

TAX JUSTICE FOCUS

The quarterly newsletter of the tax justice network



SHADOW REGULATION AND THE SHADOW BANKING SYSTEM

The role of the Dublin International Financial Services Centre

The emerging financial problems in global markets have been described as “the worst financial crisis since the Great Depression.” The crisis is ongoing, and it is uncertain how deep or protracted it will be.

There has been much analysis of this topic and various policy reforms have been proposed: these include looking at the role of ratings agencies, mark-to-market rules, greater transparency, and especially reform of financial regulation. Very little has been written, however, on the role in this crisis

played by tax havens and offshore financial centres with “light touch” regulation. This article focuses on their role in the crisis and looks specifically at the Dublin International Financial Services Centre (IFSC,) where many of the funds that have collapsed or have been in difficulties are located.

A shadow banking system

The Bank for International Settlements (BIS) in its 78th annual report identified one of the main roots of the crisis. “How,” it asked, “could a huge shadow banking system emerge without provoking clear statements of official concern?”

This shadow banking system has boomed over the last decade or so, as a variety of new players have evolved or emerged in the international financial system. Some are hedge funds or investment banks, or more arcane Conduits or Structured Investment Vehicles (SIVs) which are artificial structures created by banks or other institutions, off their balance sheets. These players in the shadow banking system behave rather like traditional banks – they borrow short-term money and then lend it again at longer-term maturities – but outside traditional regulatory structures. Instead of taking deposits, like “normal” banks do, they raise funds in other ways, such as by issuing commercial paper.

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“The shadow banking system has lain hidden for years, untouched by regulation, yet free to magically and mystically create and then package subprime loans into a host of three-letter conduits that only Wall Street wizards could explain.”

Most of the activity associated with the so-called ‘conduits’ (off-balance sheet vehicles) is regulatory arbitrage: it exists to avoid restrictions placed on banks. Bank supervisors turned a blind eye to it. Bill Gross, founder of the US financial firm Pimco, said this shadow banking system “has lain hidden for years, untouched by regulation, yet free to magically and mystically create and then package subprime loans into a host of three-letter conduits that only Wall Street wizards could explain.”

Bank regulation exists for very good reasons. Banks must set aside cushions of capital to protect the banks against downturns and other unforeseen events, to prevent problems turning into systemic panics. Such panics are rare, but the collapse of Britain’s Northern Rock last year was a clear example of one.

In the shadow banking system, institutions were able to sidestep this kind of regulation and borrow money against much smaller capital cushions than traditional regulators would accept. As a result, systemic risk increased dramatically. “Perhaps,” the BIS report said, “it is simply that no one saw any pressing need to ask hard questions about the sources of profits when things were going so well.”

The role of tax havens

One important reason for the lack of official attention to the growth of the shadow banking system was the extensive use of tax havens.

Historically, hedge funds were often domiciled in the Cayman Islands, Bermuda or the British Virgin Islands. However, competition between financial centres on regulation (and tax) is considerable, and more recently European jurisdictions, notably the Channel Islands, Ireland and Luxembourg, have been “streamlining” regulation, among other things, to attract funds.

In Ireland, for example, if the relevant documents are provided to the regulator by 3 p.m. the fund will be authorised the next day. A prospectus for a quoted instrument is a complex legal and financial document (a debt instrument issued by Sachsen Bank ran to 245 pages) so it is unlikely it could be adequately assessed between 3 p.m. and the normal close of business (5 p.m.) Even worse, Luxembourg has a new law stating that as long as the fund manager “notifies” the regulator within a month of launch, the fund can enjoy pre-authorisation approval. The Financial Times has noted that the Luxembourg regulator does not “scrutinise promoters”.



Taken in June, this photograph shows the Cayman-registered motor vessel Turmoil reflected in the front door of Citigroup’s offices in Dublin. Investors are currently nervous about more than a trillion dollars parked by Citigroup in off-balance sheet vehicles.

It was not especially the low-tax regime that attracted funds to Dublin, but other features: Ireland ticks certain boxes for funds and the regulators in their home countries, including the fact that certain EU directives apply, and being within the Euro currency zone is also highly attractive. Perhaps most alluring of all, however, is its “light touch regulation.”

Bear Stearns is so far the biggest institution to have collapsed from this credit crunch. Problems emerged in June 2007 when two

Bear Stearns hedge funds incorporated in the Cayman Islands announced considerable losses. Bear Stearns had two investment funds and six debt securities listed on the Irish Stock Exchange, and it also operates three subsidiaries in the Dublin IFSC through a holding company, Bear Stearns Ireland Ltd., for which every \$1 of equity financed \$119 of gross assets – an exceedingly high (and in most circumstances dangerous) ratio.

(Cont’d)

Box 1:

EU Directive on Financial Regulation 2006/48/EC), states

Art 21:

The host member state should be responsible for the supervision of the liquidity of the branches and monetary policies. The supervision of market risk should be the subject of close cooperation between the home and host member states.

Art. 22

The competent authorities of the host member state, should be able, in an emergency, to verify that the activities of a credit institution comply with the relevant laws, etc.

Box 2:

Four German banks with funds quoted in Dublin ran into difficulties in the subprime crisis – Bayern LB, IKB, Sachsen LB and West LB. One of these banks, IKB Bank, sustained losses of €2 billion from an off balance sheet conduit called Rhineland PLC with funds quoted in Dublin.

Eventually the German government was required to provide the bank with €7.8 billion in state aid. Sachsen bank required emergency funding of €17.3 billion because of liquidity difficulties with a Dublin based subprime fund called Ormond Quay and received state aid of €2.8 billion.

And yet none of the accounts or prospectus for any of the years examined mentioned regulation or the Irish regulator. Within Ireland the Financial Regulator has been quoted as saying that they have no responsibility for entities whose main business is raising and investing in funds based on subprime lending.

This stance has been repeated by commentators in the media. *The Financial Times*, for example, blamed the difficulties faced by German banks exclusively on the state-owned banks and the structure of the German banking industry.

Where is the regulator?

How, and by whom, was Bear Stearns Ireland Ltd. regulated? The accounts state that the Irish group and subsidiaries are regulated by Irish Financial Services Regulatory Authority. EU directives seem clear the host country – Ireland in this case – has responsibility for regulation. (See Box 1.)

Yet despite the location of managed funds and substantial operations in Ireland, the Irish regulator does not feature in any media analysis or discussions relating to the insolvency and subsequent take-over of Bear Stearns. In an interview, the Irish regulator considers his remit is to ‘Irish banks’ – that is, banks that have their headquarters located in Ireland.

Nineteen funds reported as facing difficulties in the sub-prime crisis, have been identified as located at the Dublin IFSC. Almost always, the IFSC link is not discussed. There is an exception, however: the case of four German banks (see Box 2). Between them, they required state aid from the German taxpayer totalling €16.8 billion as a result of the losses from the shadow banking system.

Some people argue that financial innovation associated with risk management has been a major source of economic growth, particularly in the US. But “financial innovation,” in the current crisis appears to have motivated by opaque shifting of risk, and avoidance of regulation.

Jim Stewart is Senior Lecturer in Finance, Trinity College, Dublin.

“ ‘financial innovation,’ in the current crisis appears to have motivated by opaque shifting of risk, and avoidance of regulation.”

NOT ON MY WATCH PLEASE

editorial

We are living through a period of consequences. At the time of writing, the U.S. government is working to stave off the collapse of the mortgage giants Freddie Mac and Fannie Mae, which own or guarantee over five trillion dollars' worth of loans. Financial excesses over the past 15 years are unwinding. The billionaire investor George Soros says the world is now seeing "the most serious financial crisis of our lifetime."

This is an appropriate moment to consider transparency and accountability, the theme of a research workshop that TJN co-hosted at Essex University on July 3–4. Papers from that workshop provide the basis for this edition of Tax Justice Focus.

Lack of transparency is at the root of the current financial crisis, which is now becoming a full-blown global economic crisis. This will affect us all deeply: through our pensions, our taxes, our public services, and much more. Astonishingly, as Jim Stewart notes in our lead article focusing on the International Financial Services Centre in Dublin, almost nothing has been written about the role that tax havens have played in this crisis. This edition of Tax Justice Focus will be among the first to address this issue seriously.

In June, TJN made a long and detailed submission to the UK Treasury Committee, which launched an inquiry into the role of offshore finance centres. We explore this on pages 13–14. As we said in our submission: "The offshore world is designed to make things appear other than they are, and by and large succeeds in doing so. This, in a nutshell, is the threat that they pose to the world."

Financial innovation and regulatory competition

For years a process of financial "innovation" has been underway, centred around New York and the City of London and their satellite havens, triggering an explosion of lending and credit, especially (though not exclusively) in Britain and the United States. In many cases, borrowing has grown to levels (relative to their safety cushions of capital) that far exceed what would be tolerated

under traditional banking rules. The high tide is receding, and we are now starting to see who has been swimming naked.

To a very large degree, the innovation has been all about circumventing regulation. Regulation exists for very good reasons. It is especially important in finance: the effects of a collapse of a manufacturing company are bad enough, but a bank failure can damage a whole economy, and cause systemic damage on a global scale. Numerous banks are now seriously at risk.

What has driven this regulatory degradation? Competition between jurisdictions on tax and regulation, driven by tax havens, are at the root of all this. These places are a menace: they hide risk, promote instability, distort markets, foster crime, and contribute to insecurity and widening wealth gaps.

Jim Stewart's article highlights how the rot has spread from places like the Cayman Islands, offering regulatory vacuums for financial wizards to exploit, to places like Luxembourg and Ireland. Regulators in each place have come under tremendous pressure to relax their standards. The launch earlier this year in the tax haven of Jersey of unregulated hedge funds illustrates the point.



"Jersey is a tax haven: What is the Church's response?" This painting of the front door of Saint Thomas' Catholic Church in Saint Helier, Jersey is from an exhibition of original paintings by local artists to benefit relief workers in Africa.

Painting by Pat Lucas of TJN-Jersey.

In boom times, central bankers and the main international financial institutions, loath to regulate complex structures, have been happy to avoid taking responsibility. The responses TJN has encountered in discussions with UK regulatory authorities can be summed up as “let’s pray that nothing bad happens on my watch.”

Complexity is the enemy of transparency

Lax offshore regulation has created a systemic contagion, poisoning onshore regulation. “The creation of the Delaware Special Purpose Vehicle (SPV) that houses \$30 billion worth of the most toxic waste from the Bear Stearns balance sheet,” Professor Willem Buiter of the London School of Economics wrote recently in the *Financial Times*, “is the clearest example of quasi-fiscal obfuscation I have come across in an advanced industrial country.” Delaware, it should be noted, is a state within the United States that aggressively plays the tax competition game against other states, and where almost anything goes. “At every juncture Delaware has underbid its competitors,” one analyst wrote in 2002. “Who needs the Cayman Islands when there’s a tiny, secretive corporate haven on U.S. soil?”

Which brings us to the next way in which tax havens have contributed to the crisis. Sam Golden, a former ombudsman for the U.S. Office of the Comptroller of the Currency (now in private practice) was quoted recently as saying, in the context of huge potential hidden losses at Citigroup: “The banks will

say that it was disclosed. Investors are saying, ‘Yeah, but it was cryptic. We really didn’t know what you were telling us.’ ”

Complexity is the enemy of transparency. Warren Buffett, another billionaire investor who has been critical of abusive tax practices, says he never buys a stock he does not understand. Tax havens are masters at generating complexity. First, they distort real investment by re-directing it to where it achieves the largest tax break or the least regulation. Complex structures are artificially sliced and diced between multiple jurisdictions, adding to the mess. Regulators claim it is not their problem and they shift it “elsewhere” – which ultimately means nowhere.

Combine lax regulation and complexity with tax haven secrecy – and how could anyone possibly know where the risks and liabilities are parked, or how big they are? Worse still, the complexity and secrecy fostered and enabled by tax havens also provides ample cover for downright fraud, as happened with Enron, which held nearly seven hundred subsidiaries in the Cayman Islands alone.

Global flows

How big is this problem? Philip Sarre’s informative mapping of global financial flows on page 6 provides some (extremely large-scale) answers. But he makes another important point in this context. Countries like China and the oil-exporting nations have accumulated large surpluses of savings, which they needed to export. Sarre notes

that the two countries that are regarded as being at the forefront of financial innovation – the United States and the United Kingdom – have been among the largest debtors, accommodating these surpluses. Their financial “innovation” enabled these foreign surpluses to be channelled into the shadow banking systems free from regulatory constraints, where dangerously large and unbalanced borrowings have been allowed to build up.

History and mechanics of the system

Jurisdictions “compete” with each other not only on regulation, but also on tax, which we have warned about for years. Countries engaged in a race to the bottom on tax slash their taxes on capital, while boosting it on labour, consumption and other factors. The net effect is widening inequality. Thomas Rixen’s important article **In Need of a Fix** looks at the history of tax competition, and reveals the current international web of tax treaties as a central aspect of the whole problem.

This is nicely complemented on page 15 by Professor Sol Picciotto’s review of Reuven Avi-Yonah’s book *International Tax as International Law* which looks at other aspects of the mechanics of the international system and its history, and how multinational corporations and others grew to structure themselves to minimise their taxes. Both Rixen’s and Picciotto’s articles offer strong pointers for reform. This issue, among many others, was discussed in an event held by TJN-Netherlands in Amsterdam on May 21,

involving Dutch finance ministry officials, tax practitioners, and non-governmental organisations. Attiya Waris describes this on page 14.

And more

Again and again, in the context of the current crisis, we see language distorted by the practitioners of offshore. Financial “innovation,” as they called it, was really about escaping regulation. “Light-touch” regulation replaces the real term: lax regulation. And so on. John Christensen’s article **The Language of Offshore** on page 16 probes the issues, and provides a light-hearted table for translating what they say into what they really mean. This is then complemented by Silke Ötsch’s article (on page 17) announcing a photo exhibition that aims to deconstruct the positive imagery of tax havens based on palm-fringed beaches and conspicuous consumption, which is an important step towards raising public awareness about what tax havens are really about.

On a separate tack, Olivia McDonald’s feature article **Making the Link: Tax, governance and civil society** looks at what ChristianAid is finding out on the ground about the links between tax and accountable government. This is a large and expanding area for new research, and her organisation is at the forefront of non-governmental groups now starting to probe this crucial question.

Nicholas Shaxson and John Christensen

GLOBAL FINANCIAL FLOWS

The big picture

Since 1971, financial markets have been progressively freed from government regulation. This was done in the expectation that they would work more efficiently and make investment more available to less developed countries, fostering their development.

For a decade or more, the media have portrayed international financial flows as the leading edge of globalisation, growing ever bigger, faster and less bounded. Activity and movement are certainly mushrooming, but the flows are not quite what was expected, even as portrayed by official figures. There are substantial unreported flows.

Official figures, most of which rest on IMF national accounts collected for 80 countries, portray a world economy highly uneven in space and time.

For example, World Bank data show that high income countries, with 16% of the world's population, have 79% of world GDP (as measured using exchange rates for currencies).

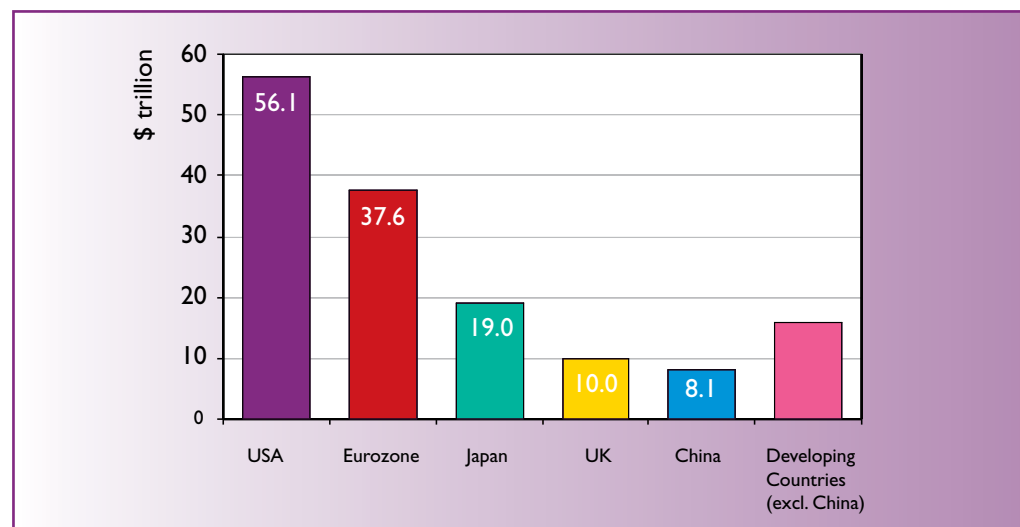
Most of the \$167 trillion in financial assets are held in just a few countries (Figure 1 shows the main locations).

China has a third of the financial assets of the whole of the less developed world, which total \$24 trillion, only 14.7% of the world total – proportionately less than their 21% share of GDP.

Inflows, outflows, cross-border flows

In 2006 annual net cross border capital inflows totalled \$8.2 trillion. The US had the largest inflow, at \$1.86 trillion (compared to the outflow of \$1.05 trillion); the Eurozone countries totalled inflows of \$3.3 trillion (half with each other, half with the rest of the world); the UK received \$1.25 trillion. Since 1996, 45% of the growth in inflows was to Eurozone countries, with another 35% to the US and UK. Even after several years of fast growth, less than 10% of the growth in inflows went to Less Developed Countries (LDCs). Yet the \$704 billion that they received in 2006 was exceeded by net outflows of over a trillion, making them net exporters of capital to the high income countries.

Figure 1. Financial assets



Rapid growth

Change over time is also striking. McKinsey data from 2008 shows that from 1990 to 2006:

- World GDP doubled, to \$48 trillion (thousand billion).
- World trade tripled.
- World financial assets quadrupled, to \$167 trillion.
- Cross border investment assets quintupled, to \$75 trillion.

feature

Phillip Sarre

- Annual net capital flows increased eightfold, to \$8.2 trillion.

So cross border flows are growing at faster rates than other economic activities, and financial transactions faster than production or trade. Net annual flows of capital remain quite small in relation to financial assets, however, and more than half of those are still owned and invested in the same national economy.

To make matters even worse, in 2005 the World Bank had reported capital inflows

to the less developed world as \$571 billion – in a table that also included an ‘adjustment line’, composed of errors, omissions and acquisition of overseas assets, of \$345 billion, indicating a very serious margin of error. (And, amid the \$8.2 trillion net cross border inflow figure above, outflows were \$87 billion less, suggesting that some exporters of capital do not report it.)

Foreign investment assets, liabilities

By the end of 2006, foreign investment assets held by Eurozone countries had overtaken those in the US.

In 2006, the difference between countries’ net foreign assets and net foreign liabilities ranged between the largest debtor, the US, and the largest creditor, Japan. Interestingly, the two countries regarded as being at the forefront of financial innovation – the United

States and the United Kingdom – are among the largest debtors (along with Mexico and Brazil, whose economies have grown slowly since the late 1970s), while the two major economies that have been regarded as in trouble over the last decade, Germany and Japan, are amongst the largest creditors – along with the big oil exporters and new growth phenomenon China.

Financial integration, discrepancies, and outflows from poor countries

Lane and Milesi-Ferretti (2006) use a range of official data and academic studies to build the most comprehensive database on the financial assets and liabilities of 145 countries. Their data reveals some rather interesting features in the international financial landscape.

First, financial integration – measured as combined assets and liabilities – among More

“To sum up, the open capital markets that were expected to make investment available to less developed countries have in fact operated to concentrate capital in more developed countries, using both legal and illegal transactions, often through a network of offshore financial centres.”

Developed Countries”(MDCs) tripled from 1970 to 2004, but for LDCs it grew by only 50 per cent, levelling off in the 1990s.

Second, there was an overall cumulative discrepancy between reported assets and liabilities, reaching 6 per cent of world GDP in 2002, or about \$2 trillion. More than half the overall discrepancy was accounted for by foreign owned portfolio equity holdings in the USA, Luxembourg and Ireland, for which no other jurisdiction claimed ownership. More

detailed analysis showed that International Financial Centres were among the worst under-reporters of foreign asset ownership.

There were substantial unrecorded inflows to Switzerland, the UK and US, running at about \$100 billion each, and outflows from Russia, Italy, China and Norway. High percentages of GDP were lost to countries including Mozambique, Oman, Ethiopia, Bolivia, Zambia, Kuwait and Lebanon.

Table 1.

Country	Foreign investment assets held (\$US trillion)
United States	12.5
Eurozone countries	29.2 (half with each other, half outside)
UK	10.4
Japan	4.7
China	1.4
Switzerland	2.4
Gulf States	2.2*
Hong Kong	1.8

*according to McKinsey the IMF figure of \$824 billion for the Gulf states is ‘unlikely to be accurate’

Figure 2: Net foreign assets/liabilities

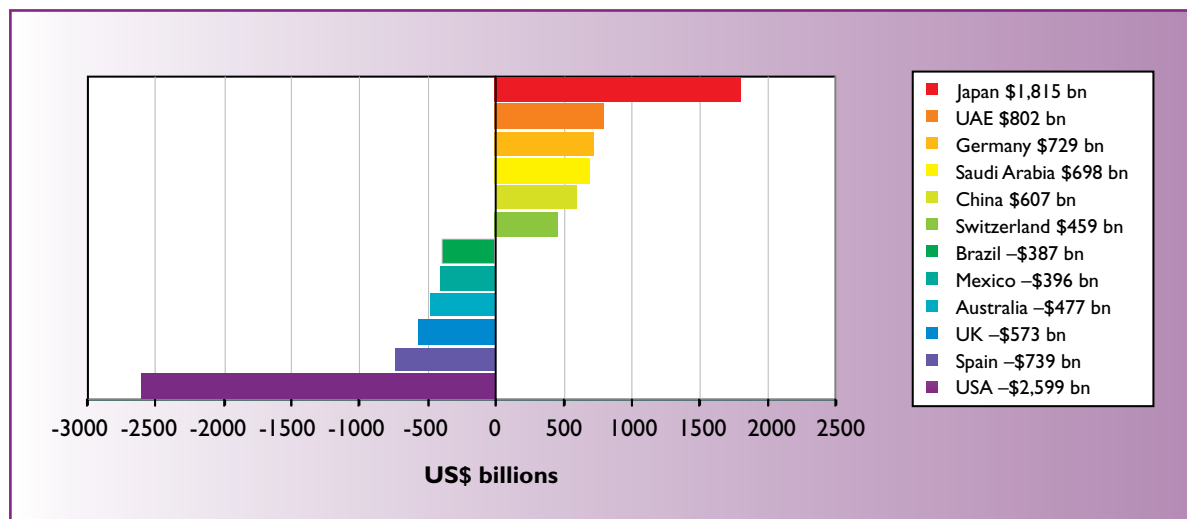
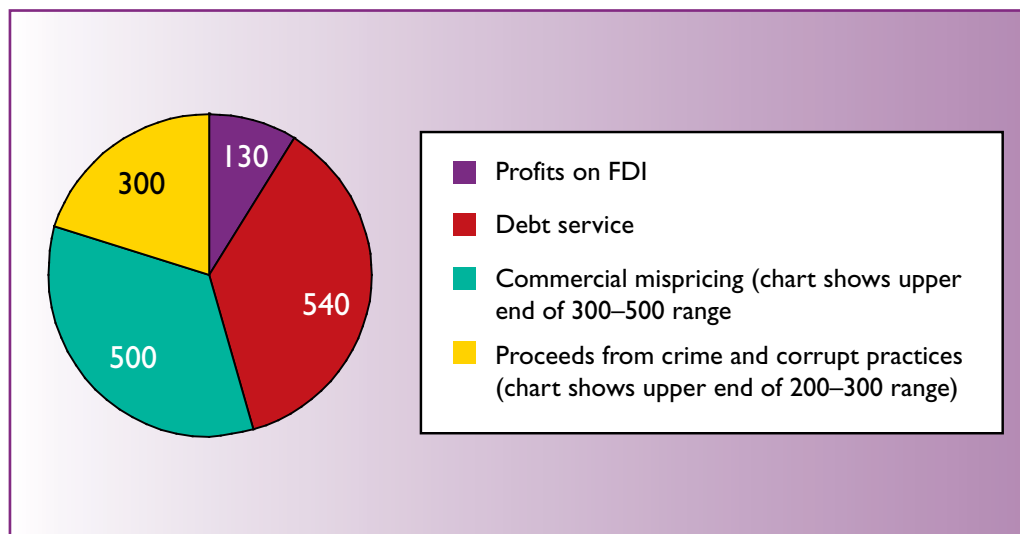


Figure 3: Capital outflows from less developed countries (US\$ billion)

There have been various studies and estimates of unreported movements of capital, most recently by the European Network on Debt and Development (2008). These studies both identify the nature of these flows and suggest that they outweigh the flows of aid (about \$90 billion a year) and investment into less developed countries. Figure 3 shows flows out of LDCs.

The disparity in treatment of flows is stark. Past loans and investments are meticulously recorded and payment demanded, while transfers by dictators, money laundering of drugs profits and manipulation of internal prices between divisions of MNCs move even larger sums – without attribution. Unrecorded flows use offshore financial centres, with low taxes and bank secrecy, to obscure flows, but assets end up being held in mainstream institutions in developed countries. Recent

estimates suggest that twice as much capital was spirited out of Africa between 1970 and 2005 as the total debt recorded for that continent (see [here](#)).

To sum up, the open capital markets that were expected to make investment available to less developed countries have in fact operated to concentrate capital in more developed countries, using both legal and illegal transactions, often through a network of offshore financial centres. Forays of finance into some less developed countries have been small and volatile, contributing to crises as much as to development.

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“The two countries regarded as being at the forefront of financial innovation – the United States and the United Kingdom – are among the largest debtors, while the two major economies that have been regarded as in trouble over the last decade, Germany and Japan, are amongst the largest creditors.”

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IN NEED OF A FIX

Double tax avoidance rules as the institutional foundation of tax competition

International tax competition is becoming a hot topic in academic and political debates. Nearly all recent tax reforms have been justified by claiming that it is necessary to maintain a “competitive” tax system vis-à-vis other countries.

Tax competition is generally taken as given; a ‘natural’ corollary of economic globalisation. Of course, economic globalisation is a necessary condition for tax competition: if production factors were immobile, it could not happen. Yet it is not a sufficient condition. Whether there is tax competition at all, and how it is structured, depends on the rules governing how trans-border movements are taxed. These rules are laid down in the double tax avoidance regime. Analysing how these rules work, and how they generate today’s particular structure of harmful tax competition, could open up tax policy debates to co-operative international approaches, rather than sinking into ultimately self-defeating national responses.

The double tax avoidance rules constitute the structure of tax competition

The original purpose of international tax co-operation was to avoid double taxation, and to co-ordinate overlapping tax claims of nation states on international trade and

investment. In the 1920s, when the League of Nations drafted the first principles of double tax avoidance, the intention was to liberalise the international economy. The principles and rules of double tax avoidance were codified in a non-binding model convention that developed into a de facto standard. Since the 1960s, the model convention has been sponsored by the Organisation for Economic Cooperation and Development (OECD), which has become the central forum for discussing and co-ordinating international tax issues. The model convention’s fundamental principles have not changed, though its technical details undergo ongoing modification. Governments have now concluded more than 2000 bilateral tax treaties based on this model convention.

The double tax treaties preserve sovereignty. They merely allocate rights to tax among the jurisdictions involved, without prescribing how they should exercise these rights (including the right not to levy taxes at all). National governments have exclusive formal authority to determine the tax base, tax rate,

and tax system, independently from other governments. So double tax avoidance rules operate only at the interfaces of national tax regimes. There is no attempt to harmonise tax systems between countries.

The rules for allocating the taxable profits of multinational enterprises (MNEs) between jurisdictions are emblematic of this sovereignty-preserving principle. Under a “separate entity” approach, allocations are the same as would result if the different entities of a multinational group were independent actors transacting in a market – the “arm’s length” standard. Governments can define the tax base and the tax rate as they wish.

Unintended consequences

This setup does achieve market liberalisation, but its sovereignty-preserving aspect has unintended consequences in the form of tax evasion, avoidance, and competition. Explicitly, the rules only tell states how to avoid international double taxation. Implicitly, however, they also tell taxpayers how they can “optimise” tax payments. For example,

feature

Thomas Rixen

taxpayers can use the indeterminacy of the arm’s length standard to manipulate transfer prices (legally), or they can use shell or “letterbox” companies to manipulate their formal tax residence and earn profits tax-free – without relocating real economic activity or changing real residence. They become free riders enjoying tax-financed public goods and services at their places of residence or production, without contributing sufficiently towards them.

In essence, tax arbitrage is possible because double tax avoidance rules leave governments’ formal tax sovereignty untouched: they may design their tax systems so as to attract other countries’ tax bases. So the regime of double taxation agreements (DTAs) not only succeeds in preventing double taxation; it also provides the institutional foundation for today’s structure of harmful tax competition.

With increasing internationalisation of the economy, the negative effects of tax competition become more pronounced, and governments have failed to regulate it

“Globalisation means it is necessary to share formal tax sovereignty with others, to regulate international tax competition effectively and regain real tax sovereignty.”

well, for several reasons. First, many low-tax countries and tax havens see themselves as “winners” of tax competition, and oppose stricter regulation. Second, even, high-tax countries have ambivalent interests: they do not want to lose tax revenues to tax havens, but they also do not want to close all tax loopholes for “their” own multinationals. Third, they do not want to endanger the tax treaty regime’s coordinating function – the established solution to double tax avoidance – which rests on a non-binding standard. So they act cautiously: they try only incremental reforms, and selective deviations from the established principles.

Some reforms could be called rule-stretching. Governments take great care to reconstrue new rules to concur with the arm’s length standard, rather than acknowledge their inherently unitary nature. (See Box.) They formally reinforce the “separate entity” accounting principle, in order to continue to rely on the established DTA regime principles. Governments also pursue a strategy of layering: they layer additional regulations on top of existing ones so as to soften the negative consequences of the DTA regime and keep it operable.

What can be done?

Rule-stretching and layering do not explicitly challenge the sovereignty-preserving setup of double tax avoidance. Governments still remain largely free to devise national tax laws as they wish, and the unintended consequences – tax evasion, avoidance, or competition – are only addressed through administrative cooperation. The problem is –

quite apart from the fact that there are gaping holes in the system – that it only provides an *ex post* remedy. Better information exchange and administrative cooperation are certainly necessary and worthwhile. But while national tax systems retain so many differences, they will present opportunities for international tax arbitrage, and the costs of *ex post* administrative enforcement will be high. What is needed in the medium to long term, is more *ex ante* cooperation, where governments are willing to harmonise at least parts of their national tax codes.

One solution would be unitary taxation with formula apportionment (see box). The formula would ideally be based on factors like sales, payroll, or capital invested, to ensure that economic activity is taxed where it actually happens. A typical letterbox company in a tax haven would only be assigned a very small or no part of the enterprise’s profit, because hardly any real economic activity, measured by these factors, happens there. This would make arm’s length pricing superfluous, but it would require states to harmonise their tax bases and thus share some formal sovereignty with others. But they would remain free to apply the tax rate they wish to their share of the consolidated base.

However, a unitary taxation system, with a common consolidated tax base and formula apportionment, would face problems too. Tax competition would no longer be mostly about shifting “paper profits.” Instead, companies and countries would structure tax competition on the factors that are part of the apportionment formula. How far this would be possible, or

Rule-stretching and formula apportionment/unitary taxation

Transfer pricing, for example, often involves rule-stretching. With the globalisation of production, and the rising importance of intangibles – trademarks, patents, and other intellectual property – it is almost impossible to apply the arm’s length principle, because there is simply no market for such transactions. So the benchmarks needed for determining the price are missing.

In reality, tax administrators often have to rely on a combination of arm’s length pricing and formula-apportionment methods (where governments agree on a common, consolidated tax base, then apportion the taxes between the countries where an MNE operates according to an agreed formula; this is also known as unitary taxation.) Over time, national transfer pricing guidelines have been amended to allow for such apportionment, if arm’s length prices cannot be determined.

With the introduction of advanced pricing agreements (APAs) – mechanisms by which MNEs and tax administrations commit to certain prices before the transactions actually occur – there has been a trend towards implicit consolidation of accounts across borders. It has been argued that APAs are just a covert way of applying formula apportionment on a case-by-case basis.

how harmful the effects would be, will depend on the formula. It may be necessary to agree on a binding minimum tax rate. Nevertheless, such a system would be better than the current state of affairs. Instead of relying on an opaque, hybrid system of arm’s length pricing coupled with *ad hoc* formula apportionment through the administrative back door, effective formula apportionment would require elected governments consciously to decide on appropriate definitions of the common tax base and the formula. Democratic legitimacy would be increased.

Currently, the political prospects for this are poor. Even in the European Union – where the Commission planned to propose a

directive on a common consolidated tax base this year – resistance is strong and the chances of real change in the near future are low. Governments seem not to have yet realised that globalisation means it is necessary to share formal tax sovereignty with others, in order to regulate international tax competition effectively and regain real tax sovereignty. Only collectively can they recapture what they have each lost.

Dr. Thomas Rixen is a political scientist and economist at the Social Science Research Centre Berlin (WZB). His book, The Political Economy of International Tax Governance will be published by Palgrave MacMillan this year.

MAKING THE LINK

Tax, governance and civil society

Drawing on our own experience and on analysis by experts in this field, and comparing different sources of government revenue, Christian Aid is now starting to explore the links between development finance and accountable governance. We have found evidence that tax, rather than aid and natural resources, is more closely linked to better governance. The way tax is raised, and who pays it, play an important role. For an organisation like Christian Aid, working with approximately 600 partners in 50 countries, this analysis has major implications for our lobbying and campaigning with the UK and Irish governments, and for our work with local civil society organisations.

While aid brings about much needed resources for development aid inflows often place heavy reporting burdens on governments with limited capacity and can actually weaken their abilities to budget effectively. Aid often bypasses not only institutions that scrutinise the government, like parliament, but government itself. Aid conditions mean recipients are more accountable to donors than to their citizens. Yet tax, and especially direct taxation like income taxes – can build healthy links of accountability and political representation between governments and their citizens. A government's imperative to collect taxes can also stimulate it to build better and stronger institutions so that it can do so.

Is aid like oil?

The 'Curse' that accompanies the prevalence of natural resources like oil is well documented and broadly accepted. It is particularly evident with non-renewable resources like oil but a correlation has been identified between natural resource dependence (measured by the ratio of primary exports to GDP) and the probability of authoritarian government. Oil revenues do not come from citizens, so these revenues do not create the beneficial links of accountability that tax does. Aid can pose a similar problem.

Greater transparency can help, and this drives civil society campaigns such as PublishWhatYou Pay and the Tax Justice Network's Country-by-County reporting initiative – which Christian

Aid and its partners are closely involved with. Yet it is also important to generate a sense of ownership amongst citizens of natural resources. The Alaska Permanent Fund is a well-documented model of how the revenues from natural resources can be distributed to citizens, boosting people's incomes and increasing citizen interest in – and scrutiny of – the use of natural resources.

Donor commitments to improve aid effectiveness are important, and welcome. Yet even if donors displayed model behaviour – allowing recipients space to set policies in consultation with citizens – aid would still weaken accountability to citizens because it remains a revenue source independent of them. Full, proactive transparency of donors to citizens in recipient countries about what they are paying to governments and asking governments to do in return will mitigate this problem, but not overcome it.

The Tax Consensus has failed

Tax systems and tax reforms should clearly be designed with good governance as a core objective. Unfortunately, however, this does not happen at present. A widely-accepted international "tax consensus" (TJF Second Quarter 2007, Vol. 3, Issue 2) focuses strongly on revenue, at the expense of redistribution, re-pricing and perhaps most importantly representation.

feature

Olivia McDonald



The groundwork is being laid for this to change. Research by Mick Moore (TJF Second Quarter 2007, Vol. 3, Issue 2), Michael Ross, James Mahon and others has shown a strong link between democracy, liberalism and tax. Tax reform has for long been the terrain of the technocrats, but the political implications are now coming into focus. At the OECD Development Assistance Committee, the governance network has now noted a potentially long-term dividend of improved governance to be gained from tax: a social fiscal contract.

“Tax systems and tax reforms should clearly be designed with good governance as a core objective. Unfortunately, however, this does not happen at present.”

(Cont'd)

Magic passes in the Democratic Republic of the Congo

On the road from the village of Kandolo to the nearest market in the town of Kalima, civil servants sit in small, often camouflaged huts, waiting for passers by. They demand a percentage of the produce – such as rice, cassava leaves or fruit – as tax and provide no receipt. Unaware of their legal rights, and afraid of the police, people pay up. A few kilometres down the road, they pay again. And again. By the time people reach the market they may have less than two thirds of the produce they started with.

Many farmers stopped trying to sell their produce in Kalima, struggling by without the precious extra income. But things have improved since they joined the local Farmer's Association established by Christian Aid partner UKPA, and learned about illegal taxation.

Mwanzo Walimbwa and other members of the Farmer's Association now each wear a 'magic pass'. "We wear passes so as to visibly be a member of the association, and, so, 'educated' – like [as with] the university students who put their school cap in front of their bikes – they know not to even bother us." Mwanzo shares what he learned with others in his community.

'If one of the civil service asks for taxation we say "no papa – we know all about what is legal and not legal" and he runs away. UPKA taught us how to do that.' Members of the farmer's movement now confidently ask for receipts when they pay legitimate taxes, so they won't be taxed again.

“For our policy and lobbying work, this analysis means promoting reforms that make revenue from natural resources and aid work ‘more like tax’.”

What tax systems deliver better governance?

Technical quick fixes rarely work in development, but our analysis has identified four main areas to think about:

- **How are tax policies decided?** Donors should focus more on the mechanisms by which tax policies are set, and who participates. Civil society needs to be able to offer its perspectives on tax policies. This occasionally happens, but not in a systematic way: attempts to introduce

VAT in some countries, for example, have been met with protests.

- **Who pays tax and how?** Indirect taxes like VAT may not be as effective as direct taxes in improving state-citizen relations. States are more likely to pursue tax policies that benefit favoured sectors of society. Broadening the tax base is important, yet in many developing countries very few people pay income tax, including the middle classes. This also means thinking about how to bring poor people into the formal tax system.
- **Is the taxation coerced, or negotiated?** Coercive taxation is arbitrary and forced, so those who are taxed are not in a strong position to demand accountability. This can damage state-society relations. By contrast, revenue-bargaining sees taxes being negotiated between state and society, with taxes being paid in exchange for services and security in ways more acceptable to citizens.
- **Where is tax paid?** Decentralisation can make governments more responsive to citizens' preferences than centralised ones; and local taxation can bring opportunities to strengthen links between people and governments. But local tax systems are not without problems: they can be complicated, opaque, coercive and poorly coordinated with national government. More research at this level is essential.

What does this mean for Christian Aid and our partners?

For our policy and lobbying work, this analysis means promoting reforms that make revenue from natural resources and aid work 'more like tax'. But it also means calling for development of tax systems to be prioritised as the development finance source that delivers best for governance.

In developing countries we should, for example, support projects that mobilise citizens as taxpayers. We should support partners to analyse how people are taxed, to consider if it is done in a way that promotes accountability. And if it doesn't, as in the DRC example above, we should support our partners to challenge that.

As we increase our work on corporate tax evasion, we need to ensure that our belief that tax forms a social contract remains central; that we ourselves do not reduce tax policy to a technical discussion about how to raise revenue.

Olivia McDonald is Senior Governance Advisor, Christian Aid

report

Tax Havens: Creating Turmoil

by John Christensen

At the end of April the UK Treasury Committee, a powerful economic policy-making body, announced an inquiry into the role of offshore financial centres in the current global financial markets crisis. This comes exactly ten years after Andrew Edwards presented the findings of his review of financial regulation on the British Crown Dependencies (see [here](#)) – which failed to drive significant reform as a result of inaction by the New Labour government.

By July 1st, the Tax Justice Network (TJN) and 26 other groups, mostly representing Offshore Financial Centre (OFC) interests, had made formal submissions. The submission by Jersey Finance Limited (an industry promotional body), gives a flavour of the OFC submissions:

There is no theoretical or practical evidence to suggest that Offshore Financial Centres (OFCs) threaten financial stability. Jersey meets or exceeds all of the relevant international standards for financial

stability and transparency expected from the world's leading financial centres.

About a quarter of the written submissions (they are available in draft form [here](#)) came from non-OFC sources. Ronen Palan and Anastasia Nesvetailova of the University of Birmingham noted that offshore entities can easily be used to isolate ownership of offshore financing vehicles from their onshore parents to shift them off their balance sheets and obtain higher credit ratings. This is just what happened, and it precipitated the current financial crisis. They cite the failed British bank Northern Rock as an example:

No one knows for sure if, for instance, Northern Rock will take the responsibility for the estimated £50 billion debts of what was assumed to be its offshore SPV [Special Purpose Vehicle], Granite, because legally, Granite is a separate entity. Since this particular relationship is replicated through the thousands

and thousands of SPVs set up in offshore world-wide, the problem is of systemic proportions.

Sol Picciotto (University of Lancaster) notes how OFCs “offer the cloak of their laws and regulations to persons who are not resident in their territory” and concludes that:

OFCs have acted as a corrosive factor on other countries' fiscal and financial laws and regulations. Their existence has led states with major financial centres, including and especially the UK, to introduce laws and regulations which effectively make them participants in the offshore system. The result has been serious distortion of the international allocation of investment, the undermining of national tax systems, and the creation of such a high degree of opacity as to create serious risks for the international and monetary system.

Edmund Valpy Fitzgerald of Oxford University draws attention to security risks arising from routing



From the Department of You-Couldn't-Make-It-Up: the MV Turmoil, registered in Georgetown, Cayman, and moored outside Citigroups offices in Dublin's offshore financial centre.

dirty money, including tax avoiding monies, through OFCs.

TJN-UK's submission, argues that international regulation focusing on tax havens has largely failed due to the political capture of these jurisdictions by OFC interests:

OFC operators, many of them multinational companies or banks, and some like the Big 4 firms

of accountants present in every major and most minor tax haven jurisdictions around the world, can move their operations to wherever they want at a moments notice. They have used this power to threaten to leave any jurisdiction that does not comply with their wish to secure the legislation they desire.

report

Offshore Financial Centres (Cont'd)

As a result, in the last decade new and highly abusive forms of offshore company and trust have been developed, which have been little documented and much less understood but are able to float free of almost any regulatory control.

Christian Aid's submission outlines how OFCs undermine efforts by poorer countries to raise domestic revenues to finance their own development. Global Witness complemented this with an in-depth study examining how offshore mechanisms including UK-linked offshore centres provided "the means for mismanagement and looting of state oil revenues in the Republic of Congo." These submissions highlight a fundamental policy inconsistency: the UK government commits to increasing its aid budget, but fails to regulate the activities of its tax haven dependencies and blocks international efforts to clamp down on capital flight and tax dodging. Developing countries are net losers. As Christian Aid said:

The money of the UK taxpayer is not being effectively spent to support development, since this incoherence of broader policy on OFCs and international financial regulation undermines the value of the aid given.

The inquiry will resume oral hearings after Parliament's summer recess. TJN-UK, along with Christian Aid, Action Aid, Global Witness and others, hopes to attend a hearing in early October.

Click [here](#) for a full text of all written submissions.

John Christensen is a former Economic Adviser to the States of Jersey, and directs the Tax Justice Network International Secretariat.

A Tax Justice seminar in Amsterdam

by Attiya Waris

A ground breaking tax justice conference was held on May 21 in Amsterdam, the second of its kind organised by TJN-Netherlands. The aim of the conference, in a country reckoned to have more tax lawyers than any other, was to analyse the links between tax, the Dutch approach to tax, and the effects on developing countries. Speakers and participants included economists, lawyers, ministry officials, tax practitioners, and representatives of non-governmental organisations.

Albert Hollander, President of Tax Justice Netherlands, explained TJN's aim to stimulate research and long-term dialogue on these issues, to help find common ground in finding ways forward, in line with the event's title *In Search of Balance*.

Alex Cobham looked at the roles tax plays in developing countries, including how it can build strong, accountable government. This expanded on research he described in a previous edition of TJF (see [here](#)) about the shortcomings of a well-established international "Tax Consensus." Underlining tax



Richard Murphy makes the case for a TJN Code of Conduct for Taxation. ([Click here](#))

as the only sustainable source of development financing. He also discussed Christian Aid's major new report on tax and developing countries (see the Christian Aid report [here](#), and Cobham's Amsterdam presentation [here](#)).

His presentation prepared the ground for my own presentation on the link between tax and development in Kenya, Africa and other developing countries (See [here](#)). Sony Kapoor looked at different tax systems around the world, including a brief foray into Brazil's (now-suspended) innovative CPMF financial transactions tax, among other transactions taxes. Leo Zuliani from the Dutch Finance Ministry explained the Netherland's

approach towards taxation and its international tax treaties; André Nagelmaker from the Dutch Trust Associations explained about the roles his member organisations play in reducing transaction costs for international players, among other things. In the afternoon, Richard Murphy gave different options that the accountancy profession can take towards its treatment of tax issues, while R van der Laan compared the different approaches being undertaken in the accountancy profession.

A list of speakers' presentations is available [here](#).

reviews



International Tax as International Law. An Analysis of the International Tax Regime

Reuven S. Avi-Yonah

Cambridge University Press, 2007

International tax law is a vital, but complex and difficult subject. Reuven Avi-Yonah is one of its leading academic lights, with an exceptional capacity to explain the policy and practical implications of the most arcane rules. Yet, I suspect that a non-specialist would need to concentrate hard to understand the analyses in this book.

The central aim of the book is entirely laudable. It seeks to oppose the common, indeed predominant, view among tax lawyers that states are free to adopt whatever tax laws they wish, in pursuit of their own interests. This clearly makes no sense in an interdependent world where one country's tax system affects others. The slightest study of the historical development of taxes

on income and profits reveals the complex patterns of interaction, accommodation, cooperation, but also competition, through which has emerged what one must describe as an international tax system. However, recognising this is a long way from saying that positive, legally binding international rules now ineluctably prescribe the basic principles of that system.

Avi-Yonah puts forward two principles as establishing the basis of the system. First, the 'single tax principle': that income from cross-border economic activity should be taxed once (i.e. there should be neither double taxation nor double non-taxation). Second, the 'benefits principle': that 'passive' income (from investment) should primarily

be taxed by the state of residence of the investor, while 'active' income from actually carrying on a business should be taxed primarily by the source state, where the business is carried on. He rightly sees these principles as the mainstays of the tax treaties, developed since the 1920s, that now form the main skeleton of the international tax system.

With this point of departure, the rest of the book examines in detail the main provisions through which they are applied. In this respect, the main focus in the book is United States tax law as applied to international business, and Avi-Yonah deftly demonstrates his undoubted expertise in explaining the rules, illustrated with interesting cases and examples. As the analysis unfolds, one begins to wonder whether the author's aim was indeed to use the detail to exemplify and justify the existence of the two basic principles, or rather to develop an immanent critique of them.

Undoubtedly, the aim of the system as it developed among the leading capitalist states was to try to ensure that international business is taxed neither more nor less heavily

than business carried out purely domestically. However, there is ample evidence that it has failed in this aim. Transnational corporations (TNCs) have generally succeeded in exploiting the system to reduce their effective tax rates well below the nominal rates, often to zero. Data from the General Accounting Office in 2004 show that in the US from 1996 to 2000, some two-thirds of TNCs paid no tax at all, and over 90% paid below 5% of their total income. Similarly, in the UK, last year's National Audit Office report revealed that in 2005-6, 220 of the 700 largest firms paid no UK tax at all, and a further 210 paid under £10m; these 700 firms account for a little over half of the UK's total corporation tax receipts, and 67% of these receipts came from only 50 firms in 3 main sectors.

Avi-Yonah's careful dissection of the application of the second principle (the "benefits principle" separating passive and active income) starkly reveals the reasons for this. TNCs operate as internationally integrated firms. This makes it very difficult in practice to apply source-based tax rules to them. As the international system developed, they quickly

became adept in exploiting residence rules, by pioneering the use of tax havens for the formation of intermediary corporations and other entities: the typical TNC is now a complex network of often hundreds of affiliates. The large TNCs are also as much financial as business firms, which makes the distinction between active and passive income virtually impossible to apply to them – a fact that they exploit. The integrated nature of their activities, as well as the often unique technology resulting from their oligopolistic character, completely undermines the 'arm's length' principle on which the control of transfer pricing between companies within a group is based -- at least ostensibly. In perhaps the best chapter, Avi-Yonah traces how far in practice the transfer pricing rules have actually moved away from the arm's length principle.

What this book demonstrates, in my view, is the urgent need for a fundamental reform of the international tax system, especially as it applies – or fails to apply – to TNCs. What is more, where the TNCs have led, in creating and exploiting tax havens, others have

reviews (Cont'd)

followed, notably hedge funds and so-called high-net-worth individuals. This creates severe distortions in the allocation of capital and investments, not to mention creating difficulties for governments wishing to set up progressive tax systems as their voters would want. Taxation of TNCs on a unitary basis, with formula apportionment – under which a TNC would be taxed as a whole, then these tax revenues allocated to different states where it operates – would cut through complex corporate group structures, resolve most transfer pricing issues, and strike a major blow against tax havens. Far from a pipe-dream, this approach is essentially already applied in the profit-split method which is now officially sanctioned by the OECD (see p.117 of his book), as well as in Advanced Pricing Agreements (118-9). The European Commission is actively preparing the way for its adoption within the EU, and there are good prospects that a new US administration could put its weight behind such an initiative.

Indeed, the emergent principles of a reformed international tax system can perhaps be discerned already in outline. Fundamental is the principle

of closer cooperation between national tax authorities. This should be within the framework of a comprehensive multilateral treaty for cooperation in tax assessment and collection, not just bilateral tax information exchange agreements as is now being pursued by the OECD. In fact, the OECD and the Council of Europe drew up such a multilateral treaty in 1988, although states have been very slow in joining it: it is in force for only a dozen OECD states (plus Azerbaijan), although it came in for the UK on 1st May 2008, and Germany just signed (though has not yet ratified). Its scope is also highly restricted. But it is a start.

Far from entailing the abandonment of national sovereignty, reform of the international tax system is essential to retaining the effectiveness of national tax systems in an integrating world. This means going beyond the clumsy tax treaty system devised in the first half of the last century.

Sol Picciotto, Emeritus Professor, Lancaster University Law School, and Senior Adviser to the Tax Justice Network.

analysis

The Language of Offshore

by John Christensen

*“What’s in a name? that which we call a rose
By any other name would smell as sweet;”*

William Shakespeare, *Romeo and Juliet* (II, ii, 1-2)

Or maybe not in the case of tax havens, most of which furiously deny being tax havens. Some even resent being labelled offshore financial centres, which is less pejorative than tax havens, but not half as grand as ‘international financial centre’.

But language matters, not least since public opinion about tax havens remains confused. The French and Spanish terms, ‘paradis fiscaux’ and ‘paraísos fiscales’ respectively, sound altogether heavenly. Further confusion arises when commentators and politicians treat the terms ‘tax haven’ and ‘offshore financial centre’ as inter-changeable. But are they? And what can be done about inherited language that has become firmly established in public consciousness? Should we try to persuade journalists and other opinion formers to use terms that more accurately describe the phenomenon?

These questions were core to a lively panel discussion at the AABA/TJN research workshop in early July. Richard Murphy pursued his line of reasoning in the recently published “Tax Havens: Creating Turmoil” (see page 13) – that tax havens are the enabling jurisdictions, and should be treated distinctly from offshore financial centres, the cluster of financial service providers (banks, legal and accounting firms and other intermediaries) and their clients, who exploit the opportunities that tax havens provide. These opportunities include tax avoidance and evasion, but exploiting lax regulation is equally (if not more) important to many companies using tax haven facilities.

A consensus soon emerged on treating tax havens as politically distinct geographical entities, which may or may not be sovereign states:

many, like Jersey, are dependent territories of European states. Sol Picciotto felt the term tax haven does not adequately capture the regulatory uses of this phenomenon, and he prefers to talk about ‘tax and financial havens’. Others suggest the term ‘secrecy jurisdiction’, more widely used in the USA, and more evocative of key TJN concerns, be adopted into wider usage.

There was less agreement on the definition of offshore financial centres (OFCs). Ronen Palan argued that OFCs should be seen as part of a distinct offshore capital market, historically known as the Euromarket. According to this line of reasoning, OFCs are centres that specialise in non-resident financial transactions, especially those related to Euromarket activities.

Central to this debate is the issue of how, and to what extent, financial service providers operating from tax havens have evolved beyond being used merely for booking transactions offshore. Tax havens

analysis (Cont'd)

such as Montserrat, Andorra and Vanuatu probably fall within the booking centre category, but others like Jersey and Grand Cayman have attracted sufficient banks, legal and accounting firms with the requisite (often expatriate) expertise to be able to provide the package of banking, legal and accounting facilities used to create offshore structures. Sol Picciotto described this as an evolutionary process, with most tax havens aiming eventually to attract a sufficient critical mass of financial service providers to become a fully fledged OFC.

The power of language to shape ideas and debate is well recognised. Terms such as “tax innovation”, recently used by the Irish rocker Bono to deflect public concern about his tax avoidance practices, and “agile and flexible regulation”, which created the long and slippery slope down which many banks have fallen into amid the credit crunch, have been very effectively deployed by the proponents of tax havens and de-regulation. (See box.)

TJN needs to cut through this obfuscation and arrive at a language

that more effectively enables opinion formers and policy makers to understand the phenomena that we are dealing with, and identify policy solutions tailored to its different aspects. The session in Essex took us a certain way down that route, concluding with recognition that the language used in academic papers might not always transfer directly to the broadcast or printed media. The discussion continues.

“Tax Havens: Creating Turmoil” can be downloaded [here](#).

The Tax Justice Network dictionary of offshore obfuscation

What they say	What they mean
We are not a tax haven	<i>We are a tax haven, but don't tell anyone</i>
We offer agile and flexible / “light touch” regulation	<i>We offer lax / complacent regulation</i>
We respect privacy	<i>We will turn a blind eye to your dirty money</i>
Tax-friendly	<i>Friendly for us, but probably not for you</i>
This should be regulated elsewhere	<i>This will be regulated nowhere.</i>
We maximise our tax efficiency	<i>We avoid tax (“The Bono defence”)</i>
No tax was due, so no tax was avoided	<i>We dodged the tax, so it was not due (“The Philip Green defence.”)</i>
We manicured our tax affairs	<i>We evaded our taxes (“The Yukos defence”)</i>
We use innovative tax planning	<i>You paid your taxes? Sucker!</i>

competition

Photo exhibition on tax havens

by Silke Ötsch

A call for photos

Tax havens and offshore centres are commonly associated with positive images of remote sunny islands. Providers of offshore services like to talk about tax paradises, sunny islands and freedom, where capital is agile (or, as Germans say, as “flighty as a fawn”). They like to contrast this with notions of tax hells and obsolete state bureaucracies.

We aim to deconstruct this positive imagery and use our exhibition to show tax havens not as island paradises, but as juridical constructs central to the existing economic system and offering special privileges to wealthy people and corporations. We want to show what tax havens really look like: letterboxes, billboards, tiny banks on the German-Austrian border, for example, or big banks sited next to cow sheds. We want to stress that tax havens are not exceptional and exotic, but core elements in the global financial system, so we will focus on tax havens and offshore financial centres in Europe (by Europe, we are talking

geographically, not politically – so places like Switzerland or Jersey are included.)

We aim to interest a broad public, especially those who are interested in politics but who shun tax as an issue because they find it dry and difficult. We also want to attract people with an interest in culture. Many such people are affected by finance. We also hope local groups will organize the exhibition in their towns – especially, if possible, in tax offices of the tax authorities.

We want to degrade the prevailing image of the tax avoidance and evasion service industries and of cooperating elites, by providing a more accurate image of what they are about. This way, we hope to add to the pressure on politicians to act seriously against tax havens.

Each participant can send up to 5 photos, with 300 dpi resolution. Please add a short description of each one.

(Cont'd)

competition (Cont'd)

Criteria for selection

The jury will then evaluate the submissions with the following criteria in mind:

1. Does it show a component of a tax haven or of the offshore economy?
2. How relevant is it? Does it provide new information? (For example, a photo of billboards in the Swiss City of Zug is better than using a mountain lake with a flower in front of it. But if it shows a billboard advertising "Nord Stream AG," whose supervisory board is headed by the former German chancellor Gerhard Schröder – so much the better.)
3. The quality of the photo.

The Jury

The jury is composed of: John Christensen (Director, Tax Justice Network International Secretariat, London), Ronen Palan (expert on Offshore Economy, University of Birmingham), Detlev von Larcher (TJN Germany), Silke Oetsch (working group on financial markets and taxes of Attac Germany), Celia di Pauli (planning agency "Stadtblind"), Philipp Schwarz (planning agency "Stadtblind").

Prizes

First prize: A Panasonic Lumix DMC-FS3 Blue Compact Camera

2nd and 3rd prizes: One of these books (the winners can choose):

- Ronen Palan, *The Offshore World: Sovereign Markets, Virtual Places, and Nomad Millionaires*, Cornell University Press, 2006
- Ernst Schmiederer und Hans Weiss, *Asoziale Marktwirtschaft*, Köln, 2004
- The catalogue of the exhibition (to come out in spring/summer 2009)

The first prize is kindly funded by John Christensen.

Deadline

The deadline is September 30, 2008. Send contributions by email to: silke.oetsch@attac.de, or if it exceeds 10 Mb please send it by post to: Silke Ötsch, Schneeberggasse 43, A-6020 Innsbruck (Austria)

CALENDAR

August 18–20 – Alpbach, Austria

Reform symposium at the 64th European Alpbach forum: Taxing for Sustainability. Keynote speech by TJN's John Christensen. For preliminary programme, click [here](#).

September 18 – Paris

High level dialogue on the draft outcome document of Doha between the French EU presidency and European civil society. TJN is among the co-organizers of the event. For more information, please contact Taylor Exantus at t.exantus@ccfd.asso.fr

Sept 17–21 – Malmö, Sweden

European Social Forum. Includes Tax Justice Network seminar, and a screening (13:00 on Sept 18) of the film *The End of Poverty?* (Won critics' choice at Cannes Film Festival.)

October 9 – UK

Department for International Development (Dfid) and TJN to co-host a seminar on tax justice and development at DFID, London. Open to NGOs to attend.

October 21–22 – Oslo, Norway

Third meeting of Norwegian-led task force on illicit financial flows.

October 23 – Oslo, Norway

Norwegian government and World Bank task force: combined research workshop on illicit financial flows.

October 27–31 – Geneva

Session four of UN Tax Committee, click [here](#).

October 29–31 – Rome

Event organised by Italian episcopal conference, where Debt, Jubilee and Justice report 2006–2008 will be released. TJN will participate.

HIGHLIGHT: November 29–December 2, 2008 – Doha, Qatar.

Follow up International Conference on Financing for Development (FfD) to Review Implementation of the Monterrey Consensus. For more details, click [here](#) and for a list of events leading up to Doha click [here](#).