# Analysis of Ireland's Corporation Tax Roadmap

## Introduction

In 2017 the Department of Finance undertook an independent review of Ireland's corporation tax code, authored by Mr Seamus Coffey. This was designed to complement the work being done at the OECD and EU level to establish new international tax standards. In facilitating this review, the Department of Finance conducted a public consultation seeking the views of the public and interested parties on the matters identified by the terms of reference of the review. The consultation ran from 21 February to 4 April 2017. Oxfam Ireland prepared a submission in relation to this.

Mr Coffey delivered his review to the Minister for Finance and for Public Expenditure and Reform, Paschal Donohoe T.D., on 30 June 2017. The Review made 18 recommendations under the terms of reference. In the review, Mr Coffey noted that a number of the recommendations are very technical and complex and will require further consultation.

In late 2017/early 2018 the Minister for Finance and Public Expenditure & Reform launched a public consultation on certain recommendations of the Coffey Review and on the implementation of the EU Anti-Tax Avoidance Directives (ATADs) that Ireland had signed up to (the Coffey/ATAD consultation). This consultation process asked for feedback on nine specific questions related to the above and also provided the opportunity to provide input on areas outside these 9 questions. Oxfam Ireland completed a second detailed submission in relation to this second consultation both on the 9 questions and on areas outside the nine questions. Ireland's Corporation Tax Roadmap (hereafter referred to as 'the Report') is a result of this consultation process.

## Overview of actions taken by Ireland in relation to Corporation Tax

The report includes a list of 12 actions Ireland has already taken in relation to corporate tax avoidance. Below[1] is a list of these relevant actions with notes related to each where relevant:

1. Changes were made to Ireland's **corporate tax residence rules** in Finance (No.2) Act 2013 to prevent Irish incorporated companies from being stateless for tax purposes and in Finance Act 2014 to shut down known structures (such as the so-called 'Double Irish') which were designed to exploit gaps in US anti-avoidance rules. Action was taken by Ireland in the absence of US tax reform. US tax reform has subsequently taken place in a manner which should prevent any similar structures from being effective in avoiding US tax.

[1] Department of Finance, Ireland's Corporation Tax Roadmap, 2018, p. 5-6.

**Note**

Despite these changes the 'Double Irish' can be still used by companies, until the start of 2021, that already had a 'Double Irish' structures in place before the above legislation became law. The fact that companies were given 10 weeks' notice before these new rules came became law meant that any company could set up a 'Double Irish' structure and avail of this loophole until 2021 if they wished. The Paradise Papers provided evidence that this is what has happened. This coupled with the fact that royalties sent out of Ireland were equivalent to 26% of Ireland's GDP in 2015[2] indicates that the 'closing' of the 'Double Irish' has had little or no impact on the tax avoidance by activities of MNC of in Ireland to date. However, the use of the 'Double Irish' in its current form will soon become defunct as Bermuda structures with IP (that were used as part of the 'Double Irish') will soon belong to the past if the EU enforces its Code of Conduct guidelines on criterion 2.2 correctly, as part EU list of non-cooperative tax jurisdictions (the EU Tax haven list). Nonetheless, MNCs have already adapted their tax avoidance strategies, including taking advantage of Ireland's Double Taxation Treaty network to avoid tax, so that they will no longer be dependent on the 'Double Irish' to avoid tax.

There are provisions in Ireland's DTAs, especially with countries outside of the Base Erosion and Profit Shifting (BEPS) process where companies which want to use a 'Double Irish-like' arrangement can establish an Irish registered company which is 'effectively managed' and thereby tax resident in a country with which Ireland has a DTA. This would provide opportunities to avoid tax on royalties, especially as Ireland's DTA's have few anti-abuse provisions. It has been documented that several companies[3], have used this method, known as the 'Single Malt', to avoid tax.

While recent reforms to the US Tax Code may reduce the opportunities for MNC to shift profits out of Ireland to avoid tax, it does little or nothing to stop profit shifting into Ireland to avoid tax. It is the later that most impacts developing countries. Also, the structure of the US tax reforms implies that there will still be incentives to continue shifting some profits out of Ireland to avoid tax. This is because it's only profits above 10% of physical assets that the Global Intangible Low-Taxed Income (GILTI)[4] will apply (though this should quickly kick in in relation to Tech companies). Also, as GILI applies to the global effective tax rate paid by US MNC on global profits, there will still be an incentive to shift profits out of Ireland to non-tax states to bring their global effective tax rate down to the GILTI figure of 13.125%.

2. Ireland has continuously made changes to ensure we are constantly up to date with best practice on **tax transparency and exchange of information.** Ireland is one of only 24 jurisdictions to have been found to be fully compliant with new international best practice by the Global Forum on Tax Transparency and Exchange of Information. Ireland was an early adopter of the OECD Common Reporting Standard on Exchange of Financial Account Information, and in 2012 Ireland became the 4th country in the world to sign a FATCA Agreement with the USA.

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[2] More royalties than were sent out of the rest of the EU combined, making Ireland the world's number one royalties' provider. https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-ireland-en_1.pdf

[3] Christian Aid Ireland, (2017), '*Impossible' Structures: tax outcomes overlooked by the 2015 tax Spillover analysis,* Dublin, page 20-21.

[4] The new so-called GILTI tax imposes a minimum tax of 13.125% on US multinational companies' foreign profit in excess of a 10% return on physical assets. This does reduce the benefit of shifting profits, but does not eliminate it: before tax reform, profit shifting could reduce the Effective Tax Rate (ETR) from 35% to 0%, now it's only from 21% to somewhat less than 13.125% (depending on size of physical assets). However, the GILTI can itself be gamed in a couple of ways to reduce that further.

**Note**

The Irish Government claims it supports tax transparency but the system in place in Ireland falls well short of full transparency. Although Ireland requires companies to report relevant tax information on a country by country basis, this information remains confidential and is not open to public scrutiny. Scandals such as LuxLeaks, the Panama Papers and the most recent Paradise Papers have shown the need for public Country by Country Reporting.

Ensuring that companies publish where they make profits and where they pay tax through public Country by Country Reporting (CBCR) provides decision-makers, investors, journalists, and civil society actors, especially in developing countries, with data to help review and, if necessary, reform aspects of the tax system that are being used purely for tax avoidance purposes. Without this information it is not possible for legislators to adequately scrutinise how the corporate tax system is actually operating in practice.

*Possible reporting mismatches*

Oxfam Ireland met with the Department of Business, Enterprise and Innovation and they expressed concerns that as the public CBCR proposal was being progressed as an accounting file, rather than a taxation file, this could lead to reporting mismatches. It should be noted that all EC Council deliberations can avail of outside expertise and can consult with other Councils to ensure that no such potential mismatches arise. As a point of reference, Directive 2014/95/EU on disclosure of non-financial and diversity information was prepared by DG Internal Market and Services. The EC's implementation guidance for this directive covers a broad range of non-financial issues, from waste management to gender diversity. Other DGs were consulted during the drafting process of this Directive and no reporting mismatches arose.

*Public CBCR does not correspond to the OECD BEPS approach*

Minister Donohoe has asserted that this proposal deviates from the principle of confidentiality in information exchanges among tax authorities outlined in the OECD BEPS approach and that any deviation from this principle could impede the fight against aggressive tax planning. While Minister Donohoe is correct that the OECD agreement prohibits tax administrations from publishing information they receive through (secret) information exchange with other countries, the EU public CBCR legislation aims to instead to require multinational corporations to publish the information themselves. This approach has been agreed by Ireland previously as part of the EU's fourth Capital Requirements Directive (CRD IV), Directive 2013/34, the Accounting Directive, and Directive 2013/50, the Transparency Directive which require multinational corporations to publish public CBCR for the financial, mining and logging sectors in the EU. These Directives have had no demonstrable negative impacts on attempts to address aggressive tax planning in these sectors.

Recommendations in relation to public CBCR and the publication of Bilateral Tax rulings (see below) were included in Oxfam Ireland's submission, but no reference or discussion of these proposals was included in the report.

3. Ireland commissioned and published a **Spillover Analysis,** carried out by the independent International Bureau of Fiscal Documentation (IBFD), to examine the impact of our corporation tax regime on developing countries.

**Note**

The spillover analysis concluded that "*the Irish tax system on its own can hardly lead to significant loss of tax revenue in developing countries*."[5] One of the arguments for this conclusion is that the amount of financial flows from Ireland to developing countries is low.

However, the spillover analysis only analysed a limited amount of data, focusing on 13 countries over two years. This meant that only 4% of the available data on Irish overseas investment into developing countries between the years 2009 to 2012 was examined. It also didn't look at indirect flows through third countries like Luxembourg or Bermuda. Moreover, not all of the limited data analysed could be assessed due to secrecy laws. The spillover analysis noted this flaw saying that: "*a substantial percentage of [foreign direct investment] is labelled "confidential (…)" or "unspecified (…)" and this may in part go to developing countries*"[6]. Finally, the spillover analysis ignored assessments of capital gains related to the sale of cross-border investments. Instead it only focussed on the taxation of income from cross-border investments and services in contrast to the IMF's Fiscal Spillover Reports.

At the end of last year Christian Aid Ireland published two reports[7] critiquing the Irish spillover analysis and highlighting the many mechanisms still available under Irish tax law that facilitate corporate tax avoidance that negatively impacts developing countries. The Irish Government has still to respond formally to the recommendations in these reports, including that a second, more comprehensive, spillover analysis be conducted.

**Note**

See note related to public CBCR

4. Ireland agreed and have fully implemented an EU Directive (DAC3) to provide for the automatic **exchange of information on advance cross-border tax rulings** and advance pricing arrangements among all Member States. Ireland is also fully compliant with the BEPS Action 5 requirements on exchange of this taxpayer information.

**Note**

Ireland does not publish core elements, excluding any sensitive data, of bilateral tax rulings despite the fact that the Code of Conduct Group for Business Taxation has released guidelines on the issuance of tax rulings (endorsed by the ECOFIN on 6 December 2016.) Member states were expected to respect these guidelines immediately. It is moreover expected that the Code of Conduct Group will start monitoring member states' ruling practices from 2018 onward to see if the guidelines are respected. As a comparison Belgium has a public database outlining all the final rulings negotiated with individuals or companies. These rulings are of course published on a no-name basis, in accordance with professional confidentiality rules. In general, the rulings are published in a great

[5] Department of Finance (2015). IFBD Spillover Analysis: Possible Effects of the Irish Tax System on Developing Countries. Department of Finance, http://www.budget.gov.ie/Budgets/2016/Documents/IBFD_Irish_Spillover_Analysis_Report_pub.pdf

[6] Department of Finance (2015). IFBD Spillover Analysis: Possible Effects of the Irish Tax System on Developing Countries. Department of Finance, http://www.budget.gov.ie/Budgets/2016/Documents/IBFD_Irish_Spillover_Analysis_Report_pub.pdf

[7] Global Linkages and Impossible Structures.

amount of detail in the original language. Moreover, the Minister of Finance in Belgium submits an annual report to Parliament with statistics and the general trends within the ruling practice. Oxfam Ireland included a proposal to publish these rulings in its submission, but this recommendation was not referenced or discussed in the report.

5. Ireland were among the group of countries to sign the **BEPS multilateral instrument** at the first possible opportunity. This will see the majority of Ireland's tax treaties updated to be BEPS compliant.

**Note**

The OECD's Multi-Lateral Instrument (MLI) is an attempt to provide common minimum standards for all existing and future Double Tax Agreements (DTA). A DTA is legal agreement between countries to determine the cross-border tax regulation and means of cooperation between the two jurisdictions. DTAs often revolve around questions about which of the jurisdictions has the right to tax cross-border activities and at what rate.

The minimum standards set out in the MLI have been designed to close tax avoidance loopholes. Article 12 of the MLI relates to defining when a MNC has a taxable presence or permanent establishment (PE) in a jurisdiction. This article makes it harder for multinational companies to claim that they don't have a permanent establishment/taxable presence in a third country if they use a third party to conclude contracts on the company's behalf, an approach that can be used as a tax avoidance strategy by companies. When Ireland signed the MLI in June 2017 it chose not to adopt Article 12 thus missing the opportunity to close this loophole.

Oxfam made a recommendation that Ireland should adopt article 12 of the MLI in its submissions when it ratifies the MLI later this year. No reference or discussion of this is included in the report, despite public commitments made by the Minister of Finance that he would review this option following news reports about this issue.

6. Ireland agreed two **Anti-Tax Avoidance Directives** (ATADs) with our fellow EU Member States in 2016 and 2017. The Anti-Tax Avoidance Directives represent binding commitments to implement 3 significant BEPS recommendations into Irish law as well as two additional anti-avoidance measures. This Roadmap sets out the planned implementation of the ATAD measures into Irish law, as per the agreed schedule.

7. Ireland agreed an EU Directive **(DAC5**) to ensure access for tax administrations to **information about beneficial owners** of companies and other information held for anti-money laundering purposes. Ireland has made necessary tax Regulations to ensure Revenue can access and exchange information on beneficial ownership of companies. Further work is ongoing on implementing the relevant anti-money laundering Directives.

8. Ireland agreed an **EU Directive (DAC6)** to introduce a common mandatory reporting regime for tax advisers and companies where transactions are entered into that meet certain hallmarks. Ireland was one of only 3 EU Member States to already have a mandatory disclosure regime in place prior to the agreement of the Directive.

**Note**

Ireland's mandatory disclosure regime has been largely ineffective due to the many exemptions it includes. In October 2017 Minister of Finance Paschal Donoghue admitted that only 11 disclosures had been made since its introduction in 2011, none of which related to widely used tax avoidance mechanisms.

9. Ireland agreed the **Directive on Dispute Resolution Mechanisms** to extend the availability of arbitration when two Member States disagree on how, and where, a taxpayer should be taxed.

10. Ireland agreed the first ever **EU list of non-cooperative tax jurisdictions** with our fellow EU Member States. The list has been extremely successful in encouraging third countries to commit to implementing international tax best practices.

11. Ireland commissioned an independent expert, Mr. Seamus Coffey, to carry out a thorough **review of our Corporation Tax Code** and to make recommendations for any reforms that may be needed. This review was published in September 2017 and work commenced on implementing the review's recommendations in Finance Act 2017.

**Overall Note**

It is noteworthy that there is no mention of the Irish Government's appeal of the Apple Ruling by the EU Commission. There is also no mention of rule changes introduced at the start of 2015 which allowed companies to offset up to 100 percent of their profits against the cost of purchasing intellectual property (IP) rights There was a sharp uptake in companies availing of this measure in 2015 - the use of such allowances for intangible assets went up by 989%.[8] Although this write-off was reduced to 80% in 2017, it was not imposed retrospectively and the full amount of the qualifying expenditure will continue to be deductible, as the cap only limits how much can be claimed in a particular year. These are arguably the two most important interventions related to corporate tax policy made by the Irish Government in the last number of years.

## New proposals for addressing corporate tax avoidance

The report includes a list of 11 actions that Ireland proposes to take to address corporate tax avoidance. Below[9] is a list of these relevant actions with notes related to each where relevant:

1. **Controlled Foreign Company (CFC) rules (BEPS Action 4, ATAD Article 4 and Coffey Recommendation).** Legislation will be introduced in Finance Bill 2018 to introduce CFC rules with effect from 1 January 2019. It is intended that a feedback statement will be published in Q3 to respond to views expressed in responses to the Coffey/ATAD consultation on CFC rules and to set out possible approaches for the implementation of an Option B approach. The

[8] Tancrad, Paul (2017), *An Analysis of 2015 Corporation Tax Returns and 2016 Payments,* Revenue, Dublin, page 8.

[9] Department of Finance, Ireland's Corporation Tax Roadmap, 2018, p. 29-30.

Department of Finance subsequently issued a Feedback Statement on this proposal for consultation until September 28th 2018.

**Note**

The implementation of the Option B approach will do little to address corporate tax avoidance as it will just apply normal transfer pricing guidelines to determine what part of the profits reported by a CFC should be attributed to the CFC from a tax perspective, and what part should be attributed to the parent company instead – something that Ireland is supposed to do anyway under its current transfer pricing legislation. This does not help to protect the tax base of any other country than Ireland itself, because Ireland will not analyse transactions between, say, the CFC in Bermuda and subsidiaries in developing countries. The problem with the Option B CFC approach is that although it looks at artificial arrangements (arrangements set up for mere tax purposes and not in line with the economic reality) it is very hard for Revenue Authorities to prove whether a structure is artificial or not. Likewise, though ATAD CFC rules can be used against EU Member States, existing case law means that just a little substance in the effected country could be seen as sufficient to escape the profits falling under CFC rules. Thus, this approach will be unlikely to stop tax avoidance mechanisms like the 'Single Malt'.

In its submission Oxfam Ireland advocated that Ireland should implement strong controlled foreign company rules (CFC) using option A, regardless of the location of the CFC, as only this approach will effectively discourage profit shifting worldwide, including profit shifting out of developing countries. Oxfam Ireland also advocated that the definition of CFC income should be as broad as possible. Limiting CFC rules to certain types of subsidiary profits makes them less effective. Oxfam Ireland also argued that income from goods and services as mentioned in the draft Directive should be included in the definition of CFC income and thus also cover profit shifting through intra-group trade in goods, an important type of CFC income that is now left out of the Directive (following the French CFC example). It also recommended that both distributed and non-distributed CFC income should be included in the tax base of the parent company. Excluding distributed profits from the tax base might lead to a loophole in the CFC regime

It was recognised in the report that only one stakeholder advocated for Option A[10]. However, it should be noted that the Coffey review recommended that the introduction of CFC rules merited consideration of moving to a territorial corporation tax base. In doing so he argued that "regard should be had to whether moving to a territorial corporation tax base would require additional anti-avoidance measures."[11]

2. **General Anti-Abuse Rule (ATAD Article 6).** No further action is needed given the robustness of Ireland's longstanding General Anti-Avoidance Rule.

**Note**

The report recommends that no changes be made to Ireland's General Anti-Abuse Rules (GAAR). Oxfam Ireland in its submission recommended the introduction of a new GAAR in Irish law, or to amend the current Irish GAAR to be textually as close as possible to Article 6 of ATAD. Having a

[10] Department of Finance, Ireland's Corporation Tax Roadmap, 2018, p. 16.

[11] Coffey S., Review of Ireland's Corporation Tax Code, Department of Finance, 2017, p. 112.

standard EU-wide GAAR avoids companies abusing the small differences between national GAAR provisions, it provides companies with more tax certainty when engaging in EU cross-border transactions, and it would align EU Member States jurisprudence in their GAAR assessment.

3. **BEPS Multilateral Instrument (BEPS Actions 2, 5, 6, 14 and 15).** The final legislative steps required to allow Ireland to complete the ratification of the Multilateral Instrument will be taken in Finance Bill 2018. Dáil approval will be sought in September 2018 for the making of a Government Order that will allow Ireland to complete the ratification procedures for the BEPS Multilateral Instrument.

**Note**
As already outlined Ireland has chosen to opt out of Article 12 of the MLI, which will leave in place a considerable loop hole that can be used as a tax avoidance strategy by companies, especially related to developing countries.

4. **Exit Tax (ATAD Article 5 and Coffey Recommendation).** Legislation will be introduced to replace the current provisions with an ATAD-compliant exit tax to take effect no later than 1 January 2020.

**Note**
There seems to be no plans to introduce this tax before 2020. Oxfam Ireland recommended in its submission that a timely Exit tax would protect Ireland from a sudden exit of that IP from Ireland. Moreover, the proposed rate for the Exit Tax of 12.5% is considerable below the current Capital Gains Tax of 33%.

5. **Interest Limitation rules (BEPS Action 4, ATAD Article 4and Coffey Recommendation)** Ireland will introduce an ATAD-compliant interest limitation rule. The timing of that legislation will be determined following further engagement with the European Commission. Ireland remains of the view that our national targeted rules for preventing BEPS risks are equally effective to the ATAD interest limitation rule and will continue to engage with the European Commission in this regard. However, work has also commenced to examine options to bring forward the process of transposition from the original planned deadline of end-2023. In view of the complexity of our existing interest limitation rules, it is anticipated that transposition could potentially advance, at the earliest, to Finance Bill 2019. A public consultation is planned for Q3 2018 to seek views on the inter-linked issues of the ATAD anti-hybrid and interest limitation rules.

**Note**
Basically, Ireland is asking for an exception to interest limitation rules as it asserts that its existing rules are equally effective. If it is successful in gaining such an exemption new rules about how much interest a company can write off (Earnings Before Interest, Taxes, Depreciation and Amortization – EBITDA) will only become effective in 2024.

6. **Hybrid Mismatch Rules (BEPS Article 2, ATAD Article 9 & 9a)** Legislation will be introduced in Finance Bill 2019 to implement anti-hybrid rules and further legislation will be introduced in a subsequent Finance Bill to introduce anti-reverse-hybrid rules. It is planned to launch a consultation paper considering both general and detailed technical issues relating to the

interlinked issues of hybrid entities/instruments and interest in late Q3 2018. It is intended that the consultation will be open for a period of c. 12 weeks, with a view to consideration of submissions beginning post-Finance Bill 2018. Further consultation is likely to be held in advance of the 1 January 2022 deadline for anti-reverse hybrid rules.

**Note**

Anti-hybrid rules to be implemented by 2020 and 2022 will not stop new tax avoidance structures, that use Ireland's DTA network, like the Single Malt[12]. As such the 'Single Malt' is not a hybrid as there is no different interpretation of rules in both countries.

Oxfam Ireland advocated in its submission that Ireland needs to re-examine its network of DTAs to ensure that companies cannot avail of tax structures similar to the 'Double Irish' post-2020. There are a number of ways such a review could propose to end mechanism like the 'Single Malt'. This could include strong control of the usage of ''place of effective management'' along with the strengthening of royalty taxation in Ireland. Moreover, as pointed out in Christian Aid's Impossible Structures, regulations to ensure that companies must also be Irish tax-resident, without exception need to be implemented. This would prevent Irish registered companies having tax residencies in low-tax environments, and thus stop multinational structures siphoning royalty's income into such 'treaty tax havens'. This would in turn remove multinationals' incentive to book sales around the world in Ireland rather than in the countries, including developing countries, where the sales are actually made[13].

7. **Transfer Pricing Rules (BEPS Actions 8-10 & Action 13, Coffey Recommendation)** Legislation will be introduced in Finance Bill 2019 to update Ireland's transfer pricing rules. It is intended to launch a public consultation in early 2019 and this may include consideration of whether any additional changes to Ireland's tax code are needed to ensure TP rules are fully effective in ensuring tax is paid where value is created and do not facilitate the transfer of profits to jurisdictions other than where value-creating activity takes place.

**Note**

Oxfam Ireland is fully supportive of the recommendations set out in the 'Coffey Review' that domestic transfer pricing legislation should be applied to:

a) Arrangements agreed before 1 July 2010;
b) SMEs;
c) Non-trading income, including capital transactions.

However, Oxfam Ireland does not feel that these changes, though welcome, will address all profit shifting into Ireland. Oxfam Ireland reasserts that 'two way' transfer pricing legislation is needed to give Irish Revenue officials the power to investigate instances where profits are shifted from a high tax jurisdiction to Ireland, to avail of its low Corporate Income Tax Rate. This would allow officials to identify potential abuses which could lead to revenue losses in other countries, especially developing

[12] Irish Times, November 14th 2017. https://www.irishtimes.com/business/economy/multinationals-turn-from-double-irish-to-single-malt-to-avoid-tax-in-ireland-1.3290649

[13] Christian Aid, Impossible Structures, 2017, p.25.

countries.

When Oxfam Ireland made this proposal to the 'Coffey Review' the review stated that there are adequate measures in place to address this issue. The review asserted that if transfer mispricing occurs, a foreign tax authority may adjust the transfer prices charged or taken by a foreign affiliate resident in their territory and attribute a higher quantum of taxable profit to the foreign affiliate. If the Irish Revenue agrees with this assessment an adjustment can be made under protocols set out in relevant Double Taxation Agreements. However, as is recognised in the review, not all tax authorities of developing countries have the institutional capacity to undertake such audits and identify sophisticated tax avoidance strategies.

The other reasons this proposal was rejected in the Coffey Review is because it is not common practice and it was asserted that there is a danger of double non-taxation if the other jurisdiction decides not to exercise its taxing rights. This concern can be easily addressed by inserting a protection clause in new legislation to ensure that a reduction in taxable income in Ireland will only happen when Revenue is satisfied that the income will be assessable in another jurisdiction.

8. **Consideration of a Territorial Regime (Coffey Recommendation).** It is intended that a public consultation will be launched in early 2019, seeking further input on the alternative options of moving to a territorial regime or conducting a substantial review and simplification of the rules for the computation of double tax relief.

9. **Mandatory Disclosure Rules (BEPS action 12, DAC6, and Coffey Recommendation).** Legislation will be introduced in Finance Bill 2019 to ensure that Ireland fully implements the DAC6 Directive.

10. **Dispute Resolution (BEPS Action 14 and EU Dispute Resolution Mechanism Directive)** Regulations will be issued before July 2019 to implement the Dispute Resolution Mechanism Directive and provide Irish taxpayers with access to this new arbitration framework.

11. **International Mutual Assistance Bill (Coffey Recommendation).** Work is ongoing on finalising the drafting of this Bill with a view to publishing a Bill before the end of 2018.

## Conclusion

- While Ireland's plans for the implementation of the BEPs measures (through ATAD) in this report and the recent US tax reforms will impact some current mechanisms for corporate tax avoidance, they do not go far enough to address corporate tax avoidance. It should be noted that Ireland had to implement most of the measures it is proposing in this report under EU law (ATAD). Ireland has chosen to implement the weakest options at the latest available date available to it under ATAD. Most worryingly these proposals include little or no mechanisms to address corporate tax avoidance that impacts developing countries.

- Ireland's reforms to address corporate tax avoidance to date have had little or no demonstratable impact on corporate tax avoidance. There is significant data available that

indicates that Ireland is still acting as one of the world's biggest conduits for tax avoidance[14]. Moreover, the BEPs process has yet to develop a monitoring system to assess the success of agreed measures in reducing corporate tax avoidance, so we have no way yet of assessing the validity of existing and planned actions to address corporate tax avoidance.

- The extension of tax avoidance mechanisms like the 'Double Irish' have given MNC corporations the time to adjust and develop new mechanisms to avoid tax that will not be covered in any of the proposals under BEPS that Ireland proposes to implement.

- There has been little or no serious consideration of a number of more ambitious mechanisms to address corporate tax avoidance such as public CBCR, a global minimum effective tax rate and or formulator apportionment to address corporate tax avoidance in this report.

- Finally, there was no discussion in the report of Oxfam Ireland's proposal to set up an expert stakeholder group to advise Government on how to address corporate tax avoidance.

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[14] https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-ireland-en_1.pdf; http://gabriel-zucman.eu/files/WrightZucman2018.pdf; http://gabriel-zucman.eu/files/TWZ2018.pdf