A PAN-CONTINENTAL FORUM ON THE FUTURE OF TAXATION OF MULTINATIONAL CORPORATIONS
NOVEMBER 23, 2018 | NAIROBI, KENYA

Concept note and agenda

Tax avoidance by multinationals is one of the key elements of Illicit Financial Flows and estimated[1] to result in a reduction of tax revenue of $400 billion for OECD countries (1% of their GDP) and $200 billion for lower-income countries (1.3% of their GDP). The current dysfunctional international taxation system based on the arm's length principle and transfer pricing rules has allowed multinational enterprises to shift large portions of their overall profits from both developed and developing countries to low tax jurisdictions (tax havens) and avoid bearing their fair share of taxation. The G20 mandate for Base Erosion and Profit Shifting (BEPS) project was to reform tax rules so that MNEs could be 'where economic activities occur and value is created'. However, the OECD'S BEPS project is failing on its mandate to ensure that profits are taxed where economic activities take place and value is created. As a result, countries are moving unilaterally to introduce alternative or adjunct tax rules (UK Diverted Profit Tax, US tax reform, web tax in India – also proposed by a number of EU countries.)

The transfer pricing rules attempt to construct prices for the transactions among entities that are part of MNEs as if they were independent, which is inconsistent with the economic reality of a modern-day MNE—a unified firm organized to reap the benefits of integration across jurisdictions. Large MNEs are oligopolies, and in practice there are no truly comparable independent local firms that can serve as benchmarks. ICRICT's latest report presents concrete solutions to address this issue so that all countries are able to collect a fair share of tax revenue from multinational enterprises and avert a race to the bottom. Multinationals should be taxed as single firms, and each country where the corporation operates or sells goods to should tax only the portion of profits attributable to the corporation's economic activity there. Unfortunately, the BEPS project has not taken this route to reform. The report also outlines additional measures that can be adopted in the short term leading in this direction. Developing countries were asked to participate in the OECD BEPS process, through membership in the Inclusive Framework, but only at the implementation stage, after the norms had been designed. This has meant that the BEPS process outcomes did not reflect the needs of developing countries.

[1] IMF's Crivelli et al. (2016)

The revision of the transfer pricing rules as part of the BEPS project has also significantly increased the complexity of these rules. This is likely to be detrimental for developing countries which have personnel and expertise constraints and is likely to result in further disputes between multinationals and tax authorities and less revenue being collected.

The aim of this meeting is to engage with policymakers from developing countries to evaluate ICRICT's proposals and explore prospects for advancing these proposals. The agenda's objectives are:

- Discuss concerns about the effectiveness of the OECD BEPS process and evaluate ICRICT proposals with a view to creating a consensus for short-term and long-term alternatives.
- Explore the relevance of ICRICT's proposals in relation to key future developments in the international tax space (e.g. digital taxation, Country by Country Reporting and Transfer Pricing)
- Explore how the engagement of developing countries to international tax forums (e.g. UN Tax Committee, OECD Inclusive Framework, regional tax bodies, Network of Tax Organisations) can enable them to advocate and explore alternative solutions.

Proposed Agenda Friday, 23 November 2018

10am-4.30pm

10:00-12:00	**Session 1 – BEPS and the ICRICT Roadmap to taxing multinationals** This session will outline ICRICT's proposed alternatives to the arm's length principle, with a view to establishing a consensus around short-term and long-term measures.
12:00:13:00	**Lunch**
13:00-14:45	**Session 2 – Current Policy Contexts for Debate on Allocation of TNC Income** This session will discuss the relevance of ICRICT's proposals with respect to key future developments in the international tax space: a. Country by Country Reporting b. Tax consequences of digitalisation of the economy c. Transfer Pricing
14:45-15:00	**Coffee break**
15.00-16:15	**Session 3 – Forums and Institutions** This session will consider how the participation of developing countries in international tax forums (e.g. UN Tax Committee, OECD Inclusive Framework, regional tax bodies, Network of Tax Organizations) can enable them to advocate and explore ICRICT's proposed alternatives. This session will also look at the role ICRICT can play in supporting and advocating the need for more equitable solutions and cooperation opportunities with developing countries
16:15-16:30	**Conclusion**