STATE RESPONSIBILITY FOR THE IMPACT OF DOMESTIC AND EXTRATERRITORIAL TAX ABUSE ON WOMEN:

LUXEMBOURG

Background Memorandum

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I EXECUTIVE SUMMARY AND PROPOSED QUESTIONS

This background memorandum outlines how Luxembourg's domestic corporate, trust, charitable, and not-for-profit laws combined with extremely low or zero tax rates for multinational entities, high levels of financial secrecy, and lax rules on corporate reporting jeopardize women's human and gender equality rights in Luxembourg (i) at the domestic level, (ii) in 'upstream' countries from which extremely high net worth individuals, businesses, and investment entities transfer assets and income to Luxembourg in order to reduce taxes they would otherwise have to pay to their countries of origin, and (iii) in 'downstream' countries in which local tax laws permit multinational corporations to operate on a virtually tax free basis and to transfer them to no- or low-tax entities in Luxembourg. This memorandum identifies key questions that may help assess the State party's progress toward reducing the negative effects these fiscal and financial policies have on the status of women in Luxembourg as well as women in other countries affected by the extraterritorial reach of Luxembourg laws.

As financial, corporate, and development activities have become increasingly transnational, tax cuts and tax havens have been used by countries at all levels of development to attract foreign investment and increase their GDP growth rates. Private capital, though, has no allegiance; it is increasingly quick to follow paths to the lowest levels of taxes and the highest levels of financial secrecy. Concentrations of low-taxed capital in the hands of very high net worth individuals and entities are implicated in increasing income inequality in regions of the world, both within and between countries.[1] At the same time, however, women continue to be concentrated in lower income groups, own much less capital, and hold little power in the finance and corporate sectors than men.[2]

Luxembourg is the most important private banking and wealth management centre in the Eurozone, with 143 banks holding nearly 800 billion euros in assets to provide liquidity to their mostly foreign owners.[3] Some 350 billion of this cache is sequestered in the secretive private banking sector (an increase of 50 billion from 2015[4]), where ultra-wealthy individuals own an average of 20m euros or more each. The Financial Secrecy Index 2018 has found that Luxembourg is the second largest investment fund centre in the world (after the United States),[5] and that fund management of assets totaling nearly 3.8 trillion euros forms the core of this financial centre.[6]

In early 2017, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee) requested that Luxembourg **'provide information on the regulatory framework for industries and companies carrying out operations abroad to ensure that their activities do not negatively affect human rights or endanger environmental, labour and other standards, especially those relating to women's rights.'**[7]

The State party did respond to the CEDAW Committee request when filing its Oct. 16, 2017 Report to the CEDAW Committee. In that document, it outlined in three paragraphs information that it considered to be responsive to the question addressed to it by the Committee:

Par. 105: Industries and enterprises in Luxembourg are governed by its Labour Code;
Par. 106: Persons affected by enterprises or companies located in Luxembourg can file complaints with the Ministry of Economy National Focal Point for implementing OECD Guidelines for Multinational Enterprises, and the establishment of an Interministerial Monitoring Committee in underway; and
Par. 107: The Government initiated the drafting of a national action plan on business and human rights based on the guiding principles of the United National adopted by the General Assembly in 2011, and had given notice of 'launch of this work' to United Nations Working Group on Business and Human Rights.[8]

Consistent the CEDAW Committee's recommendation to Switzerland regarding Article 2 and the Committee's 2010 General Recommendation No. 28 on the Core Obligations of States Parties, this memorandum outlines information suggesting that Luxembourg should receive recommendations similar to those made to Switzerland, but adapted to the specificities of Luxembourg law, to take the following steps:

> **Undertake independent, participatory, and periodic impact assessments of the domestic and extraterritorial effects of its tax and financial secrecy policies on women's rights and substantive equality, conducted impartially, with full public disclosure of all methodologies and findings, and at the same time strengthen all trade, investment, taxation, corporate and trust registration and disclosure regulations, and gender equality laws and policies affecting all women affected nationally and transnationally by its financial and tax regimes and practice.[9]**

We respectfully recommend that Luxembourg be asked these questions in its review:

1. Given widespread publication of information on tax avoidance and illicit financial flows involving developing countries, does Luxembourg intend to undertake a rigorous and independent study of how its own financial and tax laws promote those tax abuses, and commit to steps to ensure that national budgets are adequate to fulfill its obligations to women's human and gender equality rights domestically and overseas?
2. Is the State party of the opinion that its Labour Code applies fully to Luxembourg registered companies, trusts, and other entities carrying out operations abroad as well as domestically, and protects women from violations of all environmental, labour, human rights, and gender equality standards at home and abroad?
3. What guidelines has the Interministerial Monitoring Committee established for complaints relating to the gender impact of special tax laws and rates applied to revenues arising from multinational operations of Luxembourg-registered companies as they affect women's rights in Luxembourg and other countries, particularly in low income regions?
4. When can the Committee be provided with a detailed update on the status of this national action plan, completion dates, copies of all interim reports, and copies of any draft plans developed to date together with a schedule of consultations and steps to implementation?

II INADEQUATE GOVERNMENT REVENUES UNDERMINE WOMEN'S RIGHTS AND SUBSTANTIVE GENDER EQUALITY

All State parties to CEDAW require sufficient public funding to realize women's human rights and rights to substantive gender equality. Revenue shortfalls shrink public budgets for government programs ranging from health, education, and workplace programs to income support and poverty reduction initiatives. When revenue shortfalls result in spending cuts, they increasingly tend to disproportionately affect low-income populations, which are predominantly comprised of women.[10] In addition, such reductions in revenues lead to chronic under-funding of key institutions and programs that promote substantive gender equality and combat gender-based violence. Further, inadequate revenues reduce State capabilities of advancing women's rights to adequate and gender equal healthcare, paid work, childcare, eldercare, and political voice.[11]

When governments fail to make adequate and effective services available and accessible to all, women are often left with inadequate incomes and resources, and in addition have to fill these gaps with their own unpaid work. This additional burden on women further entrenches gender inequalities by preventing women from attaining economic security over the life course, and often only partially meeting their own economic needs through disproportionate reliance on part-time, underpaid, and precarious work.[12]

These inequalities are further aggravated when States, in an attempt to make up for revenue shortfalls, increase easily administered but regressive taxes such as consumption or value-added taxes on basic goods and services, which disproportionately reduce women's already-lower incomes to a greater extent than they do men's aftertax incomes.[13]

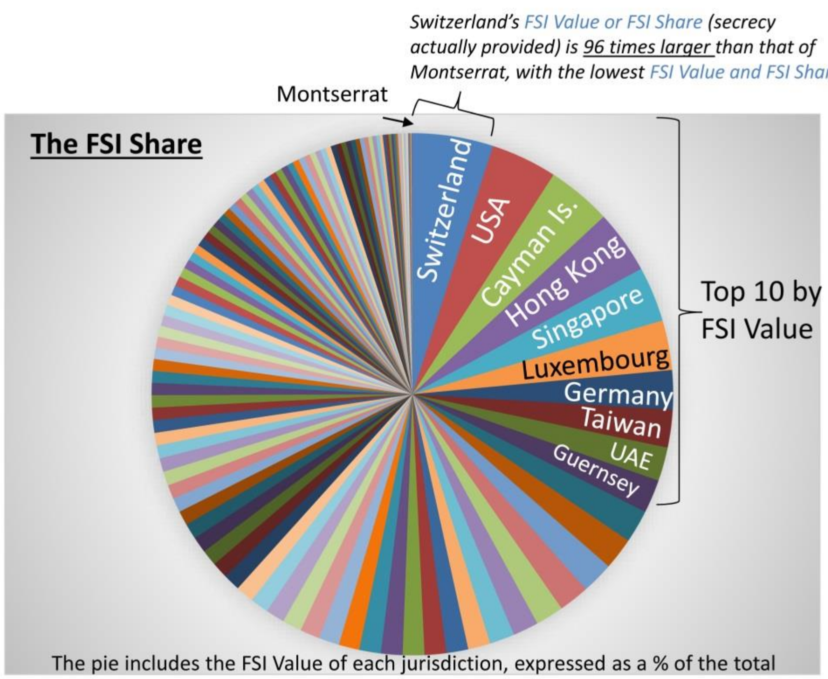
A Luxembourg's Tax Policies and Secrecy Facilitate Large Scale Multinational Tax Abuses

Luxembourg is ranked sixth in the Financial Secrecy Index 2018[14] -- up from its prior ranking of seventh -- because of the massive size and financial impact of the tax avoidance services it offers to some of the world's largest multinational corporations. Examples of how these services are tailored to reduce multinational business and investment taxes as fully as possible abound.

Despite making huge profits, since Luxembourg issued two consecutive tax rulings in its favour in 2009, **McDonald's** Europe Franchising has not paid any corporate tax on royalties in Luxembourg.[15] These royalties are paid by franchisees in Europe and Russia for the right to use McDonald's brand and associated services. The royalties are internally transferred from the Luxembourg branch to the US branch. Due to the Luxembourg-US Double Taxation Treaty, Luxembourg has exempted McDonald's from paying any tax in Luxembourg because profits accrued by the US branch are subjected to taxation in the US. However, under the US tax rules, the US branch is structured so that in US tax law, it is not considered to conduct enough business or trade in the US to constitute sufficient presence in the US to be liable for US taxation.[16] Thus, despite knowing that McDonald's will not be subjected to taxation in the US, the Luxembourg government has permitted McDonald's to escape taxation in Luxembourg.

Tax rulings issued to **GDF Suez** Group (Engine) treated the same financial transactions between GDF Suez companies as both debt and equity instruments, resulting in significant reductions in their taxable incomes.[17] In Luxembourg, interest payments are tax deductible and income from equity investments is not taxable. In 2009, LNG Luxembourg (lender) granted a convertible loan to GDF Suez LNG Supply (borrower), which deducted the interest payments of the transactions as expenses and substantially reduced its taxable income. At the same time, the lender converted its loan to equity, which eliminated taxes on its profits because they were then treated as nontaxable dividends.[18] According to the EU State Aid rules, Luxembourg gave GDF Suez an illegal tax benefit not available to other companies there.

COMPARING JURISDICTION'S FSI VALUE



The **Finnish construction firm SRV** built shopping malls and business centers in Russia through subsidiaries in Luxembourg and Cyprus. Cyprus has very favourable tax agreements with Russia that allow all the income to come out tax free. In order to bring profits tax-free from Cyprus to Finland, SRV incorporated a subsidiary in Luxembourg. SRV received favourable tax arrangements from Luxembourg which permitted SRV to bring its profits back to Finland without any tax.[19]

Walt Disney Co. is divided into 24 global subsidiaries that funnel profits from high-tax rate countries in which they operate to tax havens like Luxembourg. This was accomplished through flowing income through countries such as Luxembourg, with tax rates close to zero, and reporting major losses in high tax rate countries. A Disney subsidiary based in Luxembourg loaned money to subsidiaries in the high corporate tax rate countries of France, Germany, and the US. The borrower company paid high levels of interest to the Luxembourg subsidiary, which drained profits from its tax returns in those countries. In 2013, Disney's Luxembourg finance company, Wedco Participants SCA, reported profits of over €1 billion, but only paid €2.8 million in Luxembourg income taxes – an effective tax rate that is barely 1%.[20]

Invista BV, subsidiary of Koch Industries, evaded taxation in the US using a 26-step restructuring of its corporation to centralise its cash flow in Luxembourg and pay down debt. This was accomplished in complex security exchanges in which the various subsidiaries of Invista first made loans to each other, converting shares to debt and sometimes dissolving their firms. Then loans were passed from company to company until a US-based subsidiary became 'both the debtor and creditor of the same debt' and then cancelled that debt. Arteva Europe subsequently managed Invista's European financial flows through Luxembourg. Between 2010 and 2013, the company profits amounted to $269 million while paying only $6.4 million in taxes – an effective tax rate of 2.4%.[21]

B Luxembourg: Structure of Amazon's €250 million Tax Benefits

Luxembourg granted illegal tax benefits to Amazon amounting to approximately € 250 million.[3] Without a justifiable reason for doing so, EU State Aid rules prohibit member States from giving selective tax benefits to multinational groups not available to other companies that are subject to the same national tax rules.[22] In the name of royalty payments, Luxembourg government tax rulings permitted Amazon to shift a significant portion of its profits from Amazon EU to Amazon Europe Holding Technologies for use of exclusive rights to Amazon's intellectual property.[23] This was beneficial for Amazon, because Amazon Europe Holding Technologies is a limited partnership that is not subject to corporate taxation in Luxembourg.[24]

Source: European Commission (2017). Luxembourg's selective tax benefits to Amazon are illegal. Retrieved January 25, 2018 from http://europa.eu/rapid/press-release_IP-17-3701_en.htm.

This arrangement is contrary to EU State Aid rules because the transaction between these two companies does not reflect economic reality, but nonetheless allowed Amazon to pay substantially less in Luxembourg taxes than other companies registered in Luxembourg. The transaction does not reflect economic reality because the arrangement is not in line with commercially reasonable terms and conditions in agreements between independent businesses.[25]

Specifically, Amazon Europe Holding Technologies does not perform any business activities or help develop Amazon EU in any significant way to warrant such high royalty payments. The royalty payments exceed 90% of Amazon EU's operating profits, and are calculated at a rate that is significantly higher than what the holding company is required to pay to the US under the cost-sharing agreement as a contribution to the development of its intellectual property. As a result, Luxembourg allows Amazon to attribute 75% of its profits to Amazon Europe Holding Technologies, where those profits are then not subject to the payment of taxes to Luxembourg. Such treatment is against the policy of EU State Aid.[26]

Amazon's Business Structure in Europe – Designed to Evade Taxation

Amazon EU and Amazon Europe Holding Technologies are two Luxembourg-incorporated companies owned by the Amazon group and controlled by the US parent, Amazon.com, Inc.

Amazon EU is the operating company that conducts all of Amazon's retail business in Europe. It is an active business operation that is carried out by 500 employees who are responsible for selecting goods for sale, purchasing them from manufacturers, and managing online sales and deliveries of products to customers. Amazon's sale operations in Europe are structured in such a way that customers purchasing products from any of Amazon websites in Europe are contractually buying products from the operating company located in Luxembourg. As a result, all Amazon sales and profits are recorded in Luxembourg.

Amazon Europe Holding Technologies is a holding entity that is legally formed as a limited partnership that has no employees, offices, or actual business activities. Under the 'cost-sharing agreement' with the Amazon in the US, it holds Amazon's intellectual property rights for Europe. The holding company grants exclusive licences to this intellectual property to the operating company. Pursuant to the cost-sharing agreement, the holding company annually pays Amazon in the US for the costs of developing intellectual property.

Under Luxembourg's general tax laws, a limited partnership is not subject to corporate taxation. Thus, the holding company is only taxed at the level of the actual partners. Because the partners are located in the US, their tax liability is therefore deferred.

Source: European Commission, *State aid: Commission finds Luxembourg gave illegal tax benefits to Amazon worth around €250 million*, Europa.eu, Oct. 4, 2017, europa.eu/rapid/press-release_IP-17-3701_en.htm

III LUXEMBOURG'S MULTINATIONAL AND DOMESTIC TAX RULES VIOLATE WOMEN'S HUMAN AND EQUALITY RIGHTS

Globally, the average gender pay gap is 24%. This is due to a great extent to women's unpaid work burdens: Globally, women spend on average 250% more time in unpaid work than men,[27] literally leaving women with much less time and energy for paid work than men.

Even if women were to have equal time available for paid work, however, longstanding pay inequalities still ensure that women will still have significantly lower annual incomes. For example, the ratio of male to female average earnings in Canada 2016 was 1.6:1 – which means that in the aggregate, women still earn on average just 63% what men earn in a year.[28] Despite advances in education and political representation, similar income gaps around the world keep women economically disadvantaged.[29] And even women who have equal wages still have to pay for childcare and household services that free their time from unpaid work responsibilities, costs typically not borne by many men. Lower revenues mean fewer public services women need.

Economic gender gaps are not closing – they are actually increasing in size. In its 2016 Global Gender Gap report, the World Economic Forum estimated that overall global gender gaps would be closed in 83 years; in its 2017 report, that estimate is now 100 years. The most intractable of the gender gaps are economic; the WEF estimated in 2017 that global economic gender gaps will not be closed for another 217 years.[30]

Three dynamics drive the widening of economic gender gaps:

- **Widespread 'tax shifts' toward greater use of regressive VAT, consumption, and small business taxes to raise domestic revenues, and reduced use of progressive personal and corporate income taxes:** This shift reduces taxes paid by the wealthy and at the same time increases tax shares paid by those with low and moderate wages and profits – income ranges where women are overrepresented.

- **Capital flight from countries with higher overall tax rates to those with lower rates -- combined with cross-border tax competition, tax havens, tax avoidance mechanisms, and tax incentive programs:** This trend shifts more business and investment revenues and wealth into countries that offer lower tax rates; because worldwide, women only own interests in 34% of all companies, the overwhelming preponderance of these massive types of tax reductions go to men.[31]

- **Highly developed and developing countries alike are establishing growing numbers of special economic zones (SEZs) that create business and investment tax havens within their own borders:** This trend leaves larger shares of total revenues to be paid by labourers working inside or outside those SEZs, of which growing numbers are women.

This section illustrates these dynamics by tracing the gender effects of (A) IKEA's flight from high taxes in Sweden to (B) use Luxembourg and other EU tax havens to stockpile wealth at zero or very low tax rates and (C) employ growing numbers of poorly paid women in developing country SEZs in order to optimize profits accumulating in Luxembourg and other tax havens.

A Domestic Detaxation: IKEA's Capital Flight from Swedish Taxes led it to Avoid Taxes in Luxembourg and Tax Harm to Swedish Women

Sweden began to build its well-known welfare state in the early 1900s by increasing the total amounts of taxes it imposed on labour incomes. By 1981, the combined top tax rate on individuals with the very highest incomes came to 86%,[32] and, in 1989, corporate income tax rates peaked at 60.1%.[33] Rates for those with low and moderate incomes also became some of the highest in the world, ranging from 50% for those with low incomes (peak in 1989) to 62% for average incomes (1974) and 82% for high incomes (1981).[34]

These revenues fueled the development of an expansive system of public services that placed Sweden at the very top of the early editions of the UN Human Development Index.

Ingvar Kamprad founded IKEA in 1943 in Sweden. In 1973, although the Swedish government had already begun to work on cutting its already high personal income tax rates in 1971, Kamprad took up residence in Switzerland to take advantage of much lower tax rates there.[35]

By 1991, Sweden began a long process of systematic detaxation, cutting corporate and personal income tax rates to their now current levels of 22% and 51.5-61.4%, and raising social security and consumption taxes to 25% and 39%.[36] During this period, social welfare spending began to fall, leading many to consider public spending to be far from adequate in Sweden now.

Despite Sweden's massive detaxation program, Kamprad stayed in Switzerland, and spent his career assembling an extremely low-tax set of business arrangements elsewhere in the EU. Kamprad did return to live and pay taxes in Sweden again in 2014, but left most of his huge wealth in tax havens. In 2014, his effective Swedish income tax rate appeared to be about 33% of his reported income of 17.7 million Swedish kroner (approximately $2 million).

In 2015, IKEA's total annual revenues – by then, some 31.9 billion euros ($37.5 billion) – continued to be taxed in low tax jurisdictions featuring Luxembourg and Dutch holding companies, Lichtenstein and Dutch charitable foundations, and outsourced supply operations in low income countries,[37] most of which appear to be located in zero or low tax SEZs.

Even at Sweden's now-reduced corporate income tax rates, the revenue lost to Sweden as the result of the permanent expatriation of most of IKEA's assets and revenues to EU tax havens continues to amount to billions of euros annually. With IKEA's net income estimated at 4 billion euros in 2016, Sweden could have received 8.8 million euros in revenue from IKEA's businesses in that one year alone. Projecting Swedish revenue losses back to 1973, Kamprad's capital flight cost Swedes a staggering amount of total government revenues over his 40 year absence.

The departure of IKEA operations from Sweden has to be implicated in the deterioration of the social welfare system in Sweden, and thus in the gradual erosion of Swedish women's high levels of gender equality as compared with all other women in the world. Between 1995 and 2014, Sweden's tax ratio fell by nearly 3% of GDP; during the same period of time, its ranking on the UN Human Development Index fell from 10 to 14, and its ranking in the UN Gender Development Index fell from 3 to 6 as care and other government programs were cut over time.

B Luxembourg's Detaxation Programs feature Tax Haven Laws –

Undercutting progress in gender equality, but enriching IKEA

At first glance, Luxembourg does not appear to have been an obvious tax haven. The all-time top corporate income tax rate in Luxembourg was 40.29% (1995), and by 2016, as the result of its own detaxation program, was still at 29.22%.[38] If those rates had been payable by IKEA over that period of time, then, assuming 4 billion euros taxable profits each year, Luxembourg would have received 1.6 billion euros in taxes at the 1995 rate of 40.29%; 1.17 billion euros at the 2016 rate of 29.22%; and, looking ahead to the most recent tax cuts, 72 billion euros in 2018.[39]

In fact, however, IKEA was never subject to Luxembourg's ordinary corporate income tax laws. The complex tax avoidance and minimization plan that IKEA set up in the early 1980's took advantage of unique flow through Luxembourg tax rules combined with other schemes in neighboring countries to tax IKEA revenues at zero to low tax rates for nearly 40 years.

In the 1980s, IKEA transferred nearly 90% of all its retail operations to INGKA Holding, a Netherlands operating company, and gave control of INGKA Holding to Stichting INGKA Foundation, a charitable foundation also registered in the Netherlands. At the present time, this may be the largest charitable foundation in the world, outstripping even the Gates Foundation.[40] It recently lost its charitable status, but has been permitted since then to operate as a not-for-profit foundation paying taxes at a maximum rate of 3.5% on taxable incomes.

Shortly after setting up the INGKA companies, IKEA transferred ownership of the Dutch Inter IKEA Systems, which held title to all the IKEA franchise and trademark rights, to Inter IKEA Holding in Luxembourg, and gave ownership of that company to Interogo Foundation, a charitable foundation registered in Lichtenstein. Since that time, Inter IKEA Holding and thus Interogo have received 3% of all annual IKEA revenues as royalties, and, by 2006, Interogo had accumulated total aftertax revenues of $15 billion.

The special Luxembourg rules that IKEA took advantage of have also been used extensively by other large multinational business operations, turning this aspect of the Luxembourg corporate tax code into a tool for massive domestic detaxation. As of 2014, eight of the largest US and EU MNCs used similar Luxembourg conduits to reduce or avoid paying tax on annual revenues that totalled $510.5 billion in that year alone. Without knowing what tax rates, if any, were actually paid on any of those revenues in that year, it is difficult to estimate what the total revenue lost to Luxembourg was in that year. But even if all were taxed at a maximum not-for-profit rate of 3.5%, those MNCs would still have avoided paying 25.72% of the then 29.22% domestic CIT rate, producing domestic revenues of approximately $131 billion.[41]

Not surprisingly, women in Luxembourg face significantly higher levels of economic inequality than women living in countries that have more robust tax revenues and levels of social spending. Luxembourg was ranked at just 20th in the UN Human Development Index in 2016, and is at best ranked 50th on the UN Gender Development Index. Although Luxembourg is classified as a very highly developed country in these UN indices, it actually ranked lower than Rwanda, a small low income country, in the new ranking system introduced in the 2016 GDI index.

Additional CIT revenues in Luxembourg from large MNCs like IKEA could have been used to radically transform the status of women over the last four decades. At present, women's labour force participation rates in Luxembourg are nearly 14% lower than men's; women there have some of the highest levels of part-time work in the EU, due mainly to lack of affordable care resources needed to free them to earn fulltime incomes; and the country falls in the bottom one-third of EU countries in terms of women's high levels of unemployment, low levels of political representation, and very low levels of pension coverage and incomes as compared with men.

Luxembourg's own use of extreme detaxation to benefit the owners of some of the largest MNCs in the world is clearly depriving that society of revenues capably of securing the attainment of gender equality in that country. Its tax haven rules impose fiscal harm on women in Sweden, and on women who live in other countries whose business owners use Luxembourg's tax haven facilities, and on all women who actually live in Luxembourg.

Luxembourg governments appear to take the fiscal policy preferences of businesses that have no actual physical presence in Luxembourg far more seriously than they take the needs of women who live in Luxembourg or in its client MNCs' countries. Yes, these tax haven rules do generate services revenues and small fees, but priorizing non-resident MNC needs over obligations to protect women's human and gender equality rights is gender discrimination on both the domestic and the global levels.

C Luxembourg's Tax Rules Reward Multinational use of Tax Exempt SEZs to Exploit Millions of Women Workers in Global Supply Chains

IKEA's low-taxpaying regime is completed by making sure that manufacturing and processing operations are carried out at the lowest possible costs. There are two facets to this business plan. First, labour continues to be cheaper in low income and developing countries than in those at higher levels of development, so IKEA supply chains are heavily focused in locations that have plentiful cheap labour and weak revenue systems. Second, suppliers located in the growing number of special economic zones (SEZs) offer virtually tax and duty free locations and even fewer workplace regulations than the host country might apply outside its SEZs. Thus IKEA has made extensive use of suppliers operating in these in-country tax-free zones.

Large numbers of SEZs have been established in the EU and the US, but substantial numbers of IKEA suppliers are also located in China and other Asian SEZs. Most recently, IKEA has been investigating South Africa's planned industrial development zone, where labour is even cheaper, and India's production zones, where skilled and low-cost labour is plentiful.

SEZs do differ from tax havens in that they are expressly designed to promote economic development in low income regions. The expectation is that SEZs will employ large numbers of local residents, who will gain new skills, pay more taxes on their increased levels of income and consumption, and thus justify the costs of setting up SEZs. However, the trade-offs between increased employment opportunities for local workers versus the lack of revenues from the growing number of business operations located in SEZs do not always in the long term improve overall levels of development if SEZs are not able to attract permanent business establishments.

The tax and regulatory regimes provided by SEZs are extensive. As outlined in the box relating to Bangladesh, SEZs and other economic, export, and industrial zones tend to grant either permanent tax holidays for operations within their boundaries or grant blanket tax exemptions for periods that may range from 5 to 20 years per operation.

Tax Exemptions in Bangladesh SEZs[42]

- 10-year tax holidays
- 5 additional years at 50% tax exemption
- Duty-free import of raw materials
- Duty-free export of finished goods
- Duty-free import of construction materials, equipment, and machinery
- Relief from double taxation
- Exemption from dividend taxes
- Duty-free import of three vehicles
- 3-year exemption from income taxes
- Accelerated tax depreciation
- Remittance of royalty and service fees
- Full repatriation of capital and dividends

Unfortunately, the mobility of many MNC operations ensures that once limited-term tax exemptions expire, operations may move to new SEZ locations. Such appears to be what may happen to many of the IKEA supply operations currently located in Chinese SEZs; IKEA has expressed considerable interest in India as it has developed its own extensive SEZ program, and has at the same time expressed growing discomfort at increasing regulation in Chinese SEZs.

Historically, up to 90% of SEZ employees have been women, precisely because longstanding gender wage gaps have made it more profitable to employ them instead of men. As of 2006, 66 million workers were employed by SEZs in 130 countries, with more being added each year as the numbers and locations of SEZs have continued to increase.[43]

The negative gender effects of SEZs arise out of the direct loss of tax revenues due to the virtually blanket tax exemptions offered to major foreign business operations located in SEZs, the usually weak regulatory workplace conditions associated with low-skill manufacturing zones, and the impact of SEZs on the allocation of tax revenues, which fall on workers both inside and outside SEZs but do not fall at all on businesses operating inside SEZs.

The **revenue losses associated with SEZs** are substantial. It is impossible to estimate foregone revenues without data from the tax returns filed by SEZ businesses themselves, but estimates of income tax revenues foregone in South America are in the range of 0.5 to 6% of GDP.[44] Multiple

SEZ tax exemptions increase privatized corporate profits, but these profits accrue mainly to shareholders of overseas corporations, not to the host country, because SEZs appeal to MNCs seeking lucrative FDI investment opportunities.[45]

Many SEZs are **exempt from national or regional employment standards regulations and worker protection laws**, and, even as SEZ regulations have been improved in recent years, an estimated 28% of workers in SEZs have less protection in terms of overtime, leave, occupational safety, temporary contracts, or retirement security than under domestic laws.

Lack of employment equity and equal pay laws leave women working in SEZs in a two-way bind. Initially hired specifically because their labour is cheaper than men's, women may nonetheless earn more in SEZs than in the domestic economy. But as gender wage gaps have begun to shrink in some regions, often accompanied by upskilling of production methods, women find that as their pay become less unequal, they are at higher risk of being replaced by male workers. In recent years, **SEZ labour markets are increasingly being 'defeminized' as more men are now being hired for wages not much higher than those paid to women**, because greater value is often placed on men in those contexts.[46] This is of course sex discrimination in paid work, but weak human rights and workplace gender equality laws make it difficult to obtain remedies.

At the same time, host countries have few resources to meet the many social and development needs arising outside the SEZs due to their presence. **Local resources are heavily burdened when employers relocate to more attractive SEZs or workers become unable to work due to uninsured events.** The extensive use of tax exemptions, holidays, and incentives mean that host countries do not have revenue levels that enable them to invest in workplace policies. Older SEZs laws have denied workers the right to join unions, so most workers lack access to contributory or private remedies for workplace injuries, illness, or termination. In addition, the export focus of many SEZs ensures that in the absence of special local market rights, the low-cost goods produced in SEZs will be too costly for host country residents to purchase, so that, in addition to having to pay income taxes to their national governments for wages paid by tax exempt employers, they often have to also pay VAT on goods produced in their own SEZs and offered for sale in local markets.

Focusing specifically on IKEA's use of SEZs in low income countries, the record is particularly concerning from the perspective of women's empowerment. IKEA has impressive corporate workplace, development, and environmental sustainability policies, but the use of large numbers of widely dispersed and multistage supply chains means that local norms combined with lack of supervisory resources can result in significant disconnects between stated policies and workplace realities.

At one extreme, IKEA appears to have contracted for fabric products to be manufactured by women workers employed in the Bangladesh Dhaka industrial zone Tazreen Fashion factory. In a 2012 fire in that factory, over 100 workers were killed, and many more were injured. IKEA was listed on the website of the owner of the factory, Tuba Group.[47] IKEA advised that none of its work was being done at that factory at the time.

However, interest in the wellbeing of workers in IKEA supply chains operating in Bangladesh predated the Tazreen Fashion factory fire, leading to detailed surveys by civil society researcher of seven IKEA factories, four in Bangladesh and three in Vietnam. The report found that Vietnam suppliers were on the whole in compliance with IKEA's workplace policies in 2006 and had actually improved compliance when compared with a 2002 survey of the same factories.[48] Nonetheless, it was clear that IKEA still did use Vietnam suppliers that were still violating basic human and worker rights outlined in IKEA's procurement policies.

However, with respect to the Bangladesh factories, the authors concluded that "The results for the four factories in Bangladesh…can be considered very disturbing as all factories violated IKEA's code of conduct on a large scale," and that workers were even fearful of being seen talking to the researchers or outsiders.[49]

The violations found in the Bangladesh factories were numerous: Piece wage workers were paid solely on the basis of the number of pieces produced, and thus were not entitled to overtime even when working 12 or more hours per day; they were subjected to gradually falling piece rates, forcing them to work faster to maintain their income levels over time; piece workers were largely women, and were not allowed to leave the factory without permission, even if working too long; workers were paid monthly, and overtime was always paid late, sometimes by several months; late pay meant losing housing for lack of rent, lack of food, and lack of enough money to send dependents; illness and absence resulted in fines; workers received no paid holidays or maternity leave; working conditions were not safe; women did not qualify for higher paid positions; and employment was not documented.[50]

While it is clear that IKEA suppliers have varied in their compliance with IKEA supplier policies, what is of concern, based just on the limited information available regarding this one well-regarded company, is that millions of 'hidden' women workers are at risk of similar or possibly even worse violations of their human and workplace rights as the result of almost exclusive focus on keeping supply costs down and keeping both pre-tax and after-tax net profits as high as possible at all times.

For example, a 2016 ITUC study of the eight largest MNCs using Luxembourg as part of their global operations found that not only did seven of these MNCs have a total of $287 billion permanently invested on a no- or low-taxed basis in Luxembourg, but that all eight of these MNCs had a total of 31.6 million 'hidden' workers located in overseas supply chains.[51] It is likely that women form the largest majority of these workers, and it is likely that if it were possible to trace the true causes of these MNCs massive privatized tax exempt wealth, it would be found to be predominantly dependent upon the tax exemption of the business profits of the SEZ labour of these hidden workers.

Whistleblowers should not be Prosecuted

Under the CEDAW, all parties to the Convention are required to allocate resources to bring about gender equality and help realize women rights in their respective states. What is more, member States must also aim to aid other member states in fulfilling their mandate under the treaty. Therefore, in order to bring about more awareness among public regarding vast tax avoidance strategies used by multinational corporations, it is important that whistleblowers be free to reveal and explain massive tax avoidance arrangements and their impact on ordinary citizens – including women -- using all means possible. There should be no prosecution for such whistleblowers, because such prosecution will only further encourage businesses and investors seeking to avoid their fair shares of taxes to continue escaping their tax obligations, and to back up their rights to secrecy and undertaxation with threats of prosecution to intimidate those who might have information important to public discourses.

Antoine Deltour revealed thousands of documents that shed light on generous tax breaks given by Luxembourg to multinational corporations such as Apple, IKEA, and Pepsi. Luxembourg's highest court rejected his conviction. However, the conviction of his colleague Raphael Halet was upheld. The 'LuxLeaks' erupted in 2014 and led to major global public attention to and debate over tax avoidance deals given to multinationals. Based on these findings, it can be concluded that whistleblower should not be prosecuted because they have now become crucial to revealing the realities of corporate tax avoidance crisis and providing information that ensures that elected officials and members of the public have accurate information on what specific tax policies mean for the majority of the population.

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Conclusions

Calibrating the actual gender impact of corporate and investment tax havens, tax avoidance, tax fraud, illicit financial flows, and corporate business practices is far from being complete at the present time. However, it is clear that countries that provide legal tax avoidance and tax haven shelters on the industrial scale of Luxembourg and other EU countries harm women on the same global scale as the MNC operations their tax-exempt laws support:

- Tax shelter laws harm women in countries that lose domestic tax revenues when local businesses are able to relocate to tax shelter countries;
- Tax shelter laws harm women living in tax shelter countries, by treating the fiscal needs of MNCs and wealthy investors as being more compelling than those of the women and all who need good governance, effective public programs, and revenues adequate to secure women's rights and substantive gender equality; and
- Tax shelter laws harm women in virtually all regions of the world as they reward MNCs in legal tax havens to seek out the most vulnerable workers to work for the lowest possible pay under the least decent and sustainable working conditions in countries that also offer them further tax exemptions for active business operations inside their own borders.

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