Key Financial Secrecy Indicators
6: Country-by-Country Reporting

What is being measured?

This indicator measures whether the companies listed on the stock exchanges or incorporated in a given jurisdiction are required to publish worldwide financial reporting data on a country-by-country reporting (CBCR) basis. A full credit is awarded if country-by-country reporting[1] is required by all companies (which is not yet the case). A 25% credit is awarded if a country requires limited, but periodic worldwide country-by-country reporting for specific economic sectors, namely banking or extractive industries.

In principle, any jurisdiction could require all companies incorporated under its laws (including subsidiaries and holding companies) to publish in their accounts financial information on their global activity on a country-by-country basis. In practice, however, no jurisdiction does this today. Appropriate reporting requirements can be implemented either through regulations issued by the stock exchange or by a legal or regulatory provision enacted by the competent regulatory or legislative body.

Country-by-country reporting for financial institutions is being introduced in EU member states to start in 2015[2]. The EU-CBCR rules for banks include annual disclosure of turnover, number of employees, profit or loss before tax, tax on profit or loss, and public subsidies received. A quarter of a transparency credit (0.25 credits) has been awarded to EU members.

Another set of (far narrower) CBCR rules applying to the extractives industries have become law in the USA[3] and similar rules are currently being passed for EU member states, too[4]. The annual financial information to be published in both cases is limited to data required under the principles elaborated by the Extractive Industries Transparency Initiative (EITI)[5]. These principles prescribe that all "material payments" to governments made by companies active in the extractive sector must be published. A quarter of a transparency credit (0.25 credits) has been awarded for the USA and EU-members.

In our assessment it is not enough if a country obliges or allows extractive companies operating on their territory to publish payments to this country's government agencies. Instead, for a quarter transparency credit, a country must require either all companies incorporated in its territory or those listed on a stock exchange to disclose payments made worldwide in countries with extractive operations (including by its subsidiaries), and not merely in the same country.

Compared to full CBCR and compared to the European rules on CBCR in the banking sector, the EITI principles are also far narrower in geographical scope because they require disclosure of payments only with respect to countries where the corporation actually has

extractive operations. Payments to other country governments, for example where holding, financing or intellectual property management subsidiaries of the same transnational group are located, are not required to be reported. This limits the data's usefulness for tackling corporate profit shifting. The rule's value for resource rich (developing) countries however is substantial.

An even weaker requirement applies in Hong Kong. The requirement to disclose details about "payments made to host country governments in respect of tax, royalties and other significant payments on a country by country basis"[6] is only triggered either at the time of the extractive company's initial listing on the stock exchange or on the occasion of the company issuing fresh shares. It remains unclear how the provisions to disclose "significant payments" on a "country-by-country basis" will ultimately be interpreted and implemented. Because one-off disclosure is better than no disclosure, but nonetheless unlikely to deter bribery or tax evasion, we only award 0.1 credits in this circumstance.

The main data[7] sources we used for this indicator were the TJN-Survey 2013, original sources from the EU, USA and Hong Kong and interviews and/or email-exchanges with various experts from, among others, www.revenuewatch.org, www.eiti.org, www.publishwhatyoupay.org and http://www.foei.org/en.

Table 1: KFSI 6 - Country-by-Country Reporting - Construction		
Conditions	**Assessment**	**Sources**
(1) Some one-off country-by-country reporting required for corporations active in the extractive industries (EITI equivalent, at least for those listed) (2) Some annual country-by-country reporting required for corporations active in the extractive industries (EITI equivalent, at least for those listed) or banking	(1) = 0.1 credit points (2) = 0.25 credit points for each sector covered (3) = 1 credit point	• TJN Survey 2013 • www.eiti.org • www.revenuewatch.org • www.publishwhatyoupay.org • http://www.foei.org/en

Table 1: KFSI 6 - Country-by-Country Reporting - Construction		
Conditions	**Assessment**	**Sources**
(3) Full annual country-by-country reporting required for corporations of all sectors (at least for those listed)		

Why is this important?

TJN's proposal for CBCR[8] requires transnational corporations of all sectors, listed and non-listed, to disclose vital information in their annual financial statements for each country in which they operate. This information would comprise its financial performance, including:

a) Sales, split by intra-group and third party

b) Purchases, split the same way

c) Financing costs, split the same way

d) Pre-tax profit

e) Labour costs and number of employees.

In addition, the cost and net book value of its physical fixed assets, the gross and net assets, the tax charge, actual tax payments, tax liabilities and deferred tax liabilities would be published on a country-by-country basis.

Current reporting requirements are so lacking in transparency that it is almost impossible to find even such basic information as which countries a corporation is operating in. It is even more difficult to discover *what* transnational companies are doing in particular countries, and how much they are effectively paying in tax in any given country. The consequence is that corporations can minimise their global tax rates without being successfully challenged anywhere[9]. Large scale shifting of profits to low tax jurisdictions and of costs to high tax countries ensues from this lack of transparency.

The means used for profit shifting are primarily based on transfer mispricing, internal financing or reinsurance operations, or artificial relocation and licensing of intellectual property rights. These activities take place within a transnational corporation, i.e. between

different parts of a related group of companies. Today's financial reporting standards allow such intra-group transactions to be consolidated with the normal third-party trade in the annual financial statements. Therefore, a corporation's international tax and financing affairs are effectively hidden from view.

As a consequence, tax authorities do not know where to start looking for suspicious activity, and civil society does not have access to reliable information about a company's tax compliance record in a given country in order to question the company's policies on tax and corporate social responsibility and make enlightened consumer choices.

Making this information available on public record would significantly enhance the financial transparency of transnational corporations. Investors, trading partners, tax authorities, financial regulators, civil society organisations, and consumers would be able to make better informed decisions on the basis of this information. Investors, for instance, could evaluate if a given corporation piles up huge tax liabilities or is heavily engaged in conflict-ridden countries. Tax authorities could make a risk assessment of particular sectors or companies to guide their audit activity by comparing profit levels or tax payments to sales, assets and labour employed.

While much narrower in scope, the Extractive Industries Transparency Initiative (EITI) has succeeded in raising awareness of the importance of transparency of payments made by companies to governments. If a country voluntarily commits to the EITI, it is required after a transitional period to annually publish details on the activities of extractive companies active in the country. These details include all the payments the government received by companies active in this sector. EITI also requires the companies to publish this information so that discrepancies from both reporting parties can be questioned by civil society. Mismatches can be indicative of illicit activity such as bribery or embezzlement.

Especially the latter, i.e. if companies are required to publish payments to governments worldwide wherever these companies engage in extractive projects, are of interest here for the determination of a jurisdiction's secrecy performance.

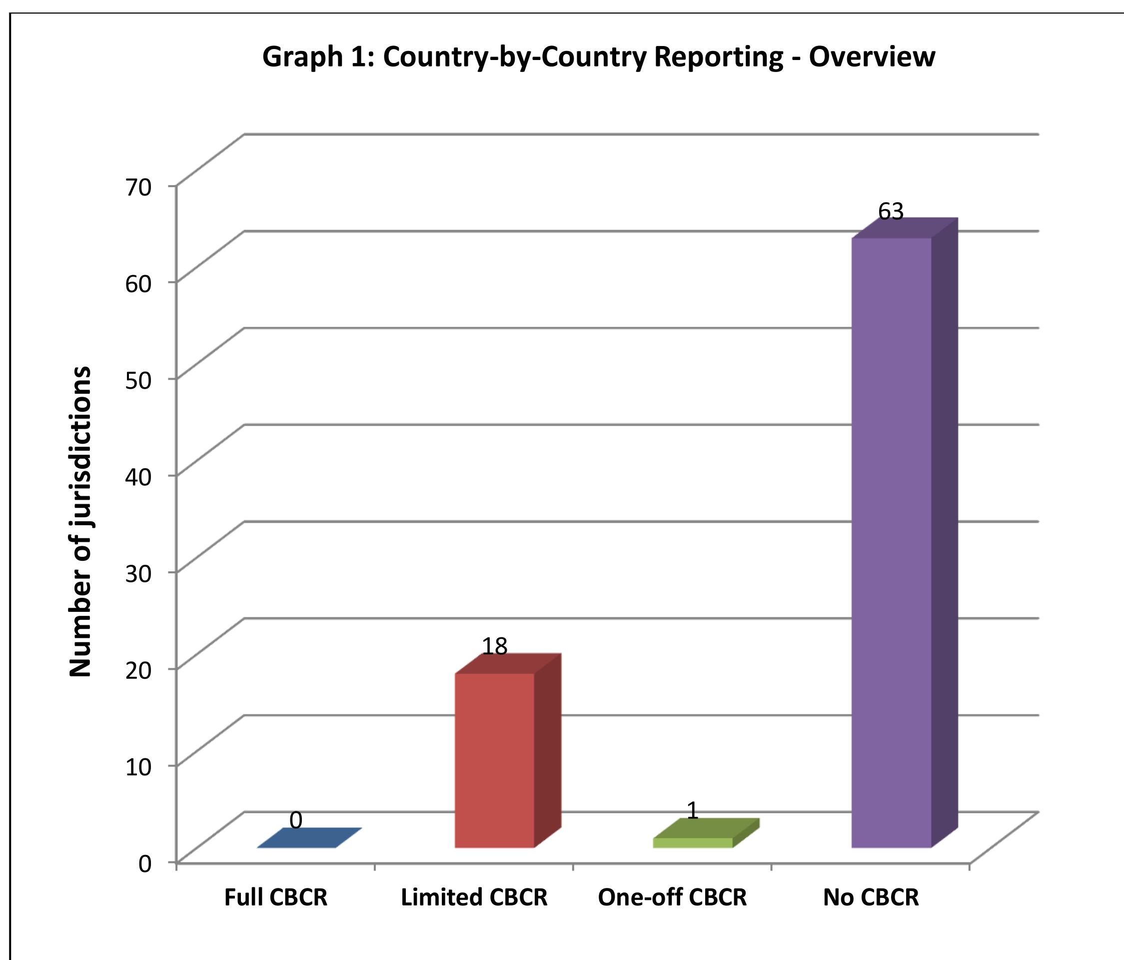
The information provided under the EITI requirements is of particular interest because it may reveal for the first time in a given country information on tax payments made by companies to governments. It may help trigger further questions which could result in greater transparency, such as full country-by-country reporting. Without such information, electorates, civil society and consumers cannot make informed choices and bribe paying is more easily hidden.

What are the crimes that might hide behind the absence of country by country reporting?

Tax evasion by transnational corporations through profit shifting (transfer mispricing), payments of bribes, market manipulation through oligopolies, and more besides might hide behind the opacity that a lack of country-by-country reporting obligations provides.

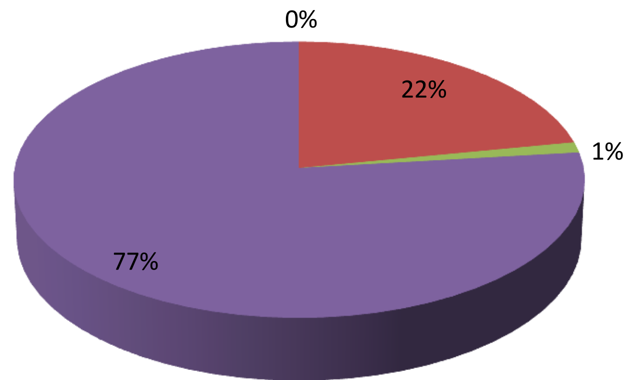
Results Overview

Table 1: Country-by-Country Reporting - Overview	
Number of jurisdictions with full country-by-country reporting	0
Number of jurisdictions with limited country-by-country reporting	18
Number of jurisdictions with one-off country-by-country reporting	1
Number of jurisdictions with no country-by-country reporting	63



Results Detail

Graph 2: Country-by-Country Reporting - Details



- Full country-by-country reporting: No jurisdictions
- Limited country-by-country reporting: AT; BE; CY; DE; DK; ES; FR; GB; HU; IE; IT; LU; LV; MT; NL; PT; SE; US
- One-off country-by-country reporting: HK
- No country-by-country reporting: All other jurisdictions

Table 2: Country-by-Country Reporting – Details by Sector			
Country	**ISO**	**Financial Institutions**	**Extractive Industries**
Austria	AT	X	X
Belgium	BE	X	X
Cyprus	CY	X	X
Denmark	DK	X	X
France	FR	X	X
Germany	DE	X	X
Hungary	HU	X	X
Ireland	IE	X	X
Italy	IT	X	X
Latvia	LV	X	X
Luxembourg	LU	X	X
Malta	MT	X	X
Netherlands	NL	X	X
Portugal	PT	X	X
Spain	ES	X	X
Sweden	SE	X	X
UK	GB	X	X
USA	US		X

Table 3: Country-by-Country Reporting - Transparency Credits

ID	Country	ISO	Credits	ID	Country	ISO	Credits
1	Andorra	AD	0	42	Korea	KR	0
2	Anguilla	AI	0	43	Latvia	LV	0.5
3	Antigua & Barbuda	AG	0	44	Lebanon	LB	0
4	Aruba	AW	0	45	Liberia	LR	0
5	Australia	AU	0	46	Liechtenstein	LI	0
6	Austria	AT	0.5	47	Luxembourg	LU	0.5
7	Bahamas	BS	0	48	Macau	MO	0
8	Bahrain	BH	0	49	Malaysia (Labuan)	MY	0
9	Barbados	BB	0	50	Maldives	MV	0
10	Belgium	BE	0.5	51	Malta	MT	0.5
11	Belize	BZ	0	52	Marshall Islands	MH	0
12	Bermuda	BM	0	53	Mauritius	MU	0
13	Botswana	BW	0	54	Monaco	MC	0
14	Brazil	BR	0	55	Montserrat	MS	0
15	British Virgin Islands	VG	0	56	Nauru	NR	0
16	Brunei	BN	0	57	Netherlands	NL	0.5
17	Canada	CA	0	58	New Zealand	NZ	0
18	Cayman Islands	KY	0	59	Norway	NO	0
19	Cook Islands	CK	0	60	Panama	PA	0
20	Costa Rica	CR	0	61	Philippines	PH	0
21	Curacao	CW	0	62	Portugal (Madeira)	PT	0.5
22	Cyprus	CY	0.5	63	Russia	RU	0
23	Denmark	DK	0.5	64	Samoa	WS	0
24	Dominica	DM	0	65	San Marino	SM	0
25	Dominican Republic	DO	0	66	Saudi Arabia	SA	0
26	France	FR	0.5	67	Seychelles	SC	0
27	Germany	DE	0.5	68	Singapore	SG	0
28	Ghana	GH	0	69	South Africa	ZA	0
29	Gibraltar	GI	0	70	Spain	ES	0.5
30	Grenada	GD	0	71	St Kitts and Nevis	KN	0
31	Guatemala	GT	0	72	St Lucia	LC	0
32	Guernsey	GG	0	73	St Vincent & Grenadines	VC	0
33	Hong Kong	HK	0.1	74	Sweden	SE	0.5
34	Hungary	HU	0.5	75	Switzerland	CH	0
35	India	IN	0	76	Turks & Caicos Islands	TC	0
36	Ireland	IE	0.5	77	United Arab Emirates (Dubai)	AE	0
37	Isle of Man	IM	0	78	United Kingdom	GB	0.5
38	Israel	IL	0	79	Uruguay	UY	0
39	Italy	IT	0.5	80	US Virgin Islands	VI	0
40	Japan	JP	0	81	USA	US	0.25
41	Jersey	JE	0	82	Vanuatu	VU	0

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[1] http://www.taxresearch.org.uk/Documents/CBC2012.pdf; 15.07.2013.
[2] The only main item missing for full CBCR is capital assets. See Article 86a, here: http://register.consilium.europa.eu/pdf/en/13/st07/st07746.en13.pdf; 15.07.2013. There is a political agreement on these rules in the EU at the time of writing (15.5.2013), which usually implies that the text of the directive will not face further alteration. According to this text, formally, the EU-commission will carry out an impact assessment of the envisaged disclosure rules in 2014 before they are required to be published in 2015 and the EU-commission is empowered to defer or modify the disclosure through a so-called “delegated act” (Art. 86a (3)). In practice, however, this delegated act can be rejected both by the European Council and by European Parliament. Therefore, it is unlikely that these rules will be deferred or modified.
[3] See Section 1504 in the “Dodd-Frank Wall Street Reform and Consumer Protection Act”, in: https://www.sec.gov/about/laws/wallstreetreform-cpa.pdf; 15.07.2013.
[4] The scope of the European rules is likely to be broader than the US rules, for example by extending the requirements to loggers of primary forests. There is a political agreement on these rules in the EU at the moment of writing (15.5.2013), which usually implies that the text of the directive will not change anymore. For a summary see http://register.consilium.europa.eu/pdf/en/13/st08/st08530.en13.pdf; 15.07.2013.
[5] The EITI criteria require the “regular publication of all material oil, gas and mining payments by companies to governments (“payments”) and all material revenues received by governments from oil, gas and mining companies (“revenues”) to a wide audience in a publicly accessible, comprehensive and comprehensible manner”, in: http://eiti.org/eiti/principles 15.07.2013.
[6] See chapter 18.05(6)(c), in: http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/chapter_18.pdf; 15.07.2013. Neither the "Continuing Obligations” section in the same chapter (applicable to extractive companies) nor other HKSE regulations require disclosure of such payments (e.g. general disclosure regulations of financial information for all listed companies: http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/appendix_16.pdf; 15.07.2013.
[7] To see the sources we are using for particular jurisdictions please check out the assessment logic table in Annex C here http://www.financialsecrecyindex.com/PDF/FSI-Methodology.pdf and the corresponding information for individual countries in our database, available at www.financialsecrecyindex.com/database/menu.xml.
[8] http://www.taxresearch.org.uk/Documents/CBC2012.pdf; 15.07.2013.
[9] For instance: http://www.reuters.com/article/2012/10/15/us-britain-starbucks-tax-idUSBRE89E0EX20121015; 15.07.2013 and http://www.reuters.com/article/2012/12/06/us-tax-amazon-idUSBRE8B50AR20121206; 15.07.2013; and http://www.bloomberg.com/news/2010-10-21/google-2-4-rate-shows-how-60-billion-u-s-revenue-lost-to-tax-loopholes.html; 15.07.2013.