Asia's Bilateral Tax Treaties: 5 Things We Need to Know

1 A widening network of bilateral tax treaties (BTTs) entered into by developing country governments with developed states plays a key role in the erosion of domestic revenues. The UN Conference on Trade and Development estimated a staggering $100 billion lost in annual tax revenues of developing countries and attributed this massive drain on development financing resources to aggressive tax avoidance practices by multinational companies (MNCs) and wealthy elites exploiting preferential rates of tax treaties.

Seven Asian developing countries with tax treaties that threaten severely restricting their taxing rights were found by Actionaid study in its sample.

Country	Number
Bangladesh	18
Mongolia	15
Pakistan	14
Sri Lanka	13
Vietnam	11
Laos	7
Philippines	5

"Singapore is the second-biggest source for foreign direct investments (FDI) into India after Mauritius, accounting for over 16% of cumulative inflows so far."

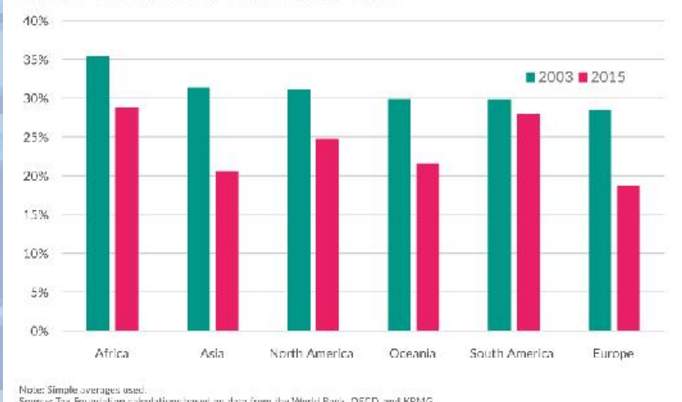
The Economic Times, *12 May 2016*

2 Developing countries today, Asia included, drive the rise in tax treaties globally. Although unequal positions with developed countries are clear, it is assumed this will be offset by foreign direct investments. However, there is no conclusive proof that BTTs attract foreign direct investment (FDI). Tax rates have been found to be less of a rationale for FDI as labor costs, political stability and other domestic factors.

3 One of the most common and aggressive forms of tax treaty abuse is through the practice of "treaty shopping" by MNCs. Using the tax treaty network as a map, they set up paper companies in nil or low tax jurisdictions through which they course their profits. The result is not avoidance of double taxation but the reduction or elimination of taxation! Large undeclared sums would have otherwise been tax-liable, and potentially translated to additional revenue for greater social spending.

4 The practice of "round-tripping" refers to the way wealthy and politically influential citizens course their investments through holding companies in tax havens or low tax jurisdictions which are treaty partners of their country to reduce or be totally freed from tax obligations. Not only do they benefit from zero capital gains tax in the tax haven country; they claim many other tax incentives in their country when their wealth returns as FDI.

5 Tax havens are necessary actors in tax treaty abuse not only because of investor-privileging rates, but also because they conceal tax avoidance practices that would not stand up to public scrutiny. Asia is becoming a favorite hiding place for wealth stashed offshore, with several countries outpacing Switzerland from 2013 onwards. These include Hong Kong, Macau, Labuan (Malaysia), Brunei and Singapore, but others will follow as tax competition for the lowest rates intensifies.



TAKE ACTION!

- **We call on civil society in developing countries to press for a transparent, participatory cost-benefit review of tax treaties especially BTTs with developed countries with respect; and,**
- **Demand the cancellation of BTTs found disadvantageous in terms of eroding domestic revenues and curtailing the sovereign right and authority of taxation.**