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**Spillover Analysis - Possible Effects of the Irish Tax System on Global South Economies**  
**Submission from Debt and Development Coalition Ireland**  
**20<sup>th</sup> June 2014.**

DDCI believes that tax is a global justice issue; illicit financial flows, including tax dodging, costs people in Europe €1 trillion per year, and countries of the Global South up to €870 billion.<sup>1</sup> These are resources that could be put to use for vital public services for millions of people around the world. It is now broadly recognised that the tax policy of one country impacts on other countries. Therefore, DDCI welcomes this spillover analysis, which will evaluate the interaction of the Irish tax system with the economies of countries of the Global South.

DDCI believes that global tax transparency should be central to this analysis, as the current lack of transparency facilitates the shifting of profits across borders around the world to avoid tax responsibilities. Our submission to this consultation therefore focuses on an examination of policy areas that would increase tax transparency: automatic information exchange, transparency on the beneficial ownership of companies and country-by-country reporting. We also focus on tax treaties, on the capacity of countries of the Global South to participate on equal terms in the international tax system, and on specific features of Ireland's tax regime which may endanger the tax revenues of Global South countries.

**DDCI believes that this spillover analysis should, overall:**

- Evaluate the negative impacts of the interaction between Ireland's tax regime and economies of countries of the global south, particularly
  - the ability of other countries to raise tax revenue because of the erosion of their tax bases;
  - the ability of multinational companies to reduce their global tax bills through strategies for tax avoidance in Global South countries that are facilitated by Irish tax corporate policy
  - the competitive advantage provided to multinationals versus indigenous Irish companies through the tax advantages and schemes they are allowed to exploit.
- Evaluate the Irish government's engagement in the international tax regime, and whether it promotes policy reform, or inhibits reform, in the areas outlined below. As national tax systems cannot be understood in isolation, we view Ireland's participation in international decision-making on taxation as an integral element of implementing Ireland's tax system.

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<sup>1</sup> Eurodad et al, *Tax Injustice: Giving with One Hand and Taking with the Other: Europe's role in tax related capital flight from developing countries 2013*, Dec 2013: 8

**DDCI believes that the spillover analysis should examine, specifically, the following issues:**

**1. Automatic Information Exchange (AIE):** The automatic sharing of tax information between countries is a vital tool in global tax transparency. The OECD's *Standard for Automatic Exchange of Financial Account Information* published in February 2014 contains many positive elements. However, it sets an information sharing standard that is too difficult for Global South countries to meet. While there have been repeated acknowledgements that countries of the Global South should benefit from the move to AIE, there has been very little discussion of concrete measures that would make that a reality. Where countries of the Global South and AIE have been discussed in the process so far, it has been in relation to capacity building in those countries, and while this is important, it does not address the serious shortcomings of the recently proposed standard. DDCI believes that, for all countries to be integrated into a global system of automatic information exchange *fairly*, and to ensure that the new system is *effective*, the new standard should include:

- Provision for *non-reciprocal* information exchange with countries of the Global South during a transitional period to allow them to gain access to tax information as soon as possible, while giving them a period of time to develop systems to enable them to reciprocate.
- Full transparency over the scale and volume of data being exchanged, which will ensure an effective level of sharing of information. For example, the current proposals require that a single settlor of a trust be named which is unlikely to be the beneficial owner.<sup>2</sup>
- Freeports, safety deposit boxes and other kinds of storage mechanisms, which are currently excluded, should be included.
- The establishment of publicly accessible registers of the beneficial owners of companies, trusts and foundations to ensure the possibility of effective information exchange (see section 2).
- A commitment to a coordinated capacity building programme focussed on maximising benefits to countries of the Global South, to ensure that once the OECD/G20 focus has moved on to other issues the commitment to help countries of the Global South will remain. This should happen in tandem with the 'non-reciprocal' transition period proposed above for Global South countries.

It is clear that all countries of the Global South will not immediately be able to join in global AIE as it is currently proposed. Given this, the Irish Government should now be thinking about how the new standard, and the laws relating to it, will work for countries of the Global South, as they will set the parameters of information exchange on taxation for years to come. The Irish government has stated that, in relation to *'Developing countries [which] are raising more of their own taxes, trading more, attracting more inward investment, growing their economies... We will support them in this and engage at the international level to remove any obstacles to making this happen'*.<sup>3</sup> Given this clear statement of intent, arrangements for bi-lateral, but temporarily non-reciprocal, automatic exchange of

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<sup>2</sup> Tax Justice Network (13 February 2014), TJN responds to new OECD report on automatic information exchange, <http://www.taxjustice.net/2014/02/13/press-release-tjn-responds-new-oecd-report-automatic-information-exchange/>

<sup>3</sup> Government of Ireland (2013) *One World, One Future, Ireland's Policy for International Development*: iv.

information between Ireland and its 9 development cooperation partner countries could be explored. This could simply happen on a bi-lateral basis between the partner country and Ireland without an expectation from Ireland of reciprocity in information exchange from the Southern countries involved for a transition period.

The spillover analysis should identify the current status of Ireland's information sharing agreements with countries of the Global South, including which countries are excluded and why. The spillover analysis should assess the implications for Southern countries of the lack of a non-reciprocal information exchange period; and any concrete actions Ireland should take to support Global South countries access to automatic exchange of information.

**2. Transparency about Beneficial Ownership of Companies:** Having a public register of the beneficial owners of companies, trusts and foundations in every country would give the public, governments and revenue authorities access to the names of the real owners of companies. *Ireland's International Tax Strategy* (2013) highlights Ireland's efforts to improve global tax transparency. The establishment of a public register of the beneficial owners of companies, trusts and foundations in Ireland would be a major contribution to this objective. Such a register would present a real challenge to the global corporate secrecy that currently allows the setting up of shell companies which can be used by tax dodgers to hide profits. One infamous example of a shell company outside of Ireland cited by Christian Aid is Uglan House in the Cayman Islands, where nearly 19,000 corporations were registered at this single address<sup>4</sup>.

Ireland currently runs a real reputational risk in relation to our tax system given the presence of the IFSC in Dublin and the current EC investigation into the tax arrangements of multinationals (see section 5.2 below). The government clearly stands to gain from pro-actively increasing transparency of corporate ownership, especially given that provisions for this are contained in the current revision of the EU's Anti-Money Laundering directive, already supported to the European Parliament and due for discussion at the European Council. It is puzzling that the Irish government has not moved forward with this, as have the UK, Norwegian and French governments (although with different levels of transparency). The Irish government could move forward now to introduce a public register of the beneficial owners of companies, trusts and foundations, which would copper-fasten a commitment to transparency in Ireland's tax system.

The spillover analysis should assess the scale of risk to the tax revenues of Global South countries as a result of the lack of a public register of the beneficial owners of companies, trusts and foundations in Ireland.

**3. Country-by-Country Reporting (CBC):** Country-by-country reporting for all multinational companies is a long-standing demand of tax justice activists, and one which many governments are increasingly recognizing the need for. The current work underway in the OECD/BEPS process should ensure that the CBC reporting template for companies should provide an overview of the consolidated profits of a multinational corporate group and data on its profits, taxes due, taxes paid, employees and sales in each country. CBC would substantially contribute to the transparency of Ireland's tax system by allowing the public and governments to know how much profit is earned and how much tax is paid by corporations based in Ireland, in every country in which they operate. There are serious

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<sup>4</sup> Christian Aid: *Uncover Phantom Firms – Give tax dodgers nowhere to hide*  
[www.christianaid.ie/ActNow/trace-the-tax/beneficial-ownership/phantom-firms.aspx](http://www.christianaid.ie/ActNow/trace-the-tax/beneficial-ownership/phantom-firms.aspx)

costs to the lack of CBC for countries of the Global South. For example, when companies manipulate transfer prices to shift billions of euro into zero-tax havens, country by country reporting would make this apparent<sup>5</sup>.

During Ireland's Presidency of the EU, the Capital Requirements (IV) and Accounting and Transparency Directives were passed, which was a positive achievement in relation to improved transparency, and moving toward country-by-country reporting. The government has also indicated support for fuller country- by-country reporting in Ireland's recently published international tax strategy.<sup>6</sup> However, beyond the two directives progressed during the Irish EU Presidency, the government has not made it clear how it will actively pursue this policy objective. Full CBC now urgently needs to be extended to cover multinational companies in all sectors. The proposal from the European Parliament to move forward so-called non-financial CBC reporting was blocked by the European Council, and CBC is now scheduled to be dealt with in a review scheduled for 2018.

DDCI is concerned that CBC has not been dealt with separately to the issue of transfer pricing requirements in the OECD/BEPS process, but rather that the mandate to develop a CBC reporting template has been included in the discussion on transfer pricing so far. This should be a broader discussion, and CBC should be used as a tool for evaluation of all the broader base erosion and profit shifting risks, and not just those related to transfer pricing. We also support the call that the information required by the CBC template should normally be made public.<sup>7</sup>

The spillover analysis should assess the potential consequences of the lack of CBC reporting in Ireland for tax revenues of Global South countries. To identify the scale of potential consequences, it should examine the profile of multinational companies present in Ireland and their linkages to Global South countries. The analysis should also evaluate Ireland's role in promoting or inhibiting the introduction of CBC at the international level.

**4. Tax Treaties:** Tax treaties are an integral part of the international tax system that is currently being reviewed by the OECD. Tax treaties can be at least as important as tax rates. Double Tax Agreements (DTAs) were designed essentially to avoid double taxation, where income is taxed in two countries but has, in practice, led to a world of widespread double non-taxation, that is, where income is taxed nowhere<sup>8</sup>. DDCI believes that tax treaties should prevent both double taxation and double non-taxation, and that this provision should take the form of a substantive article with the wording from the St. Petersburg Declaration: "The object and purpose of this treaty are to ensure that profits are taxed where economic activities occur and value is created."<sup>9</sup>

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<sup>5</sup> Tax Justice Network UK (2014) *Country By Country Reporting*, [www.taxjustice.net/topics/corporate-tax/country-by-country/](http://www.taxjustice.net/topics/corporate-tax/country-by-country/)

<sup>6</sup> Dept of Finance (October 2013), *Ireland's International Tax Strategy* <http://budget.gov.ie/Budgets/2014/Documents/Department%20of%20Finance%20International%20Tax%20Strategy%20Statement.pdf>

<sup>7</sup> BEPS monitoring group (June 2014) Letter to OECD: *Civil Society Perspectives on the G20/OECD BEPS process to date* <https://bepsmonitoringgroup.files.wordpress.com/2014/06/cs-letter-to-cfa-june-2-2014.pdf>

<sup>8</sup> Tax Justice Network, *Tax Treaties*, <http://www.taxjustice.net/topics/corporate-tax/tax-treaties/>

<sup>9</sup> BEPS Monitoring Group <https://bepsmonitoringgroup.files.wordpress.com/2014/06/cs-letter-to-cfa-june-2-2014.pdf>

It is also critical that tax treaties address the issue of withholding taxes, which is particularly important for countries of the Global South. Of the two models of tax treaties, the UN and the OECD, DDCI supports the former as it better allows Southern countries to withhold tax at source.<sup>10</sup> This ability to withhold tax becomes important, for example, when payments for research and development or intangible assets stream out of the country from one part of a company to another. The true value of this revenue is difficult to calculate based on the 'arm's length' principle, and can be inflated and moved to lower tax jurisdictions. The tax activities of Associated British Foods may have deprived Zambia, one of Ireland's 9 key development cooperation partner countries, of revenues equivalent to one in every €14 of Irish development aid to Zambia. This avoidance was facilitated by Ireland's tax treaty with Zambia (also discussed in Section 5).<sup>11</sup> This is a clear case of policy incoherence where Ireland's tax practices and its development cooperation goals are in conflict.

Ireland has double taxation agreements with 70 countries, 68 of which are in effect. These DTAs cover direct taxes, which in the case of Ireland are income tax, corporation tax and capital gains tax<sup>12</sup>. Of Ireland's 70 treaties, five are with African countries: Egypt, Morocco, South Africa, Zambia, and the most recent signed in June 2014, Botswana. It is welcome that in all new treaties, Ireland now includes an exchange of information clause<sup>13</sup>.

The spillover analysis should identify the opportunities for corporate tax avoidance in Global South countries that may be caused by Irish bilateral tax treaties and identify any positive gains that could be made by Global South countries if the UN model for tax treaties were adopted by Ireland. At a minimum, particular attention should be paid to Ireland's 9 development cooperation partner countries to ensure that they have the power to apply withholding taxes.

## **5. Specific Features of Ireland's low tax system**

### *Ireland's tax model facilitates aggressive tax planning and the practice of transfer pricing abuse*

Ireland's low corporate tax rate of 12.5% and the features of our tax regime open Ireland to the risk of aggressive tax planning and transfer pricing abuse by multi-national companies. The Irish Revenue Commissioners and the Irish Department of Finance categorically state that they do not encourage this behaviour in any way and that any illegal corporate activity in this regard should be reported to the Revenue Commissioners for action. It is probably true that aggressive corporate tax planning activities taking place in Ireland are compliant with Irish laws. And if transfer mispricing is happening, which is illegal, it is notoriously difficult for any Revenue authority in the world to identify and prove. The Irish Revenue Commissioners however leave the entire responsibility of proving any misconduct firmly with the country that may be losing revenue. In 2010, the Revenue Commissioners speaking at an Oireachtas Committee said,

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<sup>10</sup> Killian, Sheila (2011) *Driving the Getaway Car Ireland*, Tax and Development: 17

<sup>11</sup> ActionAid (2013), *Sweet Nothings: The Human Cost of a British Sugar Giant avoiding taxes in Southern Africa*

<sup>12</sup> Revenue Commissioners (2014), *Tax Treaties*, <http://www.revenue.ie/en/practitioner/law/tax-treaties.html>

<sup>13</sup> Killian, *ibid*: 23

*“Multinational investment in Ireland is typically sourced from high-rate jurisdictions that have tremendous expertise and capacity in respect of transfer pricing. States such as Germany, Japan and the US are well able to monitor what the subsidiaries of their companies are doing here. They are well able to ensure that the subsidiaries operating here are staying in line with this international standard”.*<sup>14</sup>

In the case of southern countries, they simply do not have adequate resources to deal with investigating the often highly complex manoeuvrings of companies engaged in aggressive tax planning. And the lack of internationally transparent standards on financial reporting adds to this challenge. As noted in section 6, the El Salvador Government only has 1 staff person dealing with international taxation.<sup>15</sup>

There are further problems with Ireland’s role in this situation:

- 5.1 The interplay between Ireland’s low corporate tax rate, Ireland’s extensive body of tax treaties, and set of national tax incentives, especially in the area of research and development, intangible assets and intellectual property, encourages multi-national companies to aggressively avoid taxes.

Ireland’s research and development tax credit appears to be applicable to a very wide range of activity, not necessarily associated with genuine innovation. For example, KPMG advise that the research and development tax credit can be used for a very diverse array of activities including for “packaging solutions” in the food industry or “improved production processes” in engineering industry.<sup>16</sup> In addition, many company cases that have come to public attention involve companies routing ‘intangible’ assets through Ireland, the value of which are difficult to measure. These include assets such as patent, licensing, brand, and ‘know-how’.<sup>17</sup> How these credits are used has real implications for people living in countries of the Global South. For example, Microsoft’s use of its Irish subsidiary Round Island One, by routing its sales of license fees for copyrighted software code through Ireland, has denied about 20 governments around the world significant tax payments:

#### ***Microsoft and Round Island One Ltd***

*Writing in the Wall Street Journal, Simpson (2005) describes how Round Island One Ltd., a little-known Irish subsidiary of Microsoft, was used by the group to save over \$500 million in US taxes, and to partially shield Microsoft’s multi-billion dollar profits from worldwide taxes. Simpson describes how this structure impoverishes Southern countries as follows. “Through a key holding, dubbed Flat Island Co., Round Island licenses rights to Microsoft software throughout Europe, the Middle East and Africa. Thus, Microsoft routes the license sales through Ireland and Round Island pays a total of just under \$17 million in taxes to about 20 other governments that represent more than 300 million people.”*

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<sup>14</sup> Killian, *ibid*

<sup>15</sup> Oxfam, *Business Among Friends: Why Corporate Tax Dodgers are Not Yet Losing Sleep Over Global Tax Reform*: 13

<sup>16</sup> KPMG (2014), *Explaining R & D Tax Credits in Ireland*, KPMG website 19th June 2014 <http://www.kpmg.com/IE/en/services/Tax/RD/Pages/WhatIsRD.aspx>

<sup>17</sup> IDA Ireland (2013), *Tax Guide Ireland*, IDA

*Following this report, the two subsidiaries cited, Round Island One and Flat Island, applied to change their status from limited to unlimited companies, removing the requirement that they file details with the Irish Companies' Office. This move shows the importance of opacity to the tax schemes of multinational firms, and so indirectly demonstrates the potential of automatic information exchange between taxing authorities, or public country-by-country reporting as tools to combat them. It also shows the moral hazard created by Ireland's low tax rate, and the propensity of large multinationals to take advantage of this in unanticipated ways.*

*(Source: Killian, S, Driving the Getaway Car? Ireland, Tax and Development, Debt and Development Coalition et al 2011)*

The intangible nature of some of the assets eligible for tax relief and the complexity of the interplay between the network of low tax regimes internationally enables companies to engage in aggressive tax planning which can extend to transfer pricing abuse. For example, Christian Aid point out that during the period from 2005 to 2007, € 5.8 billion of capital that flowed into Ireland arose from transfer mispricing, of which € 268 million came from the poorest 49 countries in the world.<sup>18</sup>

5.2 A low corporate tax rate coupled with light regulation, especially in the financial sector, appears to facilitate, if not encourage, companies that engage in aggressive tax planning

The Irish Financial Services Centre (IFSC) in Dublin's docklands is of particular concern regarding low levels of corporate regulation. Established in 1987 with the aim of making Ireland a hub for financial services, it has grown at a rapid pace and now hosts "half of the world's top 50 banks and [...] half of the top 20 insurance companies".<sup>19</sup> In 2011, IFSC investment was over 20 times the non-IFSC foreign direct investment in Ireland and over 17 times the size of GNP.<sup>20</sup> The IFSC offers a range of tax exemptions to companies on dividends, interest and capital gains tax.<sup>21</sup>

Much of the economic activity in the IFSC is mainstream banking. It should be noted however that the collapse in values of funds listed on the Irish Stock Exchange during the financial crisis led to large losses at 4 German subsidiary banks at the IFSC (Sachsen Bank, WestLB, IKB and Depfa/Hypo Vereinsbank) despite IFSC claims of high regulation standards.<sup>22</sup> The IFSC is also a centre for companies without a clear economic purpose in Ireland. Dr Jim Stewart points to the high rate of incorporation of hedge funds and special purpose vehicles at the IFSC. He argues that light and opaque regulation make the IFSC particularly attractive to these funds. Some features include the ease and speed with which companies can be incorporated in the IFSC, opaqueness in relation to transparency of beneficial ownership of funds incorporated there, in particular of charitable trusts, and confusion about where responsibility lies within the state for regulating entities engaged in sub prime lending. Stewart points out that there are 4,000 investment funds and many more

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<sup>18</sup> Christian Aid (2008), *False Profits, Robbing the Poor to Keep the Rich Tax Free*: 8

<sup>19</sup> [www.ifsc.ie](http://www.ifsc.ie), 19<sup>th</sup> June 2014

<sup>20</sup> Stewart, J (2013), *Low Tax Financial Centers and the Financial Crisis: The Case of the Irish Financial Services Centre*, IIS  
<https://www.tcd.ie/iis/documents/discussion/pdfs/iisd420.pdf>, p.6

<sup>21</sup> Killian, *ibid*, p 22

<sup>22</sup> Stewart, *ibid*, pgs, 3, 4, 7, 8

sub funds quoted on the Irish Stock Exchange. Many of their assets are sub prime loans. The funds may be owned by a special purpose vehicle with some 'corporate secretarial functions' performed by a firm at the IFSC.<sup>23</sup>

Equality think tank TASC point out that enhancing Ireland's attractiveness as a location for financial firms is a core part of Ireland's Government strategy for the financial services sector. The strategy requires the Department of Finance and the Revenue Commission to "fully engage and consult with the [Financial Services] industry to enhance the tax framework, including through the annual Finance Bill process".<sup>24</sup> Stewart argues that the 2010 Finance Act, for example, made it easier for funds to move from the Cayman Islands to Dublin.<sup>25</sup>

The IFSC arrangement certainly has an impact on Global South countries. The case of Associated British Foods' tax arrangements (discussed in Section 4) which, according to ActionAid, has denied the people of Zambia US\$ 2 million per year since 2007, involved the use of the IFSC. Associated British Foods which owns Zambia Sugar, registered a subsidiary, Illovo Sugar Ireland, at the IFSC, to which it paid 'purchasing and management' fees. ActionAid reports that when they telephoned the IFSC, the telephone operator had never heard of Illovo Sugar and nor had the person at reception at the office block building when ActionAid staff visited.<sup>26</sup>

### *5.3 Ireland is a conduit to tax havens*

Ireland has become infamous, through the recent case of Apple Sales International (ASI) and Apple Operations International (AOI), investigated by US Senators Levin and McCain, and now by the European Commission, for how its tax structures interact with legislative frameworks in other tax jurisdictions. One element of the concern around Apple's tax status is the so-called 'Double Irish' scheme, also reported widely to have been used by Google<sup>27</sup>. This scheme is used by large US companies to channel certain payments through Ireland and onward to lower tax jurisdictions, dramatically reducing their overall tax bill. Dr Sheila Killian describes the scheme:

#### ***The Double Irish***

*Under the Double-Irish scheme, a US firm establishes two Irish subsidiaries. The first of these is incorporated in Ireland but managed and controlled in a no-tax location such as Bermuda. This in turn will control a second subsidiary which is incorporated and resident in Ireland, and will usually have some real substance in the form of manufacturing or other economic activity.*

*The Bermuda company will be regarded by the Irish tax authorities as resident in Bermuda, and so falling outside of the remit of the Irish tax authorities. However, the group can elect under US tax rules to have the two subsidiaries, in Bermuda and*

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<sup>23</sup> *ibid*

<sup>24</sup> TASC (2012), *Tax Injustice: Following the Tax Trail*, Commissioned by Christian Aid Ireland: 18.

<sup>25</sup> Stewart, *ibid*: 6, quoting Greene, 2009

<sup>26</sup> ActionAid, *ibid*: 18

<sup>27</sup> O' Brien, C (Jan 2014), *Are the days of the 'Double Irish' numbered?*

<http://www.irishtimes.com/business/are-the-days-of-the-double-irish-numbered-1.1651630>



*Ireland treated effectively as one single Irish entity for US tax purposes. Under US rules, all transactions between the two subsidiaries will be ignored. The next steps is for the Bermuda company to enter into an intellectual property licensing agreement with its US parent, and to licence the Irish manufacturing company to produce some product in return for the payment of an internal group royalty or management charge. The product could be as simple as software localised for the European market, or something assembled or manufactured in Ireland. The royalty may be routed through The Netherlands in order to avoid withholding taxes. This payment from the Irish firm to the Bermuda company will naturally reduce the taxable income in Ireland, while increasing the income “taxable” at zero% in Bermuda. However, it will be difficult for the Irish Revenue to challenge the rate at which it is charged under arm’s-length rules because there is no equivalent third party transaction by which it can be benchmarked. The US taxing authorities find it even more difficult to challenge this structure if the group has successfully elected to have the two subsidiaries treated as one economic entity.”*

*(Adapted from illustrative ‘Double Irish’ model in Killian 2011. See also IMF Fiscal Monitor: Taxing Times (Sept 2013) for how the ‘Double Irish’ structure interacts with the Netherlands tax structures ‘The Double Irish - Dutch Sandwich’)*

The scheme is used by major multinational firms which have subsidiaries in most countries of the world, including in the Global South. Dr Killian points out that the only winners from this scheme are the companies and their tax advisors, not the citizens of any of the countries involved. She writes, commenting on the model explained above, “*Ireland loses some tax income, the US loses a great deal, and Bermuda gains no tax revenue from the operation. The tax authority of a Southern country has little chance of avoiding loss in this kind of a situation. The only winners are the multinational firms, and the law and accounting firms which advise them*”.<sup>28</sup>

5.4 Ireland is failing to proactively introduce transparency measures that would make it easier for the Irish Revenue authorities and Revenue authorities of other jurisdictions to monitor company behaviour (also discussed in section 3).

This is true of many countries other than Ireland too, but countries with low-tax regimes, like Ireland, bear a particular responsibility to act on this. While Ireland has a stated position of support for tax transparency and engagement with the current official policy reform processes on global taxation,<sup>29</sup> Ireland does not go beyond these, slow and often problematic multi-lateral processes (see section 1-4). Several countries, that are more eager than Ireland to address the problem, are already implementing national initiatives in the areas of country by country reporting and the establishment of registers of beneficial owners of companies for example.

*Recommendations:*

#### *Reduce Transfer Pricing Abuse*

The Irish Revenue Commissioners currently has powers to adjust transfer pricing transactions that deplete Ireland’s profits, but not those that increase them. Clearly the transactions that increase Ireland’s profits are those that are of concern to countries of the

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<sup>28</sup> Killian, S, *ibid* P.32

<sup>29</sup> Dept of Finance, *ibid*

Global South. The Irish Revenue Commissioners should be given the authority to adjust transactions which boost Irish profits as well as those that deplete them.<sup>30</sup> This should be an active area of work by Revenue Commissioners in all low tax countries in order to monitor the tax behaviour of companies in their jurisdictions.

The spillover analysis exercise should identify areas where transfer mispricing is in danger of occurring as a result of Ireland's tax system and recommend how this danger can be reduced.

#### *Reform Ireland's Tax Incentives*

Tax incentives should only be awarded in areas where real value is being added. For example research and development tax incentives should be limited to genuinely innovative research and development work.

The spillover analysis exercise should examine the nature of Ireland's system of tax incentives and identify which incentives may be used by companies to engage in transfer pricing abuse from Global South countries.

#### *Close the tax loopholes*

It is welcome that Ireland has announced an intention to end the possibility of companies being 'stateless', (as in the Apple case). However this does not deal with the so-called 'Double Irish' scheme. This scheme should be closed, not least because it does not appear to be beneficial to any of the citizens in the jurisdictions involved and it has damaged Ireland's reputation immensely.

The spillover analysis exercise should seek to carry out a limited number of case studies of companies using these schemes and identify if Global South countries are, or could be, denied tax revenue as a result.

## **6. The Exclusion of Global South Countries from Global Decision-Making on Taxation:**

- **Capacity to participate:** Countries of the global South are sorely disadvantaged when it comes to equal participation in global tax rule-making, and in their capacity to negotiate the existing tax rules. The new rules on the Automatic Exchange of Information on tax, as discussed above, is an illustration of this exclusion. This participation issue is clearly linked to a lack of resources. According to a recent Oxfam report, in El Salvador the government's international tax department only has one member of staff.

The spillover analysis should examine these issues of capacity and inclusion to assess how they currently impact on countries of the Global South and assess whether Ireland is helping or hindering equal participation and inclusion of Global South countries.

- **Inclusion in decision-making on global tax reform:** There is widespread recognition that the global tax rules need to change. The current decision-making forum is the OECD tax reform process, where only the voices of the OECD and G20 countries are heard.

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<sup>30</sup> Killian, *ibid*, vi

The spillover analysis should address the impacts of this exclusion, and examine: the proposals for more meaningful ways to include these countries in decisions on global tax policy, including the strengthening of the UN Tax Committee's role in global tax dialogue; if Ireland might advocate for this and provide financial resources to support it.

**7. Transparency in the spillover analysis process:** DDCI asks that all the submissions that have been made as part of this consultation process are made public on the Department of Finance's website.

References:

ActionAid (2013), *Sweet Nothings: The Human Cost of a British Sugar Giant avoiding taxes in Southern Africa*, ActionAid

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TASC (2012), *Tax Injustice: Following the Tax Trail*, Commissioned by Christian Aid Ireland

Tax Justice Network UK (2014) *Country By Country Reporting*

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