FACTCOALITION
Financial Accountability & Corporate Transparency

How Multinational Corporate Tax Transparency Can Help Tax Administration and Enforcement in the Global South

FACTCOALITION

1100 13th Street, NW, Suite 800 | Washington, DC | 20005 | USA
www.thefactcoalition.org

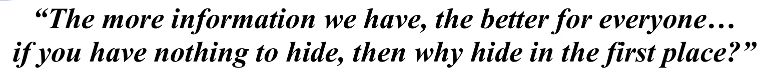
This report was written by Gabriel Aliu, an experienced Nigerian and U.S. tax lawyer and a 2023 FACT Policy Fellow. He holds a Master of Laws-LMM, International Tax Law, from the University of Florida and a Bachelor of Laws degree from the University of Lagos. He has held positions with Ernst & Young and Olaniwun Ajayi LP in Nigeria. This report also benefited from a review and feedback from experts at the Tax Justice Network-Africa and FACT Coalition staff members.

The recommendations and views expressed in this report are strictly those of the FACT secretariat and do not necessarily reflect the views of our funders or coalition members.

Founded in 2011, the Financial Accountability and Corporate Transparency (FACT) Coalition is a non-partisan alliance of more than 100 state, national, and international organizations working toward a fair tax system that addresses the challenges of a global economy and promotes policies to combat the harmful impacts of corrupt financial practices. More information about the Coalition can be found on the FACT Coalition website at www.thefactcoalition.org.

Cover image: Shutterstock

Copyright © 2024 The FACT Coalition. Some Rights Reserved.
This work is licensed under the Creative Commons Attribution 4.0 International License. To view a copy of this license, visit http:// creativecommons.org/licenses/by/4.0/ or send a letter to Creative Commons, PO Box 1866, Mountain View, CA 94042, U.S.A.



"The more information we have, the better for everyone…
if you have nothing to hide, then why hide in the first place?"

Taiwo Oyedele, Chairman, Nigeria's Presidential Fiscal Policy and Tax Reforms Committee, referring to public country-by-country reporting during his presentation at the UNDP Tax for SDG public dialogue in November 2023

Executive Summary

Over the last few years, there has been unprecedented momentum for increased cooperation to reform the global taxation system, end illicit financial flows, and curb multinational corporate tax avoidance and evasion. Global South countries, in particular, require additional revenues to meet the Sustainable Development Goals, to provide public services, to service and reduce debt burdens, and to address the climate crisis.

The OECD estimates that global tax losses from base erosion and profit shifting (BEPS) by multinational corporations are $100-$240 billion annually. The EU Tax Observatory notes that countries in Sub-Saharan Africa, Latin America and the Caribbean, and South Asia are the most impacted by tax avoidance strategies by multinational companies, including profit-shifting activities, as a percentage of GDP.

This report draws on interviews conducted with Global South tax officials and other experts in 2023, as well as desk research, to describe how improved multinational corporate tax transparency, in the form of "public country-by-country reporting" (public CbCR), can help tax authorities in the Global South. **Greater tax transparency can increase tax revenues by deterring tax avoidance by multinational corporations and providing tax authorities with actionable information for tax enforcement purposes.** The existing Organization for Economic Cooperation and Development's (OECD) regime of sharing confidential Country-by-Country Reporting (CbCR) reports shuts out many Global South countries. True transparency would ensure actual and immediate access without barriers or other limitations to the use of information.

This report highlights the consequences of inadequate tax transparency for Global South economies, *particularly in Africa*, and the significant revenue losses suffered in part as a by-product of this lack of transparency.

- **Section One** summarizes the problems of tax avoidance, evasion, and illicit financial flows in the Global South and how tax secrecy contributes to these problems.
- **Section Two** provides a brief explanation of the OECD Action 13 (confidential CbCR) framework, its conditions for participation, and the barriers to full participation and increased transparency via the framework.
- **Section Three** highlights the issues with the OECD confidential CbCR framework, including specific problems faced by African nations.
- **Section Four** explains public CbCR and its advantages in comparison to the current OECD confidential CbCR regime.
- **Section Five** provides an overview of global momentum for public CbCR followed by recommendations to advance public CbCR to the benefit of Global South countries and other stakeholders.

Section One: Tax Avoidance, Evasion, and Illicit Financial Flows Drain Resources from the Global South

Economies in the Global South are facing enormous fiscal pressures, with mounting public debt, unfair international tax systems, and declining official development assistance all constraining government revenues. New demands to respond to the climate crisis have added to spending pressures. The need for vastly more resources to address these challenges, as signaled by the UN's upcoming 2025 "Financing for Development" summit, is clear. These resources can come from government tax revenues ("domestic resource mobilization"), international aid, private investment, remittances, and other sources.

The efficacy of domestic resource mobilization efforts is significantly affected by transparency, either its absence or abundance. According to the Financial Integrity for Sustainable Development Report of the High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (The FACTI Report) *"Illicit financial flows (IFFs) — from tax abuse, cross-border corruption, and transnational financial crime — drain resources from sustainable development. They worsen inequalities, fuel instability, undermine governance, and damage public trust. Ultimately, they contribute to States not being able to fulfill their human rights obligations."*

These problems are especially acute in Africa. In simple terms, Africa is losing too much revenue, and this is in part driven by a lack of effective multinational tax transparency. Opaque tax systems hamper the work of governments seeking to reduce tax avoidance and address tax evasion. As such, in addition to the efforts that need to be made by individual African nations toward improving domestic resource mobilization and ensuring the efficient operation of the economy, more attention must be given to tax transparency as a revenue-raising tool.

Illicit financial flows (IFFs) — from tax abuse, cross-border corruption, and transnational financial crime — drain resources from sustainable development.
UN FACTI Report

Currently, certain tax and financial information is exchanged confidentially under the auspices of the OECD, under systems known as "Exchange of Information on Request" (EOIR) and the "Automatic Exchange of Information" for financial accounts (AEOI). These systems are focused on exchanging information including financial account information and information on "beneficial owners" of certain assets, companies, and accounts. The strengths and weaknesses of these systems and their usefulness for Global South countries are not the subject of this report.[1] Rather, this brief focuses on the OECD's confidential CbCR system established under BEPS Action 13. According to the OECD, "under BEPS (Base Erosion and Profit Shifting) Action 13, all large multinational enterprises (MNEs) are required to prepare a country-by-country (CbC) report with aggregate data on the global allocation of income, profit, taxes paid and economic activity among tax jurisdictions in which they operate. This CbC report is shared with tax administrations in these jurisdictions for use in high level transfer pricing and BEPS risk assessments."

[1] Efforts to increase transparency of *individual* taxpayer information, and increase international tax cooperation to exchange taxpayer information automatically and upon request, are reaping dividends. The 2024 "Tax Transparency in Africa" report from the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum), the African Union Commission and the African Tax Administration Forum, said that seven African countries gained $2.4 billion in increased revenue via tax enforcement efforts enabled by increased tax transparency.

A 2023 UN report highlighted that Global South countries largely lack access to these reports. For example, the U.S., home to the largest number of multinational corporations, automatically shares CbCR reports with just one African country – South Africa. While some African and least developed countries have signed onto the multilateral agreement for report exchange, *no least developed country receives reports*, and Kenya, Mauritius, Seychelles, Nigeria, and South Africa are the only African states with activated exchange relationships for CbCR that can currently receive some reports from other jurisdictions.[2] Thus, a majority of African countries remain outside of the CbCR information exchange circle, thus limiting their tax administrations' capacities to investigate and engage in enforcement activities against multinational enterprises.

The lack of adequate information access is unfortunate because it plays a role in the significant revenue losses suffered by African countries. In 2020, the United Nations Conference on Trade and Development (UNCTAD) estimated in its Economic Development for Africa Report that Africa loses $88.6 billion equivalent to 3.7% of Africa's GDP, annually from illicit financial flows (IFFs), which includes tax evasion, money laundering, and tax avoidance, and emphasized that curbing this phenomenon could halve Africa's Sustainable Development Goals (SDGs) financing gap, estimated at $200 billion per year[3]. The UN pegs the total cost to achieve the Sustainable Development Goals (SDGs) by 2030 in Africa at $1.3 trillion annually. The problem of IFFs and inadequate financial transparency are well-known and recognized. The United Nations General Assembly (UNGA) in its resolution 77/154 recognizes combating illicit financial flows as an essential development challenge. The commitment of UN member states include attempts to stem tax evasion, tax avoidance, base erosion, and profits shifting, as well as corruption and transnational organized crime, and to strengthen the recovery and return of stolen assets.

Africa loses $88.6 billion equivalent to 3.7% of Africa's GDP, annually from illicit financial flows (IFFs), which includes tax evasion, money laundering, and tax avoidance.
UNCTAD

As it relates to the impact of multinational entity (MNE) tax avoidance, the OECD estimates that global tax losses from Base Erosion and Profit Shifting (BEPS) are in the region of $100 to $240 billion annually. IMF staff research suggests even higher amounts indicating that countries in sub-Saharan Africa lose between $450 and $730 million yearly in corporate tax revenues because of profit shifting by multinational entities *in the mining sector alone*. According to research by the EU Tax Observatory, low- and lower middle-income countries lose the most corporate tax revenue both relative to their GDP and relative to their corporate and total tax revenue.

---

[2] As an additional wrinkle, the U.S. is not a party to the relevant OECD legal instrument for automatic exchange of CbCR data, which means that, even if African countries were to satisfy all of the OECD's conditions for participation in Action 13, it is likely that they would still be deprived of access to data on a large subset of multinational corporations due to non-cooperation by the U.S. FACT Coalition continues to urge the U.S. government to improve its international cooperation on tax transparency, including in particular with Global South countries.

[3] The UN Conceptual Framework for the Statistical Measurement of Illicit Financial Flows states: "Illicit financial flows are multi-dimensional, comprising several different kinds of activities, including flows originating from illicit activities, illicit transactions to transfer funds that have a licit origin, and flows stemming from licit activity being used in an illicit way. Not all IFFs stem from illegal activity. For example, the indicator includes aggressive tax avoidance as an illicit financial flow, as it can be considered detrimental to sustainable development in many countries, even though such activities are generally not illegal." https://www.unodc.org/documents/data-and-analysis/statistics/IFF/IFF_Conceptual_Framework_FINAL.pdf

In furtherance of this point, Luckystar Miyandazi, tax and domestic revenue mobilization adviser at the African Union Commission stated: "*We want to finance 75% of our development. [African Union] Commissioner Muchanga likes to say that 'development is DIY', and this is what Africa wants to do — we want to own our own development, we want to finance it. We have a very young, growing population. We want simplicity and stability of international financial rules. We need to close the loopholes. It is impacting our stability*."

For Africa, the implications of this problem are many: investment for economic growth continues to be underfunded, financing for infrastructure remains inadequate, and an acute sense of tax injustice discourages voluntary tax compliance and reduces tax morale, advantaging foreign multinational entities against their local equivalents.

Multinational entity tax avoidance and evasion are draining African nations of vital financial resources. Although tax transparency in the form of public CbCR would not extinguish these problems, it would be an important tool to diminish their impact and create options to address them.

Section Two: The OECD Confidential Country-by-Country Reporting System

The international community has made some progress toward improving multinational entity transparency by agreeing on the OECD's BEPS Action 13. However, while groundbreaking, the depth of this measure's impact is not uniform across the globe, given that it leaves out many jurisdictions with the most acute need for transparency.

Action 13 requires large MNEs to file a Country-by-Country report that includes information on the MNE's revenue, profit before tax, income taxes paid and accrued, information on the number of employees, stated capital, retained earnings, and tangible assets. MNEs are also required to identify each entity within their group doing business in a particular tax jurisdiction and also to include information on the business activity of each reported entity.

Under this regime, CbC reports are filed in the jurisdiction of tax residence of the ultimate parent entity (UPE) and shared between jurisdictions using government-to-government mechanisms such as the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, bilateral tax treaties or Tax Information Exchange Agreements (TIEAs). Local filing can be used as a backup. Action 13 applies to MNEs with annual consolidated group revenue of EUR 750 million or more.

These CbC reports provide tax authorities with helpful information to assess transfer pricing risks, determine where audit resources are best deployed, provide preliminary information for the commencement of audits, and highlight entities with the highest likelihood of profit-shifting activities. Indeed, countries generally agree that CbCR has the potential to foster transparency and consequently enhance the understanding, control, and curbing of base erosion and profit-shifting behavior of large multinationals.[4]

[4] Governments of G-8 and G-20 expressed support for CbCR when they mandated the OECD to produce a standard in 2013. G-8 Leaders Communique at Lough Erne (June18, 2013): "we support the OECD's work to tackle base erosion and profit shifting. We will work to create a common template for multinationals to report to tax authorities where they make their profits and pay their taxes across the world. We will support developing countries to collect the taxes owed them, with access to the global tax information they need." See also Tax Annex to the Saint

The OECD has been reviewing the ongoing implementation of Action 13 since 2020, but that review is still pending as of this writing.

OECD Conditions for Obtaining and Using CbC Reports

The OECD imposes seven conditions on countries participating in the CbCR regime: the requirement of domestic legislation; the introduction of exchange of information mechanisms; the implementation of Protocols to provide for automatic exchange of CbC Reports; the use of the CbC Report XML Schema; implementation of confidentiality requirements; consistency; and "appropriate use".

CbC reporting can undoubtedly provide very valuable information to developing countries. However, the mechanisms and conditions for access to CbC Reports (in relation to subsidiaries and permanent establishments of foreign MNEs) may be challenging for many developing countries.
The Platform for Collaboration on Tax

In relation to the confidentiality requirement, this involves the introduction and enforcement of legal protections for the confidentiality of reported information, including effective penalties for unauthorized use or disclosure of information and information security management systems.

In relation to the "appropriate use requirement", the OECD requires that the information aggregated from CbCR be used only for specific purposes. According to the OECD in its Handbook on Effective implementation of Action 13:

> "The information contained in a CbC Report can be used only for high-level transfer pricing risk assessment, the assessment of other BEPS-related risks, and, where appropriate, for economic and statistical analysis." The information cannot, under the minimum standard, be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and full comparability analysis. The information contained in a CbC Report cannot be used on its own, as conclusive evidence that transfer prices are, or are not, appropriate, or be used to make adjustments to the income of any taxpayer on the basis of an allocation formula. The standard also imposes an obligation on a jurisdiction that makes an adjustment to the income of any taxpayer in contravention of these conditions to promptly concede such adjustment in any competent authority proceedings. This does not imply, however, that jurisdictions would be prevented from using a CbC Report as a basis for making further inquiries into the transfer pricing arrangements within an MNE group or into other tax matters in the course of a tax audit".

Extent of Participation in the BEPS 13 CbCR Regime

The UN Secretary-General's 2023 report on "International Coordination and Cooperation to Combat Illicit Financial Flows" notes that there are 85 member states and 15 other jurisdictions participating in the multilateral agreement for exchanging reports as of June 2023 and that 3,489 exchange relationships had been activated as of December 2022. However, the UN report highlights the fact that Global South countries lack access to the reports. Specifically, **while some African and least developed countries have signed onto the multilateral agreement for report exchange, no least developed countries yet receive reports, and only five African countries are receiving any information through just 331 activated bilateral relationships.**

Petersburg G20 Leaders Declaration (September 5, 2013): "more transparency will be established, including through a common template for companies to report to tax administrations on their worldwide allocation of profits and tax."

In general, the seven conditions to gain access to OECD CbCR information are onerous for most Global South countries to achieve. According to the Platform for Collaboration on Tax, "these seven prerequisites to obtaining CbC Reports can be challenging for many Global South countries, which may not yet have the requisite exchange mechanisms in place. Even where they are in place, some Global South countries will face delays in entering the necessary protocols for the exchange of CbC Reports, and establishing the processes for ensuring consistency, appropriate use and confidentiality in practice. These factors may cause obstacles or delays for Global South countries in receiving CbC Reports." Even if these international organizations recommend a focus on ensuring that the relevant exchange of information mechanism is in place, this approach is impractical when countries like the United States with a significant proportion of MNE headquarters have not signed the convention and still have limited treaty networks with Global South nations.

Section Three: Problems with the Existing CbCR framework and Reasons for Limited African Participation

The lack of widespread participation of African and other Global South nations in the existing CbCR regime is not because of the absence of a need. Mr. Matthew Gbonjugbola, Coordinating Director of the Nigerian Federal Inland Revenue Service (FIRS), clearly outlined current data and transparency shortcomings in Africa during the UNDP Tax for SDGs public dialogue in November 2023:

> *"The use of technology and data is seen as one of the ways to overcome the issue of illicit financial flows for developing nations...* ***I have been a tax officer for almost three decades and I know the struggle we go through to get multinationals to provide basic data.*** *They just tell the tax authority that the information is at our headquarters and we don't have access to it. It is like talking to stone, and everything you say bounces back to you. That is where the issue of exchange of information, in my view, has failed. It is difficult. It took Nigeria almost 10 Years to put the infrastructure together*."

The lack of widespread participation in CbCR exchange, in other words, is a product of the many barriers that are inherent in the existing information exchange system. This section describes some of the barriers faced by African nations.

Limited Treaty Networks

As noted above, the United States is the headquarters of the largest number of multinational entities in the world, but only two African nation (Mauritius and South Africa) have bilateral agreement to exchange CbCR information with the US. Because the US is not a signatory to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI), even if African countries were to satisfy all the OECD's conditions for participation in Action 13, it is likely that they would still be deprived of access due to the non-cooperation of the United States.

Grace Perez Navarro, former chair of the OECD Centre for Tax Policy and Administration, drove this point home when she told FACT in an interview that:

> "*Around 23% of all country-by-country reports are filed by US multinationals. However, very few African countries have access to these reports because the US has not ratified the 2010 multilateral Convention on Mutual Administrative Assistance in Tax Matters, which has 147 participating jurisdictions, including 21 African countries. The US doesn't have any tax information exchange*

agreements with African countries and only has 4 tax treaties with African countries (Egypt, Morocco, South Africa, and Tunisia). This means that for those African countries with a lot of US multinational operations, there will be an important gap in the CBCR information received pursuant to information exchange arrangements. Of course, if the majority of the multinationals investing in a country are based in countries other than the US, then they will be getting CbCR information from the relevant countries through such arrangements."

Notably, in a further blow to the chances of exchange of CbCR information, the United States is the only G20 country that has not signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports. This means that even those Global South countries that have signed this agreement are unable to receive the country-level reports of the many U.S.-headquartered multinationals. This is concerning because, as noted above, the United States hosts the most multinational enterprise headquarters. Notably, the US has completed bilateral agreements with only 49 countries and 6 other jurisdictions, only two of which are African (Mauritius and South Africa), and none with least developed countries.

Technical Capacity Constraints

This issue garners attention from aid donors and other stakeholders, as it affects the ability of Global South nations to engage with CbCR information. Darlington Talery, Commissioner for Domestic Taxes in Liberia, told FACT Coalition researchers that the slow pace of implementation of CbCR in Liberia was because the nation "*faced institutional and technical capacity issues and the fast pace of the rules were too much for the jurisdiction to cope with*".

Around 23% of all country-by-country reports are filed by U.S. multinationals. However, very few African countries have access to these reports because the U.S. has not ratified the 2010 multilateral Convention on Mutual Administrative Assistance in Tax Matters...

Grace Perez Navarro, former chair of the OECD Centre for Tax Policy and Administration

Clearly, CbCR, like other advancements in international tax policy today, is heavily dependent on technical know-how. Given the technical capacity deficits in many African countries, this naturally puts them at a disadvantage. While this technical gap remains a significant hurdle for African tax authorities to access and use confidential CbCR reports, it is not insurmountable, and the OECD, the African Tax Administration Forum (ATAF) and others continue to make efforts to assist African nations to address it.

Confidentiality Requirements in Local Legislation

The OECD CbCR system requires governments to adopt confidentiality conditions in domestic law. Putting this in perspective, Chenai Mukumba, Director of the Tax Justice Network Africa told participants at the United Nations Development Programme (UNDP) 2023 Tax for SDGs program that "*to receive CbCR, tax authorities must implement robust data security measures to protect the confidentiality of the information received. This includes encryption, secure data transmission, secure storage, etc. to prevent data breaches or other unauthorized access".*

This requirement has proven difficult to meet given the significant resources required to make the necessary legislative changes (where needed). Meeting the data security standards requires expenditures that certain small and Global South nations cannot afford. In any case, the confidentiality under which CbCR information is currently shrouded is unnecessary. If this data were made public, expensive and burdensome

data security measures would not be necessary, eliminating a major barrier to access for Global South economies.

Lack of Political Will, Means, and Understanding

> "*It is recognized, however, that the resource commitment to implement these measures may not reflect the immediate needs and policy priorities of some low-capacity jurisdictions." – The Platform for Collaboration on Tax (IMF, OECD, WBG, UN)*

In addition to other issues, one reason for the low level of participation by African countries is the lack of the financial means and political prioritization to carry out the necessary upgrades to meet the OECD requirements and implement confidential CbCR, particularly given the need to prioritize very scarce resources. In a FACT interview with a senior official at the Nigerian Federal Inland Revenue Service, who spoke anonymously, he noted, "*The software to exchange does not come cheap, and not many African countries can afford the same, particularly the very small African countries. So even if the small countries pass the law and regulation, the technical and financial capacity is a steep demand. I think that there needs to be a holistic review of what needs to be done to support local capacity. This is not just human capacity but also resources. For example, some jurisdictions in Africa are not doing transfer pricing (analysis). However, before this analysis can be done, a software and database is required for benchmarking. Not many African countries can afford to pay for the same.* ***I believe that most countries see the benefits of CbCR and other information exchange regimes, but sometimes the resources to implement them are unavailable***".

Limitation on Use of CbCR Information

One of the biggest conditions for access and participation in the OECD's CbCR regime is an understanding of, and systems to enforce, limitations on the use of information received. Under BEPS Action 13, collected information can only be used for transfer pricing (TP) and BEPS risk analysis, and cannot be used for tax assessment or any other purpose not envisaged in the OECD agreement.

Public CbCR can play a critical role in addressing IFFs. It places the compliance burden on multinational enterprises rather than tax administrators who, within the African context, have limited capacity.
Chenai Mukumba, Tax Justice Network Africa

While the allowed purposes are useful, these limitations on use are unnecessary and make the regime less effective. The limitations on use also open the door to abuse, with tax advisers sometimes citing it as an excuse not to share their clients' information with tax authorities. Kuldeep Sharma, Consultant at the South Centre Tax Initiative and former Transfer Pricing Officer at the India Revenue Service, shared insights with FACT researchers and noted:

> *"In dealing with very high-profile cases and upon requesting for CBCR information, the revenue authority used to get refusals from the company representatives (the Big Four accounting firms) on the premise that the CbCR scheme says it cannot be used to make an assessment or utilize the information during the APA proceedings.* ***This is unjustified and contradictory. With confidentiality, and the limitation of use, tax administrators are being deliberately prevented from using the information with full gusto*** *(emphasis added.)" [....]Even if [CbCR] contains information about the MNE that is useful to the tax authorities, it still cannot be used freely. This*

*is very restrictive and contradicts the very purpose of the CbCR scheme. If, for example, a group is operating in India and declares that they have X amount of revenue and profit from India but fail to pay tax (despite an admitted tax liability) and fail to file a tax return, why can't the jurisdictional field authority view the CbCR information available to complete an assessment (after allowing the concerned entity an opportunity of being heard to explain its case). It need not wait to take any remedial action till the case is picked up for tax audit. This is an unnecessary prohibition. In the garb of confidentiality, the use of information per se is severely restricted, which functions contrary to ensure transparency in MNEs' activities, the very basis for the introduction of CBCR regime. [....]**If the information is already available in an easy-to-understand and use manner, then its unrestricted and responsible use will go much further to ensure that CBCR is achieving its objective.**"(emphasis added)*

These concerns around the limited use have also been noted by Global South tax officials and African tax scholars who agree that this requirement imposes constraints on the ability of African tax authorities to maximize the use of CbCR information. Given that most tax systems provide elaborate means of appealing tax assessments by the tax authority with adequate steps to ensure the fair hearing of the taxpayer, the bar on an assessment based on CbCR information alone is unnecessary.

Section Four: The Benefits of Public Country-by-Country Reporting for Global South Tax Administrations

"Public CbCR can play a critical role in addressing IFFs. It places the compliance burden on multinational enterprises rather than tax administrators who, within the African context, have limited capacity. Public Country by Country reports reduce the time and cost to tax authorities in assessing multinationals compliance… Public CbCR also frees up public entity resources to conduct audits and removes the need for those countries to comply with some of the technical requirements that are in place for country by country and exchange of information requirements. By and large, putting in place public CbCR provides the tax transparency that is required for many tax administrations to ensure that multinational entities are providing the information required to enforce existing tax rules, raise revenue, and craft tax reforms".
Chenai Mukumba, Tax Justice Network Africa, UNDP 2023 Dialogue on Tax and SDGs

Given the multiple barriers to access and use confidential CbCR reports under the OECD regime as outlined above, public CbCR is an important tool for increasing corporate transparency and enhancing Global South tax authority examination of major multinational corporations.

Public CbCR would require large MNEs to identify on a country-by-country basis: a list of subsidiaries; primary activities; third-party and intra-group revenues; profits; cash taxes paid; taxes accrued; an explanation regarding the difference between taxes accrued and the tax due, if the statutory tax rate was applied to profit/loss before tax; number of employees; tangible assets, etc. It would require MNEs to disclose similar information currently reported confidentially under Action 13.

While increased African participation in the OECD's confidential CbCR regime is desirable, securing such participation has been an uphill task. **A public CbCR regime is a viable way to overcome these challenges.** African nations passing and implementing their own public CbCR laws may be a challenge, even if the benefits would be considerable. **Africa could still reap significant benefits, though, if public CbCR regimes were enacted in major market jurisdictions, including the United States.** (Important developments related to advancing public CbCR requirements are described below.) This section describes the benefits of a public CbCR regime for Global South tax authorities, especially in Africa.

Overcoming the Utility Barriers of Existing CbCR standards

One of the major barriers to the efficacy of confidential CbCR is the time and technical skill required to request, exchange, and analyze information. Some of these issues are a product of very slow administrative, legislative, and legal processes in African nations, or otherwise of the unnecessary hurdles that the current system requires, including high cost of implementation, onerous restrictions on the use of CbCR information, and the absence of required treaty networks.

With public CbCR, this long process would be eliminated, thus giving each tax authority direct access to available information and expanding opportunities with respect to the use of the information. It may also circumvent capacity constraints that make it difficult for African tax authorities to engage constructively with CbCR reports. This is particularly true if public CbCR is implemented by major market jurisdictions where the majority of large multinationals operating in Africa are headquartered.

Public CbCR is a very good idea. Liberia is very big on public beneficial ownership registries and similar initiatives like public CbCR. Within the context of developed countries leading the charge and demanding that multinational entities publicly provide their country-by-country reporting information on their website; this will be a welcome initiative for countries like Liberia. Liberia will support it and will throw our entire weight behind it for the simple reason that it gives us more information on different taxpayers that the tax authorities may or may not have had issues with. With more information, it will aid our audit work and our compliance work. As such, 100%, Liberia supports the initiative.

Darlington Talery, Commissioner of Domestic Taxes for the Liberia Internal Revenue, in an interview with the FACT Coalition

Increased Opportunity for Public Oversight and Accountability of Tax Enforcement

The adoption of public CbCR would increase public attention on tax avoidance strategies of multinational corporations and incentivize more effective tax enforcement. With access to this information, parliaments, journalists, civil society groups, research institutions, and other actors could work with tax authorities to help identify risks and to encourage more action, and resources, for tax enforcement. Access to CbCR data by lawmakers can also inform legislative efforts (in both the Global South and Global North) to further erode avenues of tax avoidance for multinationals, leading to stronger tax codes that address emerging trends.

More Cost-Effective Donor Assistance

If public CbCR is implemented by developed countries such as the United States, United Kingdom, and

Australia, it will reduce the cost for Global South nations, other than the human capital or other investments necessary to analyze published information. Donors supporting tax administrations in Global South countries, e.g. through the Addis Tax Initiative, could focus programs on the use of public CbCR information rather than on helping governments overcome the obstacles to access confidential CBCR reports.

Increased regulatory and enforcement efficiency

With access to CbCR information, tax authorities in Global South nations could conduct much more effective tax risk assessments and scoping, and better manage scarce audit and enforcement resources, allowing them to be much more strategic in their audit and investigation exercises.

Public CbCR can reduce and deter profit shifting at the expense of Global South countries

An academic study of the impact of the EU public CbCR obligations for the banking industry concludes that the measure "*provide(s) greater transparency and meaningful data that is otherwise unavailable and can help identify profit-shifting to tax havens by European banks*." The study further posits that public CbCR had already disincentivized the transfer of profits to low-tax jurisdictions and helped increase effective tax rates by 3.6%. **Public CbCR for major MNEs across sectors may multiply these benefits for governments across the world.**

Section Five: Global Momentum for Public CbCR

The international tax transparency landscape is already moving in the direction of public CbCR, though not explicitly out of concern for the financial well-being of Global South countries.

The most complete public CbCR standard currently in use is the voluntary Global Reporting Initiative (GRI) 207-4 standard, which requires reporting on categories of information similar to the confidential OECD regime for every jurisdiction of operation. GRI 207-4 is currently used voluntarily by dozens of major multinational corporations.

The European Union, meanwhile, moved in 2021 to require public CbCR for major multinationals, though the final regime currently being implemented by EU member states only requires reporting on a handful of non-EU jurisdictions and contains numerous carve-outs that allow multinationals to omit critical information. First reports are expected in 2025. Australia is currently in the process of advancing a public CbCR regime modeled on the GRI standard.

While financial disclosure standards developed by the International Accounting Standards Board (IASB) and the U.S. Financial Accounting Standards Board (FASB) do not currently require public CbCR, in 2023, FASB finalized stronger tax disclosure standards in response to burgeoning demand from investors, who increasingly view aggressive tax planning as a material risk. This demand has raised hopes that the U.S. Securities and Exchange Commission (SEC) could initiate a rulemaking requiring full public CbCR from companies that issue stock on U.S. exchanges. A petition supported by investors worth $2.3 trillion in assets under management was filed with the SEC in July 2024. Lawmakers in the U.S. have also supported public CbCR, including with the 2021 passage in the House of Representatives of the Disclosure of Tax Havens and Offshoring Act.

This proliferation of different tax transparency reports – whether from voluntary reporting under GRI 207-4 or through new regimes in the EU, Australia, and the U.S. – presents a clear argument to harmonize and maximize the availability and usefulness of this data for all stakeholders, including Global South tax authorities. Ongoing negotiations surrounding a UN Tax Convention also present an opportunity to include model rules for public tax reporting in any forthcoming global agreement, reversing the OECD's error of confidentiality. A 2023 UN Secretary General report said that "Public transparency of country-by-country reports could be a solution to the lack of information flows to Global South countries." Civil society groups and local tax authorities, meanwhile, will need to begin building capacity to analyze and make use of newly published data.

Conclusions and Recommendations

Increasing access to, and use of, public CbCR presents an important *near-term* opportunity to advance tax justice and increase revenues in Global South countries.

Whether introduced by developed nations to benefit their own investors, or under the platform of global negotiations at the UN, widely available public CbCR is more a matter of when, not if.

Recommendations:

- Negotiators of a UN Tax Convention should include model rules for public tax reporting in any forthcoming global agreement, reversing the OECD's error of confidentiality.
- The U.S. Securities and Exchange Commission should advance a rulemaking to require public CbCR for listed multinational companies, to inform investors and other stakeholders.
- The Australian Parliament should promptly pass and implement the proposed legislation mandating full public country-by-country reporting for all large companies with presence in Australia.
- Donors should support domestic tax transparency requirements to produce better outcomes from investments in Global South tax authorities through the Addis Tax Initiative.
- Donor assistance programs for tax authorities should be planned to enable Global South tax authorities to understand and use forthcoming public CbCR disclosures.
- Members of the Addis Tax Initiative should advocate for increased public CbCR requirements across jurisdictions.
- Global South countries should consider adopting their own public CbCR requirements for multinational companies operating in their jurisdictions. An African public CbCR sponsored by the African Union Commission for example, would enable African countries to access essential tax and financial information and afford African countries the opportunity to practice the utilization of public CbCR information at a regional level. While the limited number of MNE headquarters on the continent could diminish any potential revenue outcomes, still this should prepare the countries to make the best of public CbCR disclosures.