Global Alliance for Tax Justice (GATJ) Statement 13 November 2014

The OECD BEPS Project – tax policies not fit for the 21st century

The Organisation for Economic Co-operation and Development (OECD) project on base erosion and profit shifting (BEPS) is a 30-month process, initiated by the G20 world leaders in their St Petersburg Declaration in September 2013. The OECD has achieved consensus on a majority of the issues addressed so far. However, much remains to be done**. The approach still lacks coherence, a clear direction and the will for a major overhaul of the current international tax system. It also suffers from a deficit in representation** because of its domination by rich countries, mainly exporters of capital, and its exclusion of the poorest countries, which are relatively more dependent on corporate tax revenues.

Country-by-country reports must be made public and transparent

Agreement on a template for country-by-country (CbC) reporting and related documentation on transfer pricing is the major achievement in the first year, but the arrangements for access have still not been agreed. It now needs an effective mechanism to enable tax authorities in all countries to have direct access to the CbC reports, as well as the related Master File of transfer pricing documentation. **This data** – which normally is not commercially confidential – **should be made public**, as there is a widespread public interest in greater corporate transparency and accountability, and it will help to enforce tax rules.

Harmful tax practices must be curbed

However, progress has been slow on some key measures, including limiting harmful tax practices by states. For example, a proposed "economic substance" test which could curb "patent boxes" has been opposed by several states. The patent boxes provide a low tax rate for income attributable to intellectual property, thus encouraging companies to relocate ownership of patents to entities in the state concerned. A dozen European states already have such provisions. These measures have been criticized as poorly targeted and likely to encourage a further race to the bottom in tax which may result in a further decline in corporate tax revenues.

End the hypocrisy – end tax breaks for multinationals

This shows clearly that the OECD's voluntaristic approach is not working. Countries should end the hypocrisy of loudly proclaiming their intention to reform international tax rules while quietly introducing tax breaks for multinationals. **If states fail to withdraw these inappropriate and expensive tax shelters, other countries should introduce counter-measures**, for example by applying rules on controlled foreign corporations to such income and taxing it themselves.

Multinationals must be recognized as unitary firms

The BEPS process must now tackle several more serious defects in the international tax system. The underlying cause of BEPS is the separate-entity/arm's-length principle which the OECD itself has increasingly entrenched over the last two decades. It insists on treating the national operations of multinational enterprises as if they were independent of each other, whereas in reality they operate as an integrated whole under central direction. This principle creates a perverse incentive for multinationals to organize themselves as complex corporate groups with often hundreds of affiliates including many formed in convenient jurisdictions to facilitate base erosion and profit shifting.

True progress towards fair taxation of multinational corporations therefore requires the **abandonment of the separate entity concept and the adoption of a different principle** which clearly states that multinationals should be treated as unitary firms. This could be done by building on and systematizing existing approaches, for example the profit-split method for transfer pricing, and apportionment of joint costs such as interest, central services and headquarters expenses. Only in this way could the clear mandate from the G20 be achieved, for reforms which ensure that multinationals are taxed "where economic activities take place and value is created".

Strengthen UN Tax Committee for more inclusive consultation and tax design

The design of a tax system fit for the 21st century will require a **wider global debate, extending beyond the OECD BEPS project**. As the OECD does not represent all countries, we call for **strengthening the role of the United Nations** in the field of taxation. In particular, this involves an **upgraded and properly resourced UN Tax Committee**. The debate should take full account of the impact of economic globalization, the shift to services and the digitalized economy.

A fundamental reform of the international tax system is essential in order to:

- restore states' powers to tax multinational corporations effectively;
- ensure public confidence in the fairness of taxation and provide a sound basis to finance public services and economic development;
- end the enormous waste of resources devoted to corporate tax planning and the unequal efforts of tax authorities to combat it; and
- remove the incentive for multinational companies (and also wealthy individuals) to exploit the international tax haven and offshore secrecy system.

High Level commitment needed now to end race to the bottom tax policies

The G20 (and other countries to follow) should therefore issue a **High Level Declaration committing themselves to ending beggar-thy-neighbour tax practices** which provide low tax rates for multinationals and promote a race to the bottom in corporate taxation, and invite all states to adhere to this commitment.

The Global Alliance for Tax Justice represents a new global coalition of regional tax justice networks. Our member organizations are united in the demand for multinational corporations to pay their fair share of taxes and a world where fair and accountable taxation funds sustainable development and accessible public services for all. For more information, please contact GATJ Chair Dereje Alemayehu: alemayehu@taxjusticeafrica.net