

Thank you to the Panel for the opportunity to speak to you today on behalf of the Financial Transparency Coalition – or FTC - a global civil society coalition working to curtail illicit financial flows through the promotion of a transparent, accountable and sustainable financial system. My comments draw extensively from a letter we published prior the FACTI Panel's consultation with member states last week - it is available on our website at financialtransparency.org. I will begin with some general remarks.

The pandemic's social and economic consequences are exacerbated by the deep inequalities between and within countries, of which illicit financial flows are a major driver. The FTC's focus is global. However, it is incontestable that poorer countries, and those living in poverty within countries, are paying the cost of the current financial transparency and tax architecture.

Opacity over ownership and financial information, along with company structures designed to abuse tax rules and norms, leave the burden of mobilizing domestic resources to be borne by those least able. Developing countries' insufficient representation in international institutions means this reality is neglected – such as when considering the G20 and the leadership mandate it provided to the OECD over corporate tax reform.

The disproportionate loss of financial resources from the Global South is a direct result of an international regulatory architecture that systematically excludes and marginalizes developing countries in multilateral policy making forums and in the governance of key institutions. Fulfilling the Panel's mandate obligates you to consider Voice and Governance issues.

Those benefitting from secrecy are not just the corrupt, but also the private industries facilitating systematic avoidance of tax burdens that have now left countries far less prepared for the health, social and economic crises we are experiencing. Legal, tax advisory, consulting firms comprise an illicit financial flow facilitation industry that should also be part of the Panel's focus.

The intertwined nature of transparency, tax justice and global governance reform mean it is an absolute imperative that the Panel maintain its breadth of focus. The arguments made by some richer, developed economy nations at the FACTI Panel's launch – advocating that the Panel focus be limited to narrow technical discussions, lack merit because the mechanisms of transparency and tax equity are the same. Transparency measures are the bedrock of a system that impedes corruption, counters tax avoidance and evasion and ensures public spending by governments is democratically accountable. There is no 'either/or', nor can the Panel achieve its mandate if it were to accept a narrower focus or ignore the social, human rights and governance dimensions of these issues. This especially pertains to women who are disproportionately affected by the dysfunctional tax system at all levels; global, national and local. The FACTI Panel has the potential to push forward important components of a global agenda for reform but only by adopting a comprehensive approach.

Although the Panel's Clusters approach recognizes the importance of global governance and issues related to the political economy of reforms, they are not sufficiently reflected in its anticipated work program. The FACTI panel must situate all of its areas of focus within a human rights framework, including by acknowledging and underlining countries' existing commitments to the Sustainable Development Goals and ensuring the Panel's conclusions underpin realisation of substantive gender equality and militate against the marginalisation and discrimination of the most vulnerable.

Global Architecture

The current institutional architecture for global economic governance is fragmented. It is compartmentalized in multiple international financial institutions that frame or revise rules on tax, transparency, anti-money laundering, anti-corruption, etc. - affecting all countries. Developing countries are systematically under-represented in most of these bodies, and their interests and priorities are subordinated to those of developed countries. The bodies also under-represent the interests of people living in poverty. We emphasize the observation made by the G77 countries in the past year that there is still no global platform for international tax matters at the intergovernmental level and reiterate our support to their call for the UN Committee of Experts in Tax Matters to be upgraded into an intergovernmental funded body.

Promoting accountability

There is a need to integrate tax transparency measures like automatic information exchange, comprehensive public registers of beneficial ownership of legal entities and arrangements (companies, trusts, foundations, cooperative societies, limited liability partnerships) and public country-by-country reporting. These are viable, and present in partial or incomplete form in many countries and jurisdictions. Indeed, G20 member Argentina just last week enacted legislation to create a register of beneficial owners that is highly complete though not currently set to be published publicly. It shows that countries need not treat transparency measures as luxuries but must see them as necessities to ensure they can meet the extraordinary fiscal challenges to come.

Mechanisms already exist to document flows of finance and could underpin the accountability of financial flows, for example an over-whelming majority of illicit financial flows are cross-border in nature and are channeled via the SWIFT financial transaction messaging system. The FTC published a paper setting out the potential of this tool to overcome illicit financial flows¹. The Panel should also call for all companies to publish their corporate structures and provide subsidiary accounts openly and free of charge so that they can be held accountable for their activities and prevent tax abuse and all of its negative consequences. This measure, again – already in place in certain industries and regions – is critical to revealing profit shifting strategies.

¹ See for example *SWIFT data can be a global vantage point for tackling global money laundering* July 2019.

This and the other measures cited will also be critical to document the wave of massive public expenditure and where that taxpayer money ends up after seeking to preserve our livelihoods and economies.

Cluster 3 on settling disputes requires more clarity – in particular the framing of this issue is highly significant. The role played by international Investor-State Dispute Settlement (ISDS) mechanisms is a source of concern if proposed as a viable mechanism as these often violate State sovereignty and threaten social, economic and political rights. In March 2019, seven UN Independent experts published a letter² to the Working Group III on ISDS Reform highlighting these mechanisms' well-established incompatibility with international human rights law and asymmetrical system that encroaches upon the States' fiscal space. Any dispute resolution mechanisms must be public, transparent and accountable to all parties, and resist capture by one interested group of actors, public or private.

Asset recovery remains a major component of policy debates around anti-corruption and transparency measures and these are vitally important. However, their value as sources of revenue is compromised due to the absence of systematic processes of prompt return of assets from countries that benefit from the purchase of property, art, or other high-value items.

Thank you again for your time.

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² OHCHR (2019). UN experts send letter to UNCITRAL Working Group III on ISDS Reform urging systemic changes to the ISDS system.

https://www.ohchr.org/Documents/Issues/Development/IEDebt/OL_ARM_07.03.19_1.2019.pdf