

## Key Financial Secrecy Indicators

### 9: Number of Bilateral Treaties

#### What is measured?

This indicator shows if a jurisdiction has at least 60 bilateral treaties with broad tax information exchange clauses for both civil and criminal tax matters. These bilateral treaties can either be full double taxation agreements (DTA) or they can be tax information exchange agreements (TIEAs) which have a much reduced scope. See our [briefing paper on TIEAs for more details](#). Some DTAs are outdated and do not therefore include effective information exchange provisions. These have not been counted as a result.

The main source for this indicator is table A3 of the OECD-report (Tax Co-operation 2007 and 2008<sup>1</sup>). This table displays the number of bilateral agreements for information exchange in both civil and criminal tax matters as of January 2008. This number has been updated to 30 June 2009 to include all TIEAs reported by the OECD by that date<sup>2</sup>. Where the OECD did not cover the jurisdiction we did consult other private sources such as Lowtax.net or the jurisdiction's finance ministries.

We only give a credit here if a jurisdiction has at least 60 qualifying treaties in place. This number of agreements was selected because it is the average number of double tax agreements a G20-country has<sup>3</sup>. As many secrecy jurisdictions claim to be major financial services centres we have taken them at their word and concluded that it is fair to compare their treaty network with that of the major trading nations, represented by the G20-nations. This does also imply that the figure of 60 qualifying agreements is a moving target. When G20-nations increase their average number of treaties, so will the average we use also increase and therefore the minimum number of treaties for the purpose of this indicator will increase.

---

<sup>1</sup> The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field". Because the OECD published its 2008 report during the research process, both the 2007 and 2008 report have been used. These publications served as a main source for many variables and, in the following, are referred to by "OECD-report" or "OECD publication". Table A3's title is "DTAs and TIEAs Providing for Information Exchange upon Request" (OECD 2008: 32). More precisely, the information is taken out of column 5, of which the OECD writes: "Column 5 shows for all DTAs and TIEAs included in column 4 (i.e. those with a broad exchange clause) whether they permit information exchange for all tax matters, only for criminal tax matters, or only for civil tax matters or certain civil tax matters." (ibid.).

<sup>2</sup> The website is

[http://www.oecd.org/document/7/0,3343,en\\_2649\\_33767\\_38312839\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/7/0,3343,en_2649_33767_38312839_1_1_1_1,00.html) (11-8-09).

<sup>3</sup> More precisely, the average number is 61,21 according to the same sources we mentioned above.

### Why is it important?

Currently, tax authorities around the world face immense difficulties when trying to secure foreign-country based evidence relating to suspected domestic tax evasion and/or aggressive tax avoidance schemes. While tax authorities domestically often have the powers to cross-check data obtained through tax returns, for instance though having access to bank account information, this does not hold true internationally. Whereas economic activity has become increasingly global, the tax collectors' efforts remain locally based and those efforts are very often deliberately obstructed by secrecy jurisdictions. Therefore, the rule of law is severely constrained by the inability of tax authorities to readily and affordably collect information about the international economic activity of their populations and companies.

While a system of bilateral treaties for tax information exchange has serious flaws (as can be read in [our briefing paper on information exchange, here](#)), such a system may be helpful if covering many countries. In April 2009, the OECD announced that the conclusion of twelve bilateral agreements for information exchange is sufficient to be taken off the OECD's grey list of tax havens. It was completely arbitrary that the OECD chose to pass judgement about adherence to its "standards" based on a threshold of twelve treaties. This number appears to have been picked at random and there is no reason to believe that the requirement to have twelve agreements in place changes in any material way the level of secrecy found in a jurisdiction.

For instance, Belgium has concluded at least half of its twelve agreements with other secrecy jurisdictions. As the OECD reported in July 2009: "In the past two days Belgium has signed protocols to its tax conventions with Luxembourg, Singapore, San Marino, and the Seychelles as well as a tax convention with the Isle of Man and a tax information exchange agreement with Monaco." ([click here for the document](#)). We argue that bilateralism does not and cannot tackle the issue of information exchange in an effective and efficient manner. What this evidence also shows is that the signing of twelve tax information exchange agreements achieves so little as to be effectively meaningless.

If, in contrast, the number of treaties required of secrecy jurisdictions reaches far higher numbers, it would become increasingly difficult to sign meaningless agreements e.g. those with other secrecy jurisdictions or miniscule states such as the Faroe Islands. We have therefore opted to set the bar far higher than the OECD and employ the number of tax treaties a G20-country has on average as our yardstick. That is the reason why we chose to give credit for having of a significant number of bilateral treaties, although we remain highly critical of the bilateral OECD-"standards". With regard to the latter their replacement with a system of automatic information exchange makes sense, not least because a simple system of automatic information exchange of the type proposed in a paper by Richard Murphy ([downloadable here](#)) could make sense of the existing OECD structure by providing the necessary 'smoking gun' information to make it work.

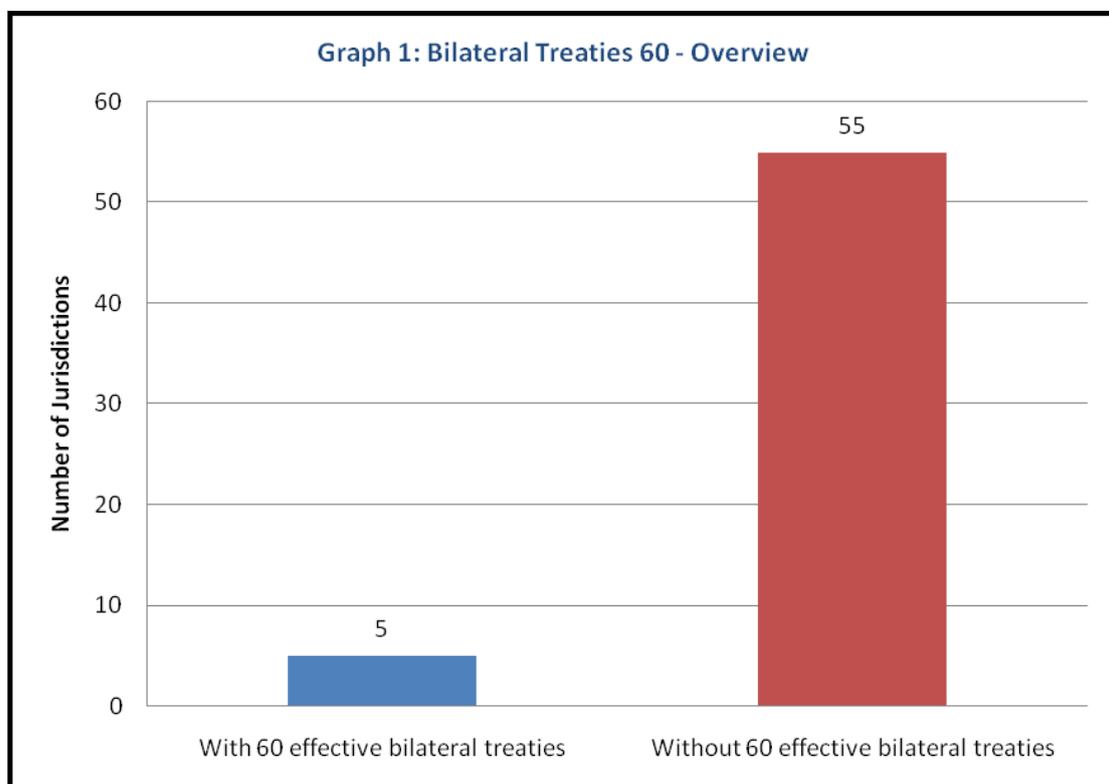
### What are the crimes and abuses that might hide behind a weak network of less than 60 effective bilateral treaties?

The bilateral treaties under scrutiny here deal only with tax matters. Therefore the relevant crimes are tax related, such as tax evasion, aggressive tax avoidance (which is now targeted as unacceptable by the OECD and many countries) and transfer pricing manipulation.

#### Results Overview

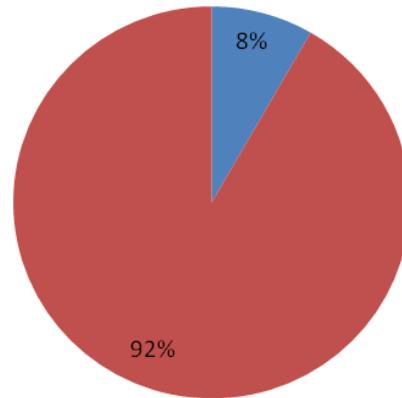
**Table 1: Bilateral Treaties 60 – Overview**

Number of jurisdictions with 60 effective bilateral treaties:	5
Number of jurisdictions without 60 effective bilateral treaties:	55



Results Detail

Graph 2: Bilateral Treaties 60 - Details



■ Jurisdictions with 60 effective bilateral treaties: BE NL GB USVI US

■ Jurisdictions without 60 effective bilateral treaties: AD AI AG AW AT BS BH BB BZ BM VG  
BN KY CK CR CY DM GI GD GG HK HU IE IM IL JE LV LB LR LI LU MO MY MV MT MH MU MC  
MS NR AN PA PH PT WS SC SG KN LC VC CH TC AE UY VU

Table 2: Bilateral Treaties 60 – Details							
ID	Jurisdiction	ISO		ID	Jurisdiction	ISO	
1	Andorra	AD	No	31	Liechtenstein	LI	No
2	Anguilla	AI	No	32	Luxembourg	LU	No
3	Antigua & Barbuda	AG	No	33	Macao	MO	No
4	Aruba	AW	No	34	Malaysia (Labuan)	MY	No
5	Austria	AT	No	35	Maldives	MV	No
6	Bahamas	BS	No	36	Malta	MT	No
7	Bahrain	BH	No	37	Marshall Islands	MH	No
8	Barbados	BB	No	38	Mauritius	MU	No
9	Belgium	BE	Yes	39	Monaco	MC	No
10	Belize	BZ	No	40	Montserrat	MS	No
11	Bermuda	BM	No	41	Nauru	NR	No
12	British Virgin Islands	VG	No	42	Netherlands	NL	Yes
13	Brunei	BN	No	43	Netherlands Antilles	AN	No
14	Cayman Islands	KY	No	44	Panama	PA	No
15	Cook Islands	CK	No	45	Philippines	PH	No
16	Costa Rica	CR	No	46	Portugal (Madeira)	PT	No
17	Cyprus	CY	No	47	Samoa	WS	No
18	Dominica	DM	No	48	Seychelles	SC	No
19	Gibraltar	GI	No	49	Singapore	SG	No
20	Grenada	GD	No	50	St Kitts & Nevis	KN	No
21	Guernsey	GG	No	51	St Lucia	LC	No
22	Hong Kong	HK	No	52	St Vincent & Grenadines	VC	No
23	Hungary	HU	No	53	Switzerland	CH	No
24	Ireland	IE	No	54	Turks & Caicos Islands	TC	No
25	Isle of Man	IM	No	55	United Arab Emirates (Dubai)	AE	No
26	Israel	IL	No	56	United Kingdom (City of London)	GB	Yes
27	Jersey	JE	No	57	Uruguay	UY	No
28	Latvia	LV	No	58	US Virgin Islands	USVI	Yes
29	Lebanon	LB	No	59	USA (Delaware)	US	Yes
30	Liberia	LR	No	60	Vanuatu	VU	No