

EU Tax Policies and Policy Coherence for Development (PCD)



OXFAM

PCD AND TAX POLICY

AGENDA

- Legal and political background for PCD
- Tax policy as a development priority of the EU
- Impacts of EU tax policies on Domestic Revenue Mobilisation (DRM) in developing countries
- Recommended policy actions
 - Tax spillover analyses
 - DTTs monitoring and renegotiation
 - CbCR
- Discussion: What legal tools and other mechanisms are at the disposal of EU institutions to enforce Art 208 TFEU (PCD)?



PCD

LEGAL AND POLITICAL BACKGROUND

Year	Institution	Commitment
1992	EU	Treaty of Maastricht
2000	UN	UN Millennium Declaration - Goal 8
2002	OECD	Action for a Shared Development Agenda
2006	EU	EU Consensus for Development
2007	EU	Lisbon Treaty, Art. 208
2008	OECD	Ministerial Declaration on PCD
2010	OECD	Recommendation on Good Institutional Practices in Promoting PCD
2011	EU	Agenda for Change
2012	OECD	Strategy on Development
2014	EU	A decent life for all
2015	UN	Agenda 2030 and SGDs, Goal 17
2015	EU	EU Parliament Resolution 2058(INI))
2017	EU	European Consensus on Development
2020	ATI	Declaration 2025
2020	OECD	Recommendation on PCSD

PCD AND TAX POLICY

EU and *Domestic Revenue Mobilisation (DRM)* as a key development priority


























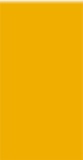























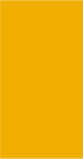

































2015	Collect More, Spend Better agenda
2015	Addis Ababa Action Agenda on Financing for Development (AAAA)
2020	ATI Declaration 2025

EU tax policies & domestic revenue mobilisation (DRM) in developing countries





OXFAM

Country comparison table


	European Commission	European Parliament	Belgium	Czech Republic	Denmark	France	Germany	Hungary	Ireland	Italy	Luxembourg	Netherlands	Poland	Slovenia	Spain	Sweden	United Kingdom
																	
Fairness of tax treaties with developing countries																	
Support for company / trust ownership transparency																	
Support for country by country reporting																	
Support for UN-led tax reform																	

 Negative position

 Ambivalent position

 Positive position

 Position unknown

 Country appears to be moving category



	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU	EU
OWNERSHIP TRANSPARENCY	POSITIVE	NEUTRAL	NEGATIVE	NEGATIVE	NEGATIVE	POSITIVE	POSITIVE	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	POSITIVE	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	POSITIVE	NEGATIVE	POSITIVE	NEUTRAL
PUBLIC REPORTING	NEUTRAL	NEGATIVE	NEGATIVE	RESTRICTED ACCESS	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	RESTRICTED ACCESS	NEGATIVE	RESTRICTED ACCESS	NEGATIVE	NEGATIVE	NEGATIVE	RESTRICTED ACCESS	RESTRICTED ACCESS	POSITIVE	RESTRICTED ACCESS	NEGATIVE	RESTRICTED ACCESS
TAX TREATIES	POSITIVE	NEUTRAL	NEUTRAL	NEGATIVE	NEGATIVE	NEGATIVE	NEUTRAL	NEGATIVE	NEUTRAL	NEGATIVE	NEGATIVE	NEUTRAL	NEUTRAL	NEGATIVE	NEGATIVE	NEGATIVE	NEUTRAL	NEGATIVE	NEGATIVE	NEGATIVE
HARMFUL TAX PRACTICES	POSITIVE	NEUTRAL	NEUTRAL	NEGATIVE	NEUTRAL	NEUTRAL	NEUTRAL	POSITIVE	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	POSITIVE	POSITIVE	POSITIVE	NEGATIVE	NEUTRAL	NEGATIVE
GLOBAL SOLUTIONS	POSITIVE	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE	RESTRICTED ACCESS	NEGATIVE	NEGATIVE	RESTRICTED ACCESS	RESTRICTED ACCESS	NEGATIVE	RESTRICTED ACCESS	RESTRICTED ACCESS	NEGATIVE	NEGATIVE	NEGATIVE	NEGATIVE



POSITIVE



NEUTRAL



NEGATIVE



RESTRICTED
ACCESS



MOVING IN
THIS DIRECTION

*

EUROPEAN PARLIAMENT

**

EUROPEAN COMMISSION

Eurodad 2017

 Netherlands


SDR 2022

Spillover score

Spillover score: 44.40/100

Spillover rank: 160/163



[Go to country
profile](#)



[Visualize on
map](#)



[Download
profile \(PDF\)](#)

Description

Each country's actions can have positive or negative effects on other countries'...

Spillover Rankings

The spillover performance of all 193 UN Member States

[OVERALL](#)
[SPILLOVERS](#)

Countries are ranked by their spillover score. Each country's actions can have positive or negative effects on other countries' abilities to achieve the SDGs. The Spillover Index assesses such spillover effects based on environmental & social impacts embodied into trade, economy & finance, and how much a country causes more positive and fewer negative spillover effects.

Click on a country for details.

LUXEMBOURG SPILLOVERS ON SDGs



(1)

Environmental and social impacts embodied into trade

- ● Exports of hazardous pesticides
- ● Scarce water consumption embodied in imports
- ↗ Fatal work-related accidents embodied in imports
- ● SO₂ emissions embodied in imports
- ↓ Nitrogen emissions embodied in imports
- ● Exports of plastic waste
- ↗ CO₂ emissions embodied in imports
- ● Marine biodiversity threats embodied in imports
- ● Terrestrial and freshwater biodiversity threats embodied in imports

(2)

Security

- ● Exports of major conventional weapons

(3)

Economy and finance

- ↑ For high-income and all OECD DAC countries: International concessional public finance, including official development assistance
- ● Corporate Tax Haven Score
- ● Financial Secrecy Score
- ↓ Shifted profits of multinationals



OXFAM
Novib

NETHERLANDS SPILLOVERS ON SDGS



(1)

Environmental and social impacts embodied into trade

- ● Exports of hazardous pesticides
- ● Scarce water consumption embodied in imports
- ↑ Fatal work-related accidents embodied in imports
- ● SO₂ emissions embodied in imports
- ↓ Nitrogen emissions embodied in imports
- ● Exports of plastic waste
- ↓ CO₂ emissions embodied in imports
- ● Marine biodiversity threats embodied in imports
- ● Terrestrial and freshwater biodiversity threats embodied in imports

(2)

Security

- ● Exports of major conventional weapons

(3)

Economy and finance

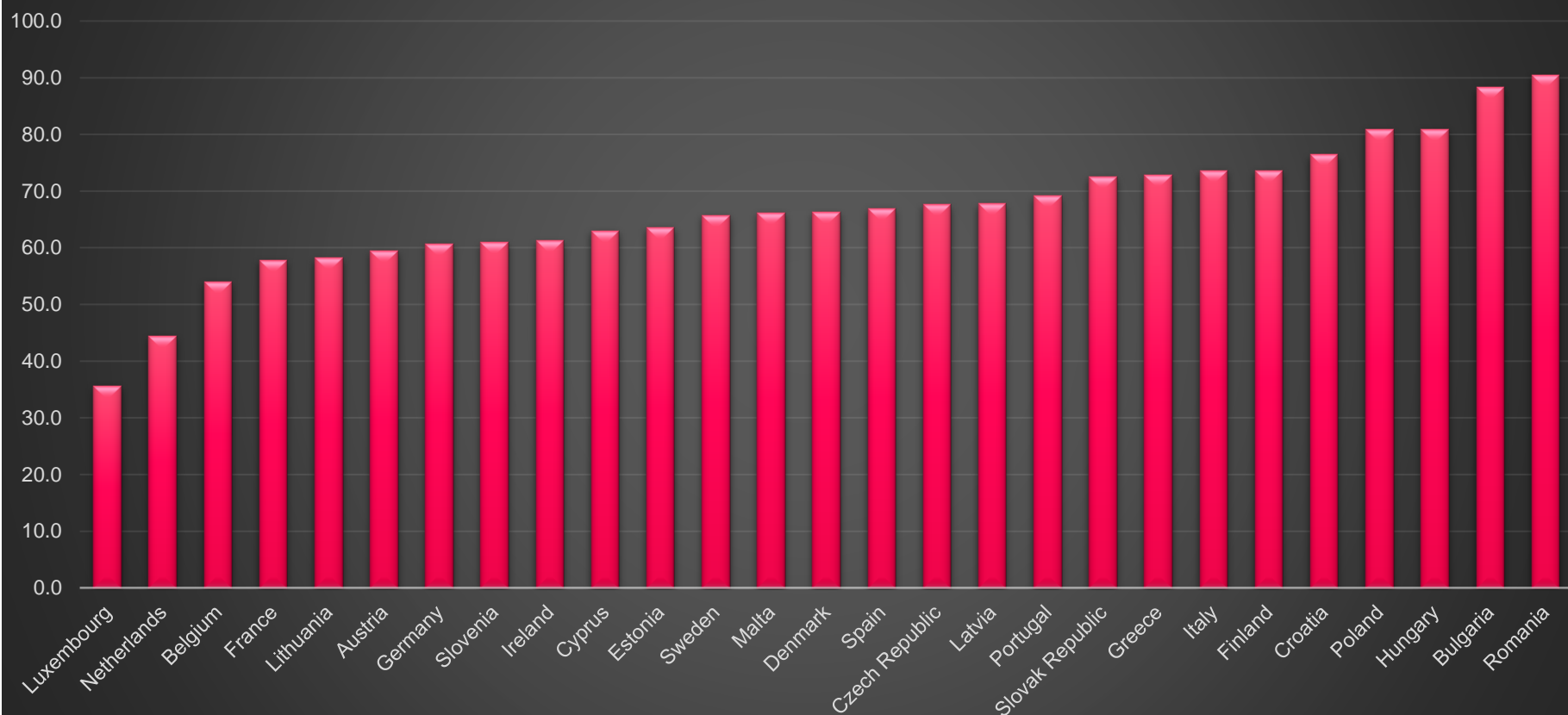
- ↓ For high-income and all OECD DAC countries: International concessional public finance, including official development assistance
- ● Corporate Tax Haven Score
- ● Financial Secrecy Score
- ↓ Shifted profits of multinationals



OXFAM
Novib

EU SPILLOVERS ON SDG

EU member states' spillovers on Sustainable Development Goals (SDGs)
(Scores 2022)



Source: Sachs et al. (2022): From Crisis to Sustainable Development: the SDGs as Roadmap to 2030 and Beyond. Sustainable Development Report 2022. Cambridge: Cambridge University Press.

Recommended policy actions

- Tax spillover analyses
- DTA monitoring and renegotiation
- CbC-reporting



OXFAM

Tax spillover analyses



OXFAM

WHY SPILLOVER ANALYSES ARE NECESSARY

Why spillover analyses?

*“While such **[spillover-] analyses** will of course not necessarily alter the course adopted, they may point to remedial measures to be incorporated into the reform and should be published for the international community to reflect upon – **at a minimum, to enable developing countries to respond with parallel changes to their own systems if that would be helpful in protecting their revenue bases.**”*

(IMF et al. 2011, 27–28)



OXFAM
Novib

WHY SPILLOVER ANALYSES ARE NECESSARY

actionaid

Stemming the spills:

Guiding framework for
undertaking national tax
spillover analyses

May 2018 - Revised Version

Recommendations:

(1) Methodology

(2) Content

(3) Process

WHY SPILLOVER ANALYSES ARE NECESSARY

Capital Gains tax	<ul style="list-style-type: none"> the headline tax rate for CIT or capital gains 	
Corporate Income Tax	<ul style="list-style-type: none"> rules decreasing the tax base of CIT or capital gains the signalling effect (tax competition) of recent or planned changes in tax rates. group taxation with acquisition holding company allowed excess profits rulings 	
Residence Rules	<ul style="list-style-type: none"> permitting non-resident companies having nationally incorporated companies deemed not tax-resident if management or company control is in another state 	
Intellectual property rules and Research and Development rules	<ul style="list-style-type: none"> minimal/negligible taxation of capital gains (fair market value) upon transfer of IP patent box or other preferential tax treatment of income from IP R&D tax incentive going beyond direct cost reimbursement 	
Transfer Pricing rules (TP)	<ul style="list-style-type: none"> ineffective TP rules or ineffective enforcement of these 	
Interests, Royalties and Dividends	<ul style="list-style-type: none"> generous tax exemptions or deductions for dividends received generous tax exemptions or deductions for dividends paid tax deduction from intra-group interest costs tax deduction allowed for deemed interest costs on debt with low or no interest notional interest deduction for share capital low or no WHT on royalties, interests, dividends paid and on their various equivalents e.g. buy-back of shares non-uniform WHT rates on different types of payments 	
International cooperation	<ul style="list-style-type: none"> punishing developing countries for having low administrative capacity, for instance by demanding reciprocity or full implementation of OECD's BEPS actions as a requirement for bilateral or international information exchange arrangements 	
General	<ul style="list-style-type: none"> rules likely to favour income arising outside the member state (ring-fencing of domestic economy) any rule, regulation or administrative practice directly or indirectly affecting the effective tax rate for CIT negatively, capital gains or other type of income including income from royalties, interests or dividends features of the tax system that have been negatively reviewed in the financial secrecy index (FSI), www.financialsecrecyindex.com 	

WHY SPILLOVER ANALYSES ARE NECESSARY

Residence Rules	<ul style="list-style-type: none"> rules for controlled foreign corporations (CFC)
Interests, Royalties and Dividends	<ul style="list-style-type: none"> taxation of benefits from no/low interest on debt interest-limitation rules
Withholding Taxes	<ul style="list-style-type: none"> beneficial-owner test for reduction of withholding tax on dividends
Transparency measures	<ul style="list-style-type: none"> implementing country-by-country reporting (CBCR) requirement and making it available to the public publishing core elements of advanced pricing agreements (APAs) and other tax rulings including annual overviews of how many have been made and with which companies, and how many have been exchanged and with which countries requiring financial accounts of all limited liability entities to be on public record, including trusts and foundations recorded on a central register which discloses the trust accounts, donors, trustees and beneficiaries provisions for the identification of beneficial ownership, i.e. who benefits from ownership of an asset (for example, bank account, trust, property) and yet nominally does not own the asset because it is registered under another name publication of annual cost of statutory and discretionary tax incentives offered to companies
International cooperation	<ul style="list-style-type: none"> automatic exchange of relevant financial account information and CBCR data with tax authorities of other countries, including developing countries automatic exchange of APAs and other tax rulings related to preferential regimes, with tax authorities of other countries, including developing countries having routine dialogues with tax authorities in developing countries and inviting them to suggest areas of concern in relation to spillovers
General anti-abuse measures	<ul style="list-style-type: none"> general anti-avoidance rules to counter hybrid structures and other ATP structures no tax deductions independent of tax treatment in developing countries rules to counter a mismatch in tax qualification of a domestic company or business partnership between own state and a foreign state (hybrid mismatch rules) CFC rules on income received from investment or passive sources including interest, dividends, rents and royalties from unrelated parties; from purchasing goods from related parties or selling goods to related parties, where the goods are both produced for and used outside the CFC country; from performing services outside the CFC country for related parties; from non-operating, insubstantial, or passive businesses

Double taxation treaties (DTTs)



OXFAM

Tax treaties and development

- **Double taxation** can be solved unilaterally – tax credits
- No significant effect on **Foreign Direct Investment** (IMF, meta-studies)
- Effectively limits **taxing rights in source countries**, hindering DRM
- Tax exemptions accorded by developing countries to multinationals based in rich capital-exporting countries.
- EU MS' treaties: a legal and financial gateway to the EU Single Market

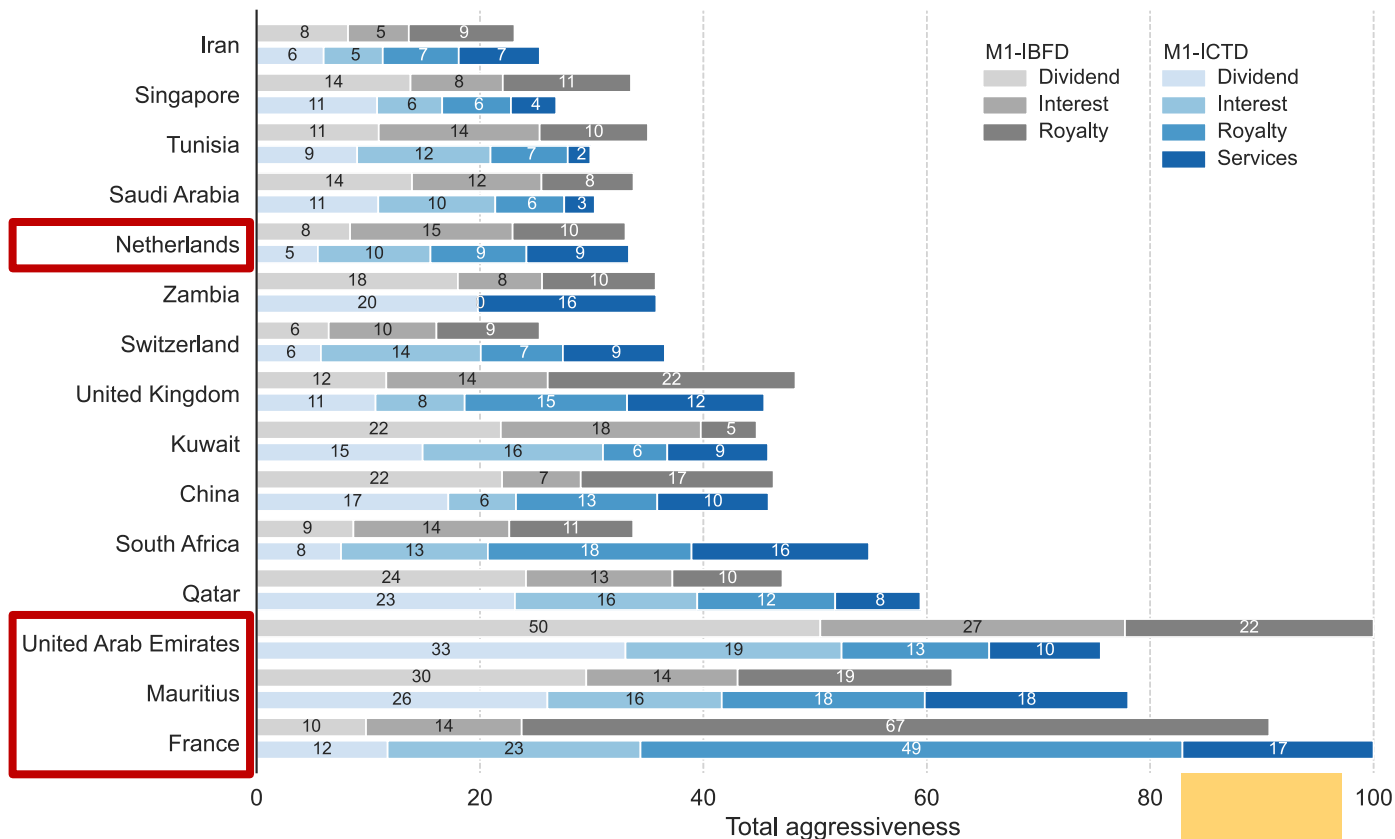
- Colonial roots

Sources: Dagan 2000; Brada et al. 2021; Damgaard et al. 2019; Chang 2011; Head & Ries 2008; Durand 2007; Jorgenson 2007; Long et al. 2017; Maconachie et al. 2015

A definition of treaty aggressiveness

“An aggressive treaty is that which reduces **source tax rights** more acutely than other treaties in force in the source jurisdiction.”

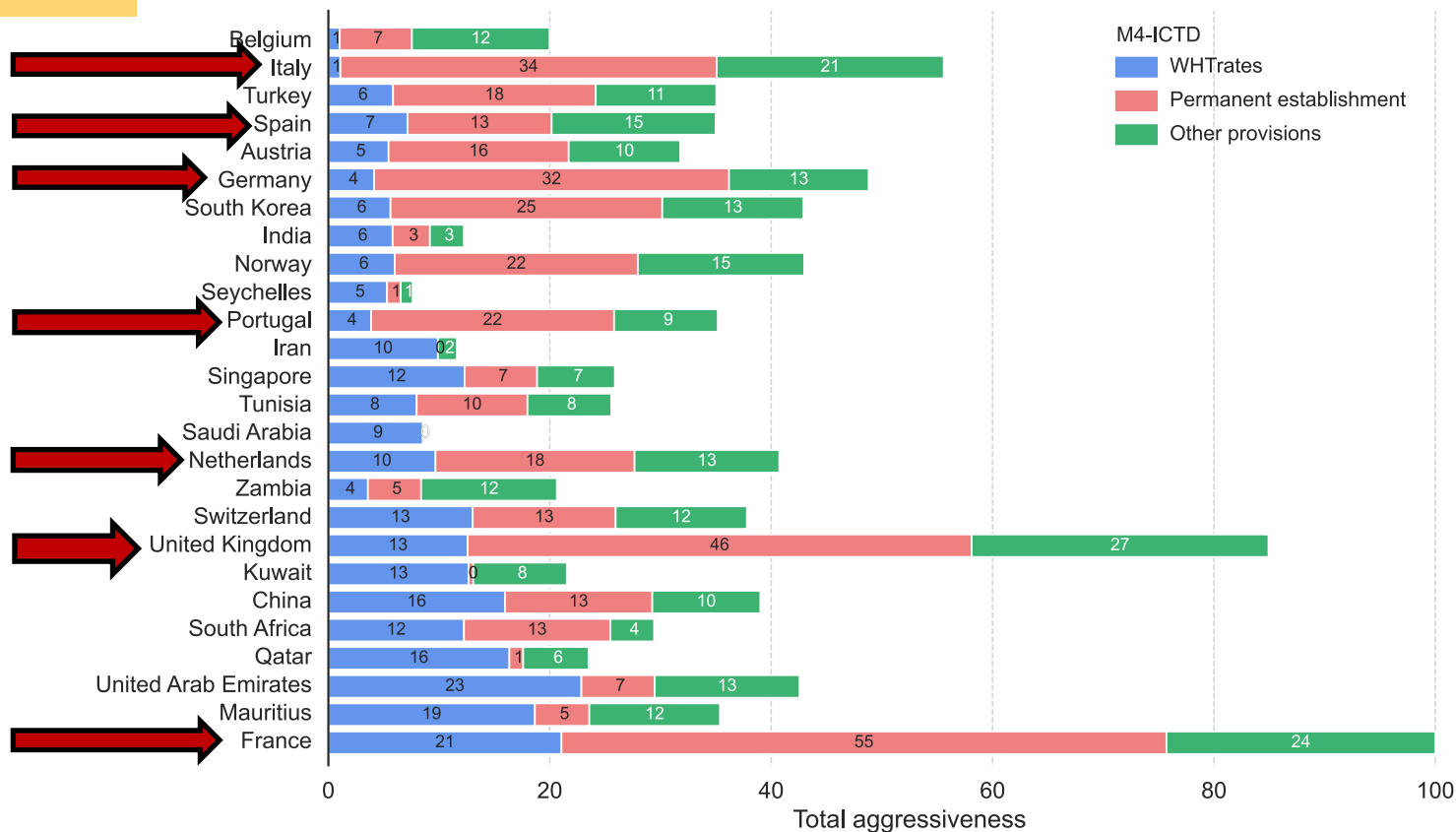
Treaty WHT aggressiveness



UAE
Mauritius
and France...
 negotiate the
 lowest WHT, in
 comparison to
 other treaties
 signed by
 African
 countries.

Source:
[*Millan-Narotzky et al., 2021*](#)

Treaty/Domestic WHT aggressiveness



France, United Kingdom, Italy and Germany... negotiate the treaties that most reduce African countries' tax rights, when considering Permanent Establishment and Other treaty provisions

Source:

Millan-Narotzky et al., 2021

Conclusions

- **EU countries** highlighted in all aggressiveness models
 - Specially for PE exlusions and Other provisions
- **Tax Treaty models:** choosing sides?
 - OECD – dangerous spillovers
 - UN model favouring development and sustainability
- **Treaty aggressiveness:** a monitoring tool



Country-by-Country reporting



OXFAM

COUNTRY-BY-COUNTRY REPORTING (CBCR)

POLICY RECOMMENDATIONS

EU need to expand scope of CbCR beyond banking and extractives in order to promote transparency on the activities of EU companies in developing countries.

Discussion



OXFAM

DISCUSSION

What legal tools and other mechanisms are at the disposal of EU institutions to enforce Art 208 TFEU (PCD)?

What are the challenges and possibilities for strengthening PCD in the EU?



Thank you

Questions are welcome!!

Contact:

Martin Brehm Christensen

Policy Advisor, Tax and Inequality, OxfamNovib

[martin.brehmchristensen](mailto:martin.brehmchristensen@oxfam.org)
[@oxfam.org](mailto:martin.brehmchristensen@oxfam.org)



OXFAM