Response from Eurodad to the FfD Elements Paper

13 February 2015

Eurodad supports the joint CSO response to the FfD Elements Paper[1] and would furthermore like to submit the key points contained in this document as a response to the FfD Elements Paper.

Of the elements that are currently under discussion, we find the ones outlined below to be the **key deliverables in Addis Ababa**. These elements are transformative and address some of the key obstacles for mobilising financing for development and ensuring the achievement of the Sustainable Development Goals (SDGs). The most crucial elements are marked with "HIGH PRIORITY!"

Domestic public finance

Domestic public finance		
Existing text	**Action needed**	**Comment**
Strengthen international tax cooperation to tackle tax avoidance and evasion, including IFFs		
HIGH PRIORITY! Upgrade **the UN Tax Committee into a standing intergovernmental committee**; *alternatively,* strengthen a participatory broad-based dialogue on international tax cooperation including the UN, G20, IMF, OECD, World Bank and regional forums	REPLACE by "Establish an intergovernmental UN committee on tax matters" and DELETE the "alternative" (a strengthened dialogue).	An intergovernmental UN body on tax matters is vital to ensuring that tax-related policy decisions from the Addis Ababa conference can be carried forward and turned into concrete instruments and standards. It is also vital for ensuring that the more than 100 countries, which are not part of the OECD and G20, will be able to participate on an equal footing in the development of international tax standards. Instead of referring to an "upgrade" of the UN Tax Committee – which is an old proposal - the Addis Ababa outcome should establish a new intergovernmental body, while the current tax committee should be maintained as a subsidiary (expert committee) of the new body.
(There is no existing text on an **international UN convention on tax cooperation**)	ADD a new paragraph saying: "Develop a new convention on international cooperation in tax matters under the auspices of the UN".	An international tax convention can provide the legal framework for effective international cooperation in tax matters.
Enhance multilateral, **automatic exchange of tax information**	AMEND: "with the option of non-reciprocal information exchange for countries with low capacity".	Automatic exchange of information is a key tool in the fight against tax evasion. In order to ensure that the poorest countries are not excluded from the benefits of such a mechanism, a transition period must be introduced which allows them to receive information automatically even before they have the capacity to provide the same type of information to the sender.
Enhance financial transparency through	AMEND by adding "public" before "country-	Public country-by-country reporting will provide the information needed to assess

[1] CIVIL SOCIETY RESPONSE TO THE FFD ELEMENTS PAPER, January 28 2015. http://eurodad.org/files/pdf/54ca3758a3927.pdf

country-by-country reporting of corporate tax information and public **beneficial ownership** registries	by-country reporting" and "of companies, trusts and other similar legal structures" at the end of the sentence.	whether multinational corporations are paying taxes where the economic activity takes place and is thus a key tool in the fight against tax avoidance. Public beneficial ownership registries of companies, trusts and other similar legal structures will provide transparency around the use of shell-companies, and thereby support the fight against tax evasion, IFFs and money laundering.
(There is no existing text on **Double Taxation Agreements**)	ADD a new paragraph saying: "Review all Double Taxation Agreements to ensure that these are fully in line with and do not undermine sustainable development and financing for development".	DTAs have been identified as a major source of revenue loss in developing countries, including through the IMF study on spill-over in international taxation.
Mainstreaming sustainable development criteria in revenues and expenditures		
Adopt national **social protection floors** according to nationally defined benefit levels.	KEEP	
Set up a **global social protection floor** with a minimum spending package for social services, adapted to country income levels, with international support where needed	AMEND by adding "adequate" before "global".	This is crucial to ensure that target 1.3 in the SDGs on social protection floors is successful. The obligation to provide universal social protection was also recognised in the Rio+20 Outcome Document, The Future We Want, para. 156 and ILO Recommendation 202: Recommendation concerning National Floors of Social Protection (2012), which recommends that Members establish social protection floors as a fundamental element of their national security systems.
Minimising wasteful tax competition		
Agree to international (or regional) **minimum corporate tax floors** and **consolidated corporate tax base**	KEEP	
Ensure **tax incentives** are in line with sustainable development	AMEND: Add a reference to ensuring transparency of tax incentives as well as "in line with sustainable development and in compliance with gender equality and human rights obligations".	Tax incentives are currently undermining tax collection and thus the generation of financing for development.
Using tax and expenditure policies to address inequalities		
Analyse and publish the **distributional implications of tax policies**, and minimise regressive effects, in line with country preferences	AMEND to "Publish the distributional implications of tax policies and remove regressive policies" and	Progressive tax systems and pro-poor and gender sensitive redistribution are key to tackling inequality. Since regressive tax structures have disproportionately negative impacts on women, states should increase

	add "States must review tax structures, codes and instruments for explicit and implicit gender bias and ensure they do not reinforce existing gender inequalities, including through their impact on unpaid care work".(Report of the Special Rapporteur on Extreme Poverty and Human Rights, 2014, A/HRC/26/28, 2014, p. 20).	the tax base in a progressive way, based on reviews to identify explicit and implicit human rights and gender impacts to ensure they do not reinforce existing gender and other inequalities, including through their impact on unpaid care, paid work and unpaid labour.
Insuring the public share of economic rents in resource-rich countries is equitable and stable		
Set up **commodity stabilization funds**	KEEP	

Major underlying concerns relating to Domestic Public Finance
We would like to highlight the following major challenges, which are missing in the Elements Paper:

- In a globalised economy, no country can tackle tax evasion and avoidance on its own and thus capacity building of tax administrations has to go hand in hand with changes in international and regional tax and fiscal policies and standards;
- More than 100 developing countries are currently not included in the OECD and G20 processes, and even those that have been invited to participate are unable to do so on an equal footing. As long as OECD and G20 are the decision making bodies on international tax standards, the unfair playing field will be maintained and the specific interest and challenges for developing countries will be given less priority;
- Eventually, international cooperation on tax matters will need a legally binding agreement – an international UN tax convention - to ensure a solid framework for the work, including a clear definition of principles as well as implementation of agreements reached;
- Several of the outcomes of the OECD led tax processes, including the process of Automatic Information Exchange and of Base Erosion and Profit Shifting (BEPS), fail to take into account the needs and interests of developing countries. The OECD BEPS process also builds on instruments such as the OECD's Model Tax Treaty, which gives preferential treatment to "residence countries" (mainly OECD member states) at the expense of developing countries (so called "source countries");
- Many developing countries are not able to access the information they need to collect taxes due to lack of international cooperation and "reciprocity-requirements" which they do not have the capacity to fulfil.

ODA and other international public support for development

International public finance		
Meeting ODA commitments		
Issue	**Action needed**	**Comment**
All developed countries meet the **0.7 target**	AMEND by adding "of net amount transfers".	The reference to "net amounts" echoes the UN deliberations of Oct 1970 and is most opportune in the light of DAC members' push for tracking "donors'

		efforts as well".
HIGH PRIORITY! Set concrete and **binding timetables** to meet commitments	AMEND by replacing "commitments" with "the 0.7 target".	Binding timetables will be a key instrument for ensuring accountability.
Increasing the share of ODA to LDCs and other vulnerable countries, and to the most vulnerable households		
HIGH PRIORITY! Reaffirm existing [ODA] **targets for LDCs** with binding timetables	KEEP	Binding timetables will be a key instrument for ensuring accountability.
Enhancing synergies between ODA and climate finance while ensuring that ODA is not diverted from the poorest households and countries		
HIGH PRIORITY! Ensure **additionality** by increasing both climate finance and ODA net of climate finance	REPLACE with: "Ensure additionality by fulfilling ODA commitments net of climate finance, and by fulfilling climate finance commitments net of ODA."	
HIGH PRIORITY! Set up an expert technical group to develop and present to Member States options for a coherent **framework that accounts for climate finance and ODA** in a transparent manner	KEEP	A coherent framework is needed to ensure that climate finance is new and additional to existing ODA commitments.
Improve the monitoring of other official flows		
Hold open and transparent discussions in the United Nations of the proposed modernization of the ODA definition and the proposed indicator of "**total official support for sustainable development (TOSD)**".	AMEND by replacing "discussions" with "negotiations" and adding "and ensure that ODA remains a stand-alone item within TOSD with an ultimate goal of poverty eradication".	
Ask the United Nations, in cooperation with relevant stakeholders, to **monitor and report on statistical indicators of financial and technical cooperation for sustainable development** by all official providers and, separately, for development assistance from foundation and other non-governmental providers.	KEEP	
Increasing the effectiveness of aid and development cooperation		
HIGH PRIORITY! Enhance efforts to improve the **quality of ODA and increase the effectiveness** of development cooperation	AMEND Add: "All donors should ensure that ODA represents genuine transfers to developing countries. The UNGA should initiate a study assessing formal (de jure) and informally tied aid (de facto) and	

	begin a process of negotiation to end both practices. Governments must commit to ending any remaining conditionality practices of making aid and development finance transfers conditional on economic policy changes in partner countries.”	
Work toward a **single development effectiveness forum under the UN auspices**	AMEND Add: “to be established by 2017”.	
Implementing innovative financing mechanisms on a larger scale		
Encourage countries to implement the International Solidarity Levy on Air Tickets; explore options for a **financial transaction tax** in additional countries; for a carbon tax, for taxing fuels used in international aviation and maritime activities; for implementing additional tobacco taxes.	REPLACE WITH: Implement a levy on financial transactions carried out by finance firms and use the revenue to finance sustainable development.	

Major underlying concerns relating to ODA and other international public support for development

We would like to highlight the following major challenges, which are missing in the Elements Paper:

- The promises to make aid more effective - by improving the quality of aid, using country systems for activities managed by the public sector, reduce transaction costs and improve mutual accountability and transparency, untie aid to the maximum extent - are far from being met;
- Using ODA to mobilise other flows is not in line with the need to keep ODA well focused on poverty reduction. Also, this catalytic role of ODA can hardly comply with the fundamental transparency and accountability standards to be applied to all development flows. As the UN Secretary General highlighted in a recent report to the UN’s Development Cooperation Forum: “*…lack of clarity on additionality and purpose; limited influence of donors and recipients on investment design and implementation; diminished transparency and accountability; risk of misalignment of private sector and country priorities; danger of increased debt burden; inattention to small- and medium-enterprises; and the opportunity cost incurred when use of public money to mobilize private resources does not have the same or a larger development impact than if it had been devoted directly to a developmental purpose; and the risks of misappropriation.*”
- Providers are increasingly delivering ODA as loans, which mostly target Middle Income Countries and as a result ODA to LDCs has been declining. There is also no effective debt sustainability framework to protect against irresponsible and predatory lending to developing countries. Other loopholes in ODA reporting rules allow donors to report in-donor costs such as student and refugee costs as well as debt relief as ODA. Reporting of debt relief is problematic as current reporting rules overstate the true value of debt relief. Furthermore, debt relief should be additional to ODA as agreed in the Monterrey Consensus;

- Important issues such as human rights, gender equality, good governance, environmental protection, comprehensive social protection and democracy will require continuous financing from ODA. The development of specific indicators, tools and methodologies to evaluate the quality and development effectiveness of aid will also be needed;
- Macroeconomic policy conditions attached to both concessional and non-concessional international public financing impose fiscal and monetary constraints to growth and development;
- South-South and triangular cooperation, while increasingly important in the re-architecture of international relations, should never substitute or downplay the importance of historical responsibilities and agreed commitments of North-South development cooperation. There is no assurance that the definition of the new measure for ODA (Total Official Support for Development (TOSD)) does not lead to the loading of ODA with disbursements that were not originally within the ODA definition, with an aim to inflating aid so as developed countries appear as if they have reached the 0.7% target. ODA must remain a standalone item within TOSD with an ultimate goal of poverty eradication.

Private Finance

Domestic and international private finance		
Issue	**Action needed**	**Comment**
Strengthen the sustainable development impact of investment		
HIGH PRIORITY! (There is no existing text on **a Southern-led review of leveraging practices**)	ADD a new paragraph saying: "Establish an intergovernmental committee to conduct a Southern-led review of the existing practices to leverage international private finance by using public institutions and resources."	The use of public institutions and resources to leverage private finance entails many risks and challenges to ensure their contribution to sustainable development. There is an urgent need to recognise these risks and to assess current practices in the search for the better possible use of public institutions and resources. A Southern-led review should be used to provide proposals for change.
Unify and strengthen various initiatives on **responsible financing**, identify gaps, and strengthen the mechanisms and incentives for compliance..	REPLACE WITH: Establish a process to unify and strengthen various initiatives on **responsible financing**, identify gaps, and strengthen the mechanisms and incentives for compliance. As part of this work, develop a set of sustainable development criteria to be applied to public funds used to leverage private sector investment, drawn on existing UN principles on Human Rights, environment, development effectiveness and others.	
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Reducing risk for private investment		
AMEND **heading of this paragraph** to: "Regulating private investment to reduce risks"		
Improve the **"enabling" business environment** by	AMEND OR DELETE	"Enabling environment" needs to be clearly qualified as including legal protection for

strengthening domestic legal systems, and the policy, regulatory and institutional environments.		communities and include 'ecological risk' that companies are exposed to. The term should include legal protection and allocate risk activities that undermine the dimensions of sustainable development.
Harnessing the potential of public private partnerships (PPPs) while addressing risks		
Develop and adopting **principles and standardized documentation for PPPs**, which include transparency, accountability, equity, fairness, sustainability. In addition, develop a set of standard for when use of PPPs is strategic and appropriate	AMEND by adding "thorough cost benefit analysis, including social and environmental costs, and a strong monitoring and evaluation mechanisms".	The risks and problems linked with public private partnerships, including the lack of transparency, efficiency, negative environmental and social problems and the risk of strong negative financial impacts on the public sector should be adequately addressed before promoting these mechanisms further.
(There is no existing text on **regulatory and safeguard policies**)	ADD a new paragraph saying: "Ensure effective regulatory and safeguard policies, including an ex ante and ex post impact assessment, for PPPs that ensure the human rights of people, including women's rights, the rights of persons with disabilities and other marginalised groups, as well as environmental protection and sustainability."	Very important to ensure that PPPs as well as other private sector approaches such as blending and leveraging does not cause harm.

Major underlying concerns relating to Private Finance

We strongly welcome the recognition that "it is important to learn from the successes and failures of the past, and in particular, avoid maintaining risk in the public sector while guaranteeing high returns to the private partner."

We would like to highlight the following major challenges, which are missing in the Elements Paper:

- Foreign Direct Investment's (FDI) for-profit nature means it cannot tackle several key issues, including much needed public service provision which is vital for sustainable development. Given the key limitations of FDI, such as the fact that it hardly reaches Least Developed Countries unless they are major exporters of natural resources, it has proved very difficult to target FDI towards MSMEs, it is often linked with significant outflows of resources, and thus the critical issue is the quality and development contribution of private flows, more than the quantity;
- As noted in an OECD discussion paper, "*Private participation in infrastructure can be complex, time consuming and subject to frequent renegotiation and restructuring. PPPs are a modality of procurement that has been hugely unsuccessful in OECD countries and therefore developed countries cooperation ministries should abstain from recommending a mechanism that has not worked in their own countries and developing countries should be very careful in applying it, considering their additional governance difficulties that makes oversight of these highly risky mechanism almost impossible and cost recovery even more difficult*." (2);

[2] OFFICIAL SUPPORT FOR PRIVATE INVESTMENT IN DEVELOPING COUNTRY INFRASTRUCTURE, Advisory Group on Investment and Development, 21 March 2014, DCD/WKP(2014)2/PROV

- The risks and problems linked with public private partnerships, including the lack of transparency, efficiency, and the risk of strong negative financial impacts on the public sector are likely to further increase as a result of the recent revamping of large infrastructural programmes;
- Unqualified support for greater "ease of doing business" can have deeply problematic social and environmental outcomes, since ease of doing business tends to be synonymous with reductions in corporate income tax and a more lax regulatory environment (consider, e.g. the WB's "Doing Business" rankings).

Trade

Trade		
Issue	**Action needed**	**Comment**
Trade agreements are not aligned with the SDGs. Suggested proposals include		
HIGH PRIORITY! (There is no existing text on **review of trade and investment treaties** limiting developing countries' policy space)	ADD a new paragraph saying: "Establish a process to review all trade agreements and investment treaties to identify all areas where they limit developing countries' ability to handle crisis, regulate capital flows, protect livelihoods and decent jobs, enforce fair taxation, deliver essential public services and ensure sustainable development."	The severity of development challenges imposed by bilateral investment treaties and free trade agreements is acutely highlighted by the investor-state dispute settlement mechanisms, among others. The investor-state-dispute-settlement clause allows transnational corporations to sue governments in closed-door arbitration cases for extraordinary financial sums. This phenomenon is freezing public interest policy regulation worldwide. A review of the existing agreements and treaties can provide additional elements and generate concrete proposals for changes
(There is no existing text on **a review on intellectual property rights regimes (IPR)**)	ADD a new paragraph saying: "Establish a process to review all intellectual property rights regimes (IPR) to identify adverse impacts."	
Aligning investment agreements with sustainable development policies and plans		
Elaborate **binding environmental, social and human rights standards**	KEEP	This is consistent with the dialogue in the UN Human Rights Council towards advancing a binding human rights framework for Transnational Corporations

Major underlying concerns relating to Trade
We would like to highlight the following major challenges, which are missing in the Elements Paper:

- International investment agreements have provided foreign investors with exceptionally powerful instruments to challenge public interest policies of sovereign states and create exceptional rights for foreign investors, including an investor-state dispute settlement mechanism that discriminates against domestic investors and undermines sovereign rights of governments to take measures in the public interest and to achieve sustainable development. These agreements need to be terminated and replaced by agreements that promote sustainable development and that support the capacity and right of governments to take measures to achieve this goal.

External Debt

In line with the Monterrey and Doha outcomes, the heading of the debt chapter must be changed from "Sovereign Debt" to "External Debt" since the focus on "Sovereign" debt can lead to a lack of awareness of the financial risks associated with private debt.

Sovereign debt		
Issue	**Action needed**	**Comment**
Strengthening debt crisis prevention		
Adhere to **UNCTAD Principles** on Responsible Sovereign Lending and Borrowing	KEEP	The UNCTAD principles constitute an important instrument to prevent new debt crises from occurring both in the developed and developing world, and provide for a fair burden-sharing between public and private sectors and between debtors, creditors and investors.
Incorporate financing the SDGs **into debt sustainability frameworks and assessments**; better use of debt sustainability assessments for setting the type of development assistance	KEEP	
Improving information on debt stocks and flows		
HIGH PRIORITY! Initiate country-owned national **debt audits** in creditor and debtor countries	AMEND by adding "to cancel debt which is found to be illegitimate".	Debt audits are essential tools to resolve current debt crises and prevent new crises.
Improving the framework for sovereign debt restructuring		
HIGH PRIORITY! Continue existing discussions on a **multilateral framework for sovereign debt restructuring**	AMEND by adding "following from UNGA resolution (A/68/L.57/Rev.1)	Sovereign debt is the only category of debt not covered by an orderly insolvency regime. A multilateral legal framework can close this important governance gap.
Convene a UN-and-IMF supported **intergovernmental committee** to develop proposals that may win widespread support	REPLACE with "Encourage IMF to continue their efforts on contractual approaches that discourage future hold-out scenarios, and request the UN to address the statutory approach, including by convening an intergovernmental committee with the IMF in an advisory role, with the objective of developing proposals that may win widespread support."	
(There is no existing text on **cancelling illegitimate and unsustainable debts**)	ADD a new paragraph saying: "Cancel illegitimate and	Unsustainable and illegitimate debts undermine the mobilization of financing for development

	unsustainable debts."	

Major underlying concerns relating to External Debt

We would like to highlight the following major challenges, which are missing in the Elements Paper:

- The HIPC and MDRI initiatives failed to reach all countries which were in need of debt relief and came with conditionality that increased debt vulnerability;
- It will not be possible to resolve current debt crises and prevent new ones unless debt audits, principles for responsible lending and borrowing as well as a debt restructuring mechanism are introduced;
- The outcomes from both Monterrey and Doha include clear commitments to an international debt workout mechanism, but governments have so far failed to implement this commitment.

Systemic issues

Systemic issues		
Issue	**Action needed**	**Comment**
Strengthening the use of SDRs		
Implement **SDRs as the main reserve asset**	REPLACE with: "Reform the international monetary system through a credible system for coordination among deficit and surplus countries, a transition path towards use of SDRs as the main reserve asset and eventually a supranational currency."	
HIGH PRIORITY! Systemically issue SDRs, with a development dimension in the allocation	KEEP	
Reducing the volatility of financial markets and private capital flows		
HIGH PRIORITY! Remove obstacles to **capital account management** and regulations, including in trade and investment agreements	KEEP	
Aligning international rules and standards with sustainable development objectives		
HIGH PRIORITY! (There is no existing text on **a Global Economic Coordination Council at the UN**)	ADD a new paragraph saying: "Initiate a process to establish a Global Economic Coordination Council at the UN."	A Global Economic Coordination Council is needed to ensure truly global cooperation and long-lasting solutions to the crisis in the global financial system.
Align the business practices of **development finance institutions**, including IFIs with sustainable development objectives	KEEP	
Respect **each country's policy space** and leadership to establish and implement policies for poverty eradication and sustainable development	KEEP	

Major underlying concerns relating to Systemic Issues

We would like to highlight the following major challenges, which are missing in the Elements Paper:

- Poorly managed private financial flows can lead to increased inequality and adverse impact for the world's poorest and most vulnerable people and for the environment, and can increase risks for developing countries;
- Short-term cross-border private finance flows, particularly portfolio equity, can be highly volatile with sharp swings in investment levels and massive capital outflows during crises. This can trigger severe crises in the currency market and financial sector, and can have damaging and often long-term impacts on the real economy;
- Without stronger regulation by governments, it is likely that short-term and volatile international private financial flows will cause new crises; Capital account regulation is a fundamental policy tool that must be part of the toolkit for all countries seeking to prevent crises caused by 'hot money' inflows and outflows. Heads of states agreed at Doha in 2008 that: "the Bretton Woods institutions must be comprehensively reformed", yet it is at the Bretton Woods institutions that the governance gap is most problematic, because they still wield considerable power and influence in developing countries, particularly during times of crisis;
- The IMF has agreed minor reforms to its voting structure that independent analysis shows would have reduced the voting share of 'advanced economies' by less than 3%, to 55% of the total. Even this minor shift – which still leaves the rich world in control of the institution – has not yet been ratified by the US, which, because it holds enough votes to veto such changes, has prevented the 2010 deal from being implemented;
- The UN has a fundamental role in the promotion of international cooperation for development and for a global economic system that works for everyone. The UN has not been given the sufficient mandate, resources or role and there remains a huge hole at the centre of global economic policy making, with no effective means of coordination or consultation that includes all countries;
- The G20 is proving inadequate and ineffective at global coordination. It is an ad hoc body meaning that implementation is undertaken through other institutions, particularly the IFIs, the OECD and the FSB. Furthermore, it excludes the majority of UN Member States. A far better approach, called for by the UN Commission of Experts on Reforms of the International Monetary and Financial System, would be to set up a Global Economic Coordination Council at the UN, with a mandate to "assess developments and provide leadership in economic issues while taking into account social and ecological factors";
- The role of the dollar not only gives the US the 'exorbitant privilege' of being able to print the world's reserve currency, but was also a major factor behind the global financial crisis. It allowed the development of huge global imbalances, with the US able to finance deficits by borrowing cheaply from the rest of the world. All analysts are agreed that sooner or later the dollar will lose this position, as the US share of global economic output continues to shrink, and that if the transition to an alternative is done suddenly, it could trigger a major crisis. The main alternative is to gradually expand the use of the SDR through regular additional allocations of SDRs – in effect to create new reserve assets. In 2009, a G20 agreement led to the issuance of $250 billion in extra SDRs showing that this is possible. If such assets were directed to developing countries, it could boost their reserve position and reduce the need to hold large amounts of hard currency reserves, which tie up resources that would be better directed to productive investment.

For more information:

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