How Tax Havens Plunder the Poor

Executive summary

Tax havens have recently become big news, as well as big business. But amidst all the scandals of ministerial Swiss bank accounts and celebrity tax avoiders, there has been much less discussion of the impact of tax havens on the poorest countries in the world.

This briefing aims to fill that gap. It shows the primary role of the UK's and the G8's own tax havens in a global merry-go-round that helps keep 1.3 billion people in poverty and hunger, while denying developing countries the ability to benefit from their own wealth, and raise the public funds needed to fight poverty.

1) **New analysis by ActionAid reveals that just under one in every two dollars of large corporate investment in developing countries is now being routed from or via a tax haven.**

   A third of these developing country tax haven flows are being routed through tax havens under the jurisdiction of countries represented at the G8.

2) **While not proof of tax avoidance, such routing can often result in billions of dollars of tax foregone by both developed and developing countries, through three key mechanisms outlined in detail below.** In just one case we examine, the Indian revenue authority has claimed that a single offshore transaction deprived it of an estimated US$2.2 billion of tax revenues – almost enough money to pay for a year's subsidised midday meals for every primary schoolchild in India – a transaction that the Indian supreme court ruled could not be taxed because it took place offshore.

3) **New data recently published by ActionAid about the presence of the UK's largest multinational companies in tax havens confirms the scale of this mismatch between where global business actually takes place, and where it appears on paper.** Nearly four years after G20 leaders announced "an end to tax havens":[1]

   Every new entrant to the FTSE100 since 2011 has tax haven operations. Collectively the FTSE100 now has more companies registered in Jersey than in China; more in the Cayman Islands than in India.

   Ninety-eight of the 100 FTSE100 have companies in tax havens, 78 of which also have operations in developing countries. In two cases that we analyse in greater detail, over 60% of the firms' tax haven companies are linked to operations in developing countries.

   While the number of overseas companies owned or controlled by FTSE100 firms has shrunk since 2011, the proportion of those companies in tax havens has actually slightly risen. Over 38% of the 21,771 overseas subsidiaries and associate companies of the largest 100 UK-listed multinational groups are now located in tax havens. The proportion is largest amongst FTSE100 real estate firms: 80% of their overseas subsidiaries and associates are registered in tax havens – nearly 60% in UK-linked havens alone.[2]

4) **Multinationals' use of tax havens continues to be opaque. Existing transparency measures are not working.**

   One in 10 of the UK's largest multinationals failed in 2011-12 to disclose their subsidiary and associate companies until ActionAid pointed out the non-compliance to Companies House, despite this being a requirement of UK company law and often the only way to determine the existence and ownership of tax haven companies. This is despite the UK government back in 2011 promising an inquiry and possible legal action against companies keeping their subsidiaries secret.

5) **However, our research also finds that not every profitable multinational is addicted to tax havens, or to secrecy.**[3] Two of the FTSE100 (Hargreaves Lansdown and Fresnillo) are still tax-haven free, despite operating in sectors – mining and financial services – that are no strangers to 'offshore'. Some companies now have tax policies that specifically avoid the use of tax structures or strategies deemed risky by revenue authorities. Others are going further than their legal requirements to disclose their tax structures and positions around the world, either in their public reporting or on request.

As chair of the G8, the UK cannot credibly lead action on tax havens without addressing its own network of tax havens – larger than any other country in the world. The UK is responsible for one in five of the tax havens we identify in this paper – more than any other single country. Indeed, the countries represented at the UK-hosted G8 Summit in June are collectively responsible for 40% of these tax havens. G8 members have started in recent months to force tax havens to open up to their own tax authorities, but so far developing countries have not been offered participation in these initiatives or their benefits.

The G8 have the opportunity and the responsibility to ensure the solutions to tax evasion and avoidance produced at the G8 Summit are of benefit to the rest of the world, not just wealthy countries themselves. This briefing sets out why, and how.

Tax justice campaigners take to the streets in Lusaka, Zambia, in 2012. Tax avoidance by multinational mining companies was one of the biggest issues in Zambia's 2011 elections.
PHOTO: OWEN MIYANZA/DEMOTIX/ ACTIONAID.

Foreword

Professor Jeffrey Sachs (Director of the Earth Institute, Columbia University)

When G8 leaders meet this June, they have a responsibility to end one of the biggest and most dangerous scams in the world economy: the global web of tax and secrecy havens that they so lovingly have nurtured over the years. These havens facilitate tax evasion, money laundering, bribery, and lack of accountability for environmental and social calamities.

The public did not really know the facts until recently. The rich and powerful kept the public distracted when stock markets were rising and budgets were full. Yet the tax haven system was eating away at the roots of the world economy, making it increasingly easier for wealthy individuals, corrupt businesses, money launderers, political parties, and of course the ever-more-powerful banks, hedge funds, and multinational companies to protect their profits from taxation.

But recently, the veil has started to fall, and the sight is not lovely. Mitt Romney ran for US President with vast wealth in the Cayman Islands, and he was never willing to account for that wealth. The French Budget Minister, and then the Socialist campaign finance manager, got caught with their own offshore accounts. Rich Greeks with secret accounts abroad are on IMF-provided lists. Senior Spanish officials have been caught receiving stipends from secret, offshore party accounts. And this is only the tip of the iceberg. The International Consortium of Investigative Journalists has recently begun to release the names of rich and powerful offshore banking customers, with much more to be revealed.

Cyprus exposed the macroeconomic risks of this nefarious system. Everybody knew that Cyprus was a tax-and-secrecy haven especially for Russian funds, but few people anticipated that the Euro would almost die in a blow-up of the Cypriote banks. But why shouldn't they have known? This is par for the course when a country is home to bank assets and liabilities that are many times larger than the country's national income. The banks have no backstopping. How many times do we really need to learn the lesson?

Thanks to wonderful writing by many advocates and eye-opening (indeed eye-popping) books such as Treasure Islands by Nicholas Shaxson, we also come to appreciate better that the havens are not the un-pluggable gaps of a well-regulated global economy, but are actually part of the core design of the global system. Switzerland and the United Kingdom essentially invented much of the system during the early to mid 20th century, and the US became its great champion more recently. The Caribbean havens – Bermuda, the British Virgin Islands, and the Caymans – are British Overseas Territories. The US is itself increasingly a haven for foreign investors, especially in Delaware, and it is also the great proponent of the Caribbean haven system.

And how absurd and dangerous this system has become. The Caymans have around 57,000 people, but 92,000 companies. The BIS estimates that $1.4 trillion in bank assets and liabilities are there. This is a time bomb, not a financial system. And not surprisingly, the so-called "boards" of many tax haven shell companies, which are supposed to "govern" the companies, are routinely filled with individuals who sit on dozens, or even hundreds of boards. The governance situation is absurd, dangerous, and out of control.

The politicians continue to protect their exorbitant privileges, or listen to their billionaires and continue to wink at mega-tax evasion, or listen to their major companies and continue to tolerate unpardonable games of transfer pricing into the havens, are playing with fire. The days of high living are over. We are now all sharing austerity. The havens represent unacceptable privilege and abuse, not fair sharing.

Developing countries are also saying that enough is enough. For decades they've been on the receiving line of lectures about good governance. For decades, the hypocrisy has been out of control. The tax havens have served the purpose of paying bribes to potentates, and providing easy ways for elites in poor countries to keep their money safe from tax collectors. Yet it is the rich countries that have fostered that system. And now poor countries understand it clearly. They are the ones insisting more than anybody to turn off these abuses. After all, the governments of the poorest countries are trying to invest their oil, copper, gold, diamond, and other earnings. But they can't succeed if the money just makes a beeline for the havens, all protected and supported by Wall Street, the City of London, Swiss banks, and the rest of an industry all too happy to move money unaccountably and irresponsibly around the world.

On top of this basic affront to the capacity of states to provide for their citizens' wellbeing, the same facilities of secrecy and tax-free income make possible much of the illicit financial flows at the heart of money-laundering, grand corruption and the financing of transnational crime. And as Nigerian Finance Minister Ngozi Okonjo-Iweala and IMF chief Christine Lagarde have pointed out, tax havens have provided a regulation-free platform for many of the opaque and toxic financial vehicles which, together with "cosy financial regulation" onshore, have posed such serious threats to the stability of the global financial system itself.[1]

This new study provides powerful evidence that four years after world leaders promised an "end to tax havens" in the wake of the financial crisis, the scale of tax havens' hold over developing economies, and the systematic exploitation of their facilities by wealthy investors and businesses in those economies, has only increased. Put simply, the revenue lost as a result could enable developing countries to finance their own futures free from poverty.

It is the world's wealthiest countries that have the capacity to end this global injustice and end it now. Powerful countries can sometimes track down the income and assets siphoned offshore by individuals and businesses in tax havens, or as America's bilateral FATCA agreements have shown, crack open secrecy through threatening to limit tax haven banks' access to their taxpayers. For developing countries with much smaller administrative resources and economic clout, it is virtually impossible to do the same on their own.

The world's most powerful countries also have a unique responsibility. They created this system. It's their job to end it. Taxes worldwide need to be paid, not hidden or absurdly sheltered; banks, hedge funds, and non-financial companies need to be domiciled where they can be properly overseen and regulated, not in small islands that can't possibly oversee these businesses; and hot money and corruption need to be brought decisively under control.

The politicians need to understand that their publics are now on to the game. There is no more time to delay.

1 Ngozi Okonjo-Iweala and Christine Lagarde, 'No Safe Havens for Dirty Money', Project Syndicate, 21 June 2010, http://www.project-syndicate.org/commentary/no-safe-havens-for-dirty-money

Introduction: money on an island

Tax havens are jurisdictions around the world that make wealthy taxpayers from other countries an offer that is hard to refuse: a combination of low- or no-tax rates for many types of income deriving from outside their borders, and near-complete financial and corporate anonymity.[4] Caricatured as 'sunny places for shady people',[5] tax havens are often criticised by public and politicians for playing host to money-laundering and celebrity tax evasion. But tax havens have another side too: they are depriving some of the world's poorest countries of vital resources to fight poverty.

Some estimates suggest that the concealment in tax havens of financial assets alone may constitute a loss to developing countries' public revenues of some US**$120-160 billion a year**.[6] This is nearly **three times** the estimated cost of the agricultural investment needed to achieve a world free from hunger,[7] and **twelve times** the cost of ending the global scourge of malnutrition, which each year claims the lives of 2.3 million children.[8]

While wealthy countries' tax authorities struggle to chase money through these opaque places, their less well-resourced counterparts in developing countries have neither the resources, nor the economic or political muscle, to obtain the information they need about wealth squirrelled away in tax havens by companies and individuals.

Illegal tax evasion is not the only drain on the fragile public finances of developing countries. Billions of dollars are also lost through **legal tax avoidance by multinational companies and wealthy investors**, also enabled to a large extent by the world's tax

Small businesses bear the brunt

Last year ActionAid met Caroline Muchanga, a small business owner in Mazabuka, Zambia, who sells sugar produced by a UK-controlled sugar company, Zambia Sugar, a few kilometres from her stall. While Caroline has no choice but to pay the business tax collected from her stall every day, the multinational company next door has had its Zambian corporate tax bill shrunk to little or nothing in recent years: partly through legitimate capital allowances, but also through special tax incentives, and by routing fees, loans and dividends through tax haven sister companies, which has – perfectly legally – saved the group millions of dollars of Zambian withholding taxes. Faced with her own unavoidable tax bill and rising wholesale sugar prices, Caroline told us simply: "*Our profits are not enough….Zambia Sugar should be paying more tax than us*."[11] Some UK business leaders are starting to agree: Andy Street, CEO of high-street retailer John Lewis, has argued that companies avoiding taxes via tax havens risk driving others out of business: "*they will out-invest and ultimately out-trade*".[12]

Caroline Muchanga shows her receipt for daily market taxes in Mazabuka, Zambia.
PHOTO: JASON LARKIN/ACTIONAID.

havens. Tax havens make it possible and profitable for many multinationals to shift profits out of poor countries where real business takes place, and into associated companies in tax havens – sometimes with no real staff or business activities, and where those profits go largely untaxed. Other havens act as conduits, with special tax regimes allowing income to pass tax-free through their shores and on to other havens or tax-exempt companies, while avoiding other cross-border taxes. Much of this 'profit-shifting', 'treaty shopping' and use of 'letterbox' conduit companies, while not illegal, takes abusive advantage of loopholes and weaknesses in complex and outdated international tax rules. And evidence suggests that multinational profit-shifting into and via tax havens is even more prevalent in developing than in developed countries.[9]

This not only deprives developing countries of public revenues needed to fight poverty, but may also be hindering those countries' domestic businesses from flourishing. Unlike their multinational competitors and contractors, domestic businesses and investors – which may generate 90% of all investment in developing economies[10]– generally cannot shrink their tax bills by taking advantage of cross-border tax haven transactions. This tilts the playing field against them in competing for market share, and for better terms of trade.

Likewise making investment profitable in developing countries depends on functioning infrastructure such as roads and airports, and on a healthy and educated workforce. When global businesses and investors use tax haven structures and offshore profits to avoid paying taxes in poor countries, they are both undermining their own long-term financial prospects, and free-riding on other individuals and businesses in developing countries that do not have access to tax havens, and which shoulder an excessive share of the tax burden.

The cost to the poorest countries of such activity is difficult to calculate, precisely because of the secrecy usually involved in these operations. Individual examples, however, indicate that globally the foregone tax runs to billions of dollars every year.

Without governments themselves ending the opacity and preferential tax regimes of tax havens, multinationals with internationally-mobile capital have little incentive not to take advantage of the facilities they offer. Nor is voluntary compliance going to help stop straightforward tax evasion by wealthy individuals around the world hiding wealth and assets offshore.

The UK government has publicly promised action on tax havens at this year's G8 summit. Prime Minister David Cameron has said that, *"[t]here are too many tax havens, too many places where people and businesses manage to avoid paying taxes."*[13] Responding to ActionAid's findings about tax avoidance in Zambia by subsidiaries of the UK multinational Associated British Foods, Chancellor George Osborne has called for particular protection for developing countries: *"often the poorer a nation is, the more it needs the tax revenues, but also the weaker its capacity to tackle tax avoidance".*

The UK is uniquely placed to put an end to this drain on the poorest countries' public finances. The UK is responsible for one in five of the tax havens we identify in this paper – more than any other single country. Indeed, the countries represented at the UK-hosted G8 Summit in June are collectively responsible for 40% of these tax havens. Yet measures promised so far have failed to materialise. In November 2011, for instance, G8 members were among the G20 countries committing to a new Multilateral Convention to crack down on tax evasion by sharing tax information with other countries, including some developing countries; and in July 2012 were among G20 leaders calling on all jurisdictions to sign up too.[14] Yet no G8-linked tax haven has yet joined, severely limiting the utility of the Convention. And despite the UK government telling parliament it has been 'encouraging' its own Crown Dependencies and Overseas Territories to join, none has yet done so.[15] Meanwhile UK- and G8-linked tax havens have begun in recent weeks to agree to open up their hitherto secret financial institutions and share tax information with other G8 members, through the US' 'FATCA' deals and the 'G5' information-exchange deal between the UK, France, Germany, Italy and Spain.[16] But developing countries are so far not included. It is incumbent on the G8 not to keep the benefit of these deals for themselves; but to make them, and the information they will generate about wealth and assets held in tax havens, available to the rest of the world too.

We've heard good words and goodwill. Now it's time for action.

What's a tax haven?

Governments and international organisations have yet to agree a common list of jurisdictions that constitute tax havens. As previously, ActionAid uses the list compiled by the Government Accountability Office of the US Congress of 'Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions'.[17] These 50 jurisdictions identified by US Congress have either been listed by the OECD in 2007 as an 'uncooperative jurisdiction' or one in need of reform for tax transparency; listed as a tax haven by the US National Bureau of Economic Research; or included in a list compiled in a US district court ruling.[18]

We also include the US state of Delaware and the Netherlands, since these jurisdictions provide special tax exemptions and discretionary tax rulings which make much foreign income tax-free or nearly tax-free, and are consequently central to many international tax planning schemes. Each has been named by governments as tax havens. The US Treasury's own Financial Crimes department has listed Delaware as a jurisdiction whose corporate laws, "may be attractive to those persons seeking to hide illicit activity within the framework of shell companies,"[19] while other US states, most recently Pennsylvania, have begun to describe Delaware as a domestic tax haven, enacting laws to prevent profit-shifting via the domestic 'Delaware loophole'.[20] While some argue that the USA's 35% federal tax rate means that Delaware is not an international tax haven, in practice many Delaware companies without US-origin income are exempt from US federal tax thanks to so-called 'check the box' rules, while their owners are not publicly disclosed. The Whitehouse likewise named the Netherlands as a tax haven in 2009.[21]

This list is not, of course, intended to suggest that other jurisdictions – including members of the G8 themselves – have no problematic aspects of their tax laws or their corporate transparency regimes. Any serious G8 action on financial secrecy and internationally harmful tax regimes must therefore tackle the anonymity of companies and the sharing of tax information 'at home', as well as in G8-linked tax havens abroad.

Tax havens – whose responsibility?

Who is responsible for the global network of havens, draining revenues from some of the world's poorest countries?

Some tax havens are independent countries in their own right, but a striking number are 'dependencies' – offshore appendages of other major global economies. Head and shoulders above the rest is the UK, which has jurisdiction or sovereignty **over a fifth of all the tax haven jurisdictions on our list.** This includes half of the 14 UK Overseas Territories (OTs), and three of the Crown Dependencies that are formally 'possessions of the Crown' (Jersey, Guernsey and the Isle of Man).

Overall, participants at this June's G8 meeting have jurisdiction or responsibility for 21 of the 52 tax havens on our list:

G8 participant with jurisdiction over tax haven	Number of linked tax havens	Tax havens
UK	10	Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Guernsey, Isle of Man, Jersey, Montserrat, Turks & Caicos Islands
France	1	Andorra (co-principality)
EU/EU Member State *(the EU has observer status at the G8)*	8	Cyprus, Ireland, Latvia, Luxembourg, Malta, Netherlands, Aruba (Netherlands), Netherlands Antilles (Netherlands)
USA	2	Delaware, US Virgin Islands

Other tax havens, while not under their jurisdiction, have close ties to the G8's participants: these include Liechtenstein, which is part of the European Economic Area; and Monaco, which relies on France for its defence.

Cross-border investment into the developing world: addicted to tax havens

Economists have started to notice that there's something odd about global investment. A handful of jurisdictions, some with fewer inhabitants than a small town, now appear to be the largest sources of foreign direct investment (FDI) – significant cross-border shareholdings or inter-company loans – into many developing countries, as well as major emerging economies such as China and Brazil.[22]

The top source of FDI into Nigeria, for instance, appears to be the small island of Bermuda; half of the top 20 sources of Nigerian FDI are tax havens, including Switzerland, Mauritius, Panama and Luxembourg.[23] The same picture is true of many other economies globally: indeed during 2011 the tiny Caribbean islands of Barbados, Bermuda and the British Virgin Islands (the '3 Bs') appear – on paper – to have been the source of more investment into the rest of the global economy than Germany, and 118 times more than their own combined GDPs.[24] The tiny British Virgin Islands (population: 32,000) appears to be the source of more overseas investment than Canada (population: 34,000,000) or Spain (population: 47,000,000).[25]

Investment can bring great benefits from employment and economic activity. So if these dots on the map really were generating massive amounts of investment for economies around the world, this might be cause for celebration. But they are not, since they are plainly not the real source of the money. During 2011 these '3 Bs' also received 113 times more inward investment than their own GDPs, almost all of which appears to be matched by equivalent outward investment.[26] So why are these tides of cross-border money passing through these tiny havens?

ActionAid's new data from the UK's largest companies (below), and our analysis of recently-released data on global investment flows, shows that it has become routine for multinationals and wealthy individual investors to use companies and other legal entities registered in tax havens to structure the ownership of their businesses around the world, or to funnel loans to them. While the routing of shareholdings and loans via tax havens does not definitively indicate tax avoidance in every case, in aggregate the immense disparity between the 'real' and 'paper' sources of much global FDI revealed here can only be explained by some shifting of the global tax base into tax havens, as the OECD has recently pointed out.[27]

Our analysis of global investment figures released by the International Monetary Fund in December 2012 finds that: [28]

- Almost one in every two dollars of reported corporate investment in developing countries is now being routed from or via a tax haven on our list. This has risen from 19% in 2009.[29]
- Poor countries may be more vulnerable to this practice than wealthier ones: 46% of reported cross-border investment into low- and lower-middle income countries[30] in 2011 came from tax havens, compared to 37% into upper-middle and high-income countries.
- While poor countries are hardest hit by this practice, tax havens are to a great extent the responsibility of the world's richest countries. Tax havens jurisdictionally linked to the G8 or the EU are responsible for 70% of this global 'tax haven investment', and a third of all 'tax haven investment' into developing countries.[31]

Routing investment through tax havens can sometimes generate billions of dollars of tax foregone on the resulting profits and gains - not just for the country of origin of this investment, but also its destination - through at least three mechanisms explained below, some evident amongst the UK's largest companies, and all made possible by the opacity and low/no-tax regimes of tax havens.[32]

If tax revenues are crucial in every country to pay for essential services and to enable governments to fulfil their duties to citizens, in developing countries lost tax revenue can be a matter of life and death. If developing countries lose the same proportion of their corporate tax revenue to tax avoidance and evasion as wealthy countries – almost certainly a conservative assumption – we calculate that recovering this foregone tax, even without adjusting any spending patterns, would raise government spending enough to reduce child deaths in the developing world by 230 children every day.[33] For developing countries, what does this tax haven drain look like up close?

Reported inward FDI from tax havens into developing countries ($ millions, 2011)

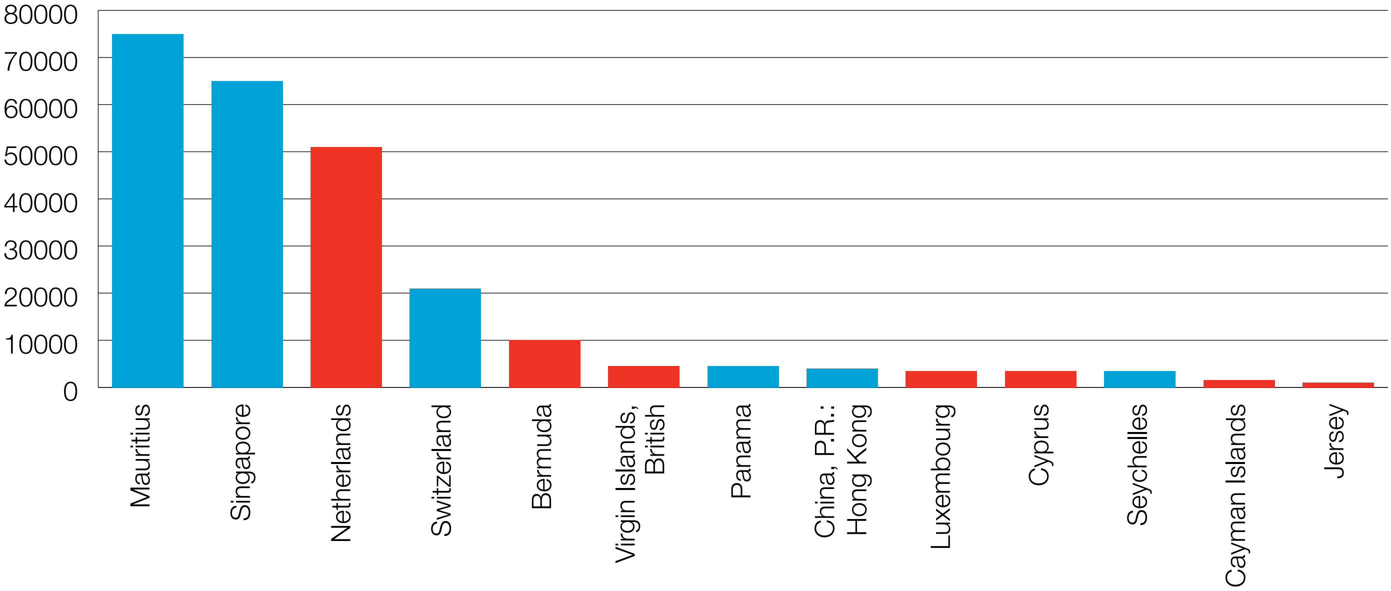


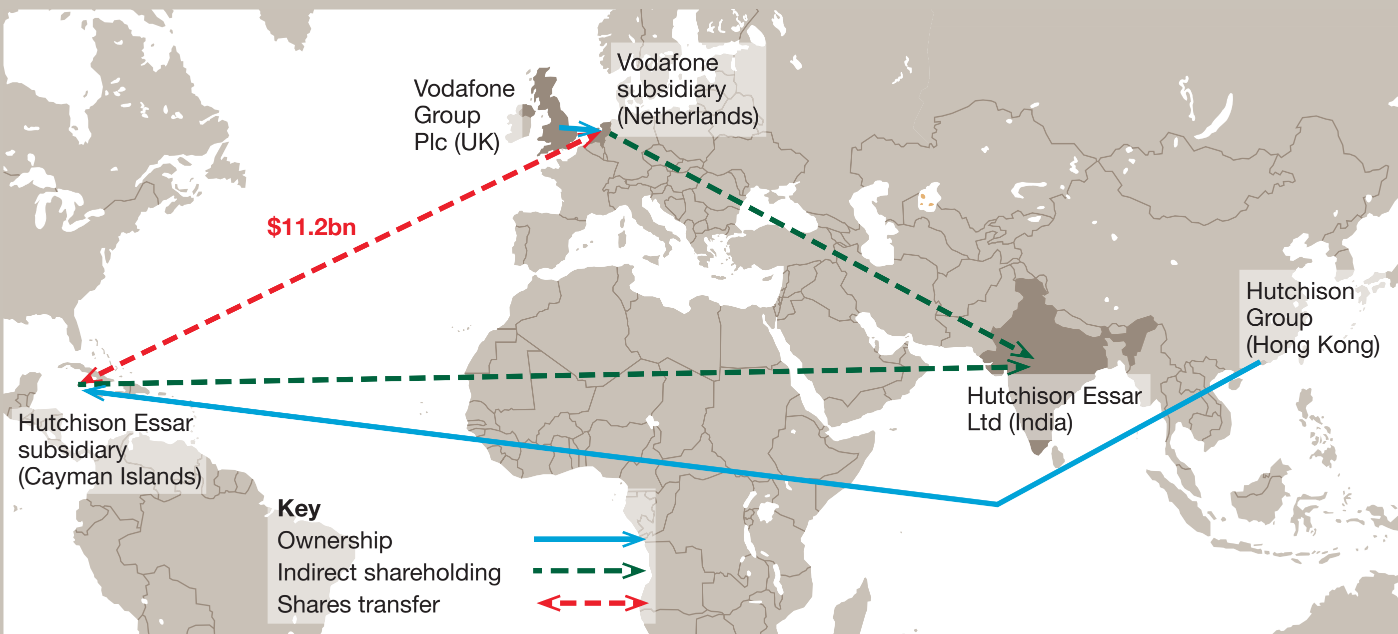
Figure 1: Inward foreign direct investment from tax havens into developing countries at end of 2011 (US$ millions). ***Red columns indicate tax havens under the jurisdiction of those countries (the G8 plus EU) represented at the G8 summit in June.***

1) The 'nowhere' deal: offshore transfers of developing country assets

Many multinationals and wealthy individuals place the legal ownership of valuable assets – from factories to oil wells to entire businesses – in companies registered offshore. In some cases such opaque corporate 'black boxes' can be used to evade tax. But even when they are used entirely lawfully, they can deny developing countries the ability to tax the wealth generated when mineral rights, factories, land and businesses in their territories change hands. Ordinarily the proceeds of selling such assets are taxable as 'capital gains', partly in the developing country where the mine or factory is located – and rightly so, since its value is generated substantially by that country's resources, markets and workforce. But if cleverly structured through tax haven holding companies, the sale of the mine or factory can be made to take place entirely 'offshore': not in the country of the buyer, nor of the seller, nor where the mine or factory is actually located. This can result in huge revenue losses that developing countries deserve to recoup from their countries own natural and human wealth.

For example, in 2007 the FTSE100 telecoms giant Vodafone bought a controlling stake in Hutchison Essar Ltd, a large Indian mobile phone company then owned by the Hong-Kong-based Hutchison Whampoa group, for US$11.2 billion. But according to court documents, Hutchison owned its Indian businesses via a maze of holding companies registered thousands of miles away in the Cayman Islands, the British Virgin Islands and Mauritius.[34] The actual sale of this multi-billion-dollar Indian business appeared on paper, therefore, simply as the transfer of shares in a Cayman Islands shell company, with the transaction taking place entirely outside India – sold by a Hutchison subsidiary also registered in the Cayman Islands to a Vodafone subsidiary registered in the Netherlands. Capital gains – or indeed any corporate gains or profits – are, of course, untaxed in the Cayman Islands.[35] As Vodafone told ActionAid: "no tax was due on an offshore to offshore transaction". Despite India's protests, therefore, this offshore transaction has denied India the ability to tax any of Hutchison's US$11bn gain from the sale of a huge Indian business, an absence of jurisdiction to tax which was confirmed by the Supreme Court of India in January 2012. The Indian revenue authority claims that the case was made harder to challenge by difficulties in obtaining information about the structure and source of funds of Hutchison's Caribbean offshore companies.[36] **While there is no suggestion of wrongdoing by the companies involved, the Indian government's initial claim for the capital gains tax which would have been due on this transaction, had it not taken place offshore, was some Rs 11,218 crore (approximately US$2.2 billion), principal plus interest**[37] **– 85% of the annual cost of subsidised midday meals for every primary schoolchild in India.**[38]

The 'nowhere deal'



2) Thin on top: shifting profits through tax haven loans

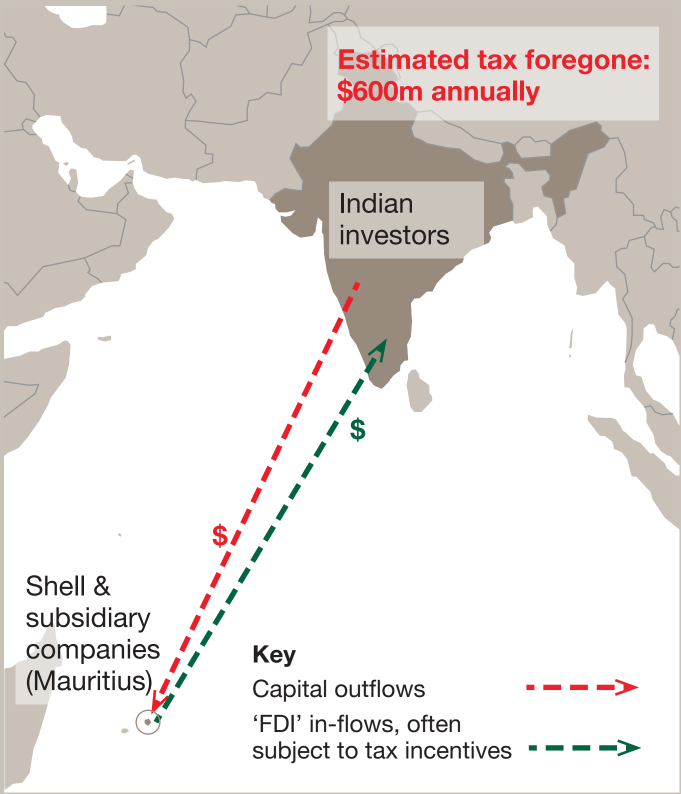
Making large internal loans from a tax haven subsidiary to another part of a multinational's business is another way for a multinational to shrink its tax bill with the help of a tax haven. Interest payments on the loan back to the tax haven subsidiary are generally tax-deductible, meaning that they lower profits in the place where business is done, and shift income into the internal tax haven 'bank' instead, where it is taxed little or not at all. The tax haven's low- or no-tax regime makes this profit-shifting possible and profitable.

The FTSE100 brewing firm SABMiller generates annual revenues of just under US$10 billion from successful brewery and beverage operations across Africa.[39] Yet the company has more than twice as many companies in tax havens (112) as breweries and bottling plants in Africa (51).[40] While their existence alone is not evidence of tax avoidance, ActionAid's detailed investigation showed how some of these tax haven companies have been used to shrink the company's taxable profits in some of the poorest countries where SABMiller operates. This includes its brewing business in Ghana, west Africa, where despite a growing economy women are still 30 times more likely to die in childbirth than those in Britain, and children are 13 times more likely to die before the age of five.[41] SABMiller's Accra Brewery there sells over £60 million of beer every year, yet booked overall losses between 2007 and 2010, enabling it to pay little or no corporate income tax in most years.

Amongst other strategies, the group's Ghanaian tax bill was shrunk in 2010 through an £8.5 million loan from a fellow SABMiller company registered in the Indian Ocean tax haven of Mauritius, lent at an 18% interest rate. SABMiller has denied this loan is tax-motivated. The loan is seven times the size of Accra Breweries' own capital: much larger than a commercial lender would likely agree to, and indeed greater than the limit placed on tax-deductible loans by Ghana's own tax legislation. The resulting interest payments from this 'thinly capitalised' Ghanaian brewery to its Mauritian affiliate has enabled SABMiller **to shift an estimated £400,000 of profits out of Ghana into Mauritius in 2010 alone, where those profits will be taxed at just 3% compared to 25% in Ghana.**

3) Round-tripping: disguising your money to qualify falsely for tax breaks

Finally, tax havens can conceal the origin of cross-border investments. Many developing countries grant generous tax breaks and tax holidays to new foreign investors in order to incentivise inward financial flows. Yet an estimated 30% of all 'foreign' investment inflows into developing countries is neither 'new' nor 'foreign', but in fact consist of income earned within the country itself and re-invested.[42] Sometimes this is done openly. Sometimes, however, it is illicitly 'round-tripped': sent to a company in a tax haven, and returned to the developing country disguised as new and foreign investment, with the sole purpose of qualifying for the relevant tax breaks and tax holidays on the way back in. Illegal round-tripping goes undetected largely because of tax havens' reluctance to obtain or share information about the ownership and assets of the shell companies and trusts they so freely register. While its global scale is difficult to gauge, **the Indian revenue authority reportedly estimates that illicit 'round-tripping' of Indian money via Mauritius – the ostensible source of nearly 30% of India's entire FDI[43] – deny it revenues of some US$600 million a year.[44]**



Tax haven habits die hard

The investment figures analysed above reveal a huge global mismatch between where investment, business operations and wealth are 'booked' (and taxed – or untaxed), and where they actually originate or take place in practice. This becomes even clearer when we look at the UK's own biggest companies; as does the connection of this mismatch to the world's poorest countries. New research by ActionAid into the overseas structures of the UK's largest listed companies, the FTSE100, confirms that tax haven structures are a prevailing business norm amongst multinationals, and becoming ever more common for investment flowing into developing countries.[45]

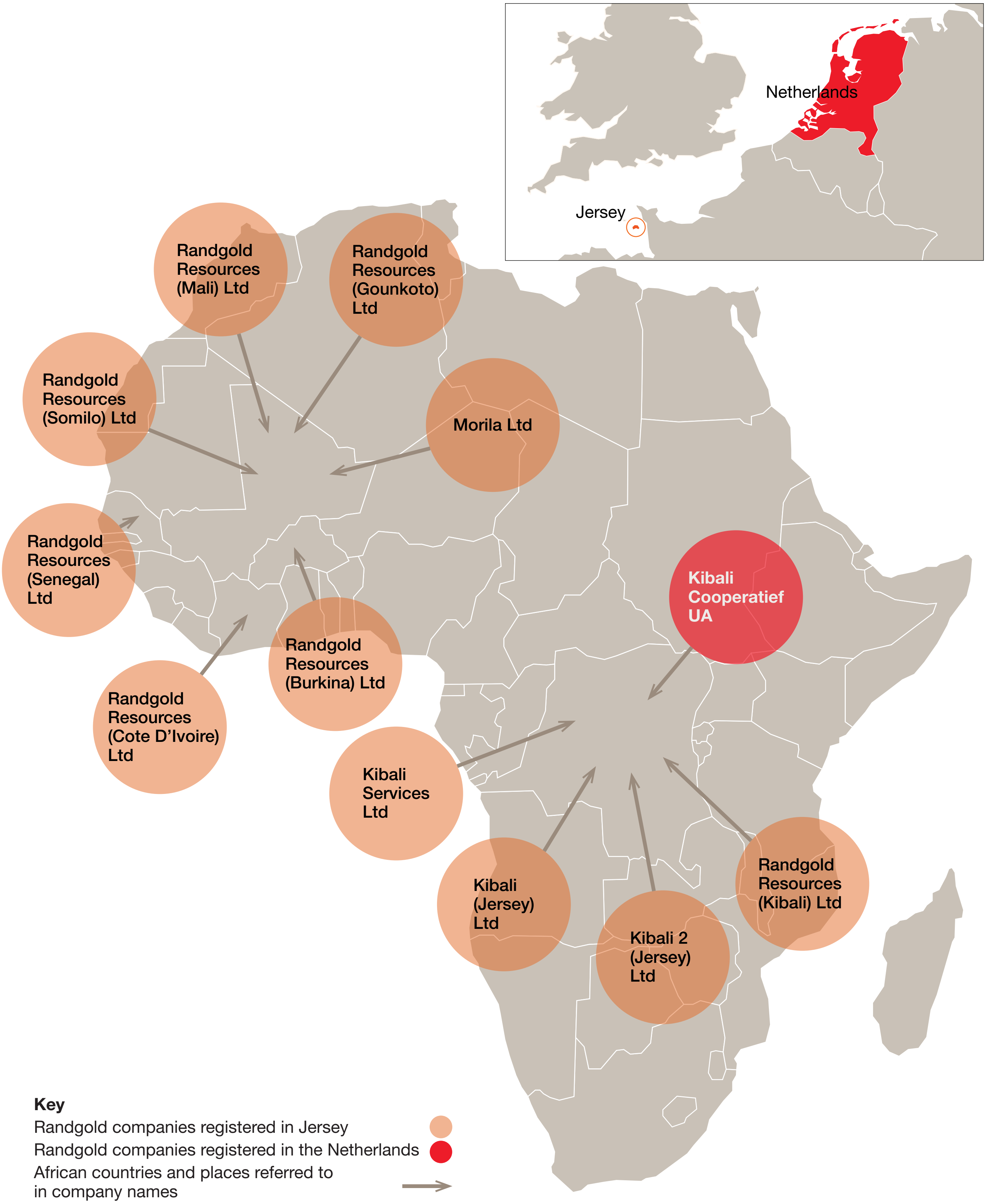
In 2009, UK Prime Minister Gordon Brown promised "an end to tax havens" at the London summit of the G20 nations.[46] Yet three years later, the advantages and attractions of tax havens appears not to have diminished in the slightest for the UK's largest companies:

- Over thirty-eight percent of the FTSE100's overseas companies (8,311 of 21,771 foreign subsidiaries, associates and joint ventures) are located in tax havens.[47]
- Despite 10% of the FTSE100's composition having changed since 2011, *all* new entrants to the FTSE100 have tax haven subsidiaries. While the FTSE100's total number of overseas companies has decreased since 2011 (when ActionAid last examined the FTSE100's tax haven operations), the proportion of these located in tax havens has actually *risen* slightly.[48]
- All but two of the FTSE100 have tax haven companies. Ten are themselves headquartered in a tax haven (up from nine in 2011).

The existence of a tax haven company structure does not itself demonstrate tax avoidance, and there's no suggestion of wrongdoing by the companies named below, but the prevalence of FTSE100 companies in tax havens highlights the extent of these multinational groups' operations in places that can often provide tax advantages and sometimes help obscure information.

While the holding structures and assets of multinationals' tax haven companies remains undisclosed in most cases, a further indication of the connection between tax havens and the FTSE100's operations in developing countries lies in the names and distribution of FTSE firms' tax haven companies:

- **Tullow Oil** describes itself as 'Africa's leading independent oil company'. Eighty four percent of its sales revenues come from Africa.[49] Yet just four of the 81 companies it lists as subsidiaries in its Companies House filings are registered in African countries (two in South Africa, two in Gabon), and none in low- or lower-middle-income countries. By contrast, over half (47) are registered in tax havens, including the British Virgin Islands, Guernsey, the Isle of Man, Jersey, Ireland, the Netherlands and St Lucia. 29 of these tax haven companies refer to developing countries in their names, and Tullow discloses that at least 16 actually operate in developing countries while being registered in tax havens: Tullow Bangladesh Limited and Tullow Cote d'Ivoire Limited are registered in Jersey; Tullow Congo Limited in the Isle of Man; and so on.
- Thirteen out of 19 tax haven companies owned by mining company **Randgold Resources** carry African place names. This includes five subsidiaries in Jersey and the Netherlands carrying the name of the Kibali gold mine in the Democratic Republic of Congo (DRC). By contrast, Randgold lists just one subsidiary registered in the DRC itself.[50] Randgold told ActionAid that "all of our operations are located in Africa, within which we are a significant tax payer", and that "our corporate structure is effective and appropriate for our business, and allows us to invest the maximum amount of our capital in developing operations".


Netherlands
Jersey
Randgold Resources (Mali) Ltd
Randgold Resources (Gounkoto) Ltd
Randgold Resources (Somilo) Ltd
Morila Ltd
Randgold Resources (Senegal) Ltd
Kibali Cooperatief UA
Randgold Resources (Burkina) Ltd
Randgold Resources (Cote D'Ivoire) Ltd
Kibali Services Ltd
Kibali (Jersey) Ltd
Randgold Resources (Kibali) Ltd
Kibali 2 (Jersey) Ltd
Key
Randgold companies registered in Jersey
Randgold companies registered in the Netherlands
African countries and places referred to in company names

Keeping secrets

Tax haven secrecy makes it extremely difficult for under-resourced tax authorities in developing countries to access information about the ownership, activities and assets of tax haven companies – not just those used for tax evasion, but also those used for legal but increasingly unacceptable tax avoidance by multinational companies and wealthy individuals.

Yet ActionAid's efforts to uncover the tax haven operations of the FTSE100 found that existing 'onshore' transparency requirements aren't working either. Under UK company law, all companies registered in the UK have to provide the UK company registry annually with a full list of their subsidiaries around the world.[51] This is often the only public record that they control the offshore companies on their list, a vital starting point for tax authorities scrutinising these companies' tax affairs. In the wake of recent offshore scandals, French President Francois Hollande has called on French banks to declare all their subsidiaries, and introduced requirements for French companies which control subsidiaries in low-tax jurisdictions to demonstrate that these subsidiaries have real economic activity.[52] In 2011 UK Business Secretary Vince Cable raised the possibility of legal action against UK multinationals that fail to disclose their tax haven subsidiaries.[53]

Yet we found that during 2012 the public filings of **one in ten** of the FTSE100 groups headquartered in the UK, and with developing country operations ranging from Zambia to India, did not disclose their subsidiaries to the UK government's company registry and regulator, Companies House – despite it being a legal requirement under the 2006 Companies Act.[54] All these companies have subsequently made the required disclosures, in most cases following complaints from ActionAid to Companies House, revealing over 1000 previously undisclosed companies, including 147 in tax havens from the British Virgin Islands to Switzerland and the Bahamas. Two multinationals had failed to disclose any of their tax haven subsidiaries at all.

ActionAid has only checked the compliance of FTSE100 companies. If non-disclosure is similarly prevalent across other UK-headed companies with tax haven subsidiaries, this may mean that thousands of companies are keeping their tax haven operations a secret. Disappointingly, despite the government calling for an enquiry to ensure compliance when first presented with evidence of the problem by ActionAid in 2011, since then Companies House has informed ActionAid that it would be too "resource intensive" for them to check that all companies had submitted the required documents, despite it being a legal requirement. Rather, they will still accept incomplete returns and accounts, and "continue to deal with [non-compliance] upon complaint" – leaving it up to members of the public, journalists or organisations such as ActionAid to bring non-compliance to their attention.[55] Several companies told ActionAid that their failure to disclose was as an administrative error, and that when filing their annual returns, Companies House had not indicated that this disclosure was even required. At least six of these multinationals appears to have not made the required disclosure for several years. Three were subject to complaints to Companies House to require disclosure in 2011, yet they again failed to make the required disclosure in 2012, without any action by Companies House until ActionAid again brought the breaches to its attention.

Reasons to be cheerful?

Crucially, our research has found that not every profitable multinational is addicted to tax havens, or to secrecy.[56]

- FTSE100 financial services firm **Hargreaves Lansdown** and mining company **Fresnillo**, for instance, have no tax haven subsidiaries at all, despite operating in sectors that are no stranger to 'offshore'.
- Some companies, such as **Legal & General**, now have tax policies which specifically avoid the use of tax structures or strategies deemed risky by revenue authorities, setting an explicit target for their tax staff to have the company included in the UK tax authority's 'low risk' category every year.
- Others are going further than their legal requirements to disclose their tax structures and positions around the world, either in their public reporting or on request. ActionAid wrote to all FTSE100 companies with questions regarding their tax haven companies. Fifteen companies responded, some with significant additional detail. Support services firm **Aggreko**, for instance, provided ActionAid with a statement of purpose for each tax haven subsidiary.

To allow investors and the public to fully gauge the tax role and compliance of their tax haven operations, multinationals should ideally go further, providing information (publicly, not just on request) about each subsidiary's function, assets, workforce and tax payments.

But overall, FTSE100 companies have little incentive not to structure investments or hold assets via tax haven companies; or to use these structures to lower their tax bills. Without governments themselves ending the opacity and preferential regimes of tax havens, multinational business will naturally take advantage of the facilities and incentives they offer. Nor is voluntary compliance going to help stop straightforward tax evasion by wealthy individuals around the world hiding wealth and assets offshore.

An end to tax haven avoidance and secrecy – for the benefit of all

After four years of rhetoric, European and North American politicians may finally be getting serious about tax havens. They have already begun to push tax havens to share information with their own tax authorities about assets held in their financial institutions by foreign taxpayers. They could enforce standards for the disclosure of the real ownership of the shell companies and trusts, registered anonymously in tax havens, that on paper own much of this offshore wealth. Likewise the G8 have the political and economic clout to demand an end to the abusive tax regimes that drain resources from the world's poorest countries.

But in all these cases, tax havens must be made to open up to all countries, including the poorest; and not just to wealthy and powerful countries. UK Chancellor George Osborne has pledged to ensure that a new tax haven information deal "incorporates developing countries, and that they have the support they need to make use of it". The countries represented at this June's G8 have a unique combination of economic and political weight, responsibility and jurisdiction over tax havens. This means that the G8 must commit to international solutions that developing countries *can* join and benefit from; and must take robust steps to ensure that tax havens *will* join deals that include all countries.

1) Secrecy

The G8 should start with tax haven secrecy, setting out an action plan showing how they will use their own commitments and political weight to ensure that all jurisdictions:

- place the real, ultimate ownership of all companies, partnerships and trusts on public record.
- provide all countries' tax authorities, including those in developing countries, with access to information about the financial assets and income of those countries' taxpayers held within their jurisdiction, through a multilateral information-exchange platform which includes access to automatically-exchanged information for all countries (not just European or North American countries, as with the current 'G5' and US FATCA agreements to which several tax havens have recently agreed).
- enable developing countries to participate in such a platform by allowing developing countries' access to the information generated without requiring immediate reciprocation. Where necessary, the G8 should provide assistance to help developing countries with the technical facilities and secure information systems needed to access automatically-exchanged information – assistance which in the long run will reap dividends in enabling those countries to finance their own public spending adequately, and reduce their dependence on aid.

2) Harmful tax regimes

Secrecy is only one half of the equation. Ultimately powerful countries must also take action against the internationally harmful tax regimes prevalent in tax havens, which make much tax avoidance and evasion possible and profitable in the first place.

- The G8 should initiate the work of agreeing an international definition of harmful tax regimes, which should include:
  - zero or very low effective tax rates for non-resident individuals or companies, or companies with no substantial domestic business activities or economic substance
  - preferential tax rates for non-resident individuals or companies
  - tax rates which are negotiable with individual taxpayers.

- Wealthy G8 countries could start action to clean up harmful tax regimes by limiting their own taxpayers' ability to shift income and profits to jurisdictions where such tax regimes prevail, as countries such as Argentina and Brazil have begun to do.

3) Incentives to comply

Getting tax havens to clean up requires meaningful incentives to do so, as shown by the US' increasingly successful efforts under the Foreign Account Tax Compliance Act (FATCA) to break open Swiss and other jurisdictions' banking secrecy for the benefit of the US revenue authority, by threatening a 30% withholding tax on financial flows into banks in jurisdictions that refuse to provide the US with information about US taxpayers' offshore assets.

- The G8's tax haven action plan should lay out meaningful, multilateral countermeasures to be implemented by G8 members within 12 months, to limit access by their taxpayers to corporate entities and financial institutions in jurisdictions which maintain unacceptable secrecy or internationally-harmful tax regimes.

4) The UK's own back yard

- The UK's own G8 action plan must set out a roadmap to ensure that *all* its own Crown Dependencies and Overseas Territories – within a clear, fixed timescale of less than 12 months – introduce the transparency and responsible tax regimes set out above.
- This should begin with immediately extending the Multilateral Convention on Mutual Administrative Assistance on Tax Matters to all Crown Dependencies and Overseas Territories (none has yet agreed to join).

The pace of change in international tax in the last six months has been unprecedented. Ending the hold of tax havens over the global economy has always been possible. But now it seems politically feasible as well. Doing so for the benefit of everyone, however – including those developing countries that are currently losing out the most – requires truly global solutions that open up tax havens to all countries, and calls time on their internationally-harmful tax regimes. The G8 have an extraordinary responsibility, and an extraordinary opportunity. We urge them to take it.

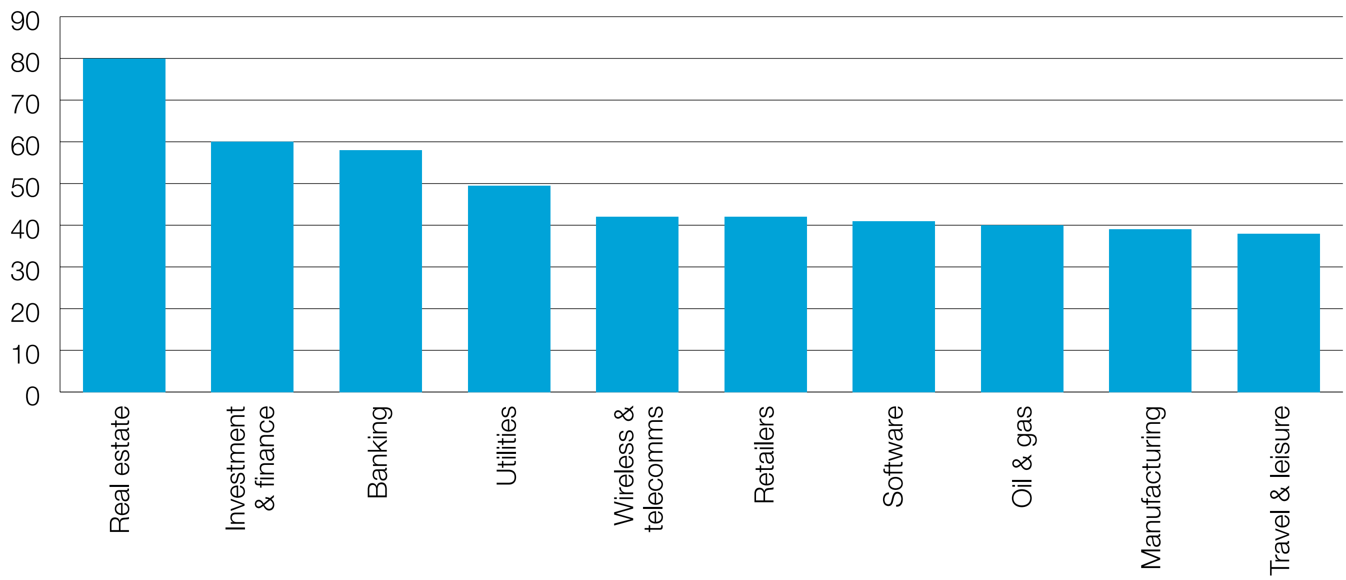
Appendix: the FTSE100's tax haven addiction

ActionAid first examined the global presence of the FTSE100 in 2011, compiling a dataset of all the FTSE100's disclosed subsidiaries, joint ventures and associated companies, drawn from data disclosed in 2009-10.[57] Starting in September 2012 ActionAid repeated this large-scale exercise using the most recently-available data, from 2011-2012.[58]

Our new data, released online in conjunction with this report, finds that 78 of the FTSE100 – across 18 of the 19 sectors represented in FTSE100 – operate in developing countries. Every one of these companies, in every sector, has a tax haven presence. No sector has fewer than a quarter of their overseas companies located in tax havens.

- **As a group, banking** maintains its position as the most prolific user of havens, as in 2011. Over half of all FTSE100 banks' overseas companies are in tax havens (1,780 companies or 57%). Strikingly, developing countries constitute almost a third of the countries in which FTSE100 banks operate; yet they have over 13 times as many companies located in tax havens (1,780) as in developing countries (136). The 'Big Four' banks – Barclays, HSBC, the Royal Bank of Scotland, and Lloyds – all remain amongst the top 10 FTSE100 tax haven users.
- **Real estate** is the largest relative user of tax havens. Just under 80% of all overseas companies in this sector within the FTSE100 are registered in tax havens, which account for two-thirds of the countries in which real estate companies operate.
- Over 60% of overseas subsidiaries in the **investment and finance sector** are likewise located in tax havens.

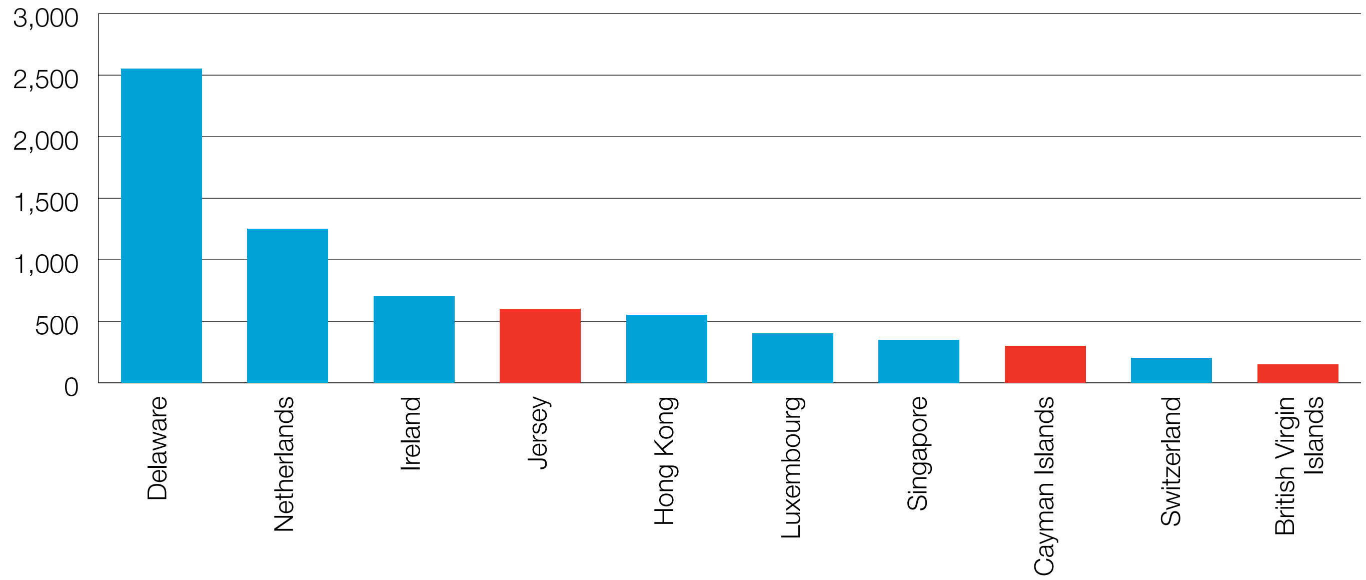
Figure 2: Top ten FTSE100 tax haven users by sector (% overseas companies registered in tax havens)



Favourite havens:

- Three of the FTSE100's 10 most popular tax havens are UK Crown Dependencies (CDs) or Overseas Territories (OTs); UK Crown Dependency Guernsey is the 11th most popular.
- Almost two thirds (63) of the FTSE100 have a presence in Jersey; half operate in Guernsey; while 41 FTSE 100 companies have at least one subsidiary in the British Virgin Islands.
- FTSE100 companies operate in all CD havens and five OT havens (Anguilla, Bermuda, British Virgin Islands, the Cayman Islands, and Gibraltar).
- A fifth of all FTSE 100 tax haven companies (1,688 companies in total) are in UK CDs or OTs.

Figure 3: The FTSE 100's top ten havens by number of companies (UK Crown Dependencies and Overseas Territories are shown in red)



Endnotes

1 BBC News, *Tax havens: no place to hide*, 2 April 2009, http://www.bbc.co.uk/caribbean/news/story/2009/04/090402_canthide.shtml

2 For the definition of UK-linked havens we use here, see Box on 'What's a tax haven?' above.

3 For more details, see ActionAid, *Tax responsibility: an investor guide* (April 2013).

4 For ActionAid's tax haven definition, see Box on 'What's a tax haven?' above.

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6 Tax Justice Network/James Henry, *The price of offshore revisited* (August 2012), *http://www.taxjustice.net/cms/upload/pdf/Price_of_Offshore_Revisited_120722.pdf*

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12 Helia Ebrahimi, *John Lewis warns Amazon's tax avoidance 'will drive UK companies out of business'*, 14 November 2012 (http://www.telegraph.co.uk/finance/newsbysector/retailandconsumer/9678916/John-Lewis-warns-Amazons-tax-avoidance-will-drive-UK-companies-out-of-business.html)

13 David Cameron statement on prospective G8 summit in Northern Ireland, 21 November 2012.

14 *Tax: G20 countries strengthen international tax cooperation*, OECD press release, 11 November 2011; G20 leaders' declaration, July 2012.

15 Lord Sassoon, answer to written question in Lords Hansard, 21 May 2012: Column WA35.

16 HM Treasury, 'Chancellor welcomes huge step forward in global fight against tax evasion', (press release), 2 May 2013.

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18 The 50 jurisdictions are Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize, Bermuda, the British Virgin Islands, the Cayman Islands, Hong Kong, Macao, the Cook Islands, Costa Rica, Curacao, Cyprus, Dominica, Gibraltar, Grenada, Guernsey, Ireland, Isle of Man, Jersey, Jordan, Latvia, Lebanon, Liberia, Liechtenstein, Luxembourg, Maldives, Malta, Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, the Netherlands, Netherlands Antilles, Niue, Panama, Samoa, San Marino, Seychelles, Singapore, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Switzerland, the Turks and Caicos Islands, the US Virgin Islands and Vanuatu.

19 US Department of the Treasury Financial Crimes Enforcement Network (FinCEN), *The role of domestic shell companies in financial crime and money laundering: limited liability companies* (November 2006),p.7 http://www.fincen.gov/news_room/rp/files/LLCAssessment_FINAL.pdf

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21 *Curbing tax havens*, Whitehouse Press Release, 4 May 2009, http://www.forbes.com/2009/05/04/obama-taxes-jobs-business-washington-full-text.html

22 The IMF and OECD use a common definition of FDI as "cross-border investment made by a resident in one economy with the objective of establishing a lasting interest in an enterprise that is resident in an economy other than that of the direct investor". In practice, "lasting interest" is generally defined as having at least 10% of the voting power of the recipient company. OECD, *OECD benchmark definition of foreign direct investment* (4th ed, 2008).

23 IMF Coordinated Direct Investment Survey (CDIS), http://cdis.imf.org/, queried 26 April 2012.

24 FDI figures taken from the Coordinated Direct Investment Survey (CDIS) of the IMF, queried 26 April 2012. GDP figures taken from World Bank development indicators database, except BVI (from UNData database).

25 IMF Coordinated Direct Investment Survey (CDIS), http://cdis.imf.org/, queried 26 April 2012.

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27 Organisation for Economic Cooperation and Development, *Addressing base erosion and profit shifting* (March 2013), pp. 18-19.

28 This data is based on Table 6 of the CDIS survey, showing reported inward investment positions (i.e. stocks not flows), including both debt and equity instruments, as of end-2011.

29 2009 figures drawn from all low- and lower-middle income countries reporting data for Table 6 of the CDIS survey. Note that a slightly different set of countries reported to the 2009 survey as the 2011 survey. More analysis of this comparatively new data source, including coupling reported inward positions with counterpart data on outward positions, and combining with portfolio investment data, would be valuable.

30 World Bank income classifications.

31 2011 figures.

32 This routing can also obviously damage the tax revenues of wealthy countries that are the true source of the capital invested, by enabling the interest and profits (as dividends) earned on the investment to be held in havens, or moved to other parts of their global businesses, largely untaxed.

33 This estimate has been made by combining available tax revenue data from all developing countries and the smallest (most conservative) of the tax gap estimates compiled by four developed-country revenue authorities. This suggests that a typical 'corporation tax gap' is some 20% of corporation tax take, which is also consistent with the corporation tax loss from transfer pricing abuses alone in developing countries estimated by PricewaterhouseCoopers for the European Commission. This 'tax gap' figure has been combined with coefficients derived from a regression analysis of the relationship between government revenues (including tax and aid) and under-five mortality, to determine the likely impact of increased government spending (at current spending levels) on under-five mortality across all developing countries. For fuller details of this calculation, see IF Campaign, *Enough food for everyone IF: the need for UK action on global hunger* (23 January 2013).

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36 Delhi News Agency (DNA), *I-T alleges round-tripping of Essar investments*, 6 April 2011

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41 World Bank development indicators.

42 UN Conference on Trade and Development (UNCTAD), World Investment Report, 2012.

43 IMF CDIS database, queried 26 April 2013.

44 David Cay Johnston, *Tax gateways to India*, Reuters, 9 August 2011, http://blogs.reuters.com/david-cay-johnston/2011/08/09/tax-gateways-to-india/

45 ActionAid analysed available information on the subsidiaries, associates and joint ventures of the 100 companies with the largest market capitalisation on the London Stock Exchange (FTSE100) as of 1 September 2012, when our research began. The composition of the FTSE100 has changed slightly since that time with Ashmore Group Plc being replaced by Melrose Plc.

46 BBC News, *Tax havens: no place to hide*, 2 April 2009, http://www.bbc.co.uk/caribbean/news/story/2009/04/090402_canthide.shtml

47 Information has been drawn from lists submitted by each group head company to the UK company registry, Companies House (which include subsidiaries, associates and joint ventures where they have been disclosed), except where such lists have not been submitted despite complaints submitted to Companies House, or where the group head company is not registered in the UK. In these cases we have used a combination of 'principal subsidiaries' listed in the groups' annual reports, and lists of subsidiary undertakings filed with the US Securities and Exchange Commission (SEC).

48 The proportion has risen from 37.8% to 38.2%. For 2011 figures and analysis, see ActionAid, *Addicted to tax havens: the secret life of the FTSE 100*, ActionAid UK, 2011, http:// bily/qyztfi

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54 Sections 409 and 410 of the Companies Act 2006, elaborated by Schedule 4 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008, require UK companies over a certain size to disclose the names, country of incorporation and in some cases shareholding and financial information for all 'related undertakings' (subsidiaries, associate undertakings and joint ventures). They can do this either in their annual accounts, or, if this would be excessively long, in separate attachments to their annual returns to Companies House.

55 Companies House email communication with ActionAid, 28 November 2012.

56 For more details, see ActionAid UK, *Tax responsibility: an investor guide* (April 2013).

57 ActionAid UK, *Addicted to tax havens: the secret life of the FTSE 100* (October 2011), http:// bily/qyztfi

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