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Promoting an appropriate policy on tax havens

Report¹

Committee on Social Affairs, Health and Sustainable Development

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Summary

Council of Europe member States lose billions every year due to tax avoidance, tax evasion and tax fraud, which are facilitated by the offshore financial system including tax havens and secrecy jurisdictions. This massive tax cheating by wealthy individuals and enterprises not only penalises ordinary taxpayers, public finances and social spending, but also threatens good governance, macroeconomic stability and social cohesion. Thanks to growing public pressure, the international community has been urged to intensify co-operation towards more tax justice at global, European and national levels.

The report highlights the root problems concerning tax havens, such as (fiscal) bank secrecy, lack of transparency and effective public oversight, regulatory dumping, predatory tax arrangements and abusive accounting techniques inside multinational enterprises. It then calls for action to enhance supervision of the offshore financial system, harmonisation of national tax regimes, corporate social responsibility and ethics, tax accountability and financial transparency.

1. Reference to committee: [Doc. 12516](#), Reference 3756 of 11 April 2011.



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A. Draft resolution²

1. Sound tax systems are the cornerstone of public finances: they underpin democratic governance, State authority, macroeconomic stability and social cohesion. This delicate balance relies on tax compliance by all tax payers, be they individuals or enterprises. It is extremely worrying that certain activities by secrecy jurisdictions, tax havens and offshore financial centres facilitate massive tax avoidance, evasion and fraud which cause serious harm to the public interest of all Council of Europe member States, as well as many other countries, in particular the developing ones.
2. The Parliamentary Assembly is concerned about the extent of the offshore financial system, in particular tax havens, and its impact on public finances, stability of financial markets and society at large. With all countries having surrendered some of their sovereignty to globalisation and the global economy, tackling global distortions due to harmful or predatory tax practices is both a moral duty and a common cause.
3. Thanks to growing public outcries, international co-operation has intensified, notably at the G20 level, to tackle the root problems concerning tax havens: bank secrecy, lack of transparency and effective public oversight, regulatory dumping, predatory tax arrangements and abusive accounting techniques within multinational companies (notably abusive transfer pricing). However, the situation is far from satisfactory and further progress is needed to close legal gaps and loopholes and to ensure more effective consolidated supervision of the offshore financial system and jurisdictions considered as tax havens.
4. The Assembly therefore calls on the Bank for International Settlements (BIS), the International Monetary Fund (IMF) and the Organisation for Economic Co-operation and Development (OECD) to step up their action – complementing each other's efforts whenever feasible – on measuring and analysing financial flows to and from the offshore financial centres and jurisdictions deemed tax havens, as well as their interaction with the mainstream economic activity of other States.
5. The Assembly also invites the IMF and the OECD to:
 - 5.1. enhance surveillance of their member States' tax regimes and to stimulate improvements aimed at eliminating harmful tax practices;
 - 5.2. study ways of strengthening corporate social responsibility and ethics and make proposals for defining more clearly the responsibilities of multinational enterprises towards the society in all countries where they operate;
 - 5.3. issue recommendations to their member States to introduce country-by-country reporting with a view to increased corporate tax accountability and disclosure of financial information (notably on costs, profits and taxes paid) concerning the activities of multinational companies in all countries in which they operate and across all business sectors, starting with the financial sector.
6. In this context, the Assembly welcomes the entry into force, in 2011, of the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Additional Protocol (CETS No. 208) after the launching of it in 2010. The Council of Europe and the OECD should vigorously promote this instrument, not only among their member States and their dependent territories, but also among their economic partners across the globe. Moreover, they could jointly assess the implementation of this convention in the near future.
7. The Assembly hails the outcome of the G20 Cannes Summit (3-4 November 2011) where the leaders of G20 countries committed to sign the amended Convention on Mutual Administrative Assistance in Tax Matters, strongly encouraged other jurisdictions to join the convention and undertook to “consider exchanging information automatically on a voluntary basis as appropriate and as provided for in the convention”.
8. Moreover, the Assembly strongly supports steps taken by the European Union towards gradual harmonisation of tax practices among its member States and, in particular, efforts to introduce automatic exchange of information for certain categories of income and capital as from 2015. It considers that this process could be accelerated and that similar efforts should be undertaken by non-European Union countries.
9. In the same spirit, the Assembly urges the European Union member States to support efforts to put in place country-by-country reporting obligations (notably on costs, profits and taxes paid) in respect of accounts of multinational enterprises that are registered or operate in the European Union. This practice should gradually be extended to all Council of Europe and OECD member countries, as well as G20 member States.

2. Draft resolution adopted by the committee on 22 March 2012.

10. With a view to holding governments to account in tax matters, the Assembly urges national parliaments to:
 - 10.1. examine domestic tax standards, policies and collection procedures in order to spot artificial tax minimisation techniques which may be legal but not ethical, and propose legislative steps to remedy the distortions thus detected;
 - 10.2. closely monitor the work of governments on the enforcement of national tax laws, the administration of tax collection and the respect of international commitments in tax matters;
 - 10.3. ensure in-depth scrutiny and revision, if need be, of any draft bilateral tax agreements, in particular with secrecy jurisdictions and countries considered as tax havens, before their ratification.
11. Convinced that tax compliance by all tax payers and due diligence by all intermediaries in tax matters are essential to upholding good governance, justice and prosperity, the Assembly calls on the Council of Europe member States to:
 - 11.1. step up pressure, particularly on those States that have direct influence over secrecy jurisdictions and tax havens identified in this report with a view to enhancing their co-operation in tax matters and phasing out fiscal bank secrecy;
 - 11.2. identify and eliminate legal provisions permitting the holding of anonymous accounts, off-balance-sheet bookkeeping and bearer shares;
 - 11.3. ensure that all entities (notably trusts and funds) are properly registered and beneficial ultimate ownership disclosed, in particular in respect of capital flows originating in or destined for European countries and their dependent territories;
 - 11.4. ensure that all corporate registries provide a set of standard information on registered entities' shareholders, boards, directors and historical background and allow for online access to such data;
 - 11.5. support efforts to harmonise European corporate tax policy, such as through adoption of the common consolidated tax base as a first step towards taxing profits of multinational corporations on the basis of a formula that takes account of genuine economic substance (namely sales turnover, assets invested and employment) in the various countries of activity;
 - 11.6. move towards the automatic exchange of information in tax matters and ensure good use of safeguards for personal data protection, notably the Convention for the Protection of Individuals with regards to Automatic Processing of Personal Data (ETS No. 108) and its Additional Protocol (ETS No. 181), including with their international economic partners;
 - 11.7. broaden the scope of action of financial intelligence units beyond strategies for tracing money laundering in order to also help tackle tax evasion;
 - 11.8. strengthen the capacity of national tax authorities – through expanded investigative powers, training and resources – to enable more effective controls, prosecution and repatriation of funds lost through tax evasion involving secrecy jurisdictions, tax havens and offshore financial centres;
 - 11.9. seek enhanced corporate tax accountability and financial reporting by large domestic enterprises and multinational companies in every country in which they operate;
 - 11.10. review their policies on transfer pricing in order to reduce opportunities for multinational businesses to manipulate reporting of profits and taxes due;
 - 11.11. modify legal provisions that are used to bend their domestic rules, notably on tax breaks, and to escape proper scrutiny or regulation in tax matters, both national and international;
 - 11.12. join the Global Forum on Transparency and Exchange of Information for Tax Purposes, if they have not yet done so, and strengthen the process by shifting from peer review to expert review;
 - 11.13. use the United Nations Committee of Experts on International Cooperation in Tax Matters as the appropriate forum for both setting standards and supporting developing countries in their efforts to counter abusive tax practices.
12. Finally, the Assembly invites the OECD and the European Commission to work together towards optimising the prevailing tax models, helping developing countries to counter abusive transfer pricing and maximising tax receipts in countries where multinationals carry out a substantial part of their activities.

B. Explanatory memorandum by Mr Van der Maelen, rapporteur

1. Introduction and background

1. As Council of Europe member States are grappling with the financial, economic and fiscal crises, increasing attention is being paid to mobilising tax revenues and the need to share the tax burden fairly across society. This implies not only closing legal loopholes and discontinuing selected tax breaks but also reviewing some practices pertaining to the functioning of the global financial system that permit widespread tax evasion and, as a result, monetary instability, unfair competition and criminal practices. Recent media disclosures of widespread tax evasion by European citizens and businesses, facilitated by tax havens, and the role of offshore financial centres in the making of the financial crisis galvanised public authorities to take action to tackle harmful tax practices and outright tax fraud more effectively. Thanks to fast growing political support, there has been more progress in this domain since 2008 than over the entire decade from 1996 when such co-operation started with impetus from the G7.

2. In 2009, the G20 call to protect public finances and enhance commitment to international tax transparency standards³ prompted the Council of Europe and the Organisation for Economic Co-operation and Development (OECD) to update their joint Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127) with an additional protocol (CETS No. 208), which was successfully launched in May 2010⁴ and thus opened the convention to accession by non-member States. This step is an illustration of the renewed drive by the world's major economies to step up action against tax evasion, opaque and non-co-operative jurisdictions and abusive (fiscal) bank secrecy. Progress in all these areas remains, however, far from satisfactory.

3. This report will put a spotlight on the role tax havens play in a borderless world of capital flows and the difficulties that nation States face in seeking to enforce their tax legislation vis-à-vis tax havens. As a result of the inherent lack of transparency, no one really knows how much public money is siphoned out via tax havens; by various estimates the amounts add up to trillions. For instance, a 2010 study by the International Monetary Fund (IMF) estimated that the accounts of small island financial centres alone registered financial flows of at least US\$18 trillion, which is about a third of the world's cumulative gross domestic product (GDP). The IMF also estimates that up to US\$1.5 trillion of criminal money is laundered every year in the global financial system involving tax havens.

4. The United States authorities (Government Accountability Office) reported, in 2009, that 83 of the 100 biggest corporations owned subsidiaries in tax havens. Similarly, research by the Tax Justice Network found that 99 out of 100 of Europe's largest companies (mainly banks) used offshore subsidiaries.⁵ The four biggest British banks alone (HSBC, Royal Bank of Scotland, Barclays and Lloyds) have a total of 1 649 offshore subsidiaries (out of about 8 000 for the top 100 United Kingdom-listed companies) in tax havens.⁶ As far as France is concerned, four major banks (BNP Paribas, Crédit Agricole, Banque Populaire and Société Générale) had a total of 451 offshore entities out of about 1 500 for the CAC40 companies.⁷ As nearly half of the world's trade flows through tax havens, multinational companies use them routinely and, as a result, pay little or even no tax in relation to many of their operations.

5. One of the difficulties in assessing the global situation is the fact that there is no uniform agreement over what a tax haven is. Some speak of "low tax jurisdictions" or "secrecy jurisdictions", some use the term of "offshore financial centres" (OFCs) – they are roughly interchangeable notions. The IMF considers that the latter specialise in supplying financial services to non-resident companies and individuals on the basis of low or zero taxes, moderate or light financial regulation, mainly external funds, banking secrecy and anonymity. Critics note that the workings of OFCs reflect severe problems – such as risks to global financial stability, tax evasion and money laundering – due to the lack of transparency or adequate regulation that comes with unbridled globalisation. For this reason, several international bodies, including the Financial Stability Board, the Financial Action Task Force (FATF) and the OECD, sought to strengthen the regulatory policies under which OFCs operate.

6. The OECD uses four major criteria to define a jurisdiction as a tax haven:

- very low or no tax at all;

3. Reference is made here to the G20 statement at the London Summit on 2 April 2009.

4. See also the report on the subject by Mr Peter Omtzigt (Netherlands, EPP/CD), [Doc. 12161](#).

5. Nicholas Shaxson, "Treasure islands. Tax havens and the men who stole the world", published in 2011.

6. Data from ActionAid as reported in the *Guardian* on 11 October 2011.

7. "L'état de l'économie 2009", *Alternatives économiques*.

- lack of transparency and only modest local financial supervision;
- some laws or administrative practices that prevent the effective exchange of information for tax purposes (whilst using appropriate safeguards to protect personal data) with governmental authorities of other States;
- no requirement that an economic activity registered on the territory in question be substantial.

7. The United States Government Accountability Office uses a similar set of criteria and adds one more – self-promotion by a jurisdiction as an offshore financial centre. Some other authors suggest that a tax haven is a complex tax structure established deliberately to take advantage of, and exploit, a worldwide demand for opportunities to engage in tax avoidance.⁸ We should distinguish between tax evasion and tax avoidance: the latter is the legal use of the tax regime to one's own advantage in order to reduce the amount of tax payable to the country of residence, while tax evasion stands for illegal means of not paying taxes. There is, however, a foggy grey area between the two. As former British Chancellor Denis Healey once put it, "The difference between tax avoidance and tax evasion is the thickness of a prison wall".

8. The Tax Justice Network tends to refer not to tax havens or OFCs as such, but rather uses the term "secrecy jurisdiction", defined as "a place that intentionally creates regulation for the primary benefit and use of those not resident in their geographical domain that is designed to undermine the legislation or regulation of another jurisdiction and that, in addition, creates a deliberate, legally backed veil of secrecy that ensures that those from outside the jurisdiction making use of its regulation cannot be identified to be doing so".

9. We shall recall, in this context, the affirmation by the Tax Justice Network which considers that "tax is the foundation of good government and a key to the wealth or poverty of nations" and points out that developing countries are the main losers as a result of lost tax revenue (some US\$160 billion annually according to the Christian Aid estimate⁹ and from US\$641 to US\$979 billion according to a Norwegian Government commission),¹⁰ which far outweighs official development aid. For developed nations, tax compliance is also essential to secure revenues needed to support their governance and welfare systems. As Mr Viktor Pleskachevskiy highlights in his report on "Underground economy: a threat to democracy, development and the rule of law" (Doc. 12700), shortcomings in tax administration are indicative of weak State authority, with the risk of democracy being undermined and national economies being rendered more vulnerable.

10. In the United Kingdom, the National Fraud Office reported in January 2011 that fraud was costing the country £38 billion annually, with the public sector's losses estimated at £21 billion, including £15 billion in tax fraud. A study by Tax Research UK shows that the United Kingdom loses at least £18 billion a year in tax revenue as a result of activity related to tax havens; this sum is four times greater than the cost of eliminating child poverty in the United Kingdom.¹¹ Tax cheats are also endemic in other countries. Thus, for instance, over the last five years, Italy's revenue agency has managed to recuperate some €37 billion through measures taken against tax evasion. The latest data shows that increased controls yielded €11.5 billion more to the national budget in 2011. In France, the Auditing Board (La Cour des comptes) estimated that tax evasion was at least €29 billion each year. In Greece, massive tax evasion is costing an estimated €15 billion a year, a sum that could certainly help significantly reduce the country's budget deficit.¹²

11. Of course, the link between tax fraud and tax havens is not automatic but, as a major share of world trade and capital flows transit through entities deemed tax havens, suspicion with regard to tax havens is considerable. Unfortunately, in a free market, where there is demand, there is supply – also for services that lead to abuse of national tax systems and relevant international agreements. The rapporteur considers that strong resolve by political leaders is necessary in order to clarify and improve the situation in this field. For the purposes of this report, he has held consultations with experts of the OECD, the European Commission and the Tax Justice Network. Moreover, on 9 December 2011, the Parliamentary Assembly's former Committee on Economic Affairs and Development held a hearing¹³ with the participation of:

- Mr Donal Godfrey, Deputy Head of the Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD Centre for Tax Policy and Administration;

8. Definition proposed by Geoffrey Colin Powell, former economic adviser to Jersey, and tentatively adopted by *The Economist*.

9. Christian Aid, "Death and taxes: the true toll of tax dodging", May 2008.

10. Norwegian Government commission report, "Tax havens and development", June 2009.

11. Richard Murphy, "Tax havens report", 2011.

12. Sebastian Moffett and Alkman Granitsas, "Greece grapples with tax evasion", *Wall Street Journal*, 10 February 2010.

- Mr Philip Kermode, Director for Direct Taxation, Tax Co-ordination, Economic Analysis and Evaluation, Directorate-General for Taxation and Customs Union of the European Commission;
- Mr John Christensen, Director of the International Secretariat, Tax Justice Network;
- Professor Clemens Fuest, Research Director of the Oxford University Centre for Business Taxation, United Kingdom.

2. Overview of key problems concerning tax havens

12. The International Monetary Fund traces the origins of the growth of offshore financial centres back to the 1960s and 1970s. Many developed economies then used restrictive regulatory regimes regarding capital movements and large multinational companies and financial institutions gradually transferred some of their activities to other jurisdictions more attractive from their perspective. As financial transactions accelerated and grew in volume with the financial liberalisation of the 1980s and 1990s, financial centres adapted to growing international competition via features such as very low or zero corporate taxes, low transaction costs and supervisory standards, anonymity of account holders, increasingly complex financial products offered to clients and many other niche services, including secrecy or “utmost discretion” as the rule of the game. Early on, this “race to the bottom” raised concerns among major international institutions about risks to global financial stability.¹⁴

13. So complex was the financial engineering through “structured investment vehicles”, so important was the leveraging of financial operations together with the inadequate perception of risk-taking that OFCs are believed to have played a major part in the outbreak of the 2008-09 financial crisis. In fact, OFCs were used for getting around the rules to reduce the client company’s reserve and capital requirements. The rules in place were there for a good reason – to protect society at large. Yet they proved insufficient: part of corporate debts of systemically important institutions was passed on to the States whose deficits and sovereign debt rose dramatically as a result – making them more vulnerable vis-à-vis international financial markets and placing the extra burden on the shoulders of ordinary taxpayers.

14. It is necessary to clarify here that the notion of “offshore” in the term “offshore financial centres” means “elsewhere”, as the offshore system essentially provides services to non-residents – individuals and businesses (mainly multinational companies, funds and banks). These services include asset management, banking, insurance, financial trading and various registries. With the integration of financial markets, problems in institutions extensively using OFCs can rapidly move to other places and countries, which explains the latter’s aim to ensure consolidated supervision of all operations of institutions registered under their law – in addition to their international commitments to track dirty money. However, such consolidated supervision is not effective when co-operation and information exchange with OFCs is weak.

2.1. Secrecy and the power grab

15. A major problem stems from the secrecy, whereas transparency is essential: in theory, a free market functions rationally and democratic oversight performs well when all participants have equal access to relevant information. The offshore system enables the filtering of information available to the onshore decision makers. It controls the information and the power that comes with information for the benefit of insiders, whilst shifting the cost burden onto the rest of the society. Significant funds are managed offshore, at the risk of the customer, as off-balance sheet activity is generally not recorded in the statistics – distorting information flows whose accuracy is the basis for decision making and international co-ordination and regulation.

16. This leads to the formation of powerful networks of influence that rely on networks of lawyers, accountants and managers to help transform abusive practices into “acceptable”, technically legitimate ones but which remain devious in spirit. By enabling wealthy elites to escape taxes due at home, tax havens undermine the social contract in nation States and society at large. They also hurt democratic accountability and good governance by limiting the scope of public scrutiny. Offshore secrecy provisions are in fact the main motive for those seeking safe hide-outs for their taxable assets or proceeds of dubious origin. They enable

13. Full presentations of the guest speakers are available on this committee’s Extranet site; see also the minutes of the committee meeting on 9 December 2011 (AS/Ec (2011) PV 09).

14. See, for instance, “Offshore financial centers – IMF background paper” of 23 June 2000 and the article by Salim M. Darbar, R. Barry Johnston and Mary G. Zephirin, “Assessing offshore financial centres, filling a gap in global surveillance”, published in *Finance and Development* of September 2003.

avoiding tax, financial regulations, criminal laws and other rules of society (such as rules on corporate governance and social responsibility, litigation and inheritance laws, etc.). By the same token, private intermediaries obtain a high degree of political influence.¹⁵

17. Offshore secrecy is usually deployed through anonymous bank accounts and smoke-screen companies that shield the real clients. Most such jurisdictions use bank secrecy laws, complex holding structures and practically impenetrable trusts or funds (which theoretically detach ownership of assets from income benefits via trustees; they do not have to be registered). Add to this simplified structure the layering technique – known as “laddering” (*saucissonnage* in French) – for allocating different parts of the financial arrangement to several jurisdictions plus flee clauses (that allow the automatic movement of assets to elsewhere if investigation starts somewhere down the chain) and one obtains a virtual fortress. At the opposite end of the spectrum, we have national jurisdictions and tax authorities whose cross-border enquiries stumble through complex legal procedures and can take years to trace fragments of the money trail. This resembles a cat and mouse game in the dark where the mouse is free to move but the cat has its eyes blindfolded.

18. A study by the Stolen Asset Recovery Initiative of the World Bank and the UNODC (United Nations Office on Drugs and Crime),¹⁶ based on the analysis of 150 grand corruption cases, has shown direct links between large-scale corruption by high-level public officials and the concealment of stolen assets through opaque shell companies, foundations and trusts. It explains obstacles to investigating and tracing stolen assets due to lack of access to information on beneficial ownership and the use of sophisticated multi-jurisdictional corporate structures.

2.2. The maze of transfer pricing

19. There are big concerns about large-scale corporate tax abuse by using both tax havens and “creative” accounting techniques. Some issues arise with corporate efforts to avoid double taxation. According to the OECD, about 60% of world trade takes place inside multinational companies. When so many enterprises have spread their operations across several countries, deciding which country gets which share of corporate taxes is no easy task. It is even more complicated when the multinational corporations use transfer-pricing techniques – typically with the involvement of offshore centres – to adjust their accounts in such a way as to pool profits in low-tax jurisdictions and to deduct the maximum of costs in high-tax places. Such transfer pricing, or rather mispricing, results in not only “tax optimisation” but in reality almost non-taxation. In the most stunning cases, such as in the United States, some big companies managed even to reclaim public money through tax rebates as a sort of tax subsidy.

20. If the authorities of the richer countries are constantly searching for ways of improving their regulatory systems in order to recuperate some of the corporate taxes due but lost through transfer (mis)pricing, many lower-income countries are pretty much unaware, ill-equipped and hence defenceless against sophisticated corporate tricks to avoid paying taxes. In fact, many developing countries manage to collect only about 40% of their potential tax revenue.¹⁷ It is therefore not surprising that their tax-to-GDP ratio is between 10% to 20% compared with 25% to 40% in developed countries.¹⁸ Moreover, as the EU study on “Transfer pricing and developing countries” suggests, these countries typically lack basic legislation, administrative capacity and expertise on transfer pricing, as well as comprehensive accounting rules and tax treaty networks.

21. At the same time, even developed countries lose large sums. Just consider a study of the British National Audit Office which found that about a third of the country’s 700 largest enterprises had not paid any tax to the United Kingdom in 2006. Transfer pricing obviously works to the great budgetary disadvantage of society as the “smartest” also become the least responsible for the common good and a disproportionate tax burden is shifted to the shoulders of smaller market players, and labour and consumption, or public investment has to be reduced. Moreover, there is evidence that corporate tax avoidance leads to widening income disparities within and between nation States.¹⁹

15. The Bureau for Investigative Journalism analysis shows that over the past twelve months, 51% of the ruling Conservative Party’s resources in Great Britain come from financial sector donations and about 7.5% was donated by the industrial sector – see the article by Nick Mathiason published on 30 September 2011 at: www.thebureauinvestigates.com.

16. “The puppet masters: how the corrupt use legal structures to hide stolen assets and what to do about it”, 24 October 2011, www.worldbank.org/star.

17. International Tax Compact (2011), “Benefits of a computerised integrated system of taxation”, iTax case study of February 2011, Bonn.

18. “Tax and development: cooperating with developing countries on promoting good governance in tax matters”, European Commission communication to the European Parliament, the Council and the European Economic and Social Committee, 21 April 2010.

19. Notably research by John Christensen for the Tax Justice Network.

22. Transfer pricing, alas, is not the only accounting technique enabling tax abuse. There is also re-invoicing, the use of special purpose vehicles/entities, so-called corporate inversions, various forms of trusts, etc. And they all typically involve tax havens. Moreover, the international accounting rules allow multinational corporations to report profits by amalgamating data from different countries in such a way that it becomes impossible to see a company's true earnings, profits and taxes paid by country. In the end, huge amounts of the profits that escape corporate taxation in turn tend to feed speculative financial flows rather than productive investment in the real economy, distort local markets through the rise of secret monopolies operating under cover of offshore secrecy, and increase the instability of the global financial system through bubbles and busts.

2.3. Capital swings as a destabilising factor

23. Offshore finance is certainly not a sleepy part of the global economy: capital flows are constantly circulating between the offshore and onshore zones to the detriment of traditional banking, and the offshore zones are very active financial intermediaries. The trouble comes when large money flows leave some countries but instead feed other countries: capital flight in one place translates into capital inflow somewhere else. This typically happens through the offshore system and the main end-beneficiaries of such financial flows are the major financial centres of the developed countries. The world's shadow banking system – involving the offshore financial centres and unregulated investment structures – was greater in size than the entire US banking system (weighing about US\$10 trillion in 2007) according to Timothy Geithner, now the Secretary of the US Treasury. Globally, about 69% of speculative hedge funds were domiciled in offshore financial centres in 2007, with the Cayman Islands and British Virgin Islands alone hosting half of the world's hedge funds – compared to a total of 30% for the United States and Europe together.

24. In 2005, the World Bank endorsed the work of Washington-based Global Financial Integrity (GFI), which estimates that illicit financial flows across borders range between US\$1 trillion and US\$1.6 trillion per year. GFI analysis of 2009 also shows that illicit financial outflows from developing countries alone reach between US\$850 billion and US\$1 trillion. Compared with annual global development aid flows of some \$100 billion, this means that for every dollar of Western official aid the global financial system has taken back up to US\$10 in flight capital, including the looted funds by corrupt leaders. The worst thing in this financial jungle is that the assets of many developing nations tend to belong to small wealthy elites, whilst public external debt is laid on the population at large – courtesy of political and business insiders. Financial secrecy jurisdictions are at the heart of the matter. They have, moreover, fed major corporate scandals, such as Enron, Parmalat, Lehman Brothers, AIG and the Northern Rock, to mention just a few.

25. With financial liberalisation, international capital flows are extremely mobile and volatile. According to analysts,²⁰ the development of offshore systems poses serious challenges to national monetary stability (through difficulties for central banks in controlling money supply and lending) and can lead to either overheating or stagnation of the domestic economy. Moreover, as the 2007-09 episode of the global financial crisis has shown, capital spillovers are rapidly transmitted between countries and regions, and the risks to global financial stability still persist.

2.4. Fiscal and regulatory dumping

26. Zero²¹ or low taxes are by definition a key feature of tax havens. This practice encourages resources to flow not to where they can be most productive but to places where the taxation is lowest. Such a minimal taxation works as a distorting force in the global competition, especially when regulation and oversight are weak. In the worldwide context of financial liberalisation and offshore mediation, tax competition leads to tax dumping. In 1998, the OECD produced a very pertinent report on harmful tax competition which helped raise political awareness and build pressure for addressing the problem, such as in the process of European integration.

27. By offering light regulatory frameworks to non-residents, secrecy jurisdictions create facilities for individuals and business entities to get around the rules elsewhere and, in a way, interfere with other sovereign States' capacity to ensure that the rule of law applies to all their citizens and businesses registered under their national laws. As a result, the regulatory race to the bottom due to tax havens' very existence puts heavy pressure on other States and in extreme cases enables State capture²² by powerful multinationals. Yet, as Mr Tuur Elzinga rightly pointed out in his opinion on human rights and business (on behalf of the former

20. See, for instance, Working Paper No. 320 of the Bank for International Settlements on "Offshore markets for the domestic currency: monetary and financial stability issues" by Dong He and Robert N. McCauley, September 2010.

21. Such as in Jersey and the Cayman Islands with a 0% effective corporate tax rate.

Committee on Economic Affairs and Development – see [Doc. 12384](#)), “the rise of enterprises as influential actors on the national, European and world scene entails a number of open-ended questions about their rights and responsibilities towards the society” which need to be clarified – also in the context of parliamentary debate about the policies on tax havens.

28. According to some experts, we should also bear in mind that some services offered by offshore financial centres may have positive effects in the global context, especially when they exploit niche development opportunities based on comparative advantage, facilitate cross-border economic activity by reducing tax compliance costs or double-taxation and provide protection for residents of dysfunctional States. Moreover, as Professor Fuest pointed out at the committee hearing in December 2011, some experts see tax havens as a counterbalance to certain excesses in national tax regimes and as a factor in stimulating competition across the financial sector. These considerations should compel countries to regularly assess their tax and regulatory systems with a view to eliminating shortcomings and enhancing transparency.

3. Need to improve the transparency of international financial flows and the effectiveness of regulatory frameworks

29. The various concerns relating to the functioning of OFCs have naturally been raised in major international forums, such as the Financial Stability Forum (now the Global Forum on Transparency and Exchange of Information for Tax Purposes), the FATF (Financial Action Task Force), the OECD, the European Union, the IMF and G7/G8/G20 meetings. After the FATF’s first review of compliance with the international standard (40+8 recommendations) in 2000, serious deficiencies in anti-money laundering provisions were identified in 15 jurisdictions. The OECD, for its part, pursued efforts against harmful tax practices. It identified 47 countries with potentially harmful tax regimes and listed 35 jurisdictions as tax havens. In 2002, a blacklist of seven unco-operative tax havens was published and some 30 OFCs made commitments to increasing transparency and co-operation on information exchange.

30. As part of their work for enhancing the global financial architecture and stability after the Asian crisis of the late 1990s, the IMF and the World Bank have put in place a joint Standards and Codes Initiative²³ for the closer surveillance of member countries, including OFCs. They selected 12 policy areas deemed key for sound financial systems, which cover data and policy transparency standards; monetary, financial, policy and fiscal transparency; banking and insurance supervision; securities regulation; financial sector, accounting and auditing standards; market integrity; and action against money laundering and the financing of terrorism (based on FATF recommendations). Country reviews are, alas, of a voluntary nature. A dedicated OFC Assessment programme, launched in 2000, was integrated with the Financial Sector Assessment programme in 2008.

31. Under this initiative, the majority of countries, including a number of OFCs, have been evaluated at least once but the coverage is not complete and was actually reduced by half from 2004 due to the downsizing of the IMF and some changes in priorities. Further revisions to evaluation standards and procedures are likely in the light of the latest financial crisis, the work of the Financial Stability Board and any relevant decisions by the international community. The challenge, however, remains to strengthen the “policing” of offshore finance, notably as the recent crisis revealed gaps in rules, monitoring, enforcement, co-ordination between standard-setters, evaluators and policy planners, country assistance and international co-operation. It is also necessary to ensure that assessments would cover non-member jurisdictions (which were included in the earlier OFC Assessment programme).

32. As part of the renewed global community’s drive to curb tax evasion and tax avoidance, the Global Forum (on Transparency and Exchange of Information for Tax Purposes) – under the auspices of the OECD – was restructured in 2009. It leads multilateral co-operation among over 100 members (including all G20 and OECD countries as well as major financial centres) through peer reviews of each jurisdiction’s legal and regulatory framework and practical implementation of the standards on transparency and information exchange for tax purposes. From among the Council of Europe member States, several countries from central and eastern Europe are not yet members of the Global Forum (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, the Republic of Moldova, Montenegro, Romania, Serbia and Ukraine).

22. State capture is understood as the efforts of a certain number of firms to shape the laws, policies and regulations of the State to their own advantage by wielding massive pressure on public authorities and/or providing illicit private gains to public officials.

23. IMF, “Review of the Standards and Codes Initiative”, 16 February 2011, and Public Information Notice No. 11/38 of 22 March 2011.

33. In the run-up to the April 2009 G20 summit, the OECD announced a black/grey/white list system for categorising financial centres which fail to co-operate with other jurisdictions on tax and transparency issues. Unfortunately, as a result of intense pressure from some major national economies and adverse lobbying by the corporate sector, that course of action was watered down and no blacklist was published.

34. In 2010, the OECD issued an updated version of its Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (which had first been released in 1995). Amongst other things, these guidelines state that “the consideration of transfer pricing should not be confused with the consideration of problems of tax fraud or tax avoidance, even though transfer pricing policies may be used for such purposes”. Yet “when transfer pricing does not reflect market forces and the arm's length principle, the tax liabilities of the associated enterprises and the tax revenues of the host countries could be distorted”. The rapporteur feels that the use of transfer pricing techniques for tax avoidance or evasion purposes needs to be reassessed because tax havens induce major distortions in global financial markets and have been increasingly used by multinational enterprises to manipulate their profits. Recent proposals, made by Chancellor Merkel and President Sarkozy, for a common EU corporate tax deserve attention as a way forward that could help solve at least part of this problem.

35. The Tax Justice Network has elaborated the Financial Secrecy Index for ranking countries according to their importance in supplying financial secrecy services in global finance. Based on opacity scores (judged on 12 financial secrecy indicators) and weighting of 60 jurisdictions, the results for 2009 and 2011, as reproduced in the appendix, show that there has been little real progress and that quite a few European countries still have big problems with transparency of their financial sectors.

36. Global whistle-blowers single out a number of Council of Europe member States harbouring or tolerating more or less questionable financial and legal arrangements of the offshore system. Based on the dynamics of financial secrecy indicators for 2009 and 2011 of the Tax Justice Network, these notably include the United Kingdom's City of London, the British Crown Dependencies (Jersey, Guernsey and the Isle of Man) and Overseas Territories (including Anguilla, the Cayman Islands, Bermuda, the British Virgin Islands, the Turks and Caicos Islands, Montserrat and Gibraltar), Switzerland, Luxembourg, Liechtenstein, Monaco, Andorra and the Netherlands Antilles. There are separate concerns about the role of Austria, Belgium, Ireland, the Netherlands, Cyprus, Malta and Portugal's Madeira as financial intermediaries in facilitating harmful tax optimisation arrangements for transnational corporations that lead to tax avoidance. In the case of the United Kingdom, an impressive number of former colonial possessions still gravitate under the influence of the British administration.²⁴

37. In Switzerland, bank secrecy law, adopted in 1934, makes breaches of bank secrecy a criminal offence punishable by fines and prison. According to the Swiss National Bank, in 2009 the country held about US\$2.1 trillion in accounts owned by non-residents. Swiss financial analysts estimate that roughly 80% of some CHF 836 billion in European assets were not declared to tax authorities in the owners' countries (the non-declaration rate rose to 99% for Italians). Under pressure from the US authorities, UBS bank (the largest in Europe for private wealth management) was fined US\$780 million for hiding taxable assets of US citizens and committed to hand over data on 285 account holders. The Swiss authorities on this occasion recognised that the purpose of banking secrecy was to protect private life and not tax fraud. They are very active in the work of the Global Forum (see paragraph 32 above) and seek full engagement of all States in order to avoid distortions in global competition. In 2009, Switzerland also adopted the OECD standard on international administrative assistance in tax matters, thereby enabling the screening of Swiss accounts – upon foreign authorities' request – for tax evasion in addition to tax fraud.

38. In August 2011, Switzerland and Germany signed a tax deal²⁵ under which German clients would pay retroactively a lump sum on their assets at Swiss banks plus an annual tax on capital gains and interest income: this is a sort of anonymous taxation of German assets in Switzerland without lifting Swiss bank secrecy. Another such agreement was signed between Switzerland and the United Kingdom in early October 2011 and similar deals are pending with other countries.

39. As reported by Bloomberg on 6 October 2011, the British-Swiss agreement – expected to come into force in May 2013 and subject to the approval of parliament – foresees that the Swiss banks will pay 500 million Swiss francs to the British Government to compensate for the failure by their clients to disclose undeclared money in the past. The banks will later be reimbursed from taxes paid by their clients. Swiss

24. In Crown Dependencies, legislation is passed by local assemblies with the assent of the Crown; in Overseas Territories, levels of autonomy vary and legal systems, although independent, are generally based on English Common Law.

25. This deal has not yet been ratified by the German Parliament.

banks are expected to levy a withholding tax of 48% on interest income and 27% on capital gains earned by the British offshore account holders. Revenue generated will go to the United Kingdom Treasury, but client identities will remain secret.

40. Tax Justice Network experts have identified 10 major flaws in this deal. Alarming, beneficiaries of discretionary trusts and foundations, as well as branches of Swiss banks in other countries, are explicitly not covered by this agreement, which provides many escape routes to tax-cheaters and is undoing the European Union's efforts to introduce more transparency in this area, including through the EU Savings Tax Directive. EU Tax Commissioner Šemeta, speaking at the European Parliament on 25 October 2011, underlined that Switzerland's bilateral tax agreements with Germany and the United Kingdom were incompatible with the existing EU-Swiss agreement on taxation of savings income and must be withdrawn.

41. More and more experts criticise the dominant OECD standard for information exchange as too soft. Indeed, this on-request standard can only come into play when there are relevant bilateral treaties in place and the tax authorities of a country requesting information already have a suspicion and some basic information that could motivate a request for more information for tax purposes. Arguably, a better alternative for that would be automatic information exchange on a multilateral basis – subject to appropriate safeguards for adequate personal data protection and reinforcement in administrative capacity for dealing with cross-border information flows.

42. The European Union's Single Market Act provides for free movement of goods, services, capital and people. As set out in a communication of 23 May 2001 on "Tax policy in the European Union – Priorities for the years ahead" (COM(2001)260), the European Commission's tax policy strategy seeks no harmonisation of member States' tax systems and member States are free to choose the tax systems. However, it later recognised that many tax problems – in particular predatory tax regimes or practices – require better co-ordination of national policies (see COM(2006)823 of 19 December 2006). Moreover, as highlighted at the committee hearing on tax havens on 9 December 2011, the sharing of sovereignty under the EU treaties naturally implies gradual harmonisation of tax practices among member States. The main priorities for EU tax policy aim to eliminate tax obstacles to all forms of cross-border economic activity, to continue the fight against harmful tax competition and to promote stronger co-operation between tax administrations in assuring control and combating fraud.

43. The European Union's Code of Conduct for business taxation set out in the conclusions of the Council of Economics and Finance Ministers (ECOFIN) of 1 December 1997 is not a legally binding instrument but has some political force through critical peer reviews. By adopting this code, the member States have undertaken to curb existing tax measures that constitute harmful tax competition and to refrain from introducing any such measures in the future. The European Union's Code of Conduct Group (for Business Taxation), under the chairmanship of Dawn Primarolo, identified (in November 1999) 66 tax measures with harmful features (40 in EU member States, three in Gibraltar and 23 in dependent or associated territories). EU member States and their dependent and associated territories have since introduced, or are about to do so, measures in substitution for those 66 harmful tax practices.

44. The European Commission further seeks to promote good governance in tax matters based on transparency, exchange of information and fair tax competition, in line with its communication on good governance of 28 April 2009 (COM(2009)201). In the framework of its Financial Services Policy, the Commission adopted (on 19 October 2009) a recommendation that asks EU countries to facilitate tax clearance for investors resident and investing in EU member States while protecting tax revenues against errors or fraud without hindering the functioning of the Single Market. There is also the Savings Taxation Directive seeking to tackle the problem of tax evasion on income from deposits. As regards harmful tax competition, the European Union's strategy is based on a communication on preventing and combating financial and corporate malpractice (COM(2004)611). In respect of agreements on eliminating double taxation among EU countries, greater co-ordination is necessary, notably in triangular situations and with regard to third countries. The European Commission is currently organising a consultation procedure on factual examples and possible ways to tackle double non-taxation.²⁶

45. Mutual assistance between EU member States in direct taxation matters was established in 1977 and improved in 2011 with Council Directive 2011/16/EU. This directive ensures that the EU standards for transparency and exchange of information on request are aligned with international standards: EU member States can no longer refuse to supply information solely because this information is held by a bank or other type of financial institution. The directive also introduces automatic exchange of information from 1 December

26. See also http://ec.europa.eu/taxation_customs/common/consultations/tax/2012_double_non_taxation_en.htm.

2015 on five categories of income and capital based on available information (income from employment, director's fees, life insurance products not covered by other directives, pensions, ownership of and income from real estate; on the basis of a new proposal by the Commission and a report to be submitted before July 2017; this list might be further extended to dividends, capital gains and royalties). In addition, the EU Council may also decide to introduce unconditional automatic exchange of information in respect of at least three of the five aforementioned categories. Finally, the directive also improves the existing mechanisms for exchange of information by introducing deadlines to accelerate procedures for both the exchange of information on request (reply within six months following receipt of request) and the spontaneous exchange of information (transmission of information no later than one month after it becomes available).

4. Seeking truly global solutions through parliamentary and governmental action

46. As we have seen in the previous chapters, the offshore financial system involving tax havens is not a marginal phenomenon of the world economy. Its impact on public finances and society at large is huge but goes largely unnoticed. With all countries having surrendered some of their sovereignty to globalisation and the global economy, tackling global distortions due to harmful or predatory tax practices is both a moral duty and a common cause. International organisations and national policy makers must pay greater attention to multiple problems stemming from secrecy, lax regulatory frameworks and provisions enabling fiscal dumping which are in-built characteristics of tax havens. The OECD estimates that international efforts against tax evasion and non-co-operative tax havens have so far enabled 20 countries to recuperate at least €14 billion over the last two years; yet much more tax revenue can potentially be recovered through coherent and co-ordinated action, at both national and international levels.

47. A major challenge is to ensure effective consolidated supervision of the offshore financial system and jurisdictions considered as tax havens. The Bank for International Settlements (BIS), the IMF and the OECD should engage more actively – complementing each other's efforts – in measuring and analysing financial flows to and from OFCs, as well as their interaction with the mainstream economic activity of other States. Moreover, IMF and OECD surveillance of member countries' tax regimes should go deeper and stimulate improvements. This would enable policy makers to obtain a more accurate picture of the challenges lying ahead. Since minimum regulatory standards pertaining to tax havens are no longer enough and isolated action by individual countries is not sufficient in the context of globalisation, multilateral action and co-ordination, such as via the G20, is crucial.

48. Privileges given to large multinational corporations at national level should be reviewed so as to achieve a better balance between the rights and obligations (towards the society in countries where they operate). Corporate social responsibility should be enhanced by compelling businesses to disclose information on their use of offshore subsidiaries and any links with jurisdictions deemed tax havens. This, however, implies that the international community has to agree on the list of such jurisdictions. It also needs to review policies on transfer pricing in order to reduce opportunities for multinational businesses to manipulate reporting of profits.

49. With a view to improving corporate tax accountability and disclosure of financial information (notably on costs, profits and taxes paid) concerning business activities in third countries, country-by-country reporting should be introduced in respect of accounts of multinational companies in all business sectors, especially the financial sector. The European Commission is currently evaluating the options and modalities for putting in place such obligations for EU-listed companies. This practice should be comprehensive and could gradually be implemented across all Council of Europe and OECD member countries, as well as G20 members.

50. Moreover, the rapporteur would like to propose that governments examine what types of companies registered under their jurisdiction are used to bend their domestic rules, including on taxation, and to escape proper scrutiny or regulation, both national and international. Whilst harmful tax competition practices are gradually being eliminated within the European Union, this approach should spread wider – with the support of other international organisations (such as the OECD, the IMF, the World Bank, etc.). This also concerns reviewing practices of offering reduced tax charges on certain types of income (interest, royalties, dividend and capital gains) from foreign subsidiaries,²⁷ which would help reduce “tax shopping”, the number of “mailbox companies” and opportunities for money laundering.

27. For instance, the Netherlands is often criticised for this type of practice as a means of attracting financial flows to its territory but with negative consequences for other countries – see research by Francis Weyzig, Michiel Van Dijk and Richard Murphy.

51. As there are serious doubts about the effectiveness of “upon request” information exchange for tax purposes, States should start moving to automatic information exchange, subject to appropriate safeguards for personal data protection.²⁸ The OECD could be a good starting point to begin building the “coalition of the willing” on the global scale and to step up pressure on tax havens to become more co-operative in this respect. We should add that a mere conclusion of 12 Tax Information Exchange Agreements – which is the minimum OECD requirement – is far from sufficient, given that often tax havens sign such agreements among themselves but not with countries that are their major business partners. In the meantime, Council of Europe member States that have not yet joined the Global Forum (on Transparency and Exchange of Information for Tax Purposes) should be urged to consider becoming members. Moreover, the Global Forum process should be strengthened by shifting from peer review to expert review.

52. We should, in this context, welcome the outcome of the G20 Cannes Summit (3-4 November 2011), where the leaders of G20 countries made the commitment to sign the multilateral Convention on Mutual Administrative Assistance in Tax Matters, strongly encouraged other jurisdictions to join the convention and undertook to “consider exchanging information automatically on a voluntary basis as appropriate and as provided for in the convention”.

53. As was highlighted by the representative of the European Commission at the hearing of the former Committee on Economic Affairs and Development (see paragraph 11), automatic exchange of tax information requires extra efforts in inter-State co-operation, but has proved to work smoothly between countries that have tried it on a voluntary basis. At any rate, the European Union had already foreseen the introduction of the automatic exchange of tax information among its member States from 2015, with a substantial margin of flexibility for the States to opt for practical modalities that would best suit their needs. Moreover, negotiations are under way with third countries in Europe (Switzerland, Liechtenstein, Andorra, Monaco, San Marino, etc.) and beyond (including with Singapore, Hong Kong and Macao) on tax competition issues, automatic exchange of information in tax matters and the extraterritorial application of relevant EU legal tools via bilateral agreements.

54. Legal provisions permitting the holding of anonymous accounts, off-balance-sheet bookkeeping and bearer shares²⁹ should be abolished. It is also highly important to ensure that all entities (including trusts and funds) are registered and beneficial ultimate ownership disclosed, in particular in respect of capital flows originating in or destined for Council of Europe member States. The rapporteur fully shares the World Bank/ UNODC recommendation that all corporate registries should provide a set of standard information on registered entities (such as data on shareholders, members, directors and historical background) and allow for online access to such information.

55. Consideration should be given to broadening the scope of action of financial intelligence units beyond strategies for combating money laundering and the financing of terrorism so as to also tackle tax evasion. Similarly, investigative skills and capacity of national tax authorities need to be strengthened – through expanded powers and mandates, adequate training, manpower and budgetary resources – to enable more effective controls, prosecution and return of ill-gotten assets.

56. Current taxation models with regard to multinationals appear to be clearly tilted in favour of rich countries’ interests. They essentially channel tax revenue to the “residence” of multinational corporations (with substantial funds landing in tax havens on the way) rather than to source countries. In the light of the G20 Cannes Summit statement which welcomes increased support for developing countries to counter abusive transfer pricing, the rapporteur suggests that the OECD and the European Commission examine ways of working in synergy towards optimising the prevailing tax models and helping maximise tax receipts in countries where the multinationals carry out substantial parts of their business activities. Council of Europe member States could also make greater use of the United Nations Committee of Experts on International Cooperation in Tax Matters as the appropriate forum for both setting standards and supporting developing countries in their efforts to counter abusive tax practices.

28. The Council of Europe is currently updating its Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and its Additional Protocol regarding supervisory authorities and transborder data flows (ETS No. 181). These instruments entered into force respectively in 1985 and 2004.

29. Bearer shares are a type of document that indicates the owner of shares, and whoever physically holds that document is assumed to be the owner of the property. Unlike for normal registered shares or bonds, no records are kept about the owner of the underlying property or any transactions involving transfer of ownership. Bearer shares are used by investors who seek to retain anonymity, but ownership is extremely difficult to recover if those bearer shares are lost or stolen.

57. The rapporteur believes, moreover, that there is a need to harmonise European corporate tax policy, such as through adoption of the common consolidated tax base as a first step towards taxing profits of multinational corporations on the basis of a formula that takes account of genuine economic substance (namely sales turnover, assets invested and employment) in various countries of activity.

58. The rapporteur also considers that it would be useful to assess the implementation of the multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended by its additional protocol after its launching in 2010 and its entry into force in 2011. The Assembly and the Council of Europe intergovernmental sector should also ensure vigorous promotion of this legal tool, in particular among the member States and secrecy jurisdictions.

5. Concluding remarks

59. Growing public awareness and targeted action against tax fraud, evasion and avoidance reveal that unpaid tax is costing billions each year to the budgets of Council of Europe member States. Massive tax cheating by individuals and enterprises through tax havens and offshore financial centres translates into an additional tax burden on those who do pay, strained public finances and reduced public spending on essential social services and infrastructure investment. This also escalates macroeconomic distortions, financial instability and unfair competition worldwide. Using the momentum created by the global financial and economic crisis, Europe should lead by example and press forward with action against fiscal bank secrecy, predatory tax practices, harmful tax competition and regulatory dumping not only on its soil, but also among its trading partners across the globe.

Appendix – 2011 Financial Secrecy Index* – FSI (by Tax Justice Network)

Rank	Jurisdiction	FSI Value	Secrecy Score	Scale Weight
1	Switzerland	1879.2	78	0.061
2	<i>Cayman Islands</i>	1646.7	77	0.046
3	Luxembourg	1621.2	68	0.131
4	Hong Kong	1370.7	73	0.042
5	USA	1160.1	58	0.208
6	Singapore	1118.0	71	0.031
7	Jersey	750.1	78	0.004
8	Japan	693.6	64	0.018
9	Germany	669.8	57	0.046
10	Bahrain	660.3	78	0.003
11	<i>British Virgin Islands</i>	617.9	81	0.002
12	<i>Bermuda</i>	539.9	85	0.001
13	United Kingdom	516.5	45	0.200
14	Panama	471.5	77	0.001
15	Belgium	467.2	59	0.012
16	Marshall Islands	457.0	90	0.000
17	Austria	453.5	66	0.004
18	United Arab Emirates (Dubai)	439.6	79	0.001
19	Bahamas	431.1	83	0.000
20	Cyprus	406.5	58	0.010
21	<i>Guernsey</i>	402.3	65	0.003
22	Lebanon	397.3	82	0.000
23	Macao	389.8	83	0.000
24	Canada	366.2	56	0.009
25	India	344.0	53	0.013
26	Uruguay	331.0	78	0.000
27	Malaysia (Labuan)	319.3	77	0.000
28	Korea	317.2	54	0.009
29	Liberia	316.9	81	0.000
30	Barbados	266.6	79	0.000
31	Ireland	264.2	44	0.030
32	Mauritius	261.6	74	0.000
33	Philippines	253.9	73	0.000
34	Liechtenstein	239.2	81	0.000
35	Italy	231.2	49	0.008
36	<i>Isle of Man</i>	230.4	65	0.001
37	Israel	230.3	58	0.002
38	<i>Turks and Caicos Islands</i>	218.9	90	0.000
39	Netherlands	199.7	49	0.005
40	Belize	198.4	90	0.000
41	Costa Rica	177.2	77	0.000
42	Guatemala	174.8	81	0.000
43	<i>Gibraltar</i>	174.6	78	0.000
44	Ghana	146.8	79	0.000
45	Andorra	133.6	73	0.000
46	<i>Netherlands Antilles</i>	129.4	83	0.000
47	Aruba	124.9	74	0.000
48	Denmark	121.7	40	0.008
49	Botswana	121.3	79	0.000

Rank	Jurisdiction	FSI Value	Secrecy Score	Scale Weight
50	Portugal (Madeira)	119.4	51	0.001
51	US Virgin Islands	104.2	68	0.000
52	St Vincent and Grenadines	100.9	78	0.000
53	Spain	98.8	34	0.016
54	Malta	98.6	48	0.001
55	Seychelles	95.0	88	0.000
56	Hungary	94.8	47	0.001
57	Latvia	88.9	45	0.001
58	Antigua & Barbuda	88.5	82	0.000
59	St Lucia	78.7	89	0.000
60	Maldives	78.5	92	0.000
61	Grenada	57.6	83	0.000
62	<i>Montserrat</i>	<i>50.1</i>	<i>86</i>	<i>0.000</i>
63	Brunei Darussalam	45.8	84	0.000
64	Monaco	37.7	75	0.000
65	<i>Anguilla</i>	<i>36.0</i>	<i>79</i>	<i>0.000</i>
66	St Kitts and Nevis	31.2	81	0.000
67	San Marino	30.9	79	0.000
68	Samoa	27.5	85	0.000
69	Vanuatu	14.3	88	0.000
70	Cook Islands	13.4	75	0.000
71	Dominica	12.5	80	0.000

Council of Europe member States are in **bold** face and jurisdictions with close ties with them are in *italics*.

* The **Financial Secrecy Index** ranks jurisdictions according to their level of financial secrecy (secrecy score or opacity score for 2009) and their share of the global market for offshore financial services (scale weight) to non-resident clients. The higher the index value, the more opaque a jurisdiction is in terms of the financial operations it hosts.

A **secrecy/opacity score**, on a scale from 0 to 100, is based on a qualitative evaluation of laws, regulations, co-operation with information exchange processes and other verifiable data sources grouped under 15 indicators (such as on bank secrecy; registration of trusts; recording and publication of company ownership details; availability of company accounts; fitness for information exchange; efficiency of tax administration; measures against tax evasion and money laundering; harmful legal provisions; and international judicial co-operation).

A **scale weight coefficient**, on a scale from 0 to 1, mainly uses quantitative data from the IMF (on international trade in financial services and on international investment portfolios) and weighs each jurisdiction's share in the global market for offshore financial services covering 216 out of 237 jurisdictions.

For more information, see www.financialsecrecyindex.com/documents/FSI-Methodology.pdf.

The Tax Justice Network (TJN) is an international, non-aligned coalition of researchers and activists with a shared concern about the harmful impact of tax avoidance, tax competition and tax havens: see www.taxjustice.net.

2009 Financial Secrecy Index (FSI)

Secrecy Jurisdiction	Opacity Score	Global Scale Weight	FSI Value	FSI Rank
USA (Delaware)	92	0.17767	1503.80	1
Luxembourg	87	0.14890	1127.02	2
Switzerland	100	0.05134	513.40	3
<i>Cayman Islands</i>	92	<i>0.04767</i>	<i>403.48</i>	4

Secrecy Jurisdiction	Opacity Score	Global Scale Weight	FSI Value	FSI Rank
United Kingdom (City of London)	42	0.19716	347.79	5
Ireland	62	0.03739	143.73	6
<i>Bermuda</i>	92	0.01445	122.30	7
Singapore	79	0.01752	109.34	8
Belgium	73	0.01475	78.60	9
Hong Kong	62	0.01986	76.34	10
<i>Jersey</i>	87	0.01007	76.22	11
Austria	91	0.00511	42.32	12
<i>Guernsey</i>	79	0.00580	36.20	13
Bahrain	92	0.00278	23.53	14
Netherlands	58	0.00689	23.18	15
<i>British Virgin Islands</i>	92	0.00177	14.98	16
Portugal (Madeira)	92	0.00146	12.36	17
Cyprus	75	0.00206	11.59	18
Panama	92	0.00128	10.83	19
Israel	90	0.00128	10.37	20
Malta	83	0.00126	8.68	21
Hungary	75	0.00136	7.65	22
Malaysia (Labuan)	100	0.00072	7.20	23
<i>Isle of Man</i>	83	0.00084	5.79	24
Philippines	83	0.00074	5.10	25
Latvia	75	0.00073	4.11	26
Lebanon	91	0.00032	2.65	27
Barbados	100	0.00026	2.60	28
Macao	87	0.00025	1.89	29
Uruguay	87	0.00024	1.82	30
United Arab Emirates (Dubai)	92	0.00018	1.52	31
Mauritius	96	0.00013	1.20	32
<i>Bahamas</i>	100	0.00011	1.10	33
Costa Rica	92	0.00006	0.51	34
Vanuatu	100	0.00005	0.50	35
Aruba	83	0.00004	0.28	36
Belize	100	0.00002	0.20	37
<i>Netherlands Antilles</i>	75	0.00002	0.11	38
Brunei*	100	0.00001	0.10	joint 39
Dominica*	100	0.00001	0.10	joint 39
Samoa*	100	0.00001	0.10	joint 39
Seychelles*	100	0.00001	0.10	joint 39
St Lucia*	100	0.00001	0.10	joint 39
St Vincent and Grenadines*	100	0.00001	0.10	joint 39
<i>Turks and Caicos Islands*</i>	100	0.00001	0.10	joint 39
Antigua and Barbuda*	92	0.00001	0.08	joint 46
Cook Islands*	92	0.00001	0.08	joint 46
<i>Gibraltar*</i>	92	0.00001	0.08	joint 46
Grenada*	92	0.00001	0.08	joint 46
Marshall Islands*	92	0.00001	0.08	joint 46
Nauru*	92	0.00001	0.08	joint 46
St Kitts and Nevis*	92	0.00001	0.08	joint 46
US Virgin Islands*	92	0.00001	0.08	joint 46

Secrecy Jurisdiction	Opacity Score	Global Scale Weight	FSI Value	FSI Rank
Liberia*	90	0.00001	0.08	54
Liechtenstein*	87	0.00001	0.08	joint 55
<i>Anguilla*</i>	<i>87</i>	<i>0.00001</i>	<i>0.08</i>	<i>joint 55</i>
Andorra*	83	0.00001	0.07	57
Maldives*	80	0.00001	0.06	58
<i>Montserrat*</i>	<i>79</i>	<i>0.00001</i>	<i>0.06</i>	59
Monaco*	67	0.00001	0.04	60

* Jurisdictions marked with an asterisk are ranked according to their opacity score.

Council of Europe member States are in **bold** face and jurisdictions with close ties with them are in *italics*.