



Ministry of Finance

EU Platform for Tax Good Governance

Adopting anti-abuse provisions in
Tax Treaties with Developing
Countries

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Netherlands tax policy vis-a-vis developing countries

- Policy Note Tax Treaty Policy (2011)
- Key statements on developing countries:
 - Netherlands' Tax Treaty Policy should not be detrimental to developing countries
 - The Netherlands will continue its willingness to accept a broader PE-concept and higher WHT-rates at source in relation to developing countries
 - In negotiating tax treaties with developing countries the Netherlands is willing to accept parts of the UN MTC, provided that the interest of Netherlands' taxpayers is not disproportionately harmed
- English summary can be found on:
[file:///sscd%20data10.frd.shsdir.nl/LT_654243\\$/Mijn%20Documenten/summary-memorandum-dutch-tax-treaty-polic-2011.pdf](file:///sscd%20data10.frd.shsdir.nl/LT_654243$/Mijn%20Documenten/summary-memorandum-dutch-tax-treaty-polic-2011.pdf)



Notitie Fiscaal
Verdragsbeleid 2011





Developments tax policy developing countries

- 2011-2013: debate in Netherlands on tax evasion by MNE's
- July 2013: 15 key areas to be addressed by the BEPS-project
- August 2013: IBFD research + letter to parliament with commitment 23 developing countries
- English translation of the letter can be found on:
<https://www.government.nl/documents/parliamentary-documents/2013/09/09/government-s-response-to-the-report-from-seo-economics-amsterdam-on-other-financial-institutions-and-the-ibfd-report-on-developop>





Summary findings IBFD-research

- Withholding tax rates in Netherlands' treaties with developing countries are in line with other treaties of these countries with developed countries
- Relatively wide tax treaty network of the Netherlands is an attractive feature for MNE's
- Lack of anti-abuse provisions may give opportunity to treaty shopping



23 developing countries

- Commitment to propose developing countries to include anti-abuse measures in their tax treaties with the Netherlands

- Treaties with countries on the DAC List of ODA Recipients:
 - Least Developed Countries
 - Other Low Income Countries
 - Lower Middle Income Countries and Territories

- ± 25% of the Netherlands treaty network



The World





23 developing countries – State of play, June 2016

Agreement on inclusion of an anti-abuse measure in the tax treaty	Countries that have responded and with whom we are negotiating with	Rest category: no response yet and others
1. Ethiopia 2. Ghana 3. Indonesia 4. Kenia 5. Malawi 6. Ukraine 7. Uzbekistan 8. Zambia 9. Zimbabwe	1. Bangladesh 2. Egypt 3. Georgia 4. India 5. Kirgizstan 6. Morocco 7. Moldova 8. Uganda 9. Pakistan 10. Sri Lanka 11. Vietnam	1. Mongolia 2. Nigeria 3. The Philippines



Experiences project 23 developing countries

- Initiative is welcomed by most countries
- Process is very time consuming (slow to response, bureaucracy etc.)
- Three categories:
 1. Limited protocol amending tax treaty
 2. Broad protocol amending tax treaty
 3. Full negotiation tax treaty
- Relation to Multilateral Instrument (Action item 15 BEPS-project) ?



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Questions?