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presents the

2013 Lough Erne G8 Summit Interim Compliance Report

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6. Finance: Tax Evasion and Profit Shifting [76]

Commitment:

"[We agree] to ensure that our own tax rules do not allow or encourage any multinational enterprises to reduce overall taxes paid by artificially shifting profits to low-tax jurisdictions."

2013 Lough Erne Leaders' Communiqué

Assessment:

Country	Lack of Compliance	Work in Progress	Full Compliance
Canada		0	
France			+1
Germany			+1
Italy			+1
Japan		0	
Russia			+1
United Kingdom		0	
United States		0	
European Union		0	
Average Score	+0.44		

Background:

Issues of tax evasion and transparency have featured in past G8 agenda. In 2004 at the Sea Island G8 Summit, steps were taken to fight corruption and improve transparency as well as accountability for both private and public sectors within select countries.[302]

At the Heiligendamm G8 Summit in 2007, G8 members also pledged to encourage partner countries and companies within private and public spheres to divulge information to International Financial Institutions such as the International Monetary Fund and the World Bank.[303] Moreover, in 2009 in Lecce, Italy, the G8 Finance Ministers agreed to implement efforts that would ensure global financial stability as well as an international level playing field.[304] In accordance, the Finance Minister Jim Flaherty said that the Canadian "government is committed to enhancing the fairness and competitiveness of Canada's international tax rules."[305] At last year's Lough Erne 2012 G8 summit, it was made clear that of crucial importance for the maintenance of

[302] Transnational Crime and Corruption, G8 Information Centre (Toronto) 15 May 2007. Date of Access: 30 November 2013. http://www.g8.utoronto.ca/evaluations/2006compliance_final/14-2006_g8compliance_crime.pdf
[303] Transnational Crime and Corruption, G8 Information Centre (Toronto) 15 May 2007. Date of Access: 30 November 2013. http://www.g8.utoronto.ca/evaluations/2006compliance_final/14-2006_g8compliance_crime.pdf
[304] Statement of G8 Finance Ministers. Department of Finance Canada. 13 June 2009. Date of Access: 30 November 2013. www.fin.gc.ca/n08/09-061-eng.asp.
[305] Government of Canada Releases Draft Foreign Affiliate Regulations, Department of Finance Canada (Ottawa) 18 December 2013. Date of Access: 30 November 2012. www.fin.gc.ca/n08/09-120-eng.asp

international fiscal stability, tax rules must be applied to transnational corporations with the aim of fostering fair and effective tax practices.[306]

In addition, on 24 April 2013, the British Prime Minister David Cameron addressed the proposal of having tax evasion and avoidance as a key concern to the global economy. Prime Minister David Cameron emphasizes the role of the G8 by stating, "tax evasion and aggressive tax avoidance are global problems that require truly global solutions."[307]

At the Lough Erne G8 meeting of 2013, The Organisation for Economic Co-operation and Development (OECD) and their plan for addressing Base Erosion and Profit Shifting (BEPS) was introduced.[308] The BEPS project calls for implementation of 15 actions that governments along with domestic and international partners can cooperate to prevent unfair manipulation of profits resulting in tax evasion. These include mechanisms such as "the shifting of risks and intangibles," as well as "the artificial splitting of ownership of assets between legal entities within a group."[309]

Commitment Features:

This commitment focuses on preventing profit shifting by multinational corporations for tax avoidance purposes. The aim is to drive policy and legislation in G8 member countries that can be used to target unfair business practices. The immediate objective here is "to restore confidence in the fairness and effectiveness of our international tax rules and practices, and to ensure that each country is able to collect taxes owing and that developing countries are also able to secure the benefits of progress made on this agenda."[310]

The artificial shifting of profits can be carried out by various methods. For example, a company can shift debt to a high tax jurisdictions thus avoid taxation on foreign subsidiaries, which may be deferred until repatriated.[311] It can also be done by claiming greater profits in low tax jurisdiction; this is called a hybrid entity, and consists of the business having a partnership in one jurisdiction and the corporation in another.

To this end full compliance requires that G8 members to (1) discus or announce policies or legislation that will directly tackle artificial profit shifting and tax evasion and (2) implemented and enforce new legislation that targets tax evasion by multinational corporations.

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[306] Lough Erne Joint Communiqué from Group of Eight Leaders (Lough Erne) 18 June 2013 Date of Access: 30 November 2013 http://iipdigital.usembassy.gov/st/english/texttrans/2013/06/20130618276629.html#axzz2m3EHVebS

[307] PM Letter to the EU on Tax Evasion and Aggressive Avoidance (London) 25 April 2013 Date of Access: 30 November 2013 http://www.g8.utoronto.ca/summit/2013lougherne/130424-cameron.html

[308] Lough Erne Joint Communiqué from Group of Eight Leaders (Lough Erne) 18 June 2013 Date of Access: 30 November 2013 http://iipdigital.usembassy.gov/st/english/texttrans/2013/06/20130618276629.html#axzz2m3EHVebS

[309] Addressing Base Erosion And Profit Shifting Date not Given Date of Access: 30 November 2013. http://www.loyensloeff.com/nl-NL/Documents/OECD.pdf

[310] Lough Erne Joint Communiqué from Group of Eight Leaders (Lough Erne) 18 June 2013 Date of Access: 30 November 2013 http://iipdigital.usembassy.gov/st/english/texttrans/2013/06/20130618276629.html#axzz2m3EHVebS

[311] Tax Havens: International Tax Avoidance and Evasion (Washington) 23 January 2013 Dare of Access: 30 November 2013 http://www.fas.org/sgp/crs/misc/R40623.pdf

Scoring Guidelines:

-1	Member has not discussed or announced new policies addressing tax evasion and profit shifting
0	Member has discussed or announced new policies addressing tax evasion and profit shifting but has NOT implemented legislation
+1	Member has implemented new legislation that targets tax evasion and profit shifting.

Analyst:

Canada: 0

Canada has partially complied with its commitment to ensure that its tax rules do not allow tax evasion and profit shifting. The Government of Canada has announced new rules, but so far has not passed specific legislation.

On 25 June 2013, Minister of National Revenue Gail Shea announced new rules for Canadians holding foreign property, in the form of a change to the "Foreign Income Verification Statement." This means that Canadians who hold foreign property with a value of over CAD 100,000 will have to provide additional information on this property to the Canada Revenue Agency (CRA). This includes: (1) the name of the foreign institution holding the funds; (2) the country in which the property is held; (3) the income generated by the property. The new rules will make it easier for the CRA to detect and diminish instances of tax evasion.[312]

Moreover, on 25 November 2013, Auditor General Michael Ferguson issued a report on the CRA's progress in combatting foreign tax evasion. The report noted that while the CRA had made progress on tackling tax evasion, it lacks the resources to fully deal with the growing issue. In response to the report, Minister of National Revenue Kerry-Lynne Findlay announced that the CRA was fully complying with Ferguson's three recommendations. These are: (1) making sure procedures for offshore audits are reformed and clear to staff; (2) establishing clear timelines for the offshore audits; (3) revising its policy on the use of non-prosecution agreements.[313,314]

Additionally, on 13 December 2013, Industry Minister James Moore announced that the federal government is reviewing the Canada Business Corporations Act, and accepting public input for changes. The review is partly conducted with a focus to increase business transparency with regards to foreign profits—one reform suggested is f improving share disclosure rules. The government is accepting written suggestions until March of 2014.[315]

Canada continues to implement existing policies to diminish foreign tax evasion and profit shifting, many of which were introduced in the 2013 budget. While Canada has announced rule

[312] Harper Government announces new requirements for Canadians with offshore property and income, Canada Revenue Agency (Ottawa) 25 June 2013. Date of Access: 18 December 2013. http://www.cra-arc.gc.ca/nwsrm/rlss/2013/m06/nr130625-eng.html

[313] Statement by the Honourable Kerry-Lynne D. Findlay on the release of the Auditor General's Report, Canada Revenue Agency (Ottawa) 26 November 2013. Date of Access: 18 December 2013. http://www.cra-arc.gc.ca/whtsnw/tms/sttmnt131126-eng.html

[314] Auditor General: Revenue Agency not prepared for increase in tax-haven cases, Postmedia News (Toronto) 25 November 2013. Date of Access: 18 November 2013. http://o.canada.com/business/auditor-general-revenue-agency-not-prepared-for-increase-in-tax-haven-cases/

[315] Ottawa weighs new rules on executive compensation, director votes, The Globe and Mail (Toronto) 13 December 2013. Date of Access: 18 November 2013. http://www.theglobeandmail.com/report-on-business/corporate-governance-rules-up-for-review-as-ottawa-launches-consultation/article15947345/#dashboard/follows/

changes and policy shifts to address tax evasion and profit shifting in this compliance cycle, new legislation has not been enacted since the Loch Erne Summit. Thus, Canada receives a partial score of 0.

Analyst: Alexander Cohen

France: +1

France has fully complied with its commitment implement new legislation that targets tax evasion.

On 25 September 2013, the French government released its 2014 draft Finance Bill. This initially proposed version put forth a bill in line with recent debates regarding Base Erosion Profit Shifting (BEPS).[316]

Additionally, on 19 November 2013, the French National Assembly adopted a revised version of the Finance Bill draft for 204.[317] The bill includes several amendments to the original draft brought forth on 25 September 2013 including the strengthening of anti-tax evasion rules and transfer pricing documentation requirements.[318]

France has fully complied with its commitments and has been awarded +1 for the ongoing discussion and debates by the French Senate to put forth the final 2014 Finance Bill where tax evasion is directly targeted.

Analyst:

Germany: +1

Germany has fully complied with its commitment to implement more comprehensive tax regulations that do not allow companies to artificially shift profits to low-tax jurisdictions.

On 9 April 2013, Germany along with France, Spain, Italy, and the UK launched an action plan with OECD to combat tax evasion and increase transparency throughout the system.[319] The forum includes 119 members that aim to increase transparency in the system by creating an automatic exchange of information. The German Chancellor Angela Merkel highly supports the new plan to

[316] French National Assembly adopts draft 2014 Finance Bill and French Government releases draft Amended 2013 Finance Bill (UK) 20 November 2013. Date of Access: 29 December 2013. http://www.ey.com/Publication/vwLUAssets/French_National_Assembly_adopts_draft_2014_Finance_Bill_and_French_Government_releases_draft_Amended_2013_Finance_Bill/$FILE/2013G_CM3978_French%20National%20Assembly%20adopts%20draft%202014%20Finance%20Bill.pdf
[317] French National Assembly adopts draft 2014 Finance Bill and French Government releases draft Amended 2013 Finance Bill (UK) 20 November 2013. Date of Access: 29 December 2013. http://www.ey.com/Publication/vwLUAssets/French_National_Assembly_adopts_draft_2014_Finance_Bill_and_French_Government_releases_draft_Amended_2013_Finance_Bill/$FILE/2013G_CM3978_French%20National%20Assembly%20adopts%20draft%202014%20Finance%20Bill.pdf
[318] French National Assembly adopts draft 2014 Finance Bill and French Government releases draft Amended 2013 Finance Bill (UK) 20 November 2013. Date of Access: 29 December 2013. http://www.ey.com/Publication/vwLUAssets/French_National_Assembly_adopts_draft_2014_Finance_Bill_and_French_Government_releases_draft_Amended_2013_Finance_Bill/$FILE/2013G_CM3978_French%20National%20Assembly%20adopts%20draft%202014%20Finance%20Bill.pdf
[319] Joint statement by Germany, France, Spain, Italy and UK agreeing to enhance exchange of tax information, Federal Ministry of Finance (Berlin) 10 April 2013. Date of Access: 15 December 2013.http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2013/2013-04-09-g5-joint-action-to-combat-tax-evasion.html

tackle tax evasion stating, “the global economy has changed massively over the last decade but global tax rules have stood still for almost a century and Britain will lead the international effort to bring them into the 21st century.”[320]

The OECD Secretary General further released a progress report of the Global Forum on Exchange of Information on 23 April 2013. Thus far, Germany is on track to implementing the new initiatives, and is one of five countries that have agreed to enact the Model 1 IGA, which “provides for reporting by financial institutions to their local tax authorities, which then exchange the information on an automatic basis with the residence jurisdiction tax authorities.”[321] The report further outlines that the expected dates for completed actions by the countries to implement the new proposals for information sharing outlined by the OECD is September 2014.[322]

In addition, on 29 May 2013, Germany signed a cross-border tax compliance agreement with the United States.[323] This is another example of Germany’s support and active initiatives in international tax reforms. This accord was modeled after the agreement of France, Italy, Spain, the UK, and Germany to increase information sharing published on 26 May 2012.[324] Moreover on 27 Novembers 2013 a joint statement by the finance ministers of France, Germany, Italy, Spain, and the UK welcomed “Colombia, Greece, Iceland Liechtenstein, Luxembourg and Malta to the G5 pilot initiative on automatic exchange of information.”[325]

So far, most of the initiatives have pertained to automatically sharing information between countries to create better regulation and limit the ability to shift profits to decrease taxes and increase revenue, but it will not be until September 2014 that the action plan is expected to take full effect.

Germany has taken active steps at confronting tax evasion via profit shifting. Due to Germany’s involvement with the OECD and its respective action plan, as well as initiatives for tax-reforms, it has attained a compliance score of +1.

Analyst: Amelia Cook

[320] OECD Unveils Plan to End Tax Avoidance, The Telegraph UK, 16 February 2013. Date Accessed: 15 December 2013. http://www.telegraph.co.uk/finance/personalfinance/consumertips/tax/9873666/OECD-unveils-plan-to-end-tax-avoidance.html
[321] Global Forum on Transparency and Exchange of Information for Tax Purposes, The Organization for Economic Co-Operation and Development (Paris) 19-20 July 2013. Date Accessed: 15 December 2013. http://www.oecd.org/g20/topics/taxation/
[322] Global Forum on Transparency and Exchange of Information for Tax Purposes, The Organization for Economic Co-Operation and Development (Paris) 19-20 July 2013. Date Accessed: 15 December 2013. http://www.oecd.org/g20/topics/taxation/
[323] Sharing Tax Information: Joint Statement by G5 Finance Ministers, Federal Ministry of Finance (Berlin) 27 November 2013. Date Accessed: 15 December 2013. http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2013/2013-05-29-tax-compliance-agreement-with-us.html
[324] Sharing Tax Information: Joint Statement by G5 Finance Ministers, Federal Ministry of Finance (Berlin) 27 November 2013. Date Accessed: 15 December 2013. http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2013/2013-05-29-tax-compliance-agreement-with-us.html
[325] Cabinet Apporves Cross-Border Tax Compliance Agreement with U.S, Federal Ministry of Finance (Berlin) 29 May 2013. Date Accessed: 15 December 2013. http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2013/2013-11-28-joint-statement-g5.html

Italy: +1

Italy has fully complied with its commitment to prevent tax evasion by multinational corporations, particularly by means of profit shifting to low-tax jurisdiction.

Italy has announced a Google Tax. The new tax will be voted upon, on the 23 December 2013. The Italian government expects the new legislation to force web-based multinational corporations like Google to "pay local taxes on Italian revenue."[326]

The Guardia di Finanza — the Italian tax enforcement body — has published the 2013 guidelines on tax audits for the fiscal year. The guidelines have increased the level of inspection on high risk taxpayers to counter tax evasion. These taxpayers range from small enterprises with turnovers of EUR 5 million, to large enterprises with turnovers of EUR 100 million. These taxpayers are to be inspected following guidelines set out by the OECD.[327]

Thus, Italy has been awarded a +1. With passed legislation, such as the one that targets Google, and increased inspection on businesses, in accordance with the OECD, Japan has fully complied with its commitment to prevent tax evasion by means of profit shifting.

Analyst: Andy Li

Japan: 0

Japan has partially complied with its commitment to target acts of tax evasion. It has signed the conventions and the amending protocols with several countries and has stressed the importance of tax evasion policies.

On 28 June 2013, Government of Japan "deposited the Instrument of Acceptance on the Convention on Mutual Administrative Assistance in Tax Matters (the Convention) and the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (the Amending Protocol) to the Secretary-General of the Organization for Economic Co-operation and Development (OECD)."[328] The Conventions provide mutual "administrat[ion] supports concerning tax matters between tax authorities of the States Parties (exchange of information concerning tax matters, mutual assistance in recovery of tax claims, and mutual assistance in service of documents on taxes) and also deals with international tax evasion and avoidance in an appropriate manner."[329]

On 5 December 2013, Japanese Ambassador to the Kingdom of Sweden, Seiji Morimoto, and State Secretary to the Minister for Finance of the Kingdom of Sweden, Mikael Lundholm, signed

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[326] Bershidsky on Europe: More Calls for 'Google Tax,' Bloomberg, 5 November 2013. Date of Access: 20 December 2013. http://www.bloomberg.com/news/2013-11-05/bershidsky-on-europe-more-calls-for-google-tax-.html

[327] The war on tax evasion: an Italian perspective, Nexia International, June 2013. Date Accessed: 20 December 2013. http://www.nexia.com/Thewarontaxevasion:anItalianperspective

[328] On the Deposit of the Instrument of Acceptance of the "Convention on Mutual Administrative Assistance in Tax Matters" and the "Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters," 1 July 2013. Date of Access: 20 December 2013. http://www.mofa.go.jp/press/release/press6e_000138.html

[329] On the Deposit of the Instrument of Acceptance of the "Convention on Mutual Administrative Assistance in Tax Matters" and the "Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters," 1 July 2013. Date of Access: 20 December 2013. http://www.mofa.go.jp/press/release/press6e_000138.html

the Protocol Amending the Convention between Japan and Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income in Stockholm.[330] The Protocol "expands the scope of exemption of taxes withheld at source on investment income (dividends, interest and royalties) to further promote mutual investments between the two countries," and also "introduces provisions for preventing tax avoidance regarding with the above mentioned expansion of the scope of exemption."[331]

On 17 December 2013, Keiichii Hayashi, Ambassador of Japan to the United Kingdom and Mr. David Gauke MP, Exchequer Secretary to the Treasury of the United Kingdom, signed The Conventions in London.[332] Comparably, on 1 July 2013, the Ministry of Finance announced the Convention signed with the Portuguese Republic on 19 December 2011 will be in effect on 28 July 2013.[333]

Although Japan has discussed tackling tax evasion, primarily through the Convention and Protocol related discussions, it has yet to pass concrete legislation; for this reason Japan has been awarded a partial score of 0.

Analyst:

Russia: +1

Russia has fully complied with the commitment on tax evasion and profit shifting.

On 28 June 2013,[334] Russian President Vladimir Putin signed Federal Law on Amendments to Certain Legislative Acts of the Russian Federation regarding Prevention of Illegal Financial Operations. The law directly addresses tax evasion and profit shifting by providing for measures to prevent the registration of shell companies, expanding state control over financial operations, and introducing the definition of a beneficial owner.[335]

On 12 December 2013, Vladimir Putin in his Address to the Federal Assembly proposed some steps to address the challenges of offshore economic activity. In particular, he suggested that companies registered in foreign jurisdictions should not be allowed to use government support measures and state guarantees as well as fulfil government contracts.[336] He also instructed the Government to ensure that companies that are registered in offshore jurisdictions and belong to

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[330] Signing of the Protocol Amending Tax Convention with Sweden, Ministry of Foreign Affairs of Japan, 6 December 2013. Date of Access: 19 December 2013. http://www.mofa.go.jp/press/release/press4e_000120.html
[331] Signing of the Protocol Amending Tax Convention with Sweden, Ministry of Foreign Affairs of Japan, 6 December 2013. Date of Access: 19 December 2013. http://www.mofa.go.jp/press/release/press4e_000120.html
[332] Signing of the Protocol Amending Tax Convention with Sweden, Ministry of Foreign Affairs of Japan, 6 December 2013. Date of Access: 19 December 2013. http://www.mofa.go.jp/press/release/press4e_000120.html
[333] Tax Convention with the Portuguese Republic will Enter into Force 1 July 2013. Date of Access: 29 December 2013. https://www.mof.go.jp/english/pri/publication/mf_review/cy2013/481/481_10.htm
[334] Introduction of amendments to certain legislation in order to prevent illegal financial operations, President of Russia 30 June 2013. Date of Access: 13 January 2014. http://kremlin.ru/news/18424.
[335] Amendments to several laws in order to prevent illegal financial operations, President of Russia 30 June 2013. Date of Access: 31 December 2013. http://eng.kremlin.ru/news/5662.
[336] Presidential Address to the Federal Assembly, President of Russia 12 December 2013. Date of Access: 31 December 2013. http://eng.kremlin.ru/news/6402.

Russian owners or whose ultimate beneficiaries are Russian nationals are taxed in accordance with Russian laws.[337]

Russia has implemented new legislation to address tax evasion and profit shifting during the compliance period. Thus, it receives a score of +1.

Analyst: Andrey Shelepov

United Kingdom: 0

The United Kingdom has partially complied with its commitment to ensure that their tax rules do not allow or encourage any multinational enterprises to reduce overall taxes paid by artificially shifting profits to low-tax jurisdictions.

On 10 December 2013, HM Treasury and HM Revenue Customs published a draft tax legislation in the 2014 Finance Bill. The bill contained next steps with regards to the government's drive to tackle tax avoidance.[338] Exchequer Secretary to the Treasury, David Gauke said, "The package of measures in the legislation published today delivers action that builds on our efforts to create a tax system that supports growth and fairness. And by consulting on the draft legislation in this way we are delivering on our promise to make the system more certain and stable for taxpayers and businesses."[339] The Employment intermediaries document of the draft anti-avoidance tax legislation proposed policies that supports the Government's anti-avoidance strategy by "helping to ensure that offshore employer pay their fair share of employment taxes."[340]

Moreover, on 19 December 2013, Public Accounts Committee chair Margaret Hodge said that "HMRC aims to make the UK more attractive to business but the incentives to international corporations may also enable them to avoid tax."[341] The committee also noted that "HMRC failed to use the full range of sanctions at its disposal to vigorously pursue all unpaid tax" and "changes in the controlled foreign company rules and the failure to close the loophole created by Eurobonds are two examples showing where it has become easier for companies to avoid tax while ordinary people continue to pay their share."[342] Recently, analysts reported that Apple

[337] List of instructions following the Address to the Federal Assembly, President of Russia 27 December 2013. Date of Access: 13 January 2014. http://kremlin.ru/assignments/20004.
[338] Draft tax legislation published in Finance Bill 2014, HM Treasury and HM Revenue and Customs (London) 10 December 2013. Date of Access: 20 December 2013. https://www.gov.uk/government/news/draft-tax-legislation-published-in-finance-bill-2014
[339] Draft tax legislation published in Finance Bill 2014, HM Treasury and HM Revenue and Customs (London) 10 December 2013. Date of Access: 20 December 2013. https://www.gov.uk/government/news/draft-tax-legislation-published-in-finance-bill-2014
[340] Employment Intermediaries, HM Treasury and HM Revenue and Customs (London) 10 December 2013. Date of Access: 20 December 2013. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264617/2._Employment_intermediaries.pdf
[341] UK Tax Avoidance: Politicians Slam HMRW for Being Too Lenient on Big Business, International Business Times UK Edition (London) 19 December 2013. Date of Access: 20 December 2013. http://www.ibtimes.co.uk/uk-tax-avoidance-politicians-slam-hmrc-being-too-lenient-big-business-1429540
[342] UK Tax Avoidance: Politicians Slam HMRW for Being Too Lenient on Big Business, International Business Times UK Edition (London) 19 December 2013. Date of Access: 20 December 2013. http://www.ibtimes.co.uk/uk-tax-avoidance-politicians-slam-hmrc-being-too-lenient-big-business-1429540

sheltered USD40 billion from taxation using Ireland's loophole.[343] The committee reported that HTMC predicted in Autumn 2012 a GBP 3.12 billion tax collection form UK holders of Swiss bank accounts, but has so far collected only GBP 440 million.[344]

From 18 July 2013 to 10 October 2013, the HM Revenue and Customs also held a consultation that on "Reform of an anti-avoidance provision: transfer of assets abroad."[345] On 20 December 2013, HM Revenue Customs published the outcome for the consultation which stated in the "Next Steps" section, "the Government has decided not to pursue legislative change to the matching rules at present."[346]

Thus, the United Kingdom has been awarded a score of 0 for its discussion of, but failure to pass, legislation with regards to tax-avoidance of multinational enterprises.

Analyst: Xinhe (Alissa) Wang

United States: 0

The United States of America has partially complied with its commitment to implement policies, which ensure that multinational corporations do not engage in tax avoidance techniques.

At the first Session of the 113th Congress, the Levin-Whitehouse-Begich-Shaheen Stop Tax Haven Abuse Act was presented. This bill aims to "end offshore tax abuses ... and protect American families and businesses from devastating cuts," as well as to restrict the transfer of intellectual property to overseas entities.[347] The bill calls upon the United States to more effectively engage with foreign institutions that "impede U.S. tax enforcement, including prohibiting U.S. banks from doing business with a designated foreign bank."[348] All foreign financial institutions are required to disclose the financial activity of American clients with accounts that have total assets of USD 50,000 or more.[349] Moreover, the bill's co-sponsors moved

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[343] UK Tax Avoidance: Politicians Slam HMRW for Being Too Lenient on Big Business, International Business Times UK Edition (London) 19 December 2013. Date of Access: 20 December 2013. http://www.ibtimes.co.uk/uk-tax-avoidance-politicians-slam-hmrc-being-too-lenient-big-business-1429540

[344] HMRC "Loses nerve" chasing big firms, says MP, BBC News 19 December 2013. Date of Access: 20 December 2013. http://www.bbc.co.uk/news/business-25430826

[345] Consultation outcome: Reform of an anti-avoidance provision: Transfer of Assets Abroad, HM Revenue and Customs 20 December 2013 (London). Date of Access: 20 December 2013. https://www.gov.uk/government/consultations/reform-of-an-anti-avoidance-provision-transfer-of-assets-abroad

[346] Consultation outcome: Reform of an anti-avoidance provision: Transfer of Assets Abroad, HM Revenue and Customs 20 December 2013 (London). Date of Access: 20 December 2013. https://www.gov.uk/government/consultations/reform-of-an-anti-avoidance-provision-transfer-of-assets-abroad

[347] Summary of the Levin-Whitehouse-Begich-Shaheen Stop Tax Haven Abuse Act, Newsroom-Press Releases, Carl Levin (United States Senator for Michigan) (Washington), 19 September 2013. Date of Access: 21 December 2013. http://www.levin.senate.gov/newsroom/press/release/summary-of-the-levin-whitehouse-begich-shaheen-stop-tax-haven-abuse-act/

[348] Summary of the Levin-Whitehouse-Begich-Shaheen Stop Tax Haven Abuse Act, Newsroom-Press Releases, Carl Levin (United States Senator for Michigan) (Washington), 19 September 2013. Date of Access: 21 December 2013. http://www.levin.senate.gov/newsroom/press/release/summary-of-the-levin-whitehouse-begich-shaheen-stop-tax-haven-abuse-act/

[349] Complying With U.S. Tax Evasion Law Is Vexing Foreign Banks, New York Times (New York), 16 September 2013. Date of Access: 21 December 2013. http://dealbook.nytimes.com/2013/09/16/complying-with-u-s-tax-evasion-law-is-vexing-foreign-banks/?_r=0

to strengthen the Foreign Account Tax Compliance Act (FATCA),[350] a bill passed in 2010 and set to take effect in July 2014, which "targets tax non-compliance by U.S. taxpayers with foreign accounts."[351] The Stop Tax Haven Abuse Act was presented to congressional committees for review on 19 September 2013. The bill has not made it past the committee stage.[352]

The extent of the United States' compliance can, therefore, only be evaluated in the context of the nation's ability to establish international agreements with regards to FATCA. The U.S. "has signed 18 FATCA inter-governmental agreements, has 11 agreements in substance, and is engaged in related discussions with many other jurisdictions."[353] The use of dialogue to amongst G8 members to fulfill commitments is evident in that signatories to FATCA include Germany and Britain.[354] As of 12 December 2013, recent intergovernmental agreements have been made with Malta, the Netherlands, the Islands of Bermuda, and three United Kingdom Crown Dependencies: Jersey, Guernsey, and the Isle of Man.[355] Bilateral agreements ensure that "countries will allow their financial institutions to comply with FATCA via their home-country regulators."[356] The penalty for non-compliance, with regards to reporting on the holdings of U.S. taxpayers in foreign institutions, is "a potential 30 per cent withholding tax on U.S. source income, a penalty that could effectively freeze [foreign institutions] out of U.S. financial markets."[357]

Although the United States has pursued bilateral relationships with foreign nations with the goal of reducing the tax evasion practices of multinational corporations, since the Lough Erne Summit, it has however, failed to actively implement legislation. Therefore, the United States of America has been awarded a score of 0 for partially fulfilling its commitment to reduce the tax avoidance techniques of multinational corporations.

Analyst: Aditya Rau

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[350] Summary of the Levin-Whitehouse-Begich-Shaheen Stop Tax Haven Abuse Act, Newsroom-Press Releases, Carl Levin (United States Senator for Michigan) (Washington), 19 September 2013. Date of Access: 21 December 2013. http://www.levin.senate.gov/newsroom/press/release/summary-of-the-levin-whitehouse-begich-shaheen-stop-tax-haven-abuse-act/

[351] Foreign Account Tax Compliance Act, Internal Revenue Service (Washington), 18 December 2013. Date of Access: 21 December 2013. http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-(FATCA)

[352] Stop Tax Haven Abuse Act (S. 1533), Govtrack.us. 19 September 2013. Date of Access: 21 December 2013. https://www.govtrack.us/congress/bills/113/s1533#overview

[353] U.S. Signs FATCA Pacts with Malta, Netherlands, Bermuda, Jersey, Guernsey and Isle of Man, Accounting Today (Washington), 19 December 2013. Date of Access: 21 December 2013. http://www.accountingtoday.com/news/US-Signs-FATCA-Pacts-Malta-Netherlands-Bermuda-Jersey-Guernsey-Isle-of-Man-69035-1.html

[354] U.S. Treasury gives more detail on offshore anti-tax evasion law, Reuters (Washington), 29 October 2013. Date of Access: 21 December 2013. http://www.reuters.com/article/2013/10/29/usa-tax-fatca-idUSL1N0IJ1N020131029

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[357] U.S. Treasury gives more detail on offshore anti-tax evasion law, Reuters (Washington), 29 October 2013. Date of Access: 21 December 2013. http://www.reuters.com/article/2013/10/29/usa-tax-fatca-idUSL1N0IJ1N020131029

European Union: 0

The European Union has partially complied with its commitment to discuss or policies or legislation that will directly tackle artificial profit shifting and tax evasion, and to implement as well as enforce new legislation that targets tax evasion by multinational corporations. The European Union has proposed various measures conducive to the resolution of tax evasion and profit shifting, but has yet to implement new legislation to this effect.

On November, the Commission proposed measures to close loopholes in the Parent Subsidiary Directive and address national mismatches.[358] As a result, companies will be unable to exploit differences in the way intra-group payments are taxed across the EU to avoid paying any tax.[359] Accordingly, the Member States are expected to implement the amended Directive by 31 December 2014.[360]

The European Union also created a High Level Expert Group on Taxation of the Digital Economy which met for the first time on the 12 December 2013.[361] The goal of the group is to look at the challenges in digital taxation and propose solutions in the first half of 2014. The goal is to ensure that the digital sector pays its fair share of taxes, while not creating tax obstacles to this pro-growth sector.[362]

In addition, on 31 July 2012, the European Union adopted a proposal for a Quick Reaction Mechanism (QRM) that enables Member States to respond more swiftly and efficiently to Value Added Tax (VAT) fraud.[363] The QRM will allow Member States to implement emergency measures by applying within the space of a month, a "reverse charge mechanism" which makes the recipient rather than the supplier of the goods or services liable for VAT.[364] Accordingly, this will allow Member States to effectively tackle complex fraud cases.[365] The Commission further

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[358] Tackling Tax Avoidance: Commission tightens key EU corporate tax rules, European Commision (Brussels) 25 November 2013, Date of Access: 20 December 2013. http://europa.eu/rapid/press-release_IP-13-1149_en.htm

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[362] Taxing the Digital Economy: Commission creates Expert Group to guide EU approach, European Commission (Brussels) 22 October 2013, Date of Access: 20 December 2013. http://europa.eu/rapid/press-release_IP-13-983_en.htm

[363] VAT: Commission proposes new instrument for speedy response to fraud, European Commission (Brussels) 31 July 2012. Date of Access: 20 December 2013. http://europa.eu/rapid/press-release_IP-12-868_en.htm

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[365] VAT: Commission proposes new instrument for speedy response to fraud, European Commission (Brussels) 31 July 2012. Date of Access: 20 December 2013. http://europa.eu/rapid/press-release_IP-12-868_en.htm

proposed a simplified, standard VAT form for use by businesses throughout Europe.[366] The goal of this proposal is to ease the life for business, and at the same time improve tax compliance by simplifying the process of declaring VAT owed by businesses.[367]

Moreover, on 19 September 2013, the European Union published a study on the VAT Gap in the EU, which amounted to EUR 193 billion in 2011.[368] The purpose of the study is to better understand the recent trends in the EU, and to shape and target policy measures to improve VAT compliance.[369]

Although the European Union has actively discussed measures to prevent tax evasion and shifting, it has so far failed to take concrete legislative steps. Therefore the European Union has been awarded a partial score of 0.

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[366] Standard VAT Return: Easing life for businesses and improving tax compliance, European Commission (Brussels) 23 October 2013. Date of Access: 20 December 2013. http://europa.eu/rapid/press-release_IP-13-988_en.htm
[367] Standard VAT Return: Easing life for businesses and improving tax compliance, European Commission (Brussels) 23 October 2013. Date of Access: 20 December 2013. http://europa.eu/rapid/press-release_IP-13-988_en.htm
[368] VAT Gap: Frequently asked questions, European Commission (Brussels) 19 September 2013. Date of Access: 20 December 2013. http://europa.eu/rapid/press-release_MEMO-13-800_en.htm
[369] VAT Gap: Frequently asked questions, European Commission (Brussels) 19 September 2013. Date of Access: 20 December 2013. http://europa.eu/rapid/press-release_MEMO-13-800_en.htm