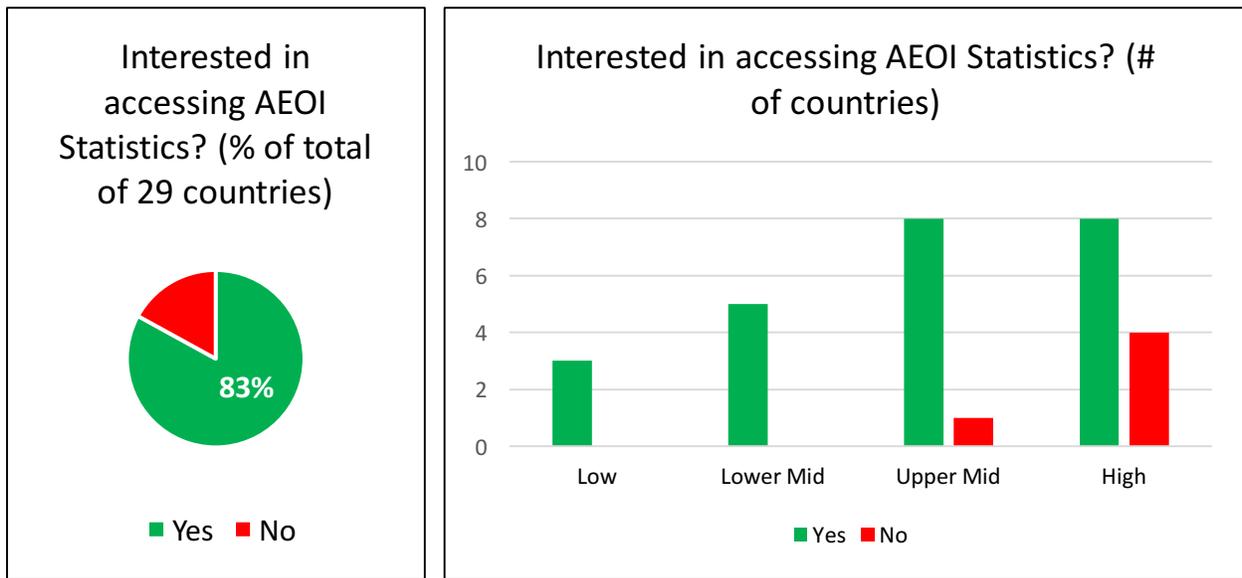
Background: the CRS requires reciprocity (to agree to send information in order to receive information from other countries). Therefore, developing countries unable to achieve the necessary legal and technical framework for sending information will be unable to join the CRS. However, both developed and developing countries can be prevented from receiving information even if they meet with all conditions and have signed all relevant agreements. Because of the discretionary choices under the 'dating system', countries will not receive any information from countries that refused to choose them too. Lastly, even for countries that manage to receive information, all this data will remain confidential, meaning that neither civil society organisations nor journalists will be able to find out about the amount of information being exchanged in order to hold authorities to account.

In order to address all these issues at once, TJN has proposed a [template for AEOI statistics](#), where financial centres would publish the total amount of money held in their financial institutions by country of origin. Given that only totals by country of origin would be published, no confidentiality rules would be breached. Also, authorities already have this information to hand (because financial institutions have to send it to them), and so AEOI statistics would involve no extra cost. Lastly, it would allow both excluded countries as well as civil society to find out basic information about their residents' holdings abroad. [Australia has decided to publish these statistics](#)²¹.

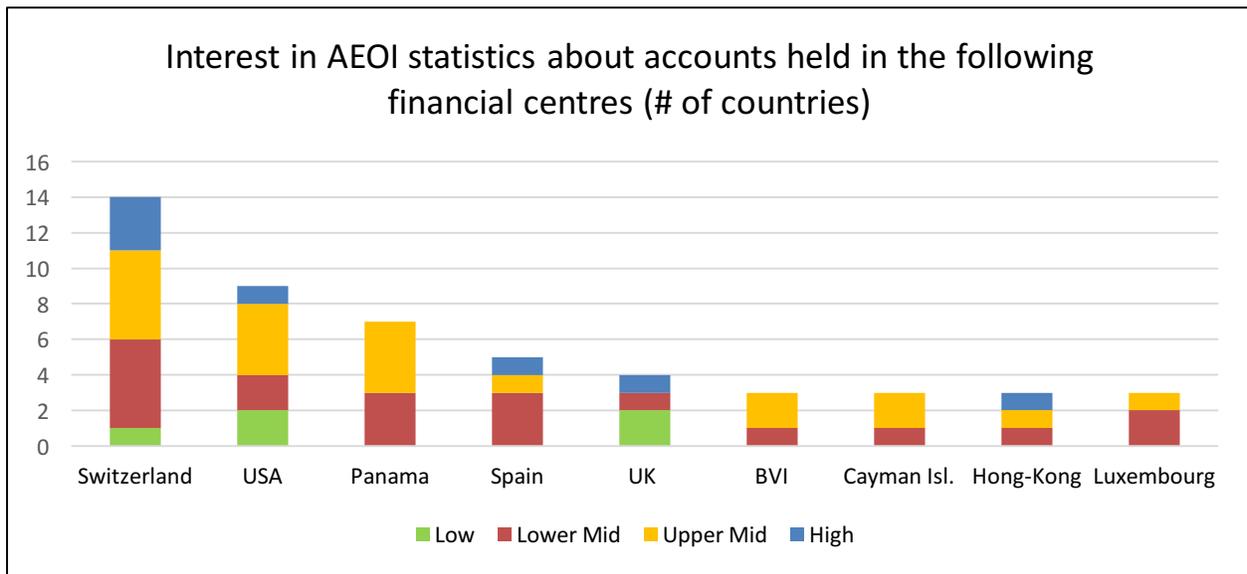
Question 2: we asked jurisdictions whether they would be interested in accessing the AEOI statistics containing aggregate information about their residents' holdings in financial centres, and if so, from which financial centres. For countries already committed to implementing the CRS, we ask them if they would be interested in joining Australia and also publishing statistics on financial holdings in their territories.

²¹ <http://www.taxjustice.net/2016/02/24/15031/>; 9.1.2017.

Results:



Countries interested in accessing AEOI Statistics (those who answered “yes”) indicated that they would mostly be interested in finding out about their resident’s financial accounts held in the following financial centres:



Other financial centres or countries were mentioned by 2 respondents (Bahamas, France, Mexico, the Netherlands and Singapore) and by 1 respondent (Argentina, Aruba, Australia, Brazil, China, Denmark, Dominica, Fiji, Grenada, India, Lebanon, Liechtenstein, Malaysia, Mexico, Monaco, New Zealand, Norway, Peru, Qatar, Russia, Sweden, UAE and Uruguay).

Observation: all jurisdictions except for one lower-middle income economy answered this question. Moreover, among the lack of interest in accessing AEOI Statistics, one

respondent explained the need “to keep information confidential to prevent money transfers to certain financial centres”, another expressed that they would consider this for the future, and two high income economies explained that they would already be receiving this information.

Among the 24 jurisdictions in favour of accessing AEOI statistics, 3 jurisdictions (2 upper-middle income and 1 high income economies) would consider following Australia’s lead by publishing AEOI statistics, although one explained it would require the tax authority head’s authorisation.

Among reasons not to join Australia in publishing AEOI statistics, 3 respondents explained that this would require Cabinet approval, 1 invoked the rights of taxpayers, 1 invoked the burdens already imposed on financial institutions, 2 have not analysed this or do not know if this information would be available, and 2 explained that they might be in favour, but would have to analyse the cost and benefits.

Conclusion: When considering all countries together, 83% of 29 respondents are interested in accessing AEOI statistics. When classifying countries by income, one could see that a lack of interest in accessing statistics was answered only by 1 upper-middle income economy and 4 high-income economies (but no low income or lower-middle income economies).

Regarding the financial centres that should publish these AEOI statistics, 48% of 29 respondents (of all four levels of income) chose Switzerland, followed by 31% who chose the U.S. Other financial centres selected included Panama (chosen by 24% of respondents), Spain (17%), the UK (13%), and BVI, Cayman Islands, Hong-Kong and Luxembourg (each chosen by 3 respondents).

Based on respondent’s explanations for their lack of interest in accessing or publishing AEOI Statistics, there is clearly a misunderstanding. First, no country is guaranteed to receive information from all other financial centres. Second, since these statistics will contain only aggregate information, they will not violate any tax payers’ rights. Third, financial institutions already have to collect and report this information for each account. It is the tax authorities who would have to calculate the totals (add up all the numbers) and publish that, at no extra cost to financial institutions.

3.1.2 Concerns related to the CRS

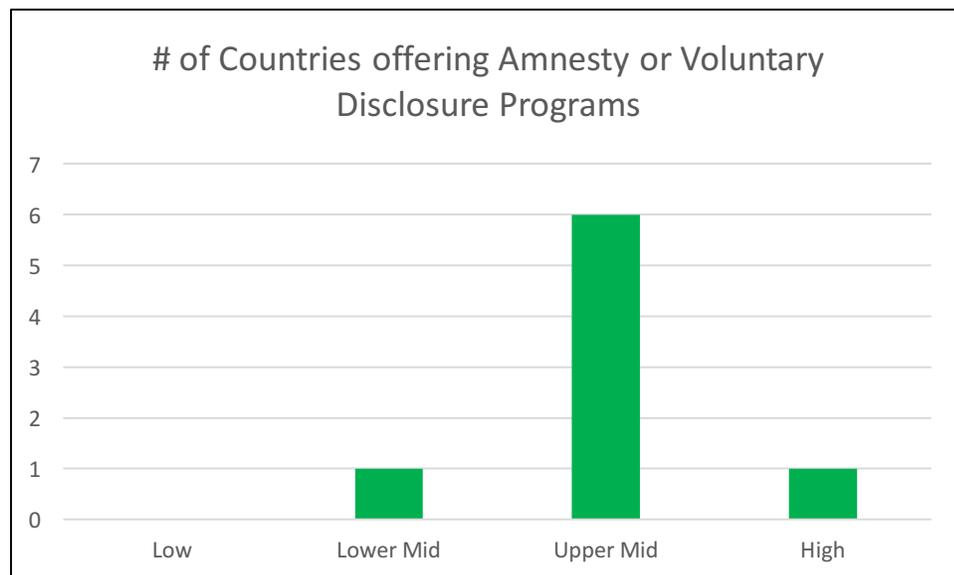
3.1.2.1. *Amnesty or Voluntary Disclosure Programmes*

Background: in light of the upcoming AEOI, some countries are offering amnesty or voluntary disclosure programmes where their taxpayers may disclose their undeclared accounts in order to face lower or reduced fees and penalties compared to those that would be applicable if those taxpayers were caught by the authorities. Switzerland is also demanding these amnesties (which they refer to as 'regularisation'²²) for countries willing to receive information from Swiss banks – they are making this a necessary but not sufficient condition to engage in AEOI with Switzerland.

Countries like [Indonesia](#)²³ are reported to have problematic programmes with very low penalties, very likely to favour politicians and business elites. In an attempt to attract funds countries may not be doing enough to prevent money laundering through these programmes. The FATF published a [report](#)²⁴ in 2012 on the risks related to these voluntary disclosure programmes.

Question 3: we asked jurisdictions whether they had any amnesty or voluntary disclosure programme available related to AEOI.

Results:



²² <https://www.admin.ch/gov/en/start/dokumentation/medienmitteilungen.msg-id-60367.html>; 9.1.2017.

²³ <http://www.taxjustice.net/2016/03/16/indonesias-corrupt-tax-haven-amnesty-the-first-of-many/>; 9.1.2017.

²⁴ For more details, see FATF 2012.

Observation: the lower-middle income economy is offering an amnesty or voluntary disclosure programme even though it is not committed to the CRS. The high income economy offering a programme is also not related to AEOI exclusively. Most upper middle income economies offering programmes are Latin American countries.

Conclusions: 27% of 30 respondents are offering amnesty or voluntary disclosure programmes. It would be interesting to find out why amnesty or voluntary disclosure programmes are mainly available for one level of income and especially in Latin America (6 out of the 8 respondents with such programmes). Moreover, it would require further analysis to determine whether any of these programmes comply with FATF Recommendations or whether they pose risks of being used for money laundering or by elites to reduce the taxes and fees that they would otherwise have had to pay.

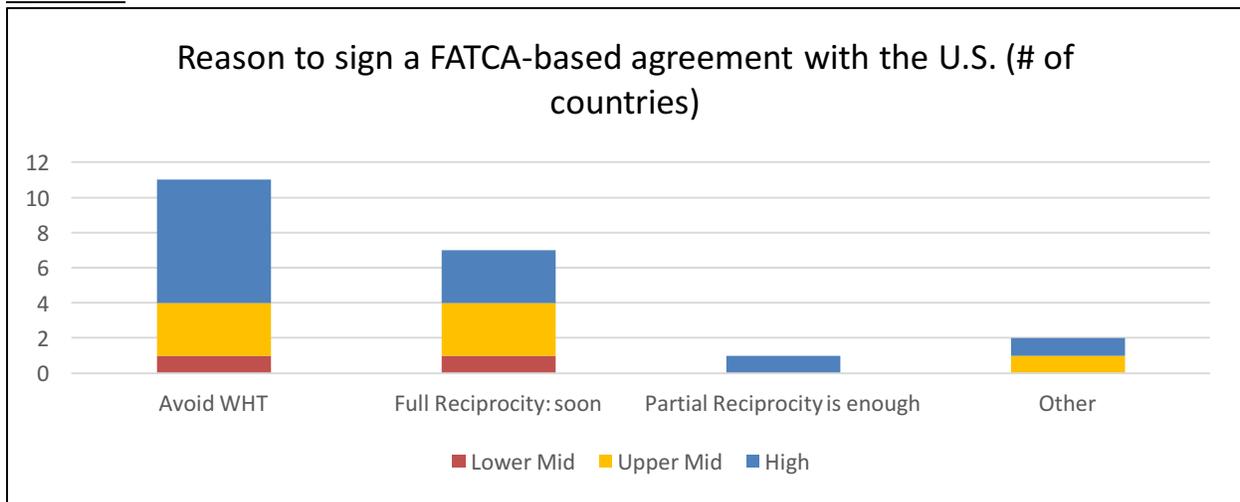
3.1.2.2 Why sign a FATCA-based agreement

Background: after tax evasion scandals where banks such as UBS²⁵ and Credit Suisse²⁶ were assisting U.S. citizens to evade taxes and hide financial accounts, the U.S. decided to enact the Foreign Account Tax Compliance Act (FATCA). FATCA provisions require any financial institution in the world to report to the U.S. on accounts held by U.S. Americans. A 30% withholding tax is to be imposed on any U.S.-sourced payment going to any financial institution not compliant with FATCA reporting obligations. Since foreign banks were not able to send information to the U.S. without violating their domestic confidentiality laws, the U.S. signed Inter-Governmental Agreements (IGAs) with many countries to provide a legal framework for foreign banks to send information. Out of the three available models of IGAs, two (models 1B and 2) involve information flowing only to the U.S. Only model 1A involves partial reciprocity from the U.S. – “partial” because it does not include reporting of balance account or information at the beneficial ownership level²⁷. Under IGAs 1A, the U.S. committed to achieve equal levels of reciprocity, but after more than two years since the signature of most IGAs, no progress towards reciprocity has been made.

FATCA’s lack of reciprocity would not be a problem if the U.S. were to join the CRS (because the latter allows no partial reciprocity in favour of the U.S.)

Question 4: we asked jurisdictions that signed an IGA with the U.S. about their motivations for signing such an unfair agreement.

Results:



²⁵ For more details, see U.S. Senate 2008.

²⁶ For more details, see U.S. Senate 2014.

²⁷ <http://www.taxjustice.net/2015/01/26/loophole-usa-vortex-shaped-hole-global-financial-transparency-2/>; 9.1.2017.

Observations: Based on the U.S. Treasury website, only 18 countries out of the 30 have signed a FATCA based agreement or have an agreement in substance. Among these 18 countries, while 2 respondents chose the option “other”, one of them explained that “they will still receive some information from the U.S.”, suggesting that the choice “partial reciprocity is enough” could also be applicable. The other respondent explained that they signed it because of taxpayer rights. This may refer to the fact that financial institutions need a legal framework (the IGA) to provide information to the U.S. in order not to violate domestic confidentiality laws.

Conclusions: An attempt to prevent withholding taxes was chosen by 61% of 18 countries that signed an IGA. The following choice, by 38% of respondents, was an expectation that the U.S. will fully reciprocate soon. Only 1 respondent (or 2 when considering the explanation), consider that the current partial reciprocity offered by the U.S. is satisfactory

3.1.2.3 The U.S. non-participation in the CRS

Background: Even though the U.S. has indicated - as noted by the OECD - that it will not join the CRS, some jurisdictions such as [Luxembourg²⁸](#) and [Switzerland²⁹](#), originally indicated that they would treat the U.S. as though it were a jurisdiction participating in the CRS. The problem with this approach is that the CRS has anti-avoidance mechanisms for some financial institutions located in non-participating countries. [If the U.S. is to be considered a “participating jurisdiction” \(even though it is not\), anti-avoidance mechanisms against U.S. financial institutions will not be triggered, even though they should be³⁰](#).

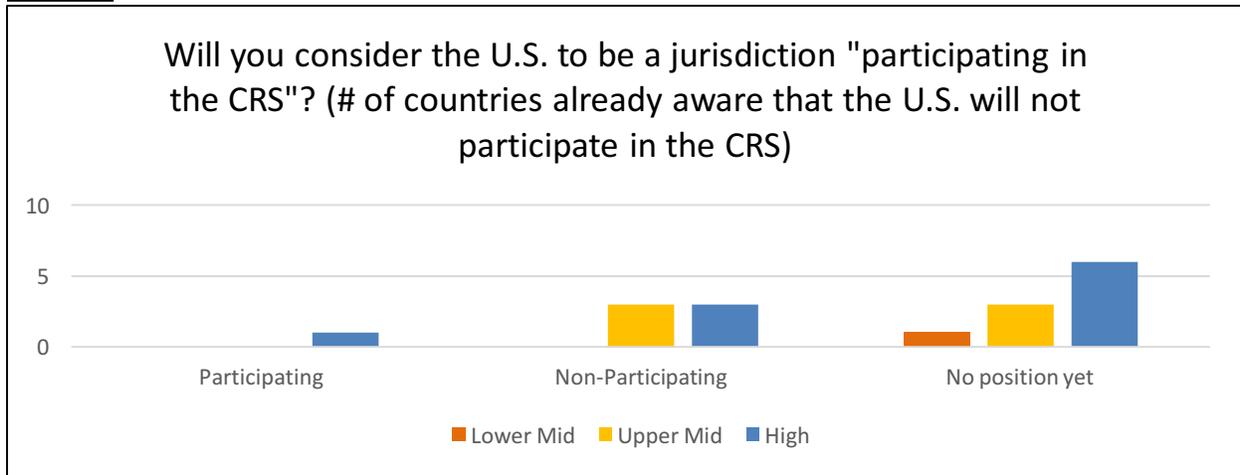
Question 5: we asked jurisdictions whether they were aware of the fact that the U.S. will not be implementing the CRS, and if, in spite of this they would still consider the U.S. to be a jurisdiction “participating in the CRS”.

²⁸ <http://www.taxjustice.net/2016/07/12/luxembourg-backs-supporting-tax-haven-usa/>; 9.1.2017.

²⁹ <http://www.taxjustice.net/2016/06/09/luxembourg-starts-rush-to-bolster-tax-haven-usa/>; 9.1.2017.

³⁰ For more details, see Knobel 2016.

Results:



Observation: The chart refers only to jurisdictions already committed to the CRS and already aware that the U.S. will not participate in the CRS. This includes a total of 0 (out of 3) low-income economies, 1 (out of 6) lower-middle income economies, 6 (out of 9) upper-middle income economies and 10 (out of 12) high-income economies.

Conclusion: while 69% of 17 respondents have not determined a position in the matter, one high-income economy appears to plan to consider the U.S. as a “participating jurisdiction”, therefore preventing the CRS anti-avoidance mechanism (which is triggered only when dealing with entities resident in jurisdictions regarded as “not participating in the CRS”). 35% of jurisdictions (3 upper-middle income economies and 3 high-income economies) will treat the U.S. as a non-participating jurisdiction.

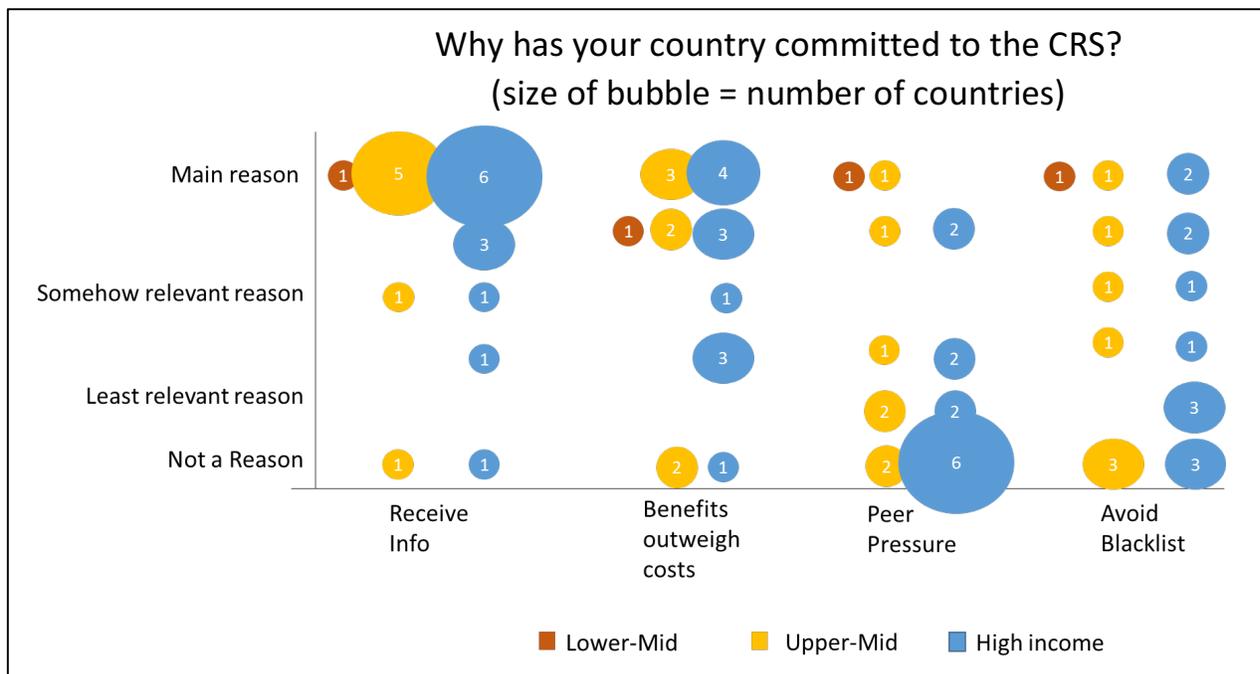
3.2 Questions for countries committed to implementing the CRS

3.2.1 Motivation

Background: More than 100 countries have committed to implement the CRS. However, there may be different motivations to do so. For many countries, they may be interested in receiving information for tackling tax evasion. However, implementing the CRS also has a cost to achieve the necessary legal and technical framework. For tax havens without income and wealth taxes, what are their motivations to join the CRS?

Question 6: We asked jurisdictions to indicate between a range of reasons including “main reason” and “least relevant reason” (or “this was not a reason”) for joining the CRS, such as an interest in receiving information, the benefits outweighing the costs, peer pressure or to avoid a bad reputation. We also allowed an additional free option.

Results:



Observation: Of the sample, a total of 20 countries committed to the CRS: 0 low income economies, 1 lower-middle income economy, 7 upper-middle economies and all 12 high income economies. The size of the bubble represents the number of countries that chose each option.

Conclusions: Receiving information (very likely to tackle tax evasion) was chosen as the main reason for committing to the CRS by 75% of respondents (15 out of 20 jurisdictions). The following option chosen as a priority by 65% of jurisdictions (13

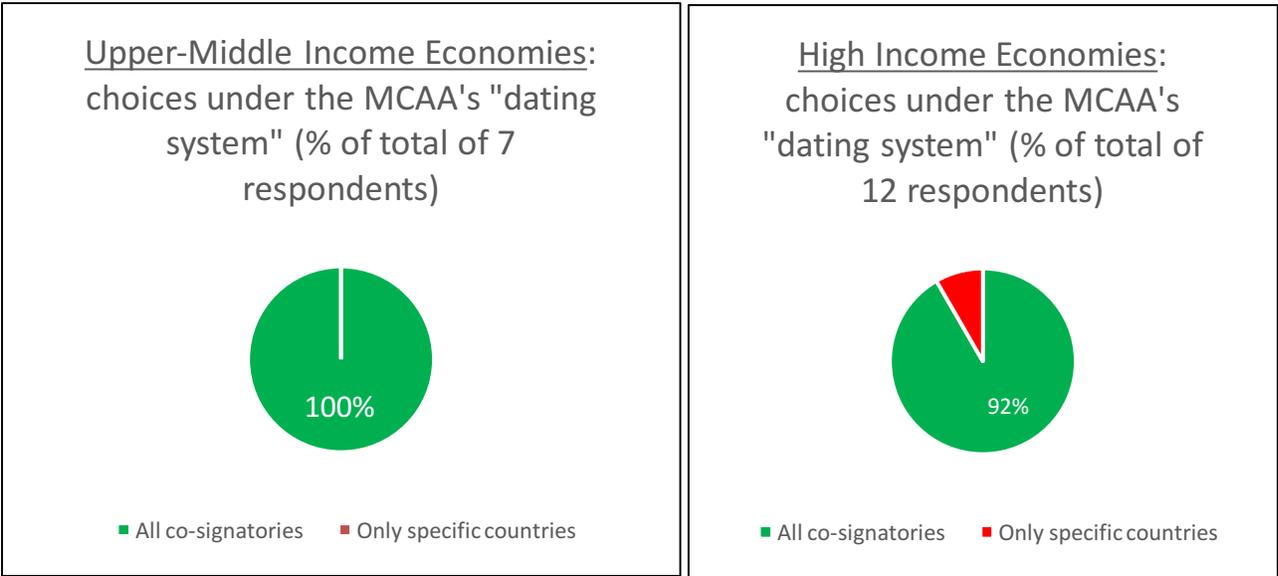
out of 20) was the fact that the benefits (of the CRS) outweigh the costs. While peer pressure was chosen by the lower-middle income economy as a main reason, 60% of upper-middle income and high income economies (12 jurisdictions) considered this the least relevant reason (or not a direct reason) for committing to the CRS. While the lower-middle income country indicated that avoiding being blacklisted as another main reason, there was not a majority of upper-middle and high income economies considering this either as a top or bottom priority, with 9 countries considering this not to be a reason at all, and 6 others considering this to be among the top reasons.

3.2.2 'Dating' choices under the MCAA

Background: as explained above, countries willing to implement the CRS need a legal framework that authorises AEOI. Ideally they should become a party to the Multilateral Tax Convention and then sign the MCAA. After signing the MCAA, they need to indicate with which countries they wish to engage in AEOI (among all other co-signatories of the MCAA). AEOI under the CRS will only take place between countries that meet all conditions and that were "matched" together under the MCAA's 'dating system'.

Question 7: we asked jurisdictions that committed to the CRS whether they had signed up to the MCAA. For those that had, we asked which jurisdictions they were going to choose under the 'dating system', whether all other co-signatories of the MCAA or only specific ones.

Results:



Observation: No low income nor lower-middle income economies in the sample have signed the MCAA. 7 out of 9 upper-middle income economies and all 12 high income economies of the sample have signed the MCAA and answered this question.

Conclusion: Of the respondents that signed the MCAA, 95% of 20 respondents (all 7 upper-middle income economies and 11 high income economies) will choose *all* other co-signatories under the 'dating system'. Only 1 high income economy will choose specific countries because based on its previous experience, tax evasion usually occurs in specific countries. One could argue against this reasoning that receiving information from more countries creates no extra cost, and this way it prevents the creation of a loophole (since any person may find out [here](#)³¹ which countries are exchanging information with which).

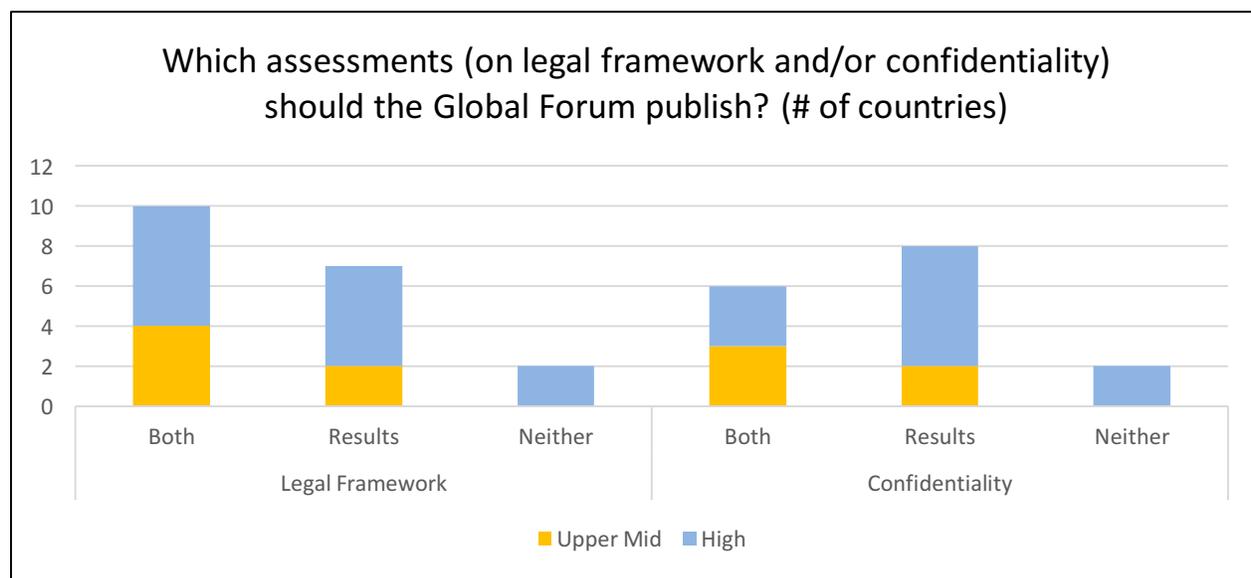
3.2.3 Publication of Global Forum AEOI early assessments

Background: The Global Forum on Transparency and Exchange of Information, dependent on the OECD, is in charge of conducting peer reviews of member states to assess compliance with the standard for the exchange information "upon request". In light of the upcoming implementation of CRS, the Global Forum started conducting assessments on countries' compliance with CRS confidentiality provisions and their domestic legal frameworks for implementing the CRS. However, while the Global Forum publishes the terms of reference, detailed assessments and results of the peer reviews for the "upon request" standard, it has not published any detail regarding the early assessments for AEOI under the CRS. This means that neither countries nor civil society organisations have any idea about progress towards AEOI.

Question 8: We asked jurisdictions whether they would be in favour of having the Global Forum publish either the full detailed assessment or at least the results of those assessments, regarding compliance with both (i) confidentiality provisions, and (ii) the domestic legal framework for implementing the CRS.

³¹<http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/#d.en.345426>; 9.1.2017.

Results:



Observation: Of all low income and lower-middle income economies, only 1 lower-middle income country committed to implementing the CRS but it did not answer this question. 2 upper-middle income economies and 1 high income economy answered only one of the questions, either on the legal framework or on confidentiality.

Conclusions: As regards the legal framework, 52% of 19 respondents (both upper-middle income and high income) were in favour of publishing both the assessment and results, while only 37% favoured only publishing the results. However, as regards confidentiality, 50% of 16 respondents were in favour of publishing only results against 38% in favour of publishing both. In addition, 2 high income economies were against publishing either the assessments or the results on the legal framework and confidentiality.

While it is understandable that authorities would not want information on their assessments to be public, civil society organisations need to access at least the results of information in order to hold authorities to account.

3.3 Questions for countries not yet committed to implementing the CRS

3.3.1 Interest in AEOI under the CRS

Observation: Of the sample, a total of 10 countries have not yet committed to the CRS: all 3 low income economies, 5 (out of 6 of the lower-middle income economies) and 2 (out of 9) of the upper-middle income economies.

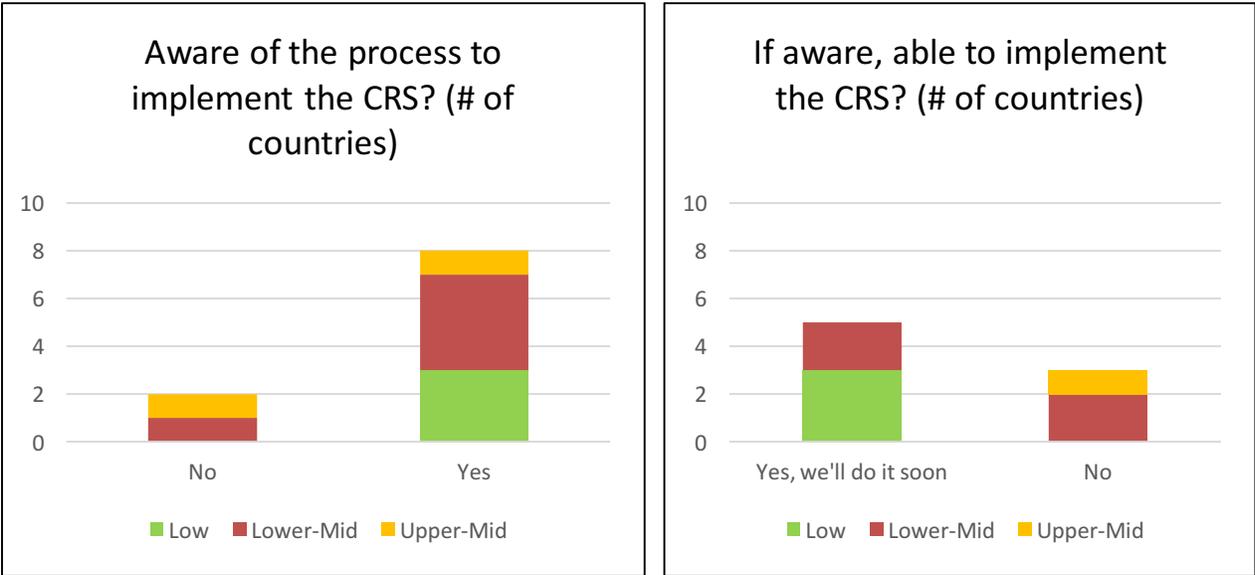
Question 9: For those countries that have not yet committed to implementing the CRS, we asked them if they would be interested in automatically receiving information about their residents – basically, if they are interested in the CRS in spite of not yet having committed to implementing it.

Results: All countries that have not yet committed to the CRS indicated they would be interested in receiving information automatically.

3.3.2 Aware and able to implement the CRS?

Question 10: For those countries that have not yet committed to implementing the CRS, we asked if they were aware of the process for implementing the CRS (becoming a party to the Multilateral Tax Convention, signing the MCAA, etc.) and if they were able to do it.

Results:



Observation: We have considered that the question of “being able to implement the CRS” is only relevant for countries that were already aware of the process. Of the 3

countries that replied indicating they were not able to implement the CRS yet, 2 explained that the reasons relate to their domestic legal frameworks and the legal capability to reciprocate. One of them, and also the remaining respondent mentioned the Multilateral Convention and the MCAA as an obstacle. However, their explanations reveal a misunderstanding. One of them thought that only OECD countries may sign the Multilateral Tax Convention (even though it has been opened up to all countries since the 2010 Protocol). The other thought that only countries which are parties to the Convention may sign the MCAA, even though an intention to sign the Convention in the future is enough³² to be able to sign the MCAA.

Conclusion: Most respondents in the sample (8 out of 10 jurisdictions not yet committed to the CRS) were aware of the process for implementing the CRS. Most of these (5 out of 8) are able to do it and plan to do it soon. Among the 3 unable to do so yet, their domestic legal framework appeared to be the main obstacle. No respondent chose confidentiality provisions or political reasons as an obstacle. There were some misunderstandings regarding the ability to sign the Multilateral Tax Convention and the MCAA.

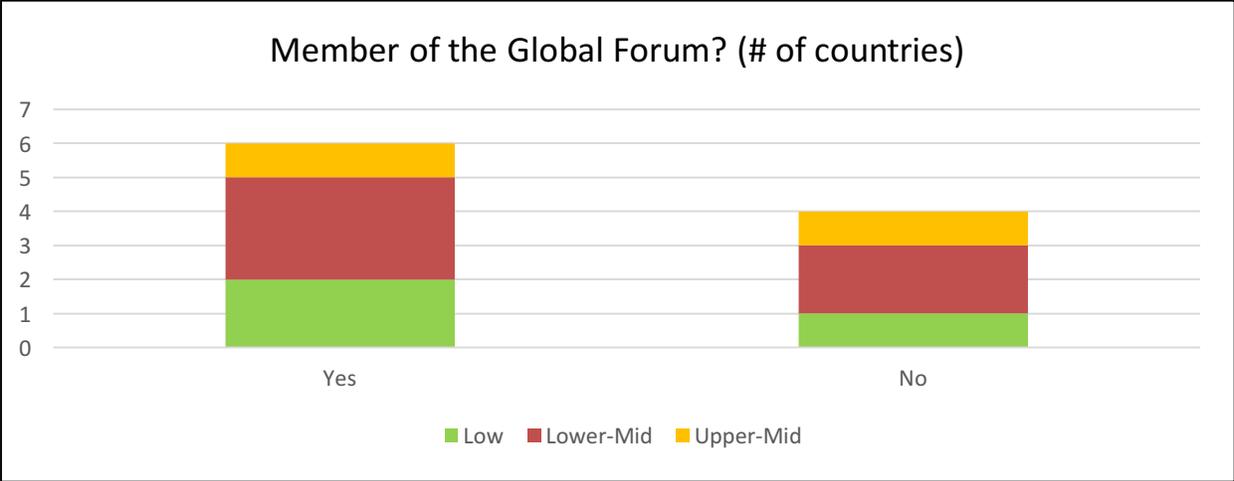
3.3.3 Member of the Global Forum?

Background: The Global Forum on Transparency and Exchange of Information, dependent on the OECD, is in charge of conducting peer reviews of member states to assess compliance with the standard to exchange information “upon request”. These are very good sources of information on the legal framework of countries. The Global Forum also conducts training and allows its members to approve the peer reviews. However, membership has a monetary cost.

Question 11: For those countries that have not yet committed to implementing the CRS, we asked if they were members of the Global Forum. For those who are not members yet we asked them for their reasons: no interest, it is too expensive to become a member, they do not want their legal framework to be reviewed, they do not know how to become a member or “other” (free text).

Results:

³² Even though the MCAA says this, one could argue that if a country signed the MCAA and it already has DTAs or TIEAs that allow the automatic exchange of information with other co-signatories of the MCAA, being a party to the Multilateral Tax Convention should not be necessary to engage in AEOL.



Observation: Out of the 4 respondents which are not members of the Global Forum, 2 respondents are planning to become members soon, 1 said it is not a priority at the moment and 1 low income country said it did not know what the process was for becoming a member.

Conclusion: Out of the 10 respondents which have not yet committed to the CRS, 4 countries are not yet members of the Global Forum. Of those, 2 are considering to join it. While no country highlighted the cost or unwillingness to have their legal framework reviewed, 1 said it was not currently a priority the moment, and the other explained that it does not know how to do it. This shows there is a greater need by the Global Forum and civil society to create awareness and explain the process.

3.4 TJN Survey Summary of Conclusions

3.1.1 Upgrading the CRS

3.1.1.1 Use of Information beyond tax purposes. 83% of 30 respondents would be in favour of sharing information with other local authorities in order to also tackle non-tax issues, such as corruption or money laundering.

3.1.1.2 Sanctions. When considering all countries together, 67% of 30 respondents are in favour of sanctions against financial centres in cases of non-compliance or non-participation in the CRS. However, for high income economies, 7 respondents oppose sanctions while only 5 support them.

For the 20 respondents supporting sanctions, 60% chose withholding taxes (WHTs) as the preferred type of sanction. A multilateral framework for sanctions got support from 45% compared to 10% supporting a bilateral framework.

3.1.1.3 AEOI Statistics. When considering all countries together, 83% of 29 respondents are interested in accessing AEOI statistics. When classifying countries by income, one can see that a lack of interest in accessing statistics was indicated

only by 1 upper-middle income economy and 4 high-income economies (but not by any low income or lower-middle income economies).

Regarding the financial centres that should publish these AEOI statistics, 48% of 29 respondents (of all four levels of income) chose Switzerland, followed by 31% who choose the U.S.

Based on respondent's explanations for their lack of interest in accessing or publishing AEOI statistics, there is clearly a misunderstanding. First, no country is guaranteed to receive information from all other financial centres. Second, since statistics will contain only aggregate information, they will not violate any tax payers' rights. Third, financial institutions already have to collect and report this information for each account. It is the tax authorities who would have to calculate the totals (add up all the numbers) and publish that at no extra cost to financial institutions.

3.1.2 Concerns related to the CRS

3.1.2.1 Amnesty or voluntary disclosure programmes. 27% of 30 respondents are offering amnesty or voluntary disclosure programmes. It would be interesting to find out why amnesty or voluntary disclosure programs are mainly available for one level of income (upper middle income economies) and especially in Latin America (6 out of the 8 respondents with such programmes). Moreover, it would require further analysis to determine whether any of these programmes comply with FATF Recommendations.

3.1.2.2 Why sign a FATCA-based agreement. An attempt to prevent withholding taxes was chosen by 61% of 18 countries that signed an IGA. The following choice, by 38% of respondents, was an expectation that the U.S. will fully reciprocate soon.

3.1.2.3 The U.S. not participating in the CRS. While 69% of 17 respondents have not determined a position in the matter, one high-income economy appears to plan to consider the U.S. as a "participating jurisdiction", thus preventing the CRS anti-avoidance mechanism.

3.2 Questions for countries that committed to the CRS

3.2.1 Motivation for committing to the CRS. Receiving information (very likely to tackle tax evasion) was chosen as the main reason for committing to the CRS by 75% of 20 respondents. The following option chosen as a priority by 65% of jurisdictions was the fact that the benefits (of the CRS) outweigh the costs. 60% of upper-middle income and high income economies (12 jurisdictions) considered peer pressure as the least important reason (or not a reason at all) for committing to the CRS.

3.2.2 'Dating' choices under the MCAA. Of respondents that signed the MCAA, 95% of 20 respondents (7 upper-middle income economies and 11 high income economies) will choose all other co-signatories under the 'dating system'. Only 1 high

income economy will choose specific countries because based on its previous experience, tax evasion usually occurs in specific countries.

3.2.3 Publication of Global Forum Assessments. As regards the legal framework, 52% of 19 respondents (both upper-middle income and high income) were in favour of publishing both the assessment and results. However, in terms of confidentiality, 50% of 16 respondents were in favour of publishing only the results. In addition, 2 high income economies were against publishing either the assessments or the results on the legal framework and confidentiality.

3.3 Questions for countries not yet committed to the CRS

3.3.1 Interest in receiving information under CRS. All 10 respondents that have not yet committed to the CRS would be interested in receiving information automatically.

3.3.2 Able to implement the CRS. 8 out of 10 jurisdictions not yet committed to the CRS were aware of the process for implementing the CRS. 5 out of the 8 are able to do it and plan to do it soon. Among the 3 currently unable to do so, their domestic legal frameworks appeared to be the main obstacle. There was some misunderstanding regarding the ability to sign the Multilateral Tax Convention and the MCAA.

3.3.3 Global Forum Membership. 4 countries are not yet members of the Global Forum. Of those, 2 are considering to join. Of the others, 1 said it was not currently a priority and the other explained that it does not know how to do it.

4. Pilot Projects

Many developing countries will be unable to implement the CRS because of capacity constraints, such as the need to send information (full reciprocity) from the beginning. This requirement, imposed after [lobbying \(at least by Switzerland³³\)](#), makes very little sense because it is unlikely that wealthy people from developed countries like Switzerland would go to a low income country to hide their money, while of course the opposite is usually the case.

The Global Forum has proposed pilot projects where a developing country would partner a developed country, which would provide assistance and capacity building in order for them to engage in AEOI. A [roadmap for developing countries³⁴](#) was published by the Global Forum, describing criteria for selecting developing countries for these projects. The roadmap also includes possible scopes of pilot projects, including capacity assistance, non-reciprocity (where the developing country would only receive information without needing to send it) but also a reduced scope compared to that of the CRS. For example, receiving information about accounts either held by individuals or by entities (but not both), or receiving information only

³³ <http://www.swissbanking.org/en/topics/current-issues/the-automatic-exchange-of-information>; 9.1.2017.

³⁴ For more details, see Global Forum 2014.

about new accounts (but not those which were pre-existing), or about accounts held in depositary financial institutions (but not those held in other types of institutions). The pilot projects would also help the Global Forum identify the most efficient and effective methods for implementing the CRS in a developing country context.

The Global Forum sent letters inviting developing countries which are on the list of countries and territories eligible to receive official development assistance as per the OECD Development Assistance Committee to participate in pilot projects. This excluded developing countries that had already committed to the Standard or that have an international financial centre. Developed countries members to the Global Forum were also invited to participate.

In 2016 the Global Forum's [Report on Progress](#)³⁵ stated that five pilot projects have been initiated to assist developing countries. These include Albania and Italy; Colombia and Spain; Ghana and the United Kingdom; Morocco and France; and the Philippines and Australia. The Global Forum also mentioned the World Bank Group's involvement in implementing the AEOI standard in a staged approach. TJN interviewed³⁶ the OECD about the pilot projects and found that while the pilot between Morocco and France has not started yet, an additional one between Pakistan and the UK has just started. Pilot projects usually begin with both countries signing a Memorandum of Understanding, but the practical process involves a roadmap or action plan agreed by both jurisdictions which is then signed off by the corresponding authorities (usually in the Ministry of Finance). While civil society has been asking for non-reciprocity, the OECD explained that some countries were unable to collect data without a legal framework for such non-reciprocal exchanges. In other cases, non-reciprocal exchanges were carried out under spontaneous exchange protocols. One pilot project envisions the possibility of non-reciprocity, and Australia shared non-CRS related data with the Philippines in the early stages of their pilot project.

While it is not possible to determine the success or usefulness of these pilot projects because no evaluation or assessment has yet been published, it is encouraging that two developing countries involved in pilot projects, Colombia and Ghana, have committed to the CRS and will implement it in 2017 and 2018 respectively.

TJN sent an additional survey (see Annex II) to the countries involved in the five ongoing pilot projects in November of 2016. Australia answered the survey, providing insight on its pilot project with the Philippines:

- The pilot started in 2015 and is expected to finish by 2018, when the Philippines is able to exchange CRS data with Australia.
- While Australia indicated that the pilot project will entail full reciprocity, "Australia has provided 2013/2014 AEOI data to the Philippines as a trial for the Philippines to learn the process of using AEOI data for compliance purposes"

³⁵ For more details, see Global Forum 2016 in References

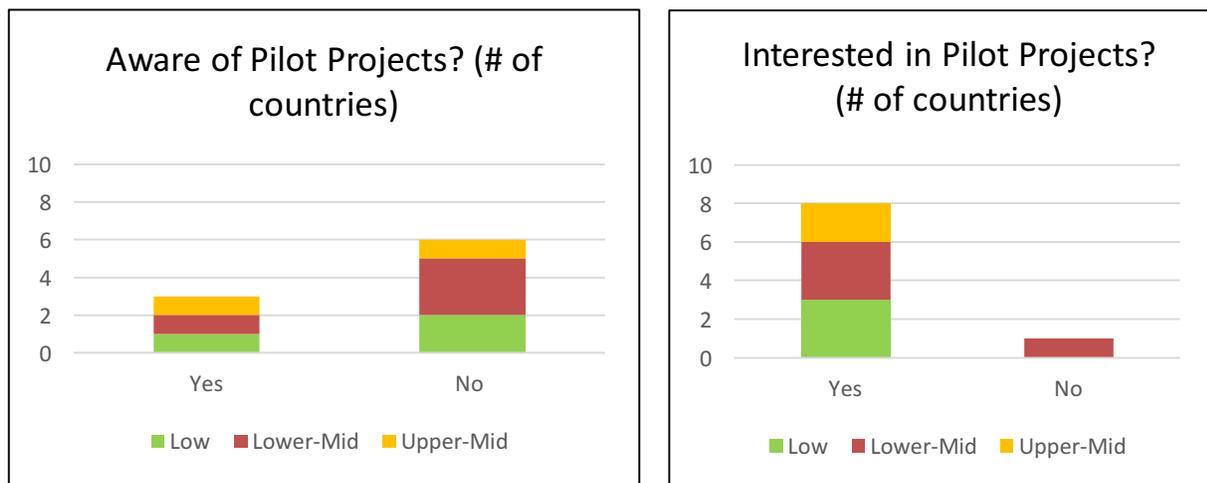
³⁶ The phone interview between Markus Meinzer (TJN) and the OECD took place on December 20, 2016.

- Australia has financed the pilot project and provided various forms of support and assistance to the Philippines since April 2015 through correspondence, teleconferences, training/workshops, on-site visits and a high level engagement meeting. This assistance related to the AEOI framework and process, domestic legislation for the CRS, information infrastructure and technology for data collection, storage, processing, and exchange; confidentiality and data safeguards including information management and security; and using AEOI data for compliance purposes.

One of the original survey questions for countries not yet committed to the CRS referred to pilot projects.

Question: we asked countries whether they were aware of the pilot projects and if they were interested in joining them. For those indicating that they were, we asked them which developed countries they would like to be partnered up with.

Results:



Observation: 1 upper-middle income economy did not answer this question. 1 respondent indicated they were not currently interested because more policy discussion was needed. When asked with which developed country they would like to partner,, the following developed countries were chosen: Spain (chosen by three respondents), Belgium, Italy, the UK and the U.S. (by two respondents) and Argentina, Australia, Canada, China, Mexico, Russia and Uruguay (by one respondent).

Conclusion: While only 3 out of 9 respondents were aware of the pilot projects, 8 respondents expressed interest in them.

References

FATF (2012). *Managing the anti-money Laundering and counter-terrorist Financing policy implications of voluntary tax compliance Programmes*. Financial Action Task Force [online]. Available at: <http://www.fatf-gafi.org/media/fatf/documents/reports/BPP%20VTC.pdf>; 9.1.2017.

Global Forum (2014). *Automatic Exchange of Information: A Roadmap for Developing Country participation*. OECD [online]. Available at: <http://www.oecd.org/tax/transparency/global-forum-AEOI-roadmap-for-developing-countries.pdf>; 9.1.2017.

Global Forum (2016). *Tax Transparency 2016- Report on Progress*. OECD [online]. Available at: <http://www.oecd.org/tax/transparency/GF-annual-report-2016.pdf>; 9.1.2017.

Knobel, A. (2015). *OECD's Handbook for Implementation of the CRS: TJN's preliminary observations*. Tax Justice Network [online]. Available at: <http://www.taxjustice.net/wp-content/uploads/2013/04/OECD-CRS-Implementation-Handbook-FINAL.pdf>; 9.1.2017.

Knobel, A. (2016). *The role of the U.S. as a tax haven - Implications for Europe*. The Greens/EFA in the European Parliament [online]. Available at: http://www.greens-efa.eu/fileadmin/dam/Documents/TAXE_committee/The_US_as_a_tax_haven_Implications_for_Europe_11_May_FINAL.pdf; 9.1.2017.

Knobel, A., Meinzer, M. (2014a). *Automatic Exchange of Information: An Opportunity for Developing Countries to Tackle Tax Evasion and Corruption*. Tax Justice Network [online]. Available at: <http://www.taxjustice.net/wp-content/uploads/2013/04/AIE-An-opportunity-for-developing-countries.pdf>; 9.1.2017.

Knobel, A., Meinzer, M. (2014b). *The end of bank secrecy? Bridging the gap to effective automatic information exchange. An Evaluation of OECD's Common Reporting Standard (CRS) and its alternatives*. Tax Justice Network [online]. Available at: <http://www.taxjustice.net/wp-content/uploads/2013/04/TJN-141124-CRS-AIE-End-of-Banking-Secrecy.pdf>; 9.1.2017.

Meinzer, M. (2012). *The Creeping Futility of the Global Forum's Peer Reviews*. Tax Justice Network [online]. Available at: <http://www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf>; 9.1.2017.

Meinzer, M. (2013). *Towards multilateral automatic information exchange*. Tax Justice Network [online]. Available at: <http://www.taxjustice.net/cms/upload/pdf/AIE2012-TJN-Briefing.pdf>; 9.1.2017.

OECD (2014a). *Standard for Automatic Exchange of Financial Account Information: Common Reporting Standard*. OECD [online]. Available at: <https://www.oecd.org/ctp/exchange-of-tax-information/automatic-exchange-financial-account-information-common-reporting-standard.pdf>; 9.1.2017.

OECD (2014b). *Commentaries on the Model Competent Authority Agreement and the Common Reporting Standard*. OECD [online]. Available at: <http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/common-reporting-standard-and-related-commentaries/#d.en.345314>; 9.1.2017.

U.S. Senate (2008). *Tax haven banks and U.S. Tax compliance Staff report*. Permanent Subcommittee on Investigations [online]. Available at: https://www.google.com.ar/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiItr-2s-LQAhXEfpAKHerUCS8QFggfMAA&url=https%3A%2F%2Fwww.hsgac.senate.gov%2Fdownload%2Freport-psi-staff-report-tax-haven-banks-and-us-tax-compliance-july-17-2008&usq=AFQjCNGrO9wgZiZyM3azQj1hQeBXvpqHTA&sig2=jeFOHOaruR_vM6O-9cDORw&bvm=bv.140496471,d.Y2I; 9.1.2017.

U.S. Senate (2014). *Offshore Tax Evasion: The Effort to Collect Unpaid Taxes on Billions in Hidden Offshore Accounts -Majority and Minority Staff Report*. Permanent Subcommittee on Investigations [online]. Available at: <https://www.hsgac.senate.gov/download/report-offshore-tax-evasion-the-effort-to-collect-unpaid-taxes-on-billions-in-hidden-offshore-accounts-5-14-14-update>; 9.1.2017.

Annex I: Questionnaire

GENERAL QUESTIONS

18. In principle, the Multilateral Tax Convention requires information exchanged automatically to be used for tax purposes only. However, the received information may also be useful to tackle corruption and money laundering and a country may ask for authorization to share it with other local agencies (as long as confidentiality is kept).

Would your country be in favour of widening the use of the received information and share it not only with tax authorities but also with other local government agencies (e.g. law enforcement and the financial intelligence unit)?

Yes, information to be received is useful not only for tax purposes but also to tackle corruption and money laundering, so we would be in favour of a wider use, sharing information also with relevant local agencies (e.g. financial intelligence unit) as long as the sending jurisdiction authorizes this.

No, even though information to be received may be useful to tackle corruption and money laundering, we are only in favour of its use by tax authorities for tax purposes.

No, the information received is only useful for tax purposes and should not be used to tackle corruption and money laundering.

19. The U.S. enacted FATCA domestic laws in 2010 requiring all financial institutions in the world to automatically send information to the U.S. about American account holders or face a 30% withholding tax on all U.S.- sourced payments, for failing to comply.

The U.S. then signed FATCA-related Inter-Governmental Agreements (IGAs) with many countries to provide a legal framework for other countries to send information to the U.S.

Has your country signed a FATCA IGA Agreement with the U.S.?

Yes

No

20. Given that your country will have to send more information to the U.S. than the information that it will receive back from the U.S., why has your country signed a FATCA IGA with the U.S.?

[Some information will be sent back by the U.S. only under IGAs 1A, but still no information on beneficial owners, balance account or some individuals' accounts will be exchanged until the U.S. decides otherwise]

You may select more than one option:

We signed a FATCA IGA because we wanted to avoid the 30% withholding taxes against our countries' financial institutions

We signed a FATCA IGA because we were sure that the U.S. will reciprocate soon (sending as much information as it receives), and we can wait

We signed a FATCA IGA because we do not need information from the U.S. or the information that the U.S. will not reciprocate yet is not very relevant anyway

Other:

21. The OECD's CRS is based on FATCA IGAs although it is not the same. However, the U.S. will not implement the CRS because it claims its FATCA Inter-governmental agreements (IGAs) are already covering the CRS scope.

Was your country aware that the U.S. will not implement the CRS, and instead will only implement its FATCA IGAs signed with other countries?

Yes, we are aware that the U.S. will not implement the CRS

No, we were not aware that the U.S. will not implement the CRS

We are not aware of what FATCA and IGAs are

22. All of the available FATCA IGAs (1A, 1B and 2) involve more information flowing to the U.S. than what the U.S. will share with other countries (if anything at all).

In spite of this, countries like Luxembourg and Switzerland originally said they would consider the U.S. as a "jurisdiction participating in the CRS" (as if the U.S. were indeed implementing the CRS and exchanging the prescribed information, even though the U.S. will not do this).

What is your country's position regarding this?

We (will) consider that the U.S. is NOT a jurisdiction participating in the CRS, because FATCA IGAs are not the same as the CRS and the U.S. will anyhow receive more information than what it will send us

We (will) consider that the U.S. is indeed a jurisdiction participating in the CRS, because the OECD has neither explicitly said whether the U.S. is or isn't a jurisdiction participating in the CRS, and FATCA is very similar to the CRS

Our country does not have a position regarding this yet

Other:

23. Would your country be in favour of some incentives or sanction system targeted at major financial centres (but not against developing countries)?

[This would encourage these financial centres to implement the CRS and share information (at least statistics with aggregate information by country of origin) with other countries, especially with your country.]

No, there is no need for incentives/sanctions because:

No, there is no need for more incentives or sanctions. Financial centres that do not implement the CRS will automatically get a bad reputation from their peers, and that bad reputation or bad image is enough as an incentive or sanction

Yes, incentives/sanctions are necessary

24. What should incentives/sanctions look like?

You may select more than one option:

Multilateral (many countries imposing sanctions together against non-participating financial centres)

Bilateral (each country imposing sanctions against non-participating financial centres)

Impose Withholding taxes (WHT) against the non-participating financial centre or its financial institutions (similar to FATCA's 30% WHT against non-participating banks)

Impose Trade sanctions

Other:

25. The OECD published a survey of "Taxpayer Voluntary Disclosure Programs" for countries implementing the CRS. According to this survey, many countries implement these programs allowing taxpayers to disclose their offshore accounts before the CRS takes place.

This way, taxpayers will be subject to lower sanctions or fines than if they are caught after the CRS takes place. Switzerland is demanding Amnesty Programs from countries interested in receiving information from Swiss Banks. Indonesia

and Argentina have already approved Amnesty Programs.

Is your country also considering an Amnesty Program before automatic information exchange takes place?

No

Yes, here are the details of the planned/approved Amnesty/Voluntary Disclosure Program [Please provide news article, a law, etc.]

26. Please indicate your details here. Your name and contact information will never be shared with anyone, and will be kept confidential.

Other information (your country, agency/department and position) will be used for statistical purposes.

Full Name:

Email Contact:

Country:

Institution/Agency you work for:

Position:

27. Please indicate here if you do not want your specific country to be identified regarding any of the above answers

[Your name and email will never be shared, this option is only about identifying your country in a specific answer]

Please don't identify my country with any specific answer

Our country's position is public, so you may identify my country with a specific answer, if necessary

28. May we contact you in case we have any follow-up questions?

Yes

No

We will choose to exchange information only with specific countries that signed the MCAA, because:

5. The Global Forum will assess or has already assessed countries regarding:
(i) their domestic legal framework to implement the CRS, and
(ii) whether they comply with confidentiality provisions and safeguards for protection of personal data.

Do you think that any of these assessments (or at least their results) should be public?

[Please choose one option for (i) domestic legal framework, and one option for (ii) confidentiality]

(i) Both the assessment and the results regarding the domestic legal framework to implement the CRS should be public (just like the peer review reports, which are public)

(i) Only the results (of the assessment on the domestic legal framework) should be public, but not the assessment itself with the specific details (unlike the peer review reports, which are public)

(ii) Both the assessment and the results regarding compliance with confidentiality and data protection should be public (just like the peer review reports, which are public)

(ii) Only the results (of the assessment on confidentiality and data protection) should be public, but not the assessment itself with the specific details (unlike the peer review reports, which are public)

Other:

6. The Tax Justice Network has designed a template for statistics on automatic exchange of information, requiring each major financial centre (e.g. the U.S., Switzerland, etc.) to publish aggregate information of the money held in their financial institutions, classified by country of origin (without identifying any specific person or account).

Australia has already committed to publishing this.

Would your country be interested in accessing these (free) statistics to find out how much money (in total) your residents have in foreign financial centres?

[This may be useful especially if your country is not chosen back in Annex E of the MCAA and will not receive information from other signatories of the MCAA, so that you will at least obtain aggregate information from them, instead of nothing]

No, we are not interested in accessing these statistics because:

Yes, especially we would like to know the total amount of money held by our residents in: [Please indicate the top five countries from which you would like to receive aggregate information]

7. Would your country be willing to join Australia and also publish statistics on the total amount of money by country of origin, held by non-residents in your country's financial institutions?

Yes

No, because:

QUESTIONS FOR COUNTRIES THAT HAVEN'T COMMITTED TO THE CRS YET

8. Is your country a member of the OECD's Global Forum on Transparency and Exchange of Information?

Yes

No

9. Why is your country not a member of the OECD's Global Forum?

You may choose more than one option

Our country has no interest in the Global Forum

Membership in the Global Forum is too expensive

Our country does not want its legal framework to be reviewed

We are not aware of the Global Forum or how to become a member

Other:

10. Is your country interested in automatically receiving from other countries bank account information about your residents?

[This way, your country will be able to know where and how much money your residents hold abroad, either to start audits on any taxpayer with undeclared accounts, or to make a specific request of information to another country to find out more details]

Yes, we are interested in receiving bank account information about our country's residents

No, we are not interested in receiving bank account information about our country's residents because

11. Was your country aware of the process (see below), regarding all the requirements needed to implement the CRS (to automatically obtain bank account information from other countries)?

[Process: In order to implement the CRS (and receive information from other jurisdictions), countries need to (i) be a party to the CoE/OECD Convention on Multilateral Administrative Assistance in Tax Matters (Multilateral Tax Convention), and (ii) sign the Multilateral Competent Authority Agreement (MCAA). Countries implementing the CRS may choose to start exchanging information either in 2017 or 2018.

In addition to being a party to the Multilateral Tax Convention and the MCAA, countries need to prove that they: (a) have the domestic legal framework to implement the CRS, (b) commit to reciprocity (send information if they want to receive it), (c) comply with confidentiality requirements and any safeguard for the protection of personal data, and (d) choose in Annex E with which other countries they wish to exchange information automatically- among those that signed the MCAA.

Automatic exchange of information will take place only among countries that meet all the above requirements and that were "matched" together (because they both chose each other) under point (d) above, similar to a "dating system"].

Yes, we are already aware of the process to implement the CRS

No, we are not aware of the process to implement the CRS

12. Is your country interested and/or able to fulfill the process described above to implement the CRS?

Yes, we are interested and able to fulfill the process. We have already done it/plan to do it soon.

While we are interested, we are unable to fulfill the process

13. Our country is unable to fulfill the process to implement the CRS because...

[You may select more than one option:]

We cannot become a Party to the Multilateral Tax Convention, because:

We cannot sign the MCAA, because:

We cannot commit to reciprocity since we are unable to collect and send information because:

We cannot have the domestic legal framework to implement the CRS because:

We cannot comply with confidentiality and data protection safeguards requirements because:

Other:

14. If you were allowed to decide with which countries to exchange information: from which five countries would you be interested to get bank account information?

[Please select countries according to your priority, 1 = top priority. Example: 1) Switzerland, 2) USA, 3) UK, 4) Germany, 5) Panama]

Country 1:

Country 2:

Country 3:

Country 4:

Country 5:

15. The OECD's Global Forum is sponsoring Pilot Projects that involve partnering up a developed country with a developing country which is unable to implement the CRS, so that the developed country assists the developing country.

For example, Australia will assist the Philippines, Italy will do the same with Albania, and Spain with Colombia. This means that your country could receive assistance and also information without needing to collect and send information for some time (non-reciprocity may be allowed).

Was your country aware of these Pilot Projects?

Yes, we are aware of the Pilot Projects

No, we were not aware of the Pilot Projects

16. Have you already expressed interest or are you now interested in joining the above mentioned Pilot Projects?

No, because:

Yes, we would like to partner up with [Please indicate one or more developed countries that you would like to get assistance from]

17. The Tax Justice Network has designed a [template for statistics on automatic exchange of information](#), requiring each major financial centre (e.g. the U.S., Switzerland, etc.) to publish aggregate information of the money held in their financial institutions, classified by country of origin (without identifying any specific person or account).

Australia has already committed to publishing this.

Would your country be interested in accessing these (free) statistics to find out how much money (in total) your residents have in foreign financial centres?

[This may be useful especially if your country is unable to implement the CRS. This way, your country would at least receive some aggregate information about your residents, instead of nothin]

No, we are not interested in accessing these statistics because:

Yes, especially we would like to know the total amount of money held by our residents in: [Please indicate the top five countries from which you would like to receive aggregate information]

Annex II: Pilot Project Survey

1. Type of Pilot Project

What does your pilot project involve?

a) Type of Information being exchanged: is it the same scope of the OECD's Common Reporting Standard (CRS) for automatic exchange of information? (financial accounts held by individuals and entities) or does it have a more limited scope (e.g. only new individuals accounts or only information from depositary financial institutions but not from other types of financial institutions)?

b) Are exchanges reciprocal, or instead, only one country sends information and the other receives it? Has this changed over the course of the pilot project?

2. Type of Assistance

Has any form of assistance taken place? (e.g. technical assistance on how to process information, transfer of technology, assistance to write legislation or confidentiality provisions, financial assistance, etc?). Please describe.

3. Results or expected results of the pilot project.

What are the results (or your expectations about) the pilot project? Did you carry out, or plan, an evaluation of the pilot project, and if so, will these be made public?

Has the pilot project resulted in an increase of revenue collection and an increase in exchange of information, or do you expect to do so in future?

Will your jurisdiction be ready to join the CRS, and if so, when do you expect to join it?

Name:

Department/Position:

Contact information: