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Terms of reference

Strengthening tax systems in developing countries

An evaluation of Dutch government policies and activities to strengthen tax systems in developing countries in the period 2012-2019

Table of contents

Glossary

ATAD Anti-Tax Avoidance Directive: EU-directive comprising rules against tax avoidance practices that directly affect the functioning of the internal market.

ATAF Africa Tax Administration Forum: A platform for cooperation among African tax authorities.

ATI Addis Tax Initiative: A multi-stakeholder partnership that aims to enhance domestic revenue mobilization in partner countries.

BEPS Base Erosion and Profit Shifting: Tax planning strategies used by multinational enterprises that exploit gaps and mismatches in tax rules to avoid paying tax.

Conduit company: A company set up in connection with a tax avoidance scheme, whereby income is paid by a company to the conduit and then redistributed by that company to its shareholders as dividends, interest, royalties, etc.

Country-by-country reporting: The practice of MNEs reporting their activities, profits and taxes paid by country. This makes it easier to assess whether taxation was in line with real economic activities in a certain country.

DRM Domestic Resource Mobilisation: The generation of government revenue from domestic resources, from tax or non-tax sources (royalties, licenses, levies or other income).

Exchange of information: The practice that tax authorities are obliged to share information with other countries if they suspect tax avoidance by MNEs.

LOB Limitation on Benefits: An anti-treaty shopping provision intended to prevent corporations of third countries from obtaining benefits under a treaty.

MLI Multilateral Instrument: A multilateral convention that enables countries and jurisdictions to modify their bilateral tax treaties to implement some of the measures agreed.

MNE Multinational Enterprise: A company with facilities and other assets in at least one country other than its home country.

PPT Principal Purpose Test: If one of the principal purposes of transactions or arrangements is to obtain treaty benefits, these benefits would be denied unless it is established that granting these benefits would be in accordance with the object and purpose of the provisions of the treaty.

SPE Special Purpose Entity: A legal entity (usually a limited company of some type or, sometimes, a limited partnership) created to fulfil narrow, specific or temporary objectives.

TA Technical Assistance: Non-financial assistance provided by local or international specialists. It can take the form of sharing information and expertise, instruction, skills training, transmission of working knowledge, and consulting services and may also involve the transfer of technical data.

Tax avoidance: Legal artificial structures designed to limit the effective tax rates by using loopholes in and mismatches between national tax systems

Tax evasion: The illegal non-payment or underpayment of tax

Tax system: A legal system for assessing and collecting taxes.

1. Introduction

Increased domestic resource mobilisation (DRM) in developing countries is necessary because relatively low tax-to-GDP ratios, compared to more developed countries[1], compromise the ability to provide sufficient government services and promote development.[2]

In 2016[3] the Dutch cabinet's Agenda on Policy Coherence for Development was introduced, which includes the policy goal 'Increased government revenues in developing countries, especially low-income and partner countries'. Under this goal, policies of the Dutch Ministries of Foreign Affairs and Finance are included that aim to strengthen tax systems in developing countries under three sub-goals: (1) international agreements on countering tax avoidance, (2) technical assistance (TA) to strengthen administrative capacity in the field of taxation in developing countries, and (3) decrease the use of the Netherlands' tax system as a conduit in tax avoidance by multinational enterprises (MNEs).

These goals are to be achieved through: (1) participation in international initiatives to design rules to counter tax avoidance while taking into account the interest of developing countries, (2) TA to improve administrative capacity in the field of taxation in developing countries, and (3) changes to Dutch tax policies and treaties that affect corporate tax revenues in developing countries. Sub-goals 1 and 3 are the responsibility of the Ministry of Finance, while TA-activities are financed by the Ministry of Foreign Affairs.

Tax revenues are generated by a country's tax system: a legal system for assessing and collecting taxes. This evaluation focuses on Dutch policies and activities under the three sub-goals that aim to contribute to strengthening tax systems in developing countries, thereby focusing on the coherence, relevance and effects of these policies and activities.[4] The main research question guiding this evaluation is: **To what extent are Dutch government policies and activities to strengthen tax systems in developing countries coherent and relevant, and what are their effects?**

These terms of reference proceed with an elaboration of the Dutch policy in chapter 2. Chapter 3 lists the assumptions and research questions guiding this evaluation followed by the methodology in chapter 4. The last section presents the planning and budget.

1.1. Delimitation

Included in this evaluation are activities and policies of the Ministries of Foreign Affairs and Finance as part of the policy goal 'Increased government revenues in developing countries, especially low-income and partner countries' mentioned in the Agenda on Policy Coherence for Development.

Chapter XVII of the Government Budget, the budget for Foreign Trade and Development Cooperation,[5] includes the TA-programs under sub-goal 2. These are part of budget line 1.3 'private sector development in developing countries', part of policy article 1 'sustainable economic development, trade and investments'. Chapter IX of the Government budget, the budget of the Ministry of Finance, mentions its policies on international fiscal policy related to sub-goals 1 and 3 under policy article 3.1 on taxes. [6]

This evaluation is part of a policy review that covers the entire policy article 1 of the budget for Foreign Trade and Development Cooperation, which will be published in 2020.

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[1] See Annex 1 for an illustration of the relative performance of a selection of African and Latin-American countries versus OECD-countries in terms of DRM.

[2] IMF, 2018a, p. 5; IMF, 2019, p. 4.

[3] Ministry of Foreign Affairs, 2016a. This agenda combines initiatives of which (some) started earlier than 2016.

[4] DRM comprises all sources of government income including non-tax sources of revenue. Some TA focuses on these non-tax sources as well such as custom duties, these activities will be described but will not be further included in this evaluation.

[5] The budget of the Ministry of Foreign Affairs is divided in two chapter: Chapter V on Foreign Affairs (BZ) and Chapter XVII for Foreign Trade and Development Cooperation (BHOS).

[6] The Ministry of Finance (tax authorities) is also involved in implementation of bilateral TA-activities and contributes in kind by making available personnel for the provision of TA.

The evaluation covers the period 2012-2019. Although the Agenda on Policy Coherence for Development was introduced in 2016, (some) policies and activities related to this objective were already implemented earlier and will be included as well.[7] Policies and activities of recent date will be included and explained, and to the extent possible effects will be included as well.

The scope of the evaluation is mostly limited to developing countries where Dutch bilateral TA was/is active in the research period: Bangladesh, Burundi, Ethiopia, Ghana, Indonesia, Kenya, Liberia, Malawi, Palestinian Territories, Rwanda, Tanzania, Uganda and Zambia. Findings based on literature are likely to be based on other developing countries as well, however, but will be specified if possible.

Although often mentioned simultaneously with tax avoidance, tax evasion is excluded from this evaluation because it is essentially an enforcement issue while avoidance is much broader and involves (international) tax rules and discussions with intended and unintended implications for tax systems in developing countries; tax evasion is illegal while tax avoidance is not; it includes legal artificial structures designed by corporations to limit their effective tax rates by using loopholes in and mismatches between national tax systems.[8]

[7] The implications of tax policies for developing countries were identified as an issue already before 2016. For example in Ministry of Foreign Affairs, 2012.

[8] Ministry of Foreign Affairs, 2017b.

2. Dutch policy on increasing government revenues in developing countries

2.1. Agenda on Policy coherence for Development

The sub-goals, activities and indicators related to the cabinet's policy goal of Increased government revenues in developing countries, as stated in the Annex of the policy letter on the Agenda on Policy Coherence for Development, are shown in the table below.[9] The three sub-goals are elaborated in a letter to parliament[10] and summarized below.

Table 1 Policy Coherence for Development agenda[11]

Policy goal: Increased government revenues in developing countries, especially low-income and partner countries (SDG 17.1)		
Sub-goals:	**Activities:**	**Indicators:**
Sub-goal 1: Improved international agreement on taxation of real economic activities	The Dutch government aims, in the EU and OECD-inclusive framework on BEPS, for international fiscal standards countering tax evasion and avoidance which take into account the interests of developing countries and adjusts its own tax policies accordingly.	1. Implementation of international fiscal standards by the Netherlands (and other countries) 2. The number of non-cooperative tax jurisdictions
Sub-goal 2: Structural capacity building for good tax policies and tax collection in developing countries (focus on low income and lower middle income countries)	The Dutch government is implementing the Addis Tax Initiative (ATI) goal of more than doubling technical assistance in 2020 compared to 2015. Special attention is given to TA in focus regions.	3. Total Dutch TA-expenditures compared to 2015. 4. Tax/GDP ratios in low income countries and focus countries (contributing to SDG 17.1.1) 5. Tax revenues due to TA-programs 6. Stability tax system and knowledge revenue service
Sub-goal 3: Decreasing the use of the Netherlands as a conduit for tax avoidance in other countries, including developing countries.	The Dutch government continues with including anti-abuse clauses to tax treaties and will take extra measures against financial flows to low-tax jurisdictions.	7. The number of Dutch tax treaties with anti-abuse clauses 8. Introducing withholding taxes on dividend, interest and royalties.[12]

2.2. Sub-goal 1: Improved international agreement on taxation of real economic activities

Sub-goal 1 of the Agenda on Policy Coherence for Development relates to international discussions on taxation of economic activities. These discussions (which mainly take place in the OECD[13], but also IMF, UN and WB) and implementation of resulting recommendations are the responsibility of the Ministry of Finance. The prevention of tax avoidance is to be achieved mainly through implementation of the recommendations and rules based on the G20/OECD base erosion and profit shifting project (BEPS) and the EU anti-tax avoidance directives I and II (ATAD) (largely based on the G20/OECD BEPS-project as well).

The entire BEPS 'package' consists of 15 actions (recommendations) of which four are considered 'minimum standard'[14], as summarized in Annex 2. These 15 actions are essentially voluntary

[9] Ministry of Foreign Affairs, 2016a; Ministry of Foreign Affairs, 2018c.
[10] Ministry of Foreign Affairs, 2018b.
[11] Translated from Ministry of Foreign Affairs, 2018c.
[12] In 2018 the proposed conditional withholding tax on dividend was not implemented because the general withholding tax on dividends remained in place.
[13] Involvement of the Ministry of Finance is limited to discussions in the OECD.
[14] The BEPS 4 minimum standards are countering harmful tax practices and exchange of rulings (Action 5), preventing treaty abuse (Action 6), re-examining transfer pricing documentation including country by country reporting (Action 13) and enhancing resolution of disputes (Action 14).

although all participating countries commit to implementing the actions labelled as 'minimum standard' and to participating in a peer review to monitor progress towards goals specified for these actions. As of October 2019, more than 130 countries/jurisdictions are member of the Inclusive Framework on BEPS, which was founded in 2016 to collect and report on information regarding the implementation of the BEPS-actions.

Some aspects of the BEPS-actions that did not lead to a minimum standard (due to a lack of global consensus) were included in ATAD I and II[15] by the European Union. They require its member states to implement a common set of rules to address tax avoidance, as summarized in Annex 2 as well.

In a letter to parliament[16] the implementation of resulting BEPS actions in the Netherlands is discussed. A distinction is made between actions that require implementation, those that require a coordinated international approach (and unilateral measures taken by the Netherlands are considered ineffective and harmful) and the 'strengths' of Dutch tax policy that need to be maintained but may be altered if BEPS actions touch upon them.[17]

Further initiatives are developed as well that are based on (and go beyond) the G20/OECD BEPS-project, such as the Platform for Collaboration on Tax[18] (OECD, IMF, UN and WB) and the road map for resolving the tax challenges arising from the digitalization of the economy (OECD/G20).[19]

2.3. Sub-goal 2: Technical assistance

Sub-goal 2 of the Agenda on Policy Coherence for Development is structural capacity building for good tax policies and tax collection in developing countries. Capacity building is pursued through bilateral and multilateral activities financed by the Ministry of Foreign Affairs.

The explanation to the budget of the Ministry of Foreign Trade and Development Cooperation in 2019 states as goal for TA: "Improvement in tax policies and implementation (and local government planning) in developing counties through capacity building via bilateral and multilateral channels should lead to higher tax revenues. Capacity building focuses on strengthening and increased transparency of tax systems, financial audits and tax treaty policy".[20]

In 2011, TA aimed at tax and custom authorities was related to private sector development (PSD) where an effective tax system is seen as part of an enabling environment for PSD that encourages economic activity.[21]

In the period 2012-2019 21 activities[22] have been financed by the Ministry of Foreign Affairs, with a total Dutch Financial contribution of EUR 50.3 million[23]. Of this total, EUR 13.5 million is spent bilaterally on six activities via the Ministry of Finance (Belastingdienst), consultants (IBFD) and Dutch municipalities (VNG). These activities mainly take place in the partner countries[24], which were the main recipients of development support until the new policy note[25] shifted the attention

[15] Directive 2016/1164/EU and Directive 2017/952/EU
[16] Ministry of Finance, 2015.
[17] Actions that require further action relate to transfer pricing rules, country-by-country reporting, anti-abuse clauses in tax treaties and exchange of information, hybrid mismatches, interest limitation and controlled foreign companies require a coordinated approach while the tax treaty network, participation exemption, lack of withholding taxes, tax rulings, dispute resolution and the innovation box are considered Dutch 'strengths'. (Ministry of Finance, 2018a; Ministry of Finance, 2019).
[18] OECD/WB/IMF/UN, 2016.
[19] OECD/G20, 2019.
[20] Ministry of Foreign Affairs, 2019a; article 1.3.
[21] SER, 2011; Ministry of Foreign Affairs, 2011.
[22] See Annex 3 for an overview of all 19 activities. Some activities started before 2012 or will continue beyond 2019.
[23] Budgets are based on the appraisal memoranda. Some activities are ongoing therefore part of the budget will be spent in the coming years.
[24] The original 15 partner countries were Bangladesh, Benin, Ethiopia, Ghana, Indonesia, Kenya, Mozambique, Uganda, Afghanistan, Burundi, Yemen, Mali, Palestinian Territories, Rwanda and South-Sudan. In 2016 it was decided to phase out aid to four countries on the list: Indonesia, Kenya, Ghana and Rwanda, although Rwanda would remain on the list but with a more business-oriented focus in the bilateral relation (Ministry of Foreign Affairs, 2016b.
[25] Ministry of Foreign Affairs, 2018a.

to focus-regions[26]. A further three activities support the African Tax Administration Forum (ATAF) for a combined total of EUR 1.4 million.[27]

10 activities with a budget of EUR 35.4 million are spent via multilateral organisations, mainly the IMF but also OECD, WB and the UN. In total, these activities were active in 93 unique countries[28], although most countries only participated in one or two activities. The remaining two activities are programs[29] under the Dialogue & Dissent framework which include activities that aim to support NGOs in developing countries to participate in discussions on taxation.[30]

Expenditures on TA are expected to double in 2020 (compared to 2015), in line with commitments made under ATI.[31]

2.4. Sub-goal 3: Decreasing the use of the Netherlands' tax system for conduit activities

Sub-goal 3 of the Agenda on Policy Coherence for Development is decreasing the use of the Netherlands' tax system for conduit activities, including from developing countries. As part of the effort to address tax avoidance in the period 2013/2014 the Dutch government offered 23 developing countries with which it has a tax treaty to include anti-abuse clauses to prevent 'treaty shopping' via the Netherlands.[32] Anti-abuse clauses are one of the four minimum standards of the G20/OECD BEPS-project.

The clause offered by the Netherlands is preferably a principal purpose test (PPT) although a limitation of benefits (LOB) clause may also be used. With a PPT treaty benefits are denied when the principal purpose of transactions or structures is to benefit from tax treaties. The Dutch government prefers the PPT to be included in tax treaties, referring to the international community which has the same preference.[33] As of late 2016, with 9 developing countries agreement[34] was reached on including anti-abuse clause. With a further 11 countries negotiations were ongoing.

Another option to implement anti-abuse clauses is via action 15 of the G20/OECD BEPS-project: the ratification and implementation of the Multilateral Instrument (MLI), a multilateral tax treaty that includes certain BEPS provisions in bilateral tax treaties if both countries ratify the MLI. However, the MLI is flexible, choices can be made regarding: (1) alternative anti-abuse clauses, (2) a disclaimer to avoid the MLI overriding similar existing bilateral tax treaties, and (3) a disclaimer to avoid certain non-minimum standard clauses from taking effect. The choices each individual countries make do not lead automatically to changes in existing bilateral tax treaties between participating countries. This only happens when countries agree on the same clauses.[35] The Netherlands has ratified the MLI early 2019. As of October 2019, 90 countries have signed and 37 countries have ratified the MLI, which has been in force since July 2018. As of October 2019, there is a 'match' between the Netherlands and six developing countries in the MLI.

The scope of anti-abuse clauses in the MLI is broader than those in bilateral tax treaties, the latter is limited to dividend, interest and royalty's while the MLI also include other possible channels of treaty abuse.

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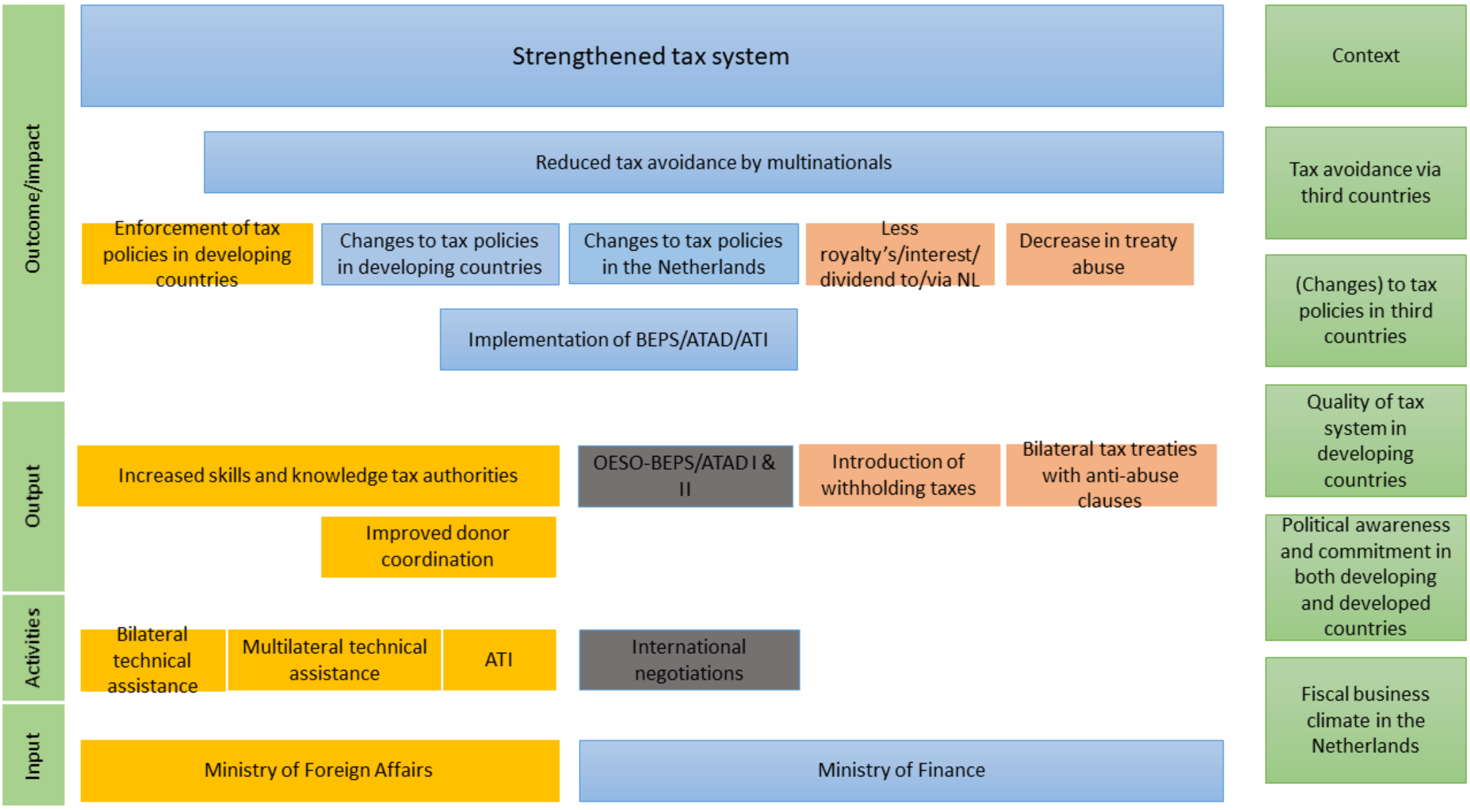
[26] Middle East and North Africa, Sahel, Horn of Africa, Great lakes area, Afghanistan and Bangladesh.
[27] The African Tax Administration Forum is supported to improve knowledge exchange between African tax authorities. Ministry of Finance, 2018b, pp. 19, 20.
[28] In one case only a region is specified, the Andes.
[29] 'Fair, Green and Global Alliance' of Both Ends and 'Towards a worldwide influencing network' of Oxfam Novib and SOMO.
[30] Establishing the specific activities and expenditures related to taxation under these programs is part of the evaluation.
[31] The Addis Tax Initiative obliges participating donor countries to double TA on DRM in 2020 (compared to 2015); developing countries to make more effort to improve DRM and all countries to ensure policy coherence with respect to DRM. Donor countries also strive to include developing countries in international discussions on taxation, make sure they profit from agreements made in the OECD BEPS-project and support them in the taxation and management of funds derived from the exploitation of natural resources. Addis tax initiative, 2015.
[32] Ministry of Finance, 2016, p. 8.
[33] Ministry of Finance, 2016, p. 5; IOB, 2013, pp. 50, 51.
[34] In the mentioned letter to parliament agreement between civil servants of both countries was reported, it can take a significant amount of time before agreements are subsequently signed by Ministers and ratified.
[35] Ministry of Finance, 2016, pp. 2, 3.

Also mentioned in the Agenda on Policy Coherence for Development and in the explanation to the budget of the Ministry of Finance in 2019 is the introduction in 2021 of conditional withholding taxes on interest and royalty's channelled via the Netherlands to low tax jurisdictions.[36] Other measures in Dutch treaty policy specifically aimed at developing countries are acceptance of relatively high withholding taxes or a different interpretation of 'permanent establishment' status in tax treaties.[37]

[36] Although mentioned in Table 1 In 2018 the proposed conditional withholding tax on dividend was not implemented because the general withholding tax on dividends remained in place.
[37] Ministry of Finance, 2011.

3. Assumptions and research questions

Figure 1 Simplified reconstructed theory of change



In the simplified theory of change (ToC) the three sub-goals of the policy goal 'Increased government revenues in developing countries' are specified: (1) international discussions to counter tax avoidance (grey), (2) TA to improve tax legislation and enforcement (orange), and (3) measures to reduce tax avoidance via the Netherlands (red). This ToC is reconstructed based on policy and project documents.

The elements in blue are related to more than one of the sub-goals and show the substantial overlap between them. For example, anti-abuse clauses lead to reduced tax avoidance if sufficient capacity to enforce them is available in developing countries, and developed countries provide sufficient information on MNEs necessary to make a judgement on possible treaty abuse. The context factors (can) affect policy formulation and effectiveness and are therefore important to consider during this evaluation.

Based on the theory of change, assumptions can be identified that are essential for achieving the goals of strengthening tax systems in developing countries. Assumptions are grouped by the three sub-goals followed by the research questions that test these assumptions. These are listed in Table 2. Two of the research questions relate to all sub goals.

The main research question guiding this evaluation is: **To what extent are Dutch government policies and activities to strengthen tax systems in developing countries coherent and relevant, and what are their effects?**[38]

The evaluation criteria guiding this evaluation are coherence, relevance and effectiveness. These are operationalised below.

Coherence relates to both the intended as the actual effects of the three sub goals. Intended effects relate to the question if and in what way the interests of developing countries were taken

[38] The term 'developing countries' is used, although findings will be based on a selection of developing countries and may differ between them. Therefore, conclusions will not apply equally to all developing countries.

into account during designing and implementation of policies and activities under the three sub-goals. Coherence in actual results relates to the question whether observed effects all worked in the same direction, irrespective of intended results. A final aspect of coherence is whether implementation of the interventions under the three sub-goals was to some extent coordinated and made use of each other. For example, whether TA in developing countries provided for anti-abuse clauses to be enforced or improved coordination between Dutch and local tax authorities was necessary.

The three sub-goals under the policy goal 'Increased government revenues in developing countries, especially low-income and partner countries' are mostly focused on strengthening tax systems by increasing the ability of developing countries to retain a larger share of corporate tax revenues due by MNEs. The exception is sub-goal 2 where some TA-activities are broader and also cover other aspects of the tax system. The policies and activities under this policy goal most related to coherence are those on countering tax avoidance by MNEs. Therefore, after a description of all Dutch policies and activities under this policy goal, the evaluation focuses on the coherence between the policies and activities related to countering tax avoidance by MNEs.

Relevance is the extent to which the aid activity is suited to the priorities and policies of the target group, recipient and donor. It also questions the process in which needs and priorities of developing countries were articulated.

Another aspect of relevance is donor coordination in both international initiatives (ATI) and national programs to strengthen tax systems. Donor coordination should prevent the duplication of activities and ensure activities of each donor are part of a broader effort to strengthen the tax system in a specific country. This also relates to the influence of the Netherlands in guiding and monitoring multilateral funds which it financially supports.

Effectiveness is a measure of the extent to which an aid activity attains its objectives. Factors to consider when trying to assess the effectiveness of policies and activities are the context factors mentioned in the ToC. These relate to the efforts of developing countries to counter tax avoidance by MNEs and the limits on the influence of Dutch policies and activities, the quality of the tax system in developing countries and the willingness and means to counter tax avoidance by MNEs. Also, the ease with which financial flows may be rerouted can be an important factor in assessing effectiveness. FDI may be invested in another (developing) country, or another country than the Netherlands may be used as a conduit, undermining the effects of closing or limiting the use of a particular route. Lastly, an attractive tax system is considered an important aspect of the business climate in the Netherlands and expected to attract FDI and headquarters of MNEs. This is mentioned in the explanation to the budget of the Ministry of Finance in 2019. An example is the number of tax treaties the Netherlands has with other countries.[39]

Options for attributing TA-activities directly to changes in (corporate) tax revenue are limited due to: (1) A breakdown of direct taxes into corporate taxes and other types is not available for all countries, (2) many developing countries do not distinguish withholding tax revenue in national revenue statistics, (3) data on FDI both from and via the Netherlands is only available for a few developing countries, and (4) data on taxation of indirect transfers of assets is often lacking. Also, the relatively small expected contribution of TA and other factors that are difficult to account for but are likely to affect tax revenues (tax holidays, tax legislation, enforcement), combined with difficulties in quantifying institutional quality and the effects of TA on it make it very hard to do so.

Table 2 Assumptions, research questions and evaluation methods

Sub-goal	Assumption(s)	Research question	Country study	Literature review	Econometric analysis	Policy reconstruction
All sub-goals		1) What is the best estimate of tax revenue lost by developing countries due to tax avoidance by multinationals and what is the role of the Netherlands?		X		

[39] Ministry of Finance, 2019.

		2) To what extent are Dutch policies and activities to counter tax avoidance in developing countries coherent?				X
Sub-goal 1: International agreements	- The Netherlands takes into account the interests of developing countries during international discussions - The Netherlands is able to improve participation of developing countries in international discussions	3) Has the Netherlands succeeded in including developing countries and their priorities in discussions on international agreements on countering tax avoidance?	X			X
	- The Netherlands takes into account the interests of developing countries when implementing rules and recommendations based on international discussions	4) To what extent are the interests of developing countries considered by the Netherlands when implementing recommendations of international discussions on countering tax avoidance?	X			X
Sub-goal 2: Technical assistance	- Technical assistance addresses the priorities of developing countries with respect to strengthening their tax system - The Netherlands is able to guide multilateral funds and country programs to increase their relevance	5) Which TA-activities are supported by the Netherlands and to what extent do they address the needs of developing countries?	X	X		X
	- Technical assistance is able to improve skills and knowledge of tax authorities and other government institutions	6) To what extent have TA-activities supported by the Netherlands succeeded in implementation of BEPS actions and negotiation and enforcement of tax treaties in developing countries?	X	X		
Sub-goal 3: Decreasing the role of the Netherlands as channel for tax avoidance	- Inclusion of anti-abuse clauses in tax treaties with developing countries leads to a decrease in abuse of treaty benefits by multinationals - Introduction of withholding taxes by the Netherlands will decrease its role in tax avoidance from developing countries - There are no viable alternatives for tax avoidance via the Netherlands, making Dutch actions to counter tax avoidance effective	7) Are anti-abuse clauses and the introduction of withholding taxes on royalty’s and interest able to counter tax avoidance by multinationals from developing countries via the Netherlands?	X		X	X

4. Methodology

The method(s) used to answer each research questions is summarised in Table 2. Each method and the way the research questions are addressed is described below separately for each research method.

4.1. Country studies

Country studies in Kenya, Ghana and Uganda[40] contribute to answering research questions 3 to 7. Country studies will be further informed by the other sub-studies of this evaluation and specified in more detail during the course of this evaluation. This is done because several research questions require more detailed insight in policies, activities and positions of the Netherlands before they can be meaningfully answered in the case study countries.

Research question 3 and 4 (sub-goal 1): The Netherlands strives to include developing countries and their interests in international discussions on countering tax avoidance. During country studies questions will be asked on the way in which the Netherlands specified needs of developing countries and secondly in whether support by the Netherlands succeeded in including developing countries in the BEPS process.

Implementation of BEPS-actions by the Netherlands can affect developing countries as well. This assumes the Netherlands is aware of the potential effects on developing countries.

Research questions 5 and 6 (sub-goal 2): All TA-activities supported by the Netherlands will be described after which the focus is on activities expected to contribute to implementation of BEPS actions and the negotiations related to the inclusion of and enforcement of anti-abuse clauses in tax treaties with the Netherlands.

Because relatively recent reports of SEO and ICAI are available which already raise some relevant points with respect to TA-activities, this evaluation builds on their findings[41]. A key question is the relevance of the TA-activities supported given the: (1) Difficulty in identifying the most urgent needs of tax authorities in developing countries, (2) Discrepancy between technical international tax issues and more basic problems of tax systems, and (3) The level of training given the knowledge level of participants.

The demand driven nature (assuming this is the case) assumes developing countries are able and willing to identify the most pressing issues. A tool that can help identify these issues is TADAT[42], which assesses the performance of the tax system against a standard set of indicators. This may help to more objectively assess the activities supported to both the preferences of developing countries as well as a more objective standard.

Activities financed by the Netherlands should be seen in relation to other donors. The question is therefore also whether and the Netherlands was able to guide the larger multilateral trust funds and country TA-programs to which it contributes. The relatively small Dutch bilateral activities may imply operating in a niche by addressing very specific issues. As one of the founders of ATI the Netherlands strives to improve policy coherence and donor coordination with respect to TA (next to

[40] See Annex 4 for an explanation of the reasons to visit these countries.

[41] An interim review by SEO focuses on the process of identifying and implementing bilateral TA-activities questions some of the aspects of the programs by both the Ministry of Finance and IBFD. There are questions regarding the demand-driven nature of the requests, the level of trainings in comparison to the knowledge of the recipients, the number and position of recipients and the complementarity of Dutch TA given the number of donors already active in this field. The review does not assess the effects of the activities however. Also, there is concern over the monitoring of activities, in some case to the point it has become unclear whether activities actually took place. A review of DFID's activities on DRM in developing countries, which is quite similar to the Dutch programs in scope but larger in financial terms, concludes that there are doubts over the impact of training in highly technical international tax issues (implementation of BEPS-standards) given more basic constraints in national tax systems, such as corruption, tax incentives and the lack of effective sanctions and asset recovery systems. Also, there are questions raised regarding the influence of developing countries in the process of designing and prioritizing the BEPS actions (SEO, 2016; ICAI, 2016).

[42] Tax administration diagnostic assessment tool, a tool developed by the IMF (co-funded by the Netherlands) that specifies in detail the functioning of a country's tax administration.

commitments to increase financial support to TA). Therefore the focus during the country studies is not only on activities supported by the Netherlands but also on their position in a larger field of donors and the ability to guide other donors to increase the relevance and coherence of activities.

Research question 6 asks whether TA supported by the Netherlands aimed at implementation of BEPS actions, tax treaty negotiations and enforcement of anti-abuse clauses in tax treaties with the Netherlands contributed to these specific goals.

Research question 7 (sub-goal 3): Developing countries have been offered to include anti-abuse clauses in their tax treaties with the Netherlands. Not all countries have responded to this request, which seems counterintuitive because they are expected to benefit from these clauses.[43] They also have the option to ratify the MLI, which should provide further options to counter treaty abuse. The effectiveness of anti-abuse clauses is dependent on (at least) four conditions: (1) there is sufficient knowledge and expertise in developing countries to be able to effectively deny treaty benefits to MNEs, (2) the clauses used are sufficient to counter misuse of treaty benefits, if effectively applied, (3) tax authorities in developing countries have access to all relevant information to assess whether treaty benefits are misused, and (4) financial flows are not easily rerouted through other countries. These conditions will be tested.

4.2. Literature review

Literature reviews contribute to answering research questions 1, 5 and 6.

Research question 1: Several estimations are available on the size of tax revenues missed by developing countries due to tax avoidance by MNEs.[44] These estimations differ to some extent because different methodologies are applied, generally strong assumptions have to be made to cope with missing data problems and sometimes not the same channels of tax avoidance are measured[45]. A synthesis of these estimations may provide some more clarity on the order of magnitude of tax revenues lost in developing countries, if possible specified for (a selection of) different channels[46] of tax avoidance and individual countries. This should lead, for a number of developing countries[47], to an estimate of the tax revenue loss due to tax avoidance by MNEs. Data and methodological issues will remain however, because tax avoidance is not measured directly but estimated based on different methodologies.[48]

The Netherlands is often used as a conduit by MNEs in tax avoidance constructions, this is likely to be the case for tax avoidance from developing countries as well. However, the extent to which this is the case is not yet clearly established (due to the difficulties mentioned earlier), therefore an attempt is made to specify the role of the Netherlands in tax revenue losses in developing countries due to tax avoidance by MNEs.

Research questions 5 and 6 (sub-goal 2): Available project documents (annual/final reports and evaluations) contribute to answering questions regarding the relevance and effects of TA-activities. Substantial information on activities implemented through multilateral organisations is available, on bilateral activities less documentation is available. These documents are not expected to contribute much to assessing the effects of interventions based on an assessment by SEO[49] of bilateral project documents and a first glance at documents from multilateral organisations.

[43] Developing countries face a dilemma in that low statutory and effective tax rates are supposed to attract FDI but could lower tax revenues. An additional issue is the scope for offering tax holidays to MNEs which benefit from a lack of transparency, a lack of accountability and are sometimes concluded without the knowledge of the tax authorities. The incentives of politicians and civil servants and the public good may not always be aligned.

[44] For example: IMF, 2015; UNCTAD, 2018 and OECD, 2015.

[45] For example, two letters to parliament (Ministry of Foreign Affairs, 2017b and Ministry of Foreign Affairs, 2019b) alone mention six reports that estimate the size of tax revenue lost by developing countries.

[46] For example, the channels listed in Annex 5.

[47] At least the countries where Dutch bilateral TA-programs were/are active: Bangladesh, Burundi, Ethiopia, Ghana, Indonesia, Kenya, Liberia, Malawi, Palestinian Territories, Rwanda, Tanzania, Uganda and Zambia.

[48] The OECD is currently working on a corporate tax statistics dataset which will include country-by-country (CbC) reporting on profit and taxes paid by MNEs based on firm data. CbC reports are expected to be added in 2020 and make measuring tax avoidance more accurate and reliable. The OECD is also developing six indicators to measure tax avoidance more precisely. However, because these are likely not to be available in time to be used the review will be based on available literature. Ministry of Finance, 2018c, pp. 2, 4.

[49] SEO, 2016.

Therefore, the information will mostly be used to inform and supplement the country studies and to assess the relevance of the activities based on their objectives.

4.3. Econometric analysis

Research question 7 (sub-goal 3): The inclusion (offered) of anti-abuse clauses in tax treaties between the Netherlands and 23 developing countries and the introduction of conditional withholding taxes on interest and royalty's in 2021 should decrease the role of the Netherlands in international tax avoidance structures, at least to low-tax jurisdictions.

A letter to parliament[50] presents several ongoing and proposed research projects to measure the effects of these initiatives to counter tax avoidance structures via the Netherlands. Additional research here is only planned to answer specific questions related to developing countries not included in the initiatives mentioned in this letter, especially an analysis done by CPB. Additional research builds on this analysis and is in line with an earlier CPB-study.[51] It will explore options to extend a network-analysis to determine which options exist to channel financial flows (dividend, interest and royalty's) from developing countries to the intermediate/final destination via other countries if conditional withholding taxes and anti-abuse clauses make the Netherlands a less attractive option.

4.4. Policy reconstruction

Research question 2: The Agenda on Policy Coherence for Development strives to improve coherence in policies and activities. The Sustainable Economic Development unit (DDE), the policy unit within the ministry responsible for most of the TA activities on this theme, mentions in its annual plan in 2017 that, through policy influencing of government policy, it strives to make sure that an attractive fiscal business climate does not interfere with countering avoidance in developing countries. "DDE will continue to address abuse of tax treaties. The Ministry of Finance will be supported to reach an agreement with more than the current nine developing countries to include an anti-abuse clause in tax treaties. Monitoring will be introduced to measure effects of the inclusion of these clauses in tax treaties".[52]

A reconstruction based on policy and program documents and interviews will show to what extent interests of developing countries were acknowledged and taken into account when designing policies and activities that relate to countering tax avoidance in developing countries. This question is mostly a synthesis based on the results of the other parts of this evaluation with some additional interviews with policymakers.

Research questions 3 and 4 (sub-goal 1): The question is whether there is sufficient insight in the effects of BEPS and ATAD on developing countries; i.e. in what way the Netherlands tried to specify the interests of developing countries and whether these were included in their positions, policies and activities. Also, the IMF suggested to developed countries to conduct a spill over-analysis on the effects of the tax system on developing countries. The Netherlands did not conduct such an analysis. Through interviews with policymakers in the Netherlands and international organisations/donors it should become clear to what extent interests of developing countries were integrated in decision making with respect to the position of the Netherlands during international discussions on taxation and implementation of recommendations.

Research question 5 (sub-goal 2): Trough interviews and documentation it should become clear in what way the Netherlands tried to guide multilateral trust funds and country programs to which it contributes. Improved donor coordination and coherence is also attempted through ATI.

Research question 7 (sub-goal 3): Because anti-abuse clauses in tax treaties between the Netherlands and developing countries are relatively recent and information on their use is not publicly available, several cases of (attempts) to investigate possible treaty abuse and denial of treaty benefits will be assessed to the extent possible.

[50] Ministry of Finance, 2018c.
[51] CPB, 2017.
[52] Ministry of Foreign Affairs, 2017a.

5. Planning

Table 3 List of personnel lists the personnel involved in this evaluation. The evaluation will be conducted by IOB-researchers Joep Schenk and Stephanie Bouman. Internal quality management is provided by IOB-researchers Peter Henk Eshuis, Caspar Lobbrecht and Josine Polak. External quality management is provided by members of the reference group Geert Holterman and Nils Langemeijer of the Ministry of Foreign Affairs, Kristy Jonas and Alex Israël of the Ministry of Finance, Francis Weyzig (until 31-12-2019) and Esmé Berkhout (from 01-01-2020), both senior policy advisor at Oxfam Novib, Dirk Jan Sinke, secretary at VNO-NCW and Irma Mosquera Valderrama, Associate Professor at Universiteit Leiden. The reference group is chaired by Otto Genee, senior evaluator at IOB.

The reference group is asked to provide feedback on several products of the evaluation, at least: (1) the terms of reference; (2) sub report(s); (3) final report and, optionally (4) inception report(s) prepared by the consultants. The role of the reference group is advisory, the final responsibility rests with IOB.

Table 3 List of personnel

Name	Involvement	Organisation
Joep Schenk	Researcher	IOB
Stephanie Bouman	Researcher	IOB
Otto Genee	Chair reference group	IOB
Geert Holterman and Nils Langemeijer	Reference group	Ministry of Foreign Affairs
Kristy Jonas and Alex Israël	Reference group	Ministry of Finance
Francis Weyzig (until 31-12-2019) and Esmé Berkhout (from 01-01-2020)	Reference group	Oxfam Novib
Dirk Jan Sinke	Reference group	VNO-NCW
Irma Mosquera Valderrama	Reference group	Universiteit Leiden
Peter Henk Eshuis	Co-reader	IOB
Caspar Lobbrecht	Co-reader	IOB
Josine Polak	Co-reader	IOB

Table 4 lists the different sub studies of the evaluation and the responsible party. As the table shows, the majority of the work will be outsourced to two parties. Because of their proven expertise on this topic CPB will do the econometric analysis. The framework contract for effect evaluations will be used to outsource the remaining sub studies to a consultant in one package, which includes the country studies, two literature studies and part of the policy reconstruction (interviews together with IOB). IOB will join at least one of the country visits to provide additional input and to learn from the local context.

The final synthesis will be written by IOB based on the sub-studies.

For both consultants (CPB and a yet to be identified party) a separate ToR will be written to further specify the method and research questions.

Table 4 Summary of sub studies

Type	**Explanation**	**By whom?**
Country studies	Kenya, Ghana and Uganda	Consultants (to be identified)/IOB
Econometric analysis	Alternative tax avoidance routes and effect withholding taxes	CPB
Literature study 1	Estimate of tax revenue loss in developing countries due to tax avoidance	Consultants (to be identified)
Literature study 2	Project documents of TA-projects	Consultants (to be identified)
Policy reconstruction	Interviews and policy documents	Consultants (to be identified)/IOB

The provisional planning of the evaluation is specified in Table 5. Note that meetings with co-readers are only specified in the planning when certain documents will be discussed but these meetings will be held once every six weeks.

Table 5 Draft planning

Activity	**Date**	
Finalizing ToR and tender		
ToR send to reference group		01-10-2019
Tender send to reference group		09-10-2019
Reference group meeting (ToR + tender)		15-10-2019
New versions of ToR and tender send to reference group		25-10-2019
New versions of ToR and tender send to co-readers		25-10-2019
Co-readers meeting (ToR + tender)		31-10-2019
Final feedback reference group revised ToR + tender		01-11-2019
Final feedback reference group revised ToR + tender		01-11-2019
Finalizing Tor and tender		11-11-2019
Tendering	Concept note + proposal	Proposal only
Request EoI (send ToR via Framework Contract)	15-11-2019	15-11-2019
Submission EoI	22-11-2019	22-11-2019
Request for concept note	25-11-2019	/
Submission questions on ToR	27-11-2019	/
Answers to questions on ToR	02-12-2019	/
Submission concept note	09-12-2019	/
Request 'full' proposal	24-12-2019	25-11-2019
Submission questions on ToR	/	02-12-2019
Answers to questions on ToR	/	09-12-2019
Submission 'full' proposal	24-01-2020	20-01-2020
(Optionally - Interview with team leaders)		
Final selection	07-02-2020	03-02-2020
Signature of contract	18-02-2020	12-02-2020
Study		
Kick-off meeting		Week 9 2020
Inception report		Week 11 2020
Written feedback IOB and reference group		Week 12 2020
Revised inception report		Week 14 2020
Interim reports, including: Draft report literature study TA Draft report literature study tax avoidance and role NL Draft report policy documents Draft report interviews (Draft) report CPB network analysis		Week 19 2020
Written feedback IOB and reference group		Week 20 2020
Country visits Ghana, Kenya and Uganda		Week 22-24 2020
Country study reports		Week 27 2020
Draft final synthesis report IOB		Week 32 2020
Presentation draft final report to IOB and reference group		Week 33 2020[53]
Written feedback IOB and reference group		Week 33 2020
Final synthesis report IOB		Week 37 2020

[53] Due to the holiday period, the final internal and external reference group meetings may have to be postponed until September. In that case, the final report will be finished later as well.

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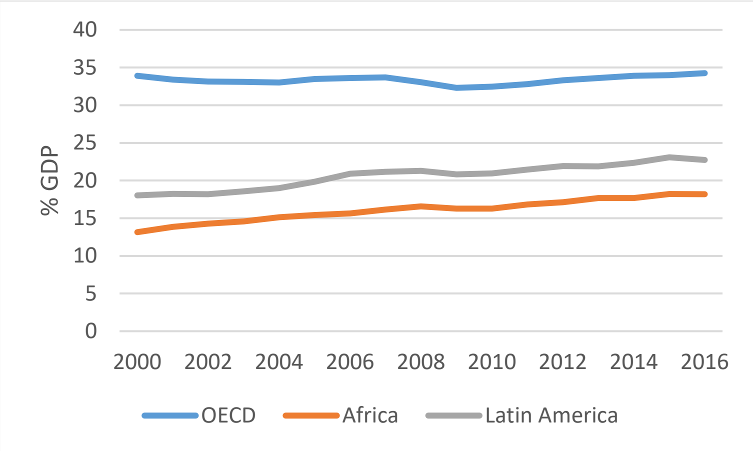
Annexes

Annex 1 Domestic resource mobilisation in developing countries

Figure 2 shows tax-to-GDP ratios in 21 African countries[54] averaging 18.2% compared to an OECD-average of 34.3% in 2016.[55] This ratio increased on average by 0.3 percentage points annually from 13.1% in 2000. Differences between countries range from 7.6% in the Democratic Republic of the Congo to 28.6% in South Africa.

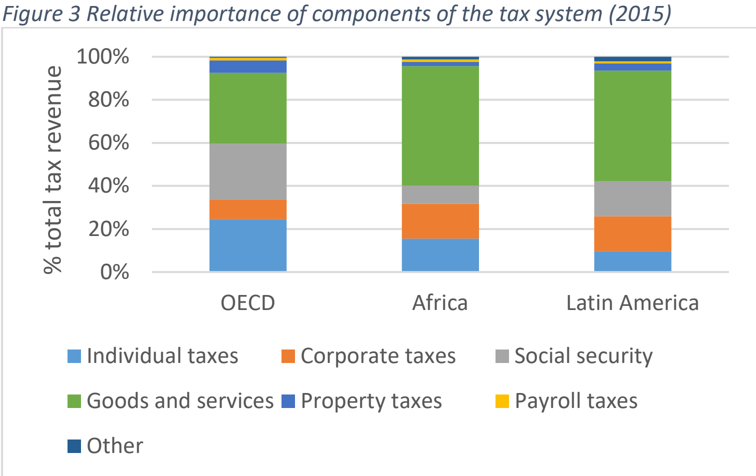
Figure 2 Average regional tax revenues (% GDP) [56]



Source: OECD, n.d.-a.

Differences occur in the relative importance of different components of the tax system, as shows for three regions. Personal income taxes and social security contributions are typically low in developing countries. As a consequence, corporate taxes account for a relatively large share of total tax revenues, averaging 16% in 2015 compared to an OECD-average of 8.9% in 2015.[57] The importance of corporate taxes in developing countries has grown in the period 2000-2015, while in developed countries this share has declined slightly.[58] Also, goods and services taxes account for a relatively large share of tax revenues.

Figure 3 Relative importance of components of the tax system (2015)



Source: OECD, n.d-a.

[54] Based on 21 African countries, of which 18 sub-Saharan: Botswana, Burkina Faso, Cameroon, Cabo Verde, Congo, Democratic Republic of the Congo, Côte d'Ivoire, Ghana, Kenya, Mali, Mauritius, Niger, Rwanda, Senegal, South Africa, Eswatini, Togo, Uganda. The selection is based on data availability.
[55] OECD, n.d.-a.
[56] Tax revenues include: taxes of income and profits of individuals and corporations; social security contributions; payroll taxes; property taxes; taxes on goods and services and other taxes.
[57] Countries that depend for a relatively large part on revenues from natural resources tend to have different tax structures.
[58] IOB, 2013, pp. 31, 37; OECD, n.d.-a.

Issues hindering countering tax avoidance in developing countries

DRM in developing countries is hindered for several reasons, arguably the most important of which are specified below. These vulnerabilities in developing countries' tax systems and enforcement enable MNEs to (often intentionally) erode the tax base or shift profits to lower the total tax bill at the expense of tax revenues. Because the relatively large extent to which developing countries are dependent on corporate taxes the results may be more severe than in developed countries, where BEPS is an issue as well.

- Weak administrative capacity

A major domestic constraint is weak administrative capacity. Understaffed and poorly funded tax authorities limit both the amount of (corporate) taxpayers that can be assessed and the quality of the assessments. This complicates the formalization of a large informal sector; many small taxpayers are not subjected to direct income taxes at all. Also, large taxpayers may relatively easy reduce their tax burden using international tax avoidance strategies without being challenged by the tax authorities. Most developing countries also have a large shadow economy where consumption taxes can be evaded.[59]

Also, many tax administrations are not competitive employers of skilled staff working on international tax avoidance issues leading to a drain to the private sector, particularly the large accountancy firms. This constraint, combined with lack of experience, result in asymmetry when officials are confronted by well-advised large companies.

Finally, many developing countries may not have an established practice for settling disputes with large taxpayers conducting complex international transactions. The complex and fact-intensive nature of international tax rules means that disputes in developed countries are often settled by negotiation and compromise between the tax administration and taxpayer. This practice may not necessarily transfer well to the developing country context, where a culture of dealing with disputes in this way may be absent. In addition, the granting of wide discretion to tax auditors may open the door to corruption.[60]

- Lacking legislation

Incomplete legislation and/or legislation that is insufficiently targeted at the most important risks is a common issue in developing countries as well. With respect to tax avoidance by MNEs: there is often more than one way in which profit can be shifted cross border, and legislation that closes one route will be ineffective if it leaves other routes open. For example, legislation that prevents profit shifting by means of transfer pricing will be of limited effectiveness if there is no effective measure in place to prevent MNEs from introducing excessive interest-bearing debt into a country.[61] Lacking or incomplete legislation is often also an issue with other forms of taxation such as income tax, property tax etc.

- Lacking information

A common problem for developing countries is an inability to obtain the information they require from MNEs to adequately assess the risk of BEPS or to apply their rules to counter BEPS. This may be due to any or all of the following: i) lack of effective information-gathering rules, ii) poor compliance with such rules, or iii) limited capacity to implement and enforce them, iv) inadequate tools (such as e-filing systems) to capture information and then fully analyse it. Developing countries report that they face difficulties, for example, in obtaining information about the foreign operations of an MNE group often needed to fully assess the risk of tax loss.[62] Information inadequacies apply to other forms of taxation as well.

- International tax competition and tax incentives

Another problem is the loss of revenues due to international tax competition and tax incentives granted by developing countries to foreign investors discriminating domestic entrepreneurs. These

[59] IOB, 2013, p. 38.
[60] OECD/G20, 2014, pp. 16, 17.
[61] OECD/G20, 2014, p. 16.
[62] OECD/G20, 2014, p. 16.

tax incentives can take many forms, including tax holidays, exemptions from various types of taxes, accelerated depreciation of investments, and tax credits.[63] Although not limited to developing countries, they may be more inclined and in need to offer tax incentives due to their relatively low levels of economic development and the (perceived) effect on attracting foreign investment.

- Lack of political awareness and commitment

Another issue consistently raised by developing countries is the need to achieve political buy-in as a prerequisite to making the legislative changes and resource commitment required to counter base erosion and profit shifting. Lack of political awareness and commitment is cited by many developing countries as a major barrier to effectively introduce and apply rules to address BEPS issues.[64]

[63] IOB, 2013, p. 38.
[64] OECD/G20, 2014, p. 18.

Annex 2 Summary of BEPS and ATAD I & II

G20/OECD project on base erosion and profit shifting

Table 6 summarizes the 15 BEPS-actions of which four are considered minimum standard. Also indicated is the perceived relevance of each action for developing countries based on a consultation by the OECD[65].

Table 6 BEPS actions and relevant for developing countries [66]

Action	Minimum standard	Description	Relevance developing countries
1		Addressing the tax challenges of the digital economy	Medium
2		Neutralizing the effects of hybrid mismatch arrangements	Low
3		Designing effective controlled foreign companies rules	Low
4		Limiting base erosion via interest deductions and other financial payments	High
5	Yes	Countering harmful tax practices more effectively, taking into account transparency and substance	Medium
6	Yes	Preventing the granting of treaty benefits in inappropriate circumstances	High
7		Preventing the artificial avoidance of permanent establishment status	High
8		Aligning transfer pricing outcomes with value creation - intangibles	Medium
9		Aligning transfer pricing outcomes with value creation – risks and capital	Medium
10		Aligning transfer pricing outcomes with value creation – other high-risk transactions	High
11		Establish methodologies to collect and analyse data on BEPS and the actions to address it	High
12		Require taxpayers to disclose their aggressive tax planning arrangements	Medium
13	Yes	Re-examine transfer pricing documentation and country-by-country reporting	High
14	Yes	Making dispute resolution mechanisms more effective	Medium
15		Developing a multilateral instrument to modify bilateral tax treaties	Low

Anti-tax avoidance directive

ATAD 1 has entered into force with a requirement for member states to apply certain provisions from January 1, 2019. Additionally, the ATAD contains rules on exit taxation and general anti-abuse which are not BEPS related.

By setting out minimum standards concerning a range of tax avoidance practices directly affecting the functioning of the internal market, the ATAD aims to create a minimum level of protection for national corporate tax systems across the EU. The directive does not prevent member states introducing legislation providing a greater degree of protection. The ATAD has been amended by ATAD 2 which introduced detailed rules for the treatment of hybrid mismatches.

ATAD 1 and 2 contains anti-avoidance measures in the following areas:

- interest limitation to discourage artificial debt arrangements designed to minimize taxes (BEPS Action 4);
- exit taxation to prevent companies from avoiding tax on the relocation of assets;
- general anti-abuse provisions to counteract aggressive tax planning when other rules do not apply;

[65] Based on consultation of developing countries and experience of international organisations (OECD, WB and EU) with programs on transfer pricing (OECD/G20, 2014).
[66] OECD/G20, 2015.

- controlled foreign companies (CFCs) to deter the shifting of profits to a low or no tax jurisdiction (BEPS Action 3); and
- hybrid mismatches (BEPS Action 2).

The directive requires member states to implement the new CFC and general anti-abuse provisions into domestic law with effect from January 1, 2019. Implementation of the interest limitation measures can, in certain cases, be postponed until January 1, 2024. The deadline for applying the exit taxation rule is January 1, 2020, and most of the measures relating to hybrid mismatches are required to take effect from January 1, 2020 (in the case of reverse hybrids, January 1, 2022).[67]

[67] https://www.bna.com/eu-antitax-avoidance-b57982095621/.

Annex 3 Overview of activities supported by MFA

Table 7 Summary of supported activities[68]

Name	Organisation	Theme	Start date	End date	Budget NL (in EUR)[69]	Total budget (in EUR if not specified)	# countries[70]
Ondersteuning topical trust funds (TPA)	IMF	Technical assistance	01-07-2009	30-06-2013	4 million	USD 30 million / 40 million	26
Ondersteuning topical trust funds (MNRW)	IMF	Technical assistance	01-07-2009	30-06-2013	4 million	UDS 30 million / 40 million	22
Ondersteuning Afritacs	IMF	Support to regional (African) organisations on tax	01-07-2009	31-06-2013	4 million	USD 205 million	24
Support to ATAF	South African Revenue Service	Support to regional (African) organisations on tax	01-11-2010	30-06-2014	0.25 million	USD 9.9 million	36[71]
Strenghtening tax systems	Ministry of Finance/Belastingdienst	Technical assistance	15-07-2012	31-12-2015	1.1 million	1.1 million	13
Capacity building taxations	IBFD	Technical assistance	01-07-2013	31-12-2015	1.4 million	1.4 million	13
TADAT tax diagnostics	IMF	Technical assistance	01-01-2014	31-12-2018	1 million	USD 8.4 million	41
Support to ATAF	ATAF	Support to regional (African) organisations on tax	01-01-2014	31-12-2015	0.25 million	USD 3.5 million	36[72]
Tax and development	OECD	Developing countries participation BEPS	01-01-2015	31-12-2017	0.5 million	USD 2.2 million	14
AFRITAC core	IMF	Support to regional (African) organisations on tax	01-06-2015	31-05-2019	7 million	?	42
Capacity building in taxation	IBFD	Technical assistance	01-07-2016	30-06-2020	3 million	3 million	10
Revenue mobilisation trust fund	IMF	Technical assistance	01-05-2016	30-06-2022	4.6 million	USD 60 million	23
Promoting DRM in partner countries	Ministry of Finance/Belastingdienst	Technical assistance	01-01-2017	31-12-2019	2 million	2 million	7
BEPS and TIWB support	OECD	Developing countries participation BEPS	01-01-2017	31-12-2020	1 million	1 million	28
Support to ATAF	ATAF	Support to regional (African) organisations on tax	01-01-2017	31-12-2020	0.9 million	USD 1.3 million	36[73]
Capacity building in DRM	UN-DESA	Technical assistance	01-11-2017	31-12-2019	0.5 million	USD 0.55 million	?
Global tax program	WB	Technical assistance	01-07-2018	30-06-2022	8.8 million	USD 62.7 million	30/40 (general) & 3/4 (earmarked)
Lokale belastingen gemeentes in Ghana	VNG/Maple consult	Technical assistance	01-11-2017	31-12-2022	4 million	4 million	1 (Ghana)

[68] These activities were included based on their budget location (SBE) and/or CRS code.
[69] Parts of activities may have a slightly different or broader focus than DRM alone, therefore budgets spent on DRM may deviate (slightly) from the budgets presented in the table.
[70] Based on most recent final/annual report/evaluation if available, otherwise based on appraisal memoranda.
[71] Based on membership of countries ATAF at project closure, not necessarily related to actual activity.
[72] Unclear, presumably the same as member countries mentioned under earlier support to ATAF.
[73] ATAF member countries.

Decentralization of property tax	VNG	Technical assistance	01-08-2018	31-12-2021	2 million	2 million	1 (Palestinian Territories)
Dialogue & Dissent: Towards a worldwide influencing network	Oxfam Novib/SOMO	Support to local NGOs	01-10-2015	31-12-2020	77.8 million[74]	77.8 million	71
Dialogue & Dissent: Fair, Green and Global Alliance	Both Ends	Support to local NGOs	01-10-2015	31-12-2021	59.5 million[75]	59.5 million	42

[74] Included are the expenditures on the entire program, of which only part is spent on taxation. Establishing the specific activities and expenditures related to taxation is part of the evaluation.
[75] Included are the expenditures on the entire program, of which only part is spent on taxation. Establishing the specific activities and expenditures related to taxation is part of the evaluation.

Annex 4 Case study countries

Table 8 lists the most relevant countries, from an initial list of 90+ countries where TA-activities were active, for further study based on: (1) the number of bilateral and multilateral TA-activities, (2) whether the country has a tax treaty with the Netherlands, (3) whether anti-abuse clauses are offered and agreed upon, (4) whether a country participates in the MLI, (5) whether either an AFRITAC or ATAC is located in the country, (6) the size of FDI-flows from the Netherlands to the country, (7) the percentage of Dutch FDI flows through Dutch Special purpose entities (SPEs), and (8) tax-to-GDP ratios.

Table 8 Case study countries

Country	# bilateral activities (out of 6)[76]	# multilateral activities (out of 13)[77]	Bilateral anti-abuse clause	Multilateral instrument	AFRITAC[78]	ATAF[79]	FDI stock from NL (million EUR)[80]	% Dutch FDI via Dutch SPEs	Tax-to-GDP ratio[81]
Bangladesh	2	4	Offered				141	44%	9.1%*
Burundi	2	5					80	0%	N/A
Ethiopia	4	6	Active				228	6%	N/A
Ghana	5	7	Active		Yes		290	91%	17.6%
Kenya	4	9	Agreement	Interested			1.337	95%	18.1%
Liberia	3	6					18	92%	21.9%*
Malawi	3	6	Agreement				115	99%	16.6%*
Rwanda	4	8					52	17%	16.6%
Tanzania	3	7				Yes	829	61%	11.8%*
Uganda	4	8	Offered				1.289	99%	13.1%
Zambia	3	5	Active				247	99%	18.6%*

Based on the table Ghana, Kenya and Uganda are the most promising countries for further study. Ghana hosts an Afritac, most of the TA-activities were active there and anti-abuse clause(s) in a bilateral tax treaty with the Netherlands are already active (one of only four countries where this is the case). Kenya has a relatively large FDI-stock (compared to other developing countries), of which most is invested through Dutch SPEs. Also most of the TA-activities were active there.

Uganda has a lower tax-to-GDP ratio than either Ghana and Kenya, suggesting tax collection is less developed than in these countries which may have implications for the type and intensity of TA required. Also, Uganda has a relatively large FDI-stock, of which almost everything is invested through Dutch SPEs.

[76] Excluding the two programs under Dialogue & Dissent.
[77] For two activities the countries in which they will be active are not yet clear, therefore the maximum is lower than the total number of activities in the period.
[78] African Tax Centers (AFRITAC) are collaborative ventures between the IMF, the recipient countries, and bilateral and multilateral development partners. It works with member countries and donors to help build local capacities for sound economic and financial management within the Poverty Reduction Strategy Paper framework. There are five AFRITACS (East, West I, West II, Centre and South).
[79] The African tax administration forum (ATAF) serves as an African network that aims at improving tax systems in Africa through exchanges, knowledge dissemination, capacity development and active contribution to the regional and global tax agenda.
[80] DNB tables 12.15 and 12.17. Median values for period 2012-2017 used due to annual fluctuations and occasional negative values.
[81] OECD, n.d.-b; countries with asterisk based on 2015 data (UNU WIDER, n.d.).

Annex 5 Types of profit shifting and base erosion

Base erosion strategies use mismatches between different tax systems to reduce the overall tax base. These typically involve payments between affiliates that are deductible in the first country, by the affiliate making the payment, but not recognized as taxable income of the affiliate in the second country, where the affiliate receiving the payment is located. Mismatches can exist between any two countries and are often unintended. Profit shifting does not reduce the overall tax base, but shifts profits from affiliates in countries with normal or high tax rates to affiliates that are subject to lower or even zero taxes. Profit shifting may occur between any two countries with a different tax rate.[82]

- Profit shifting through reallocation of functions

When different affiliates of the same MNE trade with each other, the allocation of profits between the different affiliates is often determined using the arm's length principle developed by the OECD. This principle essentially means that the trade between the affiliated companies should take place under the same conditions, and at the same prices, as a so-called 'arm's length' transaction between unrelated entities. Assuming the price is indeed at arm's length, a MNE can still shift profits by allocation functions that generate large margins to lowly taxed affiliates. Many MNEs centralize the ownership of the patents, registered in the countries where they operate, in low-tax environments.[83]

For example: Companies can conduct their research and development (R&D) activities in one country, but transfer the ownership of the patent that is subsequently created to another country where the resulting income streams will be taxed at a lower rate.[84]

- Profit shifting through financial structures

A special way of reallocating functions and risks within a MNE is through financial structures, such as equity participations, internal loans, insurance arrangements, or derivatives contracts. In principle, any MNE can use financial structures to shift profits, regardless of the type of business activities and operational structure. For example, cross-country differences in rates of corporate income tax (CIT) create opportunities for lending from low-tax countries to affiliates in high-tax countries or by locating external overall debt exposure of the group (and hence its bankruptcy risk).[85]

- Profit shifting through transfer mispricing

Revenue losses due to trade mispricing form a major constraint to taxation of international business. When affiliates that belong to the same MNE trade with each other, they set internal transfer prices. The current international standard for transfer pricing, developed by the OECD, specifies that the trade should be at arm's length, that is, prices should not differ from those charged to unrelated parties. However, transfer prices are relatively easy to manipulate, because for many trades there are no comparable transactions with unrelated parties.[86] Transfer mispricing is often illegal and thus a form of tax evasion rather than legally allowed tax avoidance, at least in theory. In practice, transfer mispricing is hard to prove because it is difficult to determine arm's length prices. The line between tax avoidance and tax evasion is therefore not always clear.[87]

- Avoidance of withholding tax

Standard withholding tax rates are often reduced on a bilateral basis in tax treaties. In theory, the main purpose of tax treaties is to remove tax barriers to international economic activity. Tax treaties prevent double taxation by allocating taxing rights between the host country, where the

[82] IOB, 2013, p. 45.
[83] IOB, 2013, p. 46.
[84] IMF, 2018b, p. 8.
[85] IMF, 2018b, p. 9.
[86] IMF, 2018b, p. 7.
[87] IOB, 2013, p. 49.

income is generated, and the home country, where the capital provider or shareholder and beneficiary of the income resides. This provides legal certainty to foreign investors and this is assumed to enhance the investment climate. Withholding tax reductions limit the taxing rights of the host country and are therefore a core element of tax treaties.[88]

- Avoidance of capital gains tax

Many host countries levy a tax on capital gains that arise from the sale of certain property or shares. In some countries this tax is limited to the sale of interests in real estate, mining assets, land, and other immovable property; in other countries it also applies to the sale of participations in domestic companies. Tax treaties often allow host countries to levy capital gains tax on immovable property, but allocate the right to tax capital gains on the sale of shares to the home country of foreign investment. This is also the case for Dutch tax treaties. MNEs use strategies to avoid capital gains tax on the sale of foreign assets that closely resemble strategies to avoid withholding taxes. These strategies usually involve an intermediate holding in a third country. This can be a third country with a tax treaty that eliminates capital gains tax on a bilateral basis.

- Base erosion through mismatches and hybrid structures

For base erosion structures involving Dutch entities, two types of mismatches are particularly relevant. The first type concerns hybrid entities that are treated according to different tax regimes by the relevant countries. Consider for example a corporation that is incorporated in one country, but has its effective place of management in another country. In some cases, neither country may consider the corporation as a resident for tax purposes. Other structures involve a hybrid entity that from the perspective of one country classifies as a corporation subject to tax, but from the perspective of another country classifies as a partnership, of which the income should be attributed to the partners for tax purposes. Such hybrid entities are often used by firms from the US, because US tax laws allow firms to designate foreign partnerships as incorporated subsidiaries for US tax purposes.

The second type concerns hybrid-financing arrangements that one country treats as debt, but another country as equity. For example, under certain conditions, interest payments on so-called profit participating loans from Dutch entities are regarded as dividends for Dutch tax purposes. Since 2007, these payments are tax exempt in the Netherlands, even if they are tax deductible in the source country. Examples of countries that allow such deductions are France, Belgium, Spain, and Finland.[89]

- Avoidance of home country tax on foreign income

A few important home countries of foreign investment tax the income of foreign subsidiaries. The tax on this income is usually offset by a tax credit equal to the tax already paid abroad and thus arises only if the foreign tax rate is lower. Furthermore, the tax is normally deferred until the income is repatriated in the form of dividends. MNEs use different strategies to avoid this home country tax. Indirectly, this can also affect developing host countries. Avoidance of home country tax on dividends from entities in low-tax jurisdictions, such as Bermuda, may facilitate profit shifting from developing countries to such entities, for example through transfer mispricing.[90]

[88] IOB, 2013, pp. 50, 51.
[89] IOB, 2013, p. 53.
[90] IOB, 2013, p. 54.