

# TAX IN TIMES OF CORONA:

THE IMPACT OF TAX AVOIDANCE VIA THE NETHERLANDS  
ON DEVELOPING COUNTRIES' CAPACITY TO COMBAT COVID-19

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# TAX IN TIMES OF CORONA.

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Over the past decade, The Netherlands has received quite a bit of criticism for facilitating tax avoidance in developing countries. Amid the unprecedented COVID-19 crisis, this is affecting developing countries even more than it already did. Based on new calculations of lost tax revenues incurred by developing countries due to corporate tax avoidance via the Netherlands, these losses are estimated to be around € 1.8 billion in 2018. This is equal to almost 40% of the 2018 Dutch official development assistance budget (ODA), amounting to € 4.8 billion.<sup>1</sup> Also, it shows that the support provided by the Dutch government to developing countries to tackle the COVID-19 crisis, amounting to € 250 million, is only a pittance compared to the tax losses incurred by these same countries due to the Dutch fiscal regime.

**W**ith these new estimates ActionAid wants to initiate a discussion about the inconsistency and incoherence between on the one hand, the huge economic damage to developing countries as a result of the role of the Netherlands in facilitating international tax avoidance, and on the other hand, the limited Dutch support provided to the same countries as part of the COVID-19 pandemic emergency support. The main goal of the report is to raise awareness about these inconsistent and incoherent Dutch policies and to promote alternatives that improve the Netherlands' fiscal regime in order to end the harmful impacts on developing countries.

## 1. THE CONTEXT

End of March 2020, shortly after it was confirmed that COVID-19 was a pandemic, the UN called for a US\$ 2.5 trillion package for developing countries to help absorb the economic shock and the resulting impacts on health and poverty.<sup>2</sup> This was motivated by the fact that two-thirds of

the world's population live in developing countries and will face unprecedented economic damage from the COVID-19 crisis. A few days later, Sigrid Kaag, the Dutch Minister for Foreign Trade and Development Cooperation, immediately freed up and released € 100 million to combat the spread of the corona virus in Africa and other parts of the world.<sup>3</sup> This support is focused on helping developing countries in their efforts on COVID-19 prevention, provision of humanitarian aid, strengthening social-economic resilience and macro-economic stability via existing channels and coordination structures.<sup>4</sup> In providing this support, it is commendable that the Netherlands puts extra emphasis on the support of women, girls and other vulnerable people such as homeless people and migrants. In an advisory letter by the Dutch Advisory Council on International Affairs (AIV) of May 2020 to the Dutch Government, the government was advised to dedicate € 1 billion. After weeks of debate on this advice, the government decided, without consulting the Dutch Parliament, to increase the support with an extra 150 million. This total amount of € 250 million has been received as a modest step in the right direction, according to 20 development organizations in the Netherlands.<sup>5</sup> They expressed their concerns as the dedicated € 250 million is nowhere near what is needed to tackle this pandemic in developing countries and nowhere near the amount of € 1 billion advised by the AIV. The development organizations had hoped that the Netherlands would allocate more money

<sup>1</sup> Rijksoverheid: HGIS Nota homogene groep internationale samenwerking rijksbegroting 2020. [www.rijksoverheid.nl/binaries/rijksoverheid/documenten/begrotingen/2019/09/17/hgis---nota-homogene-groep-internationale-samenwerking-rijksbegroting-2020/HGIS-nota\\_2020+.pdf](http://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/begrotingen/2019/09/17/hgis---nota-homogene-groep-internationale-samenwerking-rijksbegroting-2020/HGIS-nota_2020+.pdf)

<sup>2</sup> United Nations website: UN calls for \$2.5 trillion COVID-19 support package for developing countries. [www.un.org/africarenewal/news/coronavirus/un-calls-25-trillion-covid-19-support-package-developing-countries](http://www.un.org/africarenewal/news/coronavirus/un-calls-25-trillion-covid-19-support-package-developing-countries)

<sup>3</sup> Volkskrant: Minister Kaag: 'Nu optreden om stille ramp in Afrika te voorkomen'. 2-4-2020 [www.volkskrant.nl/nieuws-achtergrond/minister-kaag-nu-optreden-om-stille-ramp-in-afrika-te-voorkomen~b3518f28](http://www.volkskrant.nl/nieuws-achtergrond/minister-kaag-nu-optreden-om-stille-ramp-in-afrika-te-voorkomen~b3518f28)

<sup>4</sup> Rijksoverheid: Kamerbrief uitvoering steunpakket bestrijden COVID-19 in ontwikkelingslanden. 10-07-2020 [www.rijksoverheid.nl/documenten/kamerstukken/2020/07/10/kamerbrief-uitvoering-steunpakket-bestrijden-covid-19-in-ontwikkelingslanden](http://www.rijksoverheid.nl/documenten/kamerstukken/2020/07/10/kamerbrief-uitvoering-steunpakket-bestrijden-covid-19-in-ontwikkelingslanden)

<sup>5</sup> Oxfam Novib: Kabinetsbesluit op AIV-advies mondiale aanpak corona ontoreikend. 10-6-2020 [www.oxfamnovib.nl/persberichten/kabinetsbesluit-op-aiv-advies-mondiale-aanpak-corona-ontoreikend](http://www.oxfamnovib.nl/persberichten/kabinetsbesluit-op-aiv-advies-mondiale-aanpak-corona-ontoreikend)



given the fact that this amount is a far cry from what other major economies from Europe have dedicated so far. The COVID-19 crisis shows how underfunding of vital public services has left developing countries extremely exposed to the outbreak of a pandemic. Next to insufficient healthcare services, these countries are affected by growing unemployment, food insecurity and inequality.

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Given the large proportion of public spending that goes to healthcare, extra effort will be required to reduce tax evasion and avoidance according to the Dutch Advisory Council on International Affairs.

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The COVID-19 crisis has deepened the existing social-economic and economic problems. It is the poorest communities - and especially women and girls - who bear the brunt of its impacts due to intersecting inequalities. To illustrate this point: for each 1,000 inhabitants, there are 3.6 medical doctors available in the Netherlands, compared to 0.16 doctors per 1,000 inhabitants in Kenya, 0.17 in Uganda and in Malawi as few as 0.04<sup>6</sup>. According to the United Nations, some groups of women are particularly vulnerable as a result of the COVID-19 crisis. For example, women make up 70% of health-care workers globally and 80% of nurses in most regions, roles in which they have particularly close and prolonged contact with sick patients.<sup>7</sup> In times of crisis, women and girls may also be at higher risk of intimate partner violence and other forms of domestic violence due to increased tensions in the household.<sup>8</sup> Also, sexual and reproductive health and rights are significant public health issues that require high attention during pandemics. Safe pregnancies and childbirth depend on functioning health systems and strict adherence to infection prevention.<sup>9</sup> Mobilisation of sufficient tax income by developing countries has the potential to transform the health sector in developing countries enormously and the lives of women who are now at the forefront as health workers as well as those who are forced to engage in unpaid care work. This relation is more intricately described in a report of 2020 by ActionAid, "Who Cares for the future - finance gender responsive public services".<sup>10</sup>

In the advisory letter by the Dutch Advisory Council on

International Affairs (AIV) to the Dutch Government, it is argued that the support to developing countries is essential, not only "out of empathy for our fellow humans", but also "as a matter of enlightened self-interest."<sup>11</sup> According to the AIV, this interdependence is working out in three ways: 1) the risk of a second wave of infections as a result of people entering the Netherlands, 2) the importance of opening up global supply chains for the recovery of trade relations, and 3) the migratory pressures at Europe's external borders in the aftermath of the lockdown. While emphasizing the need to support developing countries in the short term, AIV also calls on solutions for the medium to long term, including the reform of tax systems to increase revenues and limit socioeconomic upheaval.

According to the AIV, given the large proportion of public spending that goes to healthcare, an extra effort will be required to reduce tax evasion and avoidance. As the AIV rightly concluded, a reform of the unfair tax system is needed to enable developing countries to collect their fair share of tax revenues and build resilience against the impacts of the pandemic – not only to absorb the shocks occurring now, but especially to prevent new crises in future pandemic outbreaks. This is a very interesting notion that has not received much attention in the debate in The Netherlands so far. Rather surprisingly, the link has not yet been made between the role of the Netherlands as one of the largest facilitators of global tax avoidance, and its role in helping to alleviate the economic and social shocks of the COVID-19 pandemic.

## 2. THE PROBLEM: THE NETHERLANDS AS A MAJOR FACILITATOR OF TAX AVOIDANCE

Tax avoidance by multinational companies has existed for decades, facilitated by countries that offer very generous fiscal structures. Recent research by Tørsløv, Wier and Zucman estimates that around 40% of total multinational companies' profits (more than US\$ 700 billion in 2017) are shifted to tax havens each year.<sup>12</sup> The Netherlands is widely recognized as one of the biggest players in this worldwide system to facilitate tax avoidance.

President Obama already named The Netherlands as a tax haven back in 2009, and despite pushback from the Dutch Government, its role as one of the largest tax havens in the world has been confirmed in several studies and reports.<sup>13</sup>

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<sup>6</sup> World Health Organization: World Health Data Platform /GHO /Indicators Medical doctors (per 10 000 population) [www.who.int/data/gho/data/indicators/indicator-details/GHO/medical-doctors-\(per-10-000-population\)](http://www.who.int/data/gho/data/indicators/indicator-details/GHO/medical-doctors-(per-10-000-population))

<sup>7</sup> United Nations Women: COVID-19 and gender: What do we know; what do we need to know? 13-4-2020 [www.data.unwomen.org/features/covid-19-and-gender-what-do-we-know-what-do-we-need-know](http://www.data.unwomen.org/features/covid-19-and-gender-what-do-we-know-what-do-we-need-know)

<sup>8</sup> AllAfrica: Zimbabwe: COVID-19 - an Enemy to Peace Promotion in Homes. 23-06-2020 [www.allafrica.com/stories/202006230818.html](http://www.allafrica.com/stories/202006230818.html)

<sup>9</sup> United Nations: Gender equality in the time of COVID-19. 3-4-2020 [www.un.org/en/un-coronavirus-communications-team/gender-equality-time-covid-19](http://www.un.org/en/un-coronavirus-communications-team/gender-equality-time-covid-19)

<sup>10</sup> ActionAid: WHO CARES FOR THE FUTURE: FINANCE GENDER RESPONSIVE PUBLIC SERVICES! 2020 [www.actionaid.org/sites/default/files/publications/final%20who%20cares%20report.pdf](http://www.actionaid.org/sites/default/files/publications/final%20who%20cares%20report.pdf)

<sup>11</sup> Advisory Council International Affairs: The Netherlands and the Global Approach to COVID-19. 11-05-2020 [www.advisorycouncilinternationalaffairs.nl/documents/publications/2020/05/11/the-netherlands-and-the-global-approach-to-covid-19](http://www.advisorycouncilinternationalaffairs.nl/documents/publications/2020/05/11/the-netherlands-and-the-global-approach-to-covid-19)

<sup>12</sup> Tørsløv, Wier and Zucman: The Missing Profits of Nations, WID.world WORKING PAPER N° 2020/12; 2020 [www.wid.world/wp-content/uploads/2020/06/WorldInequalityLab\\_WP2020.12\\_MissingProfits.pdf](http://www.wid.world/wp-content/uploads/2020/06/WorldInequalityLab_WP2020.12_MissingProfits.pdf); See here for a summary of this research: [www.missingprofits.world](http://www.missingprofits.world)

<sup>13</sup> The Correspondent: Bermuda? Guess again. Turns out Holland is the tax haven of choice for US companies. 30-06-2017 [www.thecorrespondent.com/6942/bermuda-guess-again-turns-out-holland-is-the-tax-haven-of-choice-for-us-companies/417639737658-b85252de](http://www.thecorrespondent.com/6942/bermuda-guess-again-turns-out-holland-is-the-tax-haven-of-choice-for-us-companies/417639737658-b85252de)

The authoritative Tax Justice Network (TJN) analysed and ranked the tax havens based on the countries' share of global investment by multinational companies in combination with the corrosiveness of their corporate tax laws to the global economy. In 2019 TJN reported that the Netherlands is in fact the fourth largest Corporate Tax Haven in the world, immediately behind three of the most notorious fiscal paradises, the British Virgin Islands, Bermuda and the Cayman Islands.<sup>14</sup> This is mainly due to the advantages offered by the Dutch tax system on foreign investment income treatment, capital gains taxation and patent boxes, as well as its extensive network of Double Taxation Treaties.

#### The system of Dutch treaty shopping explained

The Netherlands has entered into bilateral tax treaties with approximately 100 countries, of which around one quarter are with developing countries. They are originally designed to agree which government levies taxes where and when, as well as to avoid double taxation. A major reason to enter into these agreements is an envisaged increase in foreign investment by lowering the withholding tax rate for companies investing through the country that has concluded the treaty with the other country. However, in practice, for most developing countries the increased economic growth as a result of the tax treaty do not outweigh the lower tax revenues. The result is that many foreign multinational companies abuse the Dutch fiscal system to pay far less tax than they would have paid without this system of "treaty shopping". Developing countries are increasingly opposed to this unfair system and in some cases have decided to cancel tax treaties that do not benefit them.<sup>15</sup> In a recent report by SOMO, it is concluded that developing countries are missing out on badly needed revenues as a direct result of the Dutch tax treaty network. This is due to the fact that the tax treaties negotiated by the Netherlands with developing countries contain lower rates than promised on the basis of Dutch policy. SOMO concludes that this has continued, despite the fact that the Dutch government intended to agree to higher rates for withholding taxes for developing countries in its 2011 Memorandum on Dutch Tax Treaty Policy, in which the Dutch government laid down its general policy for tax treaties.<sup>17</sup>

The above-mentioned study by Tørsløv, Wier and Zucman, shows that an astronomical amount of US\$ 57 billion in profits is shifted away from other countries to the Netherlands on an annual basis.<sup>18</sup> Based on the profits shifted to the Netherlands, an estimated € 10 billion is lost as taxes to other countries worldwide by channelling these profits to tax havens.<sup>19</sup> Another study by SEO Amsterdam Economics, carried out for the Dutch Government, estimated that in 2018, € 37 billion per year is flowing untaxed through the Netherlands, consisting of interest, royalties and dividend channelled to low-tax jurisdictions.<sup>20</sup> While SEO Amsterdam did not estimate the resulting amount of lost tax, it can be assumed that this will run into billions of Euros as well. And Dutch Professor LeJour calculated that Dutch fiscal policies are costing the rest of the world € 22 billion a year while benefitting the Netherlands next to nothing.<sup>21</sup>

The study by Tørsløv, Wier and Zucman also clearly shows why The Netherlands is so attractive to multinational companies: on average, the effective corporate tax rate for companies registered in The Netherlands is only 10%, compared to a rate of 21% in the US, 27% in France and 35% in Canada, to name just a few of the countries from which profits are shifted towards the Netherlands.<sup>22</sup> This explains why there are around approximately 12,000 mailbox companies in the country, companies with no real economic presence which are often created with a primary reason to shift profits from across the globe via the Netherlands to low tax jurisdictions.<sup>23</sup> They use the Netherlands as a conduit or gateway to tax havens with zero corporate tax, because the Dutch rules and tax treaties enable companies to funnel their money largely untaxed from the country in which they are operating to low tax jurisdictions. This has led to the surreal situation that a sector that hardly creates any employment, is the largest Dutch financial sector in monetary terms, far bigger than the Dutch banking sector.<sup>24</sup> These mailbox companies have resulted in the remarkable fact that the Netherlands is the world's biggest recipient of foreign direct investment. However, as the Dutch Central bank clearly

<sup>14</sup> Corporate Tax Haven Index: Corporate Tax Haven Index - 2019 Results. [www.corporatetaxhavenindex.org/en/introduction/cthi-2019-results](http://www.corporatetaxhavenindex.org/en/introduction/cthi-2019-results)

<sup>15</sup> ActionAid: A case in point is Mongolia, which around 2011 decided to cancel tax treaties with the Netherlands and three other countries, arguably because of their high costs in terms of lost government revenues; [www.actionaid.nl/wp-content/uploads/2018/11/Estimating-the-Revenue-Costs-of-Tax-Treaties-in-Developing-Countries-1.pdf](http://www.actionaid.nl/wp-content/uploads/2018/11/Estimating-the-Revenue-Costs-of-Tax-Treaties-in-Developing-Countries-1.pdf)

<sup>16</sup> SOMO: Theory and practice of the Dutch tax treaties with developing countries - The 2011 memorandum on Dutch tax treaty policy. 6-8-2020 [www.somo.nl/dutch-tax-treaty-policy-very-different-from-practice-when-it-comes-to-developing-countries/](http://www.somo.nl/dutch-tax-treaty-policy-very-different-from-practice-when-it-comes-to-developing-countries/)

<sup>17</sup> SOMO: Theory and practice of the Dutch tax treaties with developing countries - The 2011 memorandum on Dutch tax treaty policy. 6-8-2020

<sup>18</sup> Tørsløv, Wier and Zucman: The Missing Profits of Nations, WID.world WORKING PAPER N° 2020/12; page 202 2020 [www.wid.world/wp-content/uploads/2020/06/WorldInequalityLab\\_WP2020.12\\_MissingProfits.pdf](http://www.wid.world/wp-content/uploads/2020/06/WorldInequalityLab_WP2020.12_MissingProfits.pdf); See here for a summary of this research: [www.missingprofits.world/](http://www.missingprofits.world/)

<sup>19</sup> Piketty. Twitter Statement 30-06-2020 [www.twitter.com/PikettyLeMonde/status/1277991716889546754/photo/1](https://twitter.com/PikettyLeMonde/status/1277991716889546754/photo/1)

<sup>20</sup> Government of the Netherlands: Government to step up fight against tax avoidance with new withholding tax on dividend flows. 29-05-2020 [www.government.nl/latest/news/2020/05/29/government-to-step-up-fight-against-tax-avoidance-with-new-withholding-tax-on-dividend-flows](http://www.government.nl/latest/news/2020/05/29/government-to-step-up-fight-against-tax-avoidance-with-new-withholding-tax-on-dividend-flows)

<sup>21</sup> A. Lejour Tilburg University: Belastingklimaat Nederland kost rest van de wereld 22 miljard euro. 30-01-2020 [www.research.tilburguniversity.edu/en/clippings/belastingklimaat-nederland-kost-rest-van-de-wereld-22-miljard-eur](http://www.research.tilburguniversity.edu/en/clippings/belastingklimaat-nederland-kost-rest-van-de-wereld-22-miljard-eur)

<sup>22</sup> Tørsløv, Wier and Zucman: The Missing Profits of Nations, WID.world WORKING PAPER N° 2020/12; 2020 [www.wid.world/wp-content/uploads/2020/06/WorldInequalityLab\\_WP2020.12\\_MissingProfits.pdf](http://www.wid.world/wp-content/uploads/2020/06/WorldInequalityLab_WP2020.12_MissingProfits.pdf); See here for a summary of this research: [www.missingprofits.world/](http://www.missingprofits.world/)

<sup>23</sup> De Nederlandsche Bank (DNB): DNBulletin: Decreased activity among mostly smaller special purpose entities. 7-5-2020 [www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp](http://www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp)

states, these foreign direct investment flows are absorbed in overseas subsidiaries.<sup>25</sup>

What does this mean for developing countries? Worldwide, it is estimated that governments are losing out between US\$ 500 billion and US\$ 600 billion a year in corporate tax revenue as a result of tax avoidance practices. Low-income economies account for some US\$ 200 billion. An amount

so significant that it exceeds by far the total sum of US\$ 150 billion that developing countries receive each year in Official Development Assistance (ODA).<sup>26</sup>

### **New estimate of lost taxes to developing countries due to the Dutch fiscal system**

Zooming in on the share of the Netherlands in its role as a tax haven, ActionAid has estimated the amount of lost tax revenues to developing countries for the purpose of this paper. The calculation method is based on publicly available data on flows of Foreign Direct Investment as well as capital income flows from developing countries to Special Financial Institutions (SFIs)<sup>27</sup> based in the Netherlands. These data have been derived from public sources published by the Dutch Central Bank (DNB) and the International Monetary Fund (IMF). Using these data, ActionAid has estimated the reduced taxes paid on capital income flows (dividend, interest income and royalties) that are channelled through the Netherlands to low-tax jurisdictions, in order to avoid taxes that are due to be paid in developing countries. ActionAid used the method developed earlier by the Centre for Research on Multinational Corporations (SOMO) for a report published by Oxfam Novib in 2013. In line with SOMO's method, it is assumed that missed tax revenues amount to 5% of the capital income flowing to the Netherlands, as a realistic estimate for the difference in taxes paid over capital income as a result of the Dutch tax treaty network. The reason why so many multinational companies make use of this "Dutch treaty shopping" is because on average, these agreements provide for lower withholding tax rates compared to other countries. This percentage is a rough estimate, and probably any estimate for missed tax between 1 and 10 per cent of capital income can be defended.

The estimate provides a very rough and possibly conservative figure, mainly because the estimate is only based on the tax avoided by shifting dividend, interest income and royalties from developing countries to the Netherlands, without taking into account tax losses due to for example avoiding capital gains tax and transfer pricing practices, due to a lack of data. ActionAid's calculation is based on data for Special Financial Institutions or Special Purpose Entities as registered by the Dutch Central Bank, which they estimate at 12,000.<sup>29</sup> In the estimate, all low-income, lower-middle-income and upper-middle-income countries are included, as defined by the World Bank.<sup>30</sup>

In ActionAid's calculation, based on the most recent data, it was found that **the estimated tax losses to developing countries as a result of the Dutch fiscal system, amounted to € 1.8 billion in the year 2018** (see table below).<sup>31</sup> The earlier estimated tax loss based on data for 2011 (as calculated by SOMO for the above mentioned Oxfam Novib report), amounted to € 460 million for the same group of countries, and based on the same calculation method of avoided taxes through mailbox companies in the Netherlands. Comparing the new estimated tax loss of € 1.8 billion to the 2011 estimate, it appears that there has been a significant increase in lost taxes to developing countries in only 7 years' time because of the Dutch fiscal regime.<sup>32</sup> Based on the same method, it is estimated that the total loss in tax revenues worldwide due to the Netherlands is around € 7 billion. This should also be seen as a conservative estimate, as it is much lower than other existing estimates (see above).

<sup>24</sup> De Nederlandsche Bank (DNB): DNBulletin: Decreased activity among mostly smaller special purpose entities. 7-5-2020 [www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp](http://www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp)

<sup>25</sup> De Nederlandsche Bank (DNB): DNBulletin: Decreased activity among mostly smaller special purpose entities. 7-5-2020 [www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp](http://www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp)

<sup>26</sup> International Monetary Fund: Tackling Tax Havens The billions attracted by tax havens do harm to sending and receiving nations alike, by Nicholas Shaxson [www.imf.org/external/pubs/ft/fandd/2019/09/tackling-global-tax-havens-shaxson.htm](http://www.imf.org/external/pubs/ft/fandd/2019/09/tackling-global-tax-havens-shaxson.htm)

<sup>27</sup> De Nederlandsche Bank (DNB): According to DNB, Special Financial Institutions (SFIs) are resident Dutch enterprises or institutions, fully owned by foreign direct investors, that act as financial intermediary between other parts of the group to which they belong. The financial assets and liabilities of these institutions usually are related to direct investment via the Netherlands in third countries or are connected to the channeling of funds collected in the direction of the foreign investor. 29-06-2020 Source: [www.statistiek.dnb.nl/en/downloads/index.aspx#/details/balance-of-payments-quarter/dataset/5b160938-6940-4a6e-89b1-fccc027194c6/resource/15f75384-120c-4c02-a1ae-6b0f92a2d9e5](http://www.statistiek.dnb.nl/en/downloads/index.aspx#/details/balance-of-payments-quarter/dataset/5b160938-6940-4a6e-89b1-fccc027194c6/resource/15f75384-120c-4c02-a1ae-6b0f92a2d9e5)

<sup>28</sup> Oxfam Novib: De Nederlandse Route - Hoe arme landen inkomsten mislopen via belastinglek Nederland; 20-5-2013 [www.oxfamnovib.nl/Redactie/Downloads/Rapporten/DeNederlandseRouteBP21052013.pdf](http://www.oxfamnovib.nl/Redactie/Downloads/Rapporten/DeNederlandseRouteBP21052013.pdf)

<sup>29</sup> De Nederlandsche Bank (DNB): DNBulletin: Decreased activity among mostly smaller special purpose entities. 7-5-2020 [www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp](http://www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp)

<sup>30</sup> World Bank: World Bank Country and Lending Groups, Country Classification 2021 fiscal year [www.data.worldbank.org/about/country-classifications/country-and-lending-groups#Low\\_income](http://www.data.worldbank.org/about/country-classifications/country-and-lending-groups#Low_income)

<sup>31</sup> Please refer to the Annex this report for an extensive explanation of the different steps in this calculation and the data sources.

<sup>32</sup> Oxfam Novib: De Nederlandse Route - Hoe arme landen inkomsten mislopen via belastinglek Nederland; 20-5-2013 [www.oxfamnovib.nl/Redactie/Downloads/Rapporten/DeNederlandseRouteBP21052013.pdf](http://www.oxfamnovib.nl/Redactie/Downloads/Rapporten/DeNederlandseRouteBP21052013.pdf)

Table 1: Estimated tax losses to developing countries as a result of the Dutch fiscal system (2011 and 2018)

VARIABLE	AMOUNT	
	IN MILLION EUR	
	2011	2018
1. Total inward FDI stock in the Netherlands (Special Financial Institutions only)	2.997.000	2.646.352
2. Total capital income for dividend, interest and royalties (Special Financial Institutions only)	96.202	139.973
3a. Total Outward Direct Investment Positions to the Netherlands of low- and middle-income developing countries	286.513	677.000
3b. Share of developing countries in total FDI stock	9.6%	25.6%
4. Estimated capital income flowing from developing countries to the Netherlands through SFIs	9.196	35.808
<b>5. Estimated loss in tax revenues in developing countries due to the Netherlands</b>	<b>460</b>	<b>1.790</b>
6. Estimated loss in tax revenues worldwide due to the Netherlands	4.810	6.999

This means an enormous loss to developing economies, whose financial situation was in many cases already looking grim due to growing debt crisis, even before the COVID-19 pandemic hit<sup>33</sup>. And while progressive tax has the ability to transform countries, this new estimate shows that the Netherlands, who is a key development partner to many of the same countries, continues to negatively affect the ability of such countries to raise the much needed tax revenue from international businesses.

When comparing that loss incurred by developing countries to the Official Dutch Development Assistance it equals almost 40% of the 2018 € 4.8 billion budget. In reality however the Dutch fiscal impact on developing countries will be even bigger, given the conservative nature of the estimate

and since the Dutch government also utilises a considerable proportion of its ODA budget for other activities such as the housing of refugees (13% of ODA in 2018).

The question then rises why the estimated tax losses have increased so much. This can be partially explained by the fact that the capital income flows (dividend, interest and royalties) that are channelled to the Netherlands through mailbox companies in the Netherlands has grown between 2011 and 2018.<sup>34</sup> Another explanatory factor is the growth in Foreign Direct Investment positions in the Netherlands originating from developing countries. This figure more than doubled from € 288 billion in 2011 to € 677 billion 2018. This led to a sharply increasing share of developing countries in the FDI

<sup>33</sup> ActionAid: WHO CARES FOR THE FUTURE: FINANCE GENDER RESPONSIVE PUBLIC SERVICES! 2020 [www.actionaid.org/sites/default/files/publications/final%20who%20cares%20report.pdf](http://www.actionaid.org/sites/default/files/publications/final%20who%20cares%20report.pdf)

<sup>34</sup> It should be noted that the figures of 2011 and 2018 are not entirely comparable, because in the 2011 figures, total capital income only included dividend and interest income, while the 2018 figures also included royalties. It can be reasonably assumed that the large difference between the two years can only partly be attributed to the inclusion of royalties and that the increase is mostly due to other factors.

Investment positions in the Netherlands from 9.6% in 2011 to 25.6% in 2018.

The growth of FDI in developing countries by Dutch entities is also reflected in the World Investment Report 2020 report of the United Nations Conference on Trade and Development (UNCTAD). They identified the top 10 foreign direct investors for different continents<sup>35</sup>, showing that the Netherlands foreign direct investment stock in South America and Africa experienced big growth while experiencing a decline in Asia. Based on data from the Dutch Central Bank, in 2018 around 60% of the total outward FDI flows took place through Special Financial Institutions (SFIs), or mailbox companies.<sup>36</sup> This percentage is fairly stable over the last 5 years. This shows that the majority of Dutch FDI flows are not “real” investments coming from Dutch companies, but investments of foreign companies that are channeled through the Netherlands because of its highly advantageous fiscal regime. This finding is in line with the earlier mentioned conclusion by SOMO that the Dutch tax treaty network is still benefiting multinational companies that make use of treaties with developing countries.<sup>37</sup> It should also be highlighted that the share of mailbox companies differs strongly per country. For example, in Uganda, the share of SFIs in the total Dutch FDI is over 99%, which means that there is hardly any real investment by Dutch companies. In Kenya, the share of FDIs is 39%, while in Ethiopia, the share of FDIs in total FDI is only 1%, showing that most Dutch FDI in Ethiopia is concerned with the real economy.<sup>38</sup>

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**This shows that the majority of Dutch FDI flows are not “real” investments coming from Dutch companies, but investments of foreign companies that are channeled through the Netherlands because of its highly advantageous fiscal regime.**

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The popularity of the Netherlands as a so-called “conduit haven” (mainly used to channel investments to other, low-tax jurisdictions) is also reflected in the UNCTAD statistics. In 2018, the Netherlands was formally the third biggest Foreign Direct investor in South America and moving closer to Spain who holds the second place. In the same year, the Netherlands formally even surpassed France to become

the biggest foreign direct investor in Africa, mainly as a result of investments that were only channeled through the Netherlands.

These changes are quite surprising, especially given the Dutch governments public statements, efforts and policy commitments to reform the Dutch (and international) tax system, among others to prevent developing countries from losing out. And even more policy changes have been adopted and await implementation, including the withholding tax on interest and royalty payments to tax havens.

#### **Analysis of changes**

Despite various actions from the Dutch government to limit its negative fiscal impact on developing countries, the above estimates show that in reality the negative impact of the Dutch fiscal regime has grown considerably between 2011- 2018. Since the calculation is based on the most recent available data, this is no indication for the effectiveness of measures that have come into effect after 2018.

This is the case for one of the Netherlands’ key focus areas since 2013 in the fight against tax avoidance, the inclusion of anti-abuse rules in tax treaties, to prevent companies to erode the tax base of developing countries. Although this resulted into the inclusion of these rules in 7 treaties in the researched period only 4 of them came into effect.<sup>39</sup> In the OECD Base Erosion and Profit Shifting project there has also been action to include anti-abuse clauses in existing tax treaties. This will lead to an additional 6 treaties to be equipped with an anti-abuse rule, leading to a total of 13 treaties<sup>40</sup>.

It is not yet known if these measures will be effective.

Effectiveness is dependent on many factors, ranging from the ability of the developing country to implement the agreed variant, the willingness of the Netherlands to offer additional anti-abuse measures, the capacity of the developing country to monitor transactions, the willingness of the Netherlands to assist other countries in detecting and tackling abusive structures but also that country’s economic and political position to implement these measures.

Another key measure that has already been agreed but awaits implementation is the introduction of a conditional withholding tax on interest and royalties to tackle profit shifting from the Netherlands to tax havens. This measure has been analysed by the CPB and SOMO, and it was found to be

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**35** UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT: WORLD INVESTMENT REPORT 2020 [www.unctad.org/en/PublicationsLibrary/wir2020\\_en.pdf](http://www.unctad.org/en/PublicationsLibrary/wir2020_en.pdf)

**36** De Nederlandsche Bank (DNB): Aggregated outward direct investment, by country (Year). 23-09-2019 [www.statistiek.dnb.nl/en/downloads/index.aspx#/details/aggregated-outward-direct-investment-by-country-year/dataset/b550596e-d3f3-4d87-b55f-477450737c32/resource/d53e7799-f758-4a45-829b-2adfa0171fee](http://www.statistiek.dnb.nl/en/downloads/index.aspx#/details/aggregated-outward-direct-investment-by-country-year/dataset/b550596e-d3f3-4d87-b55f-477450737c32/resource/d53e7799-f758-4a45-829b-2adfa0171fee)

**37** SOMO: Theory and practice of the Dutch tax treaties with developing countries - The 2011 memorandum on Dutch tax treaty policy. 6-8-2020 [www.somo.nl/dutch-tax-treaty-policy-very-different-from-practice-when-it-comes-to-developing-countries/](http://www.somo.nl/dutch-tax-treaty-policy-very-different-from-practice-when-it-comes-to-developing-countries/)

**38** De Nederlandsche Bank (DNB): Aggregated outward direct investment, by country (Year). Calculations by authors based on DNB data; [www.statistiek.dnb.nl/en/downloads/index.aspx#/details/aggregated-outward-direct-investment-by-country-year/dataset/b550596e-d3f3-4d87-b55f-477450737c32/resource/d53e7799-f758-4a45-829b-2adfa0171fee](http://www.statistiek.dnb.nl/en/downloads/index.aspx#/details/aggregated-outward-direct-investment-by-country-year/dataset/b550596e-d3f3-4d87-b55f-477450737c32/resource/d53e7799-f758-4a45-829b-2adfa0171fee). 23-09-2019 A detailed analysis per country (over multiple years) would shed more light on the division per LDC, but that is beyond the scope of this paper.

**39** Rijksoverheid: Kamerbrief jaarrapportage beleidscoherentie voor ontwikkeling. 1-7-2019 [www.rijksoverheid.nl/documenten/kamerstukken/2019/07/01/kamerbrief-jaarrapportage-beleidscoherentie-voor-ontwikkeling](http://www.rijksoverheid.nl/documenten/kamerstukken/2019/07/01/kamerbrief-jaarrapportage-beleidscoherentie-voor-ontwikkeling)

**40** Rijksoverheid: Kamerbrief jaarrapportage beleidscoherentie voor ontwikkeling. 1-7-2019 [www.rijksoverheid.nl/documenten/kamerstukken/2019/07/01/kamerbrief-jaarrapportage-beleidscoherentie-voor-ontwikkeling](http://www.rijksoverheid.nl/documenten/kamerstukken/2019/07/01/kamerbrief-jaarrapportage-beleidscoherentie-voor-ontwikkeling)

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not strong enough to curb the Dutch negative fiscal impact on developing countries.<sup>41,42</sup> Both SOMO and the CPB expects that despite this measure possibilities for treaty shopping via the Netherlands will continue to exist. Furthermore the CPB expects that the decrease in importance of the Netherlands as a conduit country will be modest<sup>43</sup>.

Other policy changes have taken place multilaterally via the European Union's Anti-Tax Avoidance Directive and other unilaterally such as modest improvements in substance criteria for mailbox companies and improvements in tax ruling policies. These are all incremental improvements, but to really end tax avoidance via the Netherlands a thorough redesign of Dutch fiscal relations with developing countries is needed.

### 3. THE SOLUTION

Given the health crisis and the economic challenge COVID-19 has put on developing countries, there is no better time and opportunity to start redesigning Dutch fiscal relationship with developing countries than now. Therefore, ActionAid calls on the Dutch government to reflect how it can structurally improve its fiscal relationship with developing countries. In these activities special attention should be given to progressive taxation as to alleviate women of the inequality caused by regressive tax systems.

Below we present a number of key policy measures that can greatly improve developing countries' ability to mobilize funds to counter the COVID-19 impacts and to help counter inequality and strengthen public service provision including health systems.

#### • A more progressive Tax Treaty Policy

The Dutch State Secretary of Finance has sent a draft revised tax treaty policy to parliament on May 29<sup>th</sup> 2020.<sup>44</sup> The policy contains improvements for developing countries by the introduction of UN-Model treaty provisions which shows the Netherlands is willing to redistribute a number of taxation rights to developing countries. However, the improvements proposed are highly conditional, granting improved rights to a select number of developing countries or under specific conditions. A clearer and more progressive tax treaty policy is needed, based on:

- *A pro-development approach to the negotiation of tax treaties by adopting the United Nations model tax treaty as the minimum standard.*
- *Renegotiation of treaties with developing countries that*

*do not adhere to at least the UN Model Treaty.*

- *An unconditional allocation of source taxation on technical and management service fees needs to be offered to developing countries.*
- *More developing country oriented anti-abuse provisions are needed, Principle Purpose Test supplemented with a simplified Limitation on Benefits test.*

Since tax treaties between developing countries and OECD countries have become more restrictive for developing countries over time, countries can no longer craft treaties on the basis of similarity with treaties that other OECD countries have concluded.<sup>45</sup> The Netherlands should take a leading role in breaking the vicious cycle of OECD countries pushing down the developing countries taxing rights by granting more taxing rights themselves and by kickstarting a dialogue amongst OECD countries to restore taxation rights of developing countries.

Analysis of SOMO in cooperation with ActionAid in 2020 has indicated there is a discrepancy between the current Dutch Tax Treaty Policy and reality.<sup>46</sup> Recent treaties with developing countries do not fully adhere to the current treaty policy and are still restrictive to developing nations.

- *More transparent treaty negotiating policies are needed and better checks if negotiation outcomes adhere to the current policy and safeguard policy coherence for development.*

#### • Improved Controlled Foreign Company regulation

In 2019 the Netherlands implemented a CFC regulation as part of the EU Anti Tax Avoidance Directive, to stop multinational companies parking profits in tax havens. The options adopted in the Anti Tax Avoidance Directive were already weak. And from these options the Netherlands unfortunately chose the weakest variant possible.

Therefore, the Dutch CFC rules do not apply to companies who can prove to have substance. However, these are so weak that for large multinationals artificial creation of substance readily outweighs their fiscal benefits. And the measure is only implemented in jurisdictions with a statutory tax rate of less than 9% or jurisdictions on the EU list of non-cooperative jurisdictions and it is also only applied on passive income types.

- *The Netherlands should amend its CFC rules to fully discourage profit shifting to low tax jurisdictions.<sup>47</sup>*

<sup>41</sup> Centraal Planbureau: Netwerkanalyse van een Nederlandse voorwaardelijke bronbelasting op renten en royalty's [www.cpb.nl/sites/default/files/omnidownload/CPB-Notitie-11nov2019-Netwerkanalyse-van-een-nederlandse-voorwaardelijke-bronbelasting-op-renten-en-royaltys.pdf](http://www.cpb.nl/sites/default/files/omnidownload/CPB-Notitie-11nov2019-Netwerkanalyse-van-een-nederlandse-voorwaardelijke-bronbelasting-op-renten-en-royaltys.pdf)

<sup>42</sup> SOMO: Conditionele bronbelasting Drie tekortkomingen. 28-10-2019 [www.somo.nl/nl/conditionele-bronbelasting-2-0/](http://www.somo.nl/nl/conditionele-bronbelasting-2-0/)

<sup>43</sup> Centraal Planbureau: Netwerkanalyse van een Nederlandse voorwaardelijke bronbelasting op renten en royalty's [www.cpb.nl/sites/default/files/omnidownload/CPB-Notitie-11nov2019-Netwerkanalyse-van-een-nederlandse-voorwaardelijke-bronbelasting-op-renten-en-royaltys.pdf](http://www.cpb.nl/sites/default/files/omnidownload/CPB-Notitie-11nov2019-Netwerkanalyse-van-een-nederlandse-voorwaardelijke-bronbelasting-op-renten-en-royaltys.pdf)

<sup>44</sup> Tweede Kamer der Staten-Generaal: Notitie fiscaal verdragsbeleid 2020. 29-05-2020 [www.tweedekamer.nl/kamerstukken/brieven\\_regering/detail?id=2020Z09809&did=2020D21201](http://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2020Z09809&did=2020D21201)

<sup>45</sup> ActionAid: Mistreated; The tax treaties that are depriving the world's poorest countries of vital revenue. 02-2016 [www.actionaid.nl/2016/02/23/mistreated/](http://www.actionaid.nl/2016/02/23/mistreated/)

<sup>46</sup> SOMO: Theory and practice of the Dutch tax treaties with developing countries - The 2011 memorandum on Dutch tax treaty policy. 6-8-2020 [www.somo.nl/wp-content/uploads/sites/2/2020/08/Paper-NFV-NL.pdf](http://www.somo.nl/wp-content/uploads/sites/2/2020/08/Paper-NFV-NL.pdf)

<sup>47</sup> Rijksoverheid: Rapport Adviescommissie belastingheffing van multinationals 15-4-2020 [www.rijksoverheid.nl/documenten/kamerstukken/2020/04/15/rapport-adviescommissie-belastingheffing-van-multinationals](http://www.rijksoverheid.nl/documenten/kamerstukken/2020/04/15/rapport-adviescommissie-belastingheffing-van-multinationals)



- **Strengthening of substance criteria**

The Netherlands hosts 12,000 Special Purpose Entities, also known as Special Financial Institutions and popularly known as mailbox companies.<sup>48</sup> Low substance requirements have contributed to the Netherlands becoming one of the world's favourite conduit countries to shift profits. Companies with minimal economic substance in reality, have access to treaty benefits and purposefully use these Dutch weak regulations to avoid tax. This contributes to the prevalence of tax avoidance via treaty abuse. And since the developing country treaty partner is responsible for the implementation of anti-abuse measures, and they have little capacity for this, the Dutch low substance requirements add to the problem. A European Court of Justice ruling has recently led to some changes to the Dutch substance requirements but they are nowhere near strict enough.

- *To stop treaty abuse, the Netherlands should, in addition to anti-abuse measures, introduce stricter substance criteria.*

- **Improved source taxation to tax havens**

The Netherlands has agreed to introduce withholding tax on interest and royalty payments to tax havens to target tax avoidance via the Netherlands. And it is positive to note an additional withholding tax on dividend payments to tax havens to supplement the regular withholding tax has been proposed. These are measures aimed to limit tax avoidance schemes that utilise tax havens. However, since these measures are based on the extremely limited European Union list of non-cooperative jurisdictions complemented with jurisdictions that have a statutory corporate income tax less 9%, the list excludes many problematic jurisdictions. To stop the Netherlands from being used as a conduit country such measures needs to include interest, royalty dividend payments to all countries in the withholding tax. This means that existing tax treaties need to be aligned with that principle.

- *Apply the withholding tax on all international interest, royalty and dividend payments.*

- **More progressive position in international fora**

The Netherlands has been cooperating in many international fiscal policy revisions, including the OECD, EU and bilateral policy revisions. Despite the fact that policy changes deriving from these policy processes have been implemented by the Netherlands, its position in such negotiations has often been critiqued. The Netherlands together with Cyprus, Malta, Ireland and Luxembourg have even been referred to form the 'Coalition of the Unwilling'.<sup>49</sup> Support and propose progressive fiscal policy changes in international fora such as:

- *Continue to support and promote the adoption of Public - Country by Country Reporting at the European Union.*

*Within the OECD Base Erosion and Profit shifting process (BEPS) 2.0 process:*

- *Support the rebalancing of taxation rights between developed and developing countries by allocation of profit on the basis of consumption, employment and production.*
- *Support the creation of an effective global minimum effective tax rate, applied on a country by country basis without exceptions.*
- *Recognize the need of the limitations (representation, equality and outcomes) of the OECD BEPS 2.0 process and promote the creation of a United Nations Global tax body and its acceptance amongst fellow EU and OECD members.*

- **Capacity building**

The Netherlands positively contributes to multiple capacity building programs to help developing countries to raise domestic resources. However, many of the programs the Netherlands supports do not yet focus on the crucial aspects of fairness, inclusiveness and local empowerment including the gender specific impacts. Incorporating these aspects in capacity building initiatives is essential to ensure that revenue is collected in a more progressive way, under a robust and inclusive process locally.

Another area of attention is recognition and support for civil society organizations, academics and journalists who play an important role in the process of accountability on Domestic Resource Mobilisation and tax since they contribute to valuable research, surveys and data collection and they can reduce the information gap between citizens and tax issues.

- *Ensure that capacity building initiatives focus on fairness, inclusiveness and local empowerment with special attention on women's rights.*
- *Include CSO's in capacity building initiatives to increase government accountability and citizens empowerment.*
- *Promote the importance of gender responsive public services.*

- **AIV advice**

The AIV has presented a clear recommendation that a significant contribution of the Netherlands is needed to support the least developed countries in the short term and sustained efforts to support partner countries in helping them shape their future in line with the Sustainable Development Goals.

- *Provide additional COVID-19 support to deliver a strong package of € 1 billion as recommended by the AIV, and under no circumstance lower the budget for development cooperation.*
- *As recommended by the AIV, improve tax systems and take extra effort to limit tax avoidance and tax evasion.*

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<sup>48</sup> De Nederlandsche Bank (DNB): DNBulletin: Decreased activity among mostly smaller special purpose entities. 7-5-2020 [www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp](http://www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp)

<sup>49</sup> Nederlandse Omroep Stichting (NOS): Nederland ligt nog altijd dwars bij EU-aanpak belastingontwijking. 5-12-2017 [www.nos.nl/artikel/2206095-nederland-ligt-nog-altijd-dwars-bij-eu-aanpak-belastingontwijking.html](http://www.nos.nl/artikel/2206095-nederland-ligt-nog-altijd-dwars-bij-eu-aanpak-belastingontwijking.html)

#### 4. CONCLUSION

In 2018, the estimated tax losses for developing countries because of the Dutch fiscal system, amounted to € 1.8 billion per year. This estimate is based on the reduced taxes paid on capital income flows (dividend, interest and royalties) that are channelled through the Netherlands to low-tax jurisdictions, in order to avoid taxes that are due to be paid in developing countries. The estimate provides a very rough and possibly conservative figure, mainly because the estimate is only based on the tax avoided by shifting dividend, interest income and royalties from developing countries to the Netherlands, without taking into account tax losses due to for example avoiding capital gains tax or because of transfer pricing, due to a lack of data. An earlier estimate in 2011 showed that the tax losses were around € 460 million, although it should be noted that this estimate was based on tax avoided through dividend and interest income only (and not royalties), and is therefore not completely comparable, but the large difference provides an indication that overall, the tax losses have increased significantly in only 7 years' time, depriving developing countries of essential resources sorely needed for public services.

These tax losses of € 1.8 billion equals almost 40% of the 2018 Dutch official development assistance budget (ODA), amounting to € 4.8 billion. Also, it shows that the support provided to developing countries to tackle the COVID-19 crisis, amounting to € 250 million, is only a pittance compared to the tax losses incurred by poor countries due to the Dutch fiscal regime.

The COVID-19 crisis shows how underfunding of vital public services has left developing countries extremely exposed to COVID-19. In addition to insufficient medical services, these countries are also affected by growing food insecurity and growing inequality. The crisis has deepened existing social-economic and economic problems. And it is poorest communities - and especially women and girls - who bear the brunt of these impacts due to intersecting inequalities. As a natural reaction to the crisis the Netherlands and other EU countries are teaming up to support countries in the global south by the provision of emergency aid.

It is commendable that the Netherlands has taken swift steps in the EU and international community to aid developing countries. However, given the scale of the crisis its impacts will continue to be felt for years to come and will have a hugely negative impact on the realization of the Sustainable Development Goals (SDG's).

Therefore, this situation also calls for a medium to long-term response plan. And if the Netherlands want developing countries to succeed, it needs to include a thorough reform of its fiscal system. A need that is recognized by the Dutch

Advisory Council on International Affairs (AIV) and the Organisation for Economic Co-operation and Development (OECD).<sup>50</sup>

This is a policy area that has received increasing attention from the Dutch government but so far it has still failed to develop a coherent policy. As this report shows, despite multiple actions taken by the Dutch government, the problem has increased considerably. The economic damage the Netherlands is causing developing countries has increased significantly, from € 460 million in 2011 to € 1.8 billion in 2018. And current policy initiatives will not be strong enough to turn the tide.<sup>51</sup>

As a medium to long term solution to the COVID-19 crisis in developing countries, it would make much more sense for the Netherlands to make sure that the taxes are collected in the countries where the actual business activities take place: the source country. In that way, developing countries would be better able to fend for themselves and strengthen their health systems, instead of depending on support packages from the EU or from the Netherlands.

Therefore, ActionAid strongly calls on the Dutch government to take this crisis as a turning point in our fiscal relations with developing countries and execute significant fair tax reforms to ensure that developing countries will be less dependent on emergency aid, and become much more resilient to cope with crises such as COVID-19 due to increased tax revenues.

#### Acknowledgements

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ActionAid is member of Tax Justice Netherlands, a network of 8 NGO's and Unions that strives for a fair global tax system and promotes tax transparency at both company and governmental level. [www.taxjustice.nl](http://www.taxjustice.nl)

<sup>50</sup> Organisation for Economic Co-operation and Development (OECD): Tax and Fiscal Policy in Response to the Coronavirus Crisis: Strengthening Confidence and Resilience 19-05-2020 [www.read.oecd-ilibrary.org/view/?ref=128\\_128575-o6raktc0aa&title=Tax-and-Fiscal-Policy-in-Response-to-the-Coronavirus-Crisis](http://www.read.oecd-ilibrary.org/view/?ref=128_128575-o6raktc0aa&title=Tax-and-Fiscal-Policy-in-Response-to-the-Coronavirus-Crisis)

<sup>51</sup> Oxfam Novib: De Nederlandse Route - Hoe arme landen inkomsten mislopen via belastinglek Nederland; 20-5-2013 [www.oxfamnovib.nl/Redactie/Downloads/Rapporten/DeNederlandseRouteBP21052013.pdf](http://www.oxfamnovib.nl/Redactie/Downloads/Rapporten/DeNederlandseRouteBP21052013.pdf)

### **Annex: Calculation method of estimated loss in tax revenues in developing countries due to the role of the Netherlands as a tax haven**

The calculation method is based on publicly available data by the Dutch Central Bank (DNB) and the International Monetary Fund (IMF), following the method developed by SOMO for a report published by Oxfam Novib in 2013.<sup>52</sup> It is based on flows of Foreign Direct Investment as well as capital income flows to the Netherlands from developing countries. The estimate provides a very rough and possibly conservative figure, mainly because the estimates are only based on the tax avoided by making use of Dutch Special Financial Institutions (SFIs)<sup>53</sup> to shift dividend, interest income and royalties from developing countries to the Netherlands, and because the effects of tax losses due to for example avoiding capital gains tax and transfer pricing have not been included due to a lack of data. Our analysis is based on detailed data for Special Financial Institutions (SFIs), also known as mailbox companies, as registered by the Dutch Central Bank, which they estimate at 12,000.<sup>54</sup>

The calculations are based on the following assumptions:

- It is assumed that the extensive network of double taxation treaties of the Netherlands is one of the main reasons for locating a mailbox company in the Netherlands, and that this has led to ‘treaty shopping’ by multinational companies for tax purposes mainly. In line with SOMO’s earlier estimate of 2011, it is assumed that missed tax revenues amount to 5% of the capital income flowing to the Netherlands, as a realistic estimate for the difference in taxes paid over capital income as a result of the Dutch tax treaty network. This percentage is a rough estimate, and probably any estimate for missed tax between 1 and 10 per cent of capital income can be defended.
- It is assumed that on balance, total FDI flows do not increase due to the existence of Double Taxation Treaties (DTTs), but that only the route that FDI is channelled through is changing.
- It is assumed that the profits of mailbox companies based in the Netherlands are proportional to the FDI stock of these holding and finance companies. This means that it is assumed that 1% of the capital stock is equal to 1% of the total profit of the SFI.



<sup>52</sup> Oxfam Novib: De Nederlandse Route - Hoe arme landen inkomsten mislopen via belastinglek Nederland; 20-5-2013 [www.oxfamnovib.nl/Redactie/Downloads/Rapporten/DeNederlandseRouteBP21052013.pdf](http://www.oxfamnovib.nl/Redactie/Downloads/Rapporten/DeNederlandseRouteBP21052013.pdf)

<sup>53</sup> De Nederlandsche Bank (DNB): According to DNB, Special Financial Institutions (SFIs) are resident Dutch enterprises or institutions, fully owned by foreign direct investors, that act as financial intermediary between other parts of the group to which they belong. The financial assets and liabilities of these institutions usually are related to direct investment via the Netherlands in third countries or are connected to the channeling of funds collected in the direction of the foreign investor. Source: [www.statistiek.dnb.nl/en/downloads/index.aspx#/details/balance-of-payments-quarter/dataset/5b160938-6940-4a6e-89b1-fccc027194c6/resource/15f75384-120c-4c02-a1ae-6b0f92a2d9e5](http://www.statistiek.dnb.nl/en/downloads/index.aspx#/details/balance-of-payments-quarter/dataset/5b160938-6940-4a6e-89b1-fccc027194c6/resource/15f75384-120c-4c02-a1ae-6b0f92a2d9e5) 29-06-2020

<sup>54</sup> De Nederlandsche Bank (DNB): DNBulletin: Decreased activity among mostly smaller special purpose entities. 7-5-2020 [www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp](http://www.dnb.nl/en/news/news-and-archive/dnbulletin-2020/dnb388513.jsp)



VARIABLE	AMOUNT		SOURCE
	IN MILLION EUR		
	2011	2018	SOURCE FOR CALCULATION (2018 DATA ONLY)
1. Total inward FDI stock in the Netherlands (Special Financial Institutions only)	2.997.000	2.646.352	2018 DNB SFI data (Source 1) - data as of end of 2018. Foreign direct investment positions in the Netherlands (SFIs only)
2. Total capital income for dividend, interest and royalties (Special Financial Institutions only)	96.202	139.973	2018 DNB SFI data (Source 2) – data for 2018. Reported primary income of SFIs in the Netherlands; this figure includes dividend, interest and royalties
3a. Total Outward Direct Investment Positions to the Netherlands of low- and middle-income developing countries	286.513	677.000	2018 IMF FDI data (Source 3) - data as of end of 2018. This figure is based on own calculations, based on the IMF data. The figure includes outward direct investment from all low and middle income developing countries (except tax havens) to the Netherlands
3b. Share of developing countries in total FDI stock (3a. divided by 1.)	9.6%	25.6%	Author's calculation: (3a.Total Outward Direct Investment Positions to the Netherlands of low- and middle-income developing countries) divided by (1.Total inward FDI stock in the Netherlands (Special Financial Institutions only) - Percentages have been abbreviated for presentation purposes
4. Estimated capital income flowing from developing countries to the Netherlands through SFIs (3b. multiplied by 2.)	9.196	35.808	Author's calculation: (3b.Share of developing countries in total FDI stock) multiplied by (2.Total capital income for dividend and interest (Special Financial Institutions only))
5. Estimated loss in tax revenues in developing countries due to the Netherlands (5% * 4.)	460	1.790	Author's calculation: low estimate of 5% * (4.Estimated capital income flowing from developing countries to the Netherlands through SFIs). As a conservative estimate, we assume that the difference in WHT as a result of the Dutch tax treaty network is 5% compared to a normal situation.
6. Estimated loss in tax revenues worldwide due to the Netherlands (5% * 2.)	4.810	6.999	Author's calculation: low estimate of 5% * (2.Total capital income for dividend and interest (Special Financial Institutions only))

Source 1: [www.statistiek.dnb.nl/en/downloads/index.aspx#/details/direct-investment-positions-broken-down-according-to-country-year/dataset/8b8eec9a-8a93-4bc4-8154-a37f5be503bd/resource/99059b62-4f42-4b89-842b-2e3bc9fbac4c](http://www.statistiek.dnb.nl/en/downloads/index.aspx#/details/direct-investment-positions-broken-down-according-to-country-year/dataset/8b8eec9a-8a93-4bc4-8154-a37f5be503bd/resource/99059b62-4f42-4b89-842b-2e3bc9fbac4c)  
Source 2: [www.statistiek.dnb.nl/downloads/index.aspx#/details/betalingsbalans-jaar/dataset/347124ac-bbe2-46d6-9037-bida7232dd93/resource/a167a35f-1faf-461f-b7a7-e8603c7f1a2f](http://www.statistiek.dnb.nl/downloads/index.aspx#/details/betalingsbalans-jaar/dataset/347124ac-bbe2-46d6-9037-bida7232dd93/resource/a167a35f-1faf-461f-b7a7-e8603c7f1a2f)  
Source 3: [www.data.imf.org/regular.aspx?key=61227424](http://www.data.imf.org/regular.aspx?key=61227424)

The calculation in the table above is explained as follows, following the numbering in the table:

1. The basis of our calculations is the total inward FDI stock of SFIs (Special Financial Institutions) in the Netherlands, which we based on data of the Dutch Central Bank (DNB).<sup>55</sup> SFIs' total inward FDI stock in the Netherlands amounted to €2,646 billion as at the end of 2018.

2. Next, we used the total capital income of Special Financial Institutions, which amounted to €140 billion in 2018.<sup>56</sup> This is the reported primary income of SFIs in the Netherlands, consisting of interest, dividend income and royalties, based on Balance of Payments data from the Dutch Central Bank.<sup>57</sup>

3. Next, we calculated the share of developing countries in total FDI stock in the Netherlands as follows:

a. We used IMF data on Outward Direct Investment Positions to the Netherlands as of end of 2018.<sup>58</sup> From the original IMF country list, a selection was made of all low-income, lower-middle income and upper-middle-income economies, based on World Bank classification.<sup>59</sup> Out of all developing countries, only for 72 developing countries data have been included in the IMF database, mostly due to the fact that for some countries, data are confidential. Again, this means that our estimate should be considered as conservative. From the remaining countries, we excluded 12 countries that are classified as tax havens according to the Offshore Financial Centres'

<sup>55</sup> De Nederlandsche Bank (DNB): Direct investment positions broken down according to country (year) 23-9-2019 [www.statistiek.dnb.nl/en/downloads/index.aspx#/details/direct-investment-positions-broken-down-according-to-country-year/dataset/8b8eec9a-8a93-4bc4-8154-a37f5be503bd/resource/99059b62-4f42-4b89-842b-2e3bc9fbac4c](http://www.statistiek.dnb.nl/en/downloads/index.aspx#/details/direct-investment-positions-broken-down-according-to-country-year/dataset/8b8eec9a-8a93-4bc4-8154-a37f5be503bd/resource/99059b62-4f42-4b89-842b-2e3bc9fbac4c)

<sup>56</sup> It should be noted that the figures of 2011 and 2018 are not entirely comparable, because in the 2011 figures, total capital income only included dividend and interest income, while the 2018 figures also included royalties. It can be reasonably assumed that the large difference between the two years can only partly be attributed to the inclusion of royalties and that the increase is mostly due to other factors (see main report for a further analysis).

<sup>57</sup> De Nederlandsche Bank (DNB): Balance of payments from 2015 onwards. 29-06-2020 [www.statistiek.dnb.nl/en/downloads/index.aspx#/details/balance-of-payments-quarter/dataset/5b160938-6940-4a6e-89b1-fccc027194c6/resource/15f75384-120c-4c02-a1ae-6b0f92a2d9e5](http://www.statistiek.dnb.nl/en/downloads/index.aspx#/details/balance-of-payments-quarter/dataset/5b160938-6940-4a6e-89b1-fccc027194c6/resource/15f75384-120c-4c02-a1ae-6b0f92a2d9e5)

<sup>58</sup> International Monetary Fund (IMF): Table 1-i: Inward Direct Investment Positions, as of end-2018. Reporting Economy: The Netherlands. End 2018 [www.data.imf.org/regular.aspx?key=61227424](http://www.data.imf.org/regular.aspx?key=61227424)

<sup>59</sup> World Bank: World Bank Country and Lending Groups, Country Classification 2021 fiscal year [www.data.worldbank.org/about/country-classifications/country-and-lending-groups#Low\\_income](http://www.data.worldbank.org/about/country-classifications/country-and-lending-groups#Low_income)

list use by the Dutch Central Bank (e.g. Hong Kong, Costa Rica, Liberia).<sup>60</sup>

b. This led to a subset of 60 developing countries, for which the total Outward Direct Investment Positions to the Netherlands amounted to US\$ 775 billion, or around € 677 billion<sup>61</sup>, for which the share in the total inward FDI stock in the Netherlands was calculated (3a. divided by 1.). This share has increased from 9.6% in 2011 to 25.6% in 2018.

4. Based on this share, we calculated the total capital income flowing from developing countries to the Netherlands through SFIs by taking the share of developing countries in total capital income, amounting to € 35.8 billion (3b. times 2.).

5. In step 5, we then calculated the lost tax revenues as a percentage of the total capital income flowing from developing countries to the Netherlands. In line with SOMO's earlier estimate for 2011, we assumed that missed tax revenues amount to 5% of the capital income flowing to the Netherlands, as a realistic estimate for the difference in taxes paid over capital income as a result of the Dutch tax treaty network. The reason why so many multinational companies make use of this "Dutch treaty shopping" is because on average, these agreements provide for lower withholding tax rates compared to other countries. This percentage is a rough estimate, and probably any estimate for missed tax between 1 and 10 per cent of capital income can be defended. It could be higher or lower for several reasons. It is possible that investments through SFIs in some developing regions are underestimated because

they may sometimes be channelled via other tax havens, such as Hong Kong, Singapore, or Cyprus. SFI subsidiaries may also benefit from local tax breaks that should not be attributed to the SFIs or they may use other tax avoidance mechanisms, like transfer pricing, that do not necessarily involve Dutch SFIs.

In conclusion, the calculation leads to an estimated amount of lost tax revenues for developing countries of € 1.8 billion in 2018, compared to lost tax revenues in 2011 of € 460 million.

The estimates are based on total capital flows and provides a very rough and possibly conservative figure, mainly because:

- Estimates are only based on the tax avoided by making use of Dutch holding and finance companies to shift dividend, interest income and royalties from developing countries to the Netherlands, while for example avoided capital gains tax has not been included here due to a lack of data.
- The effects of transfer pricing have not been included.
- The share of developing countries in total FDI stock in the Netherlands is based on data for only 60 developing countries for which data have been included in the IMF database. Data for other countries are lacking because "data are confidential". Since the major developing countries are included, including Brazil, China, India and South-Africa, we assume that this figure is only slightly underestimating the total share of DCs. Our analysis excludes 12 developing countries that are classified as tax havens, as we assume that these countries do not lose tax revenues as a result of Dutch holding and finance companies.



<sup>60</sup> De Nederlandsche Bank (DNB): Annex Offshore Financial Centers according to Congressional Research Service (2015), OECD (2000) or FSF-IMF (2000) [www.dnb.nl/en/binaries/Annex%20offshore%20financial%20centres\\_tcm47-380042.pdf](http://www.dnb.nl/en/binaries/Annex%20offshore%20financial%20centres_tcm47-380042.pdf)

<sup>61</sup> OANDA: Based on the exchange rate of 1 Euro against US\$ 1.14474 as of 31/12/2018; [www1.oanda.com/currency/converter](http://www1.oanda.com/currency/converter)





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