FINANCIAL INTEGRITY FOR SUSTAINABLE DEVELOPMENT

Report of the High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda

FINANCIAL ACCOUNTABILITY TRANSPARENCY & INTEGRITY









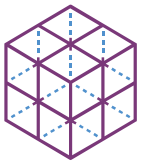

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ABOUT THE FACTI PANEL

The High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel) was convened by the 74th President of United Nations General Assembly and the 75th President of the Economic and Social Council on 2 March 2020.

The objective of the FACTI Panel is to contribute to the overall efforts undertaken by Member States to implement the ambitious and transformational vision of the 2030 Agenda for Sustainable Development. It is mandated to review current challenges and trends related to financial accountability, transparency and integrity, and to make evidence-based recommendations to close remaining gaps in the international system.

The Panel is co-chaired by H.E. Ibrahim Assane Mayaki, former prime minister of Niger, and H.E. Dalia Grybauskaitė, former president of Lithuania. The members include Annet Wanyana Oguttu, Benedicte Schilbred Fasmer, Bolaji Owasanoye, Heidemarie Wieczorek-Zeul, Irene Ovonji-Odida, José Antonio Ocampo, Karim Daher, Magdalena Sepúlveda, Manorma Soeknandan, Shahid Hafiz Kardar, Susan Rose-Ackerman, Tarisa Watanagase, Thomas Stelzer, Yu Yongding and Yury Fedotov. The Panel members have participated in a personal capacity and are not expressing endorsements or commitments on behalf of any institution with which they have a relationship.

The High-Level Panel on Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda came together as a diverse group of individuals from different backgrounds, experiences and national and regional contexts. Even if members of the High-Level Panel did not agree on every detail of the final report, consensus was reached on the vast majority of recommendations. And most importantly, the Panel is unanimous on the need to act to promote financial accountability, transparency and integrity for achieving the 2030 Agenda.

ACKNOWLEDGEMENTS

The Panel is supported by an independent secretariat, hosted by the United Nations Department of Economic and Social Affairs, Financing for Sustainable Development Office led by its Director, Navid Hanif. Gamal Ibrahim is the chief of the secretariat. Staff of the secretariat included Peter Chowla, Maud Perdriel-Vaissière, Benda Gu, Shruti Ravindran, Antonina Poliakova and Sarah Maria Rosaria Aguirre-Degidon. The secretariat has also been assisted by consultants Andrea Davis, Kate Donovan, Alex Marshall, Patrick Nicholson and Antonio Saade. Design services were provided by Jennifer Esther Garcia, Maria de la Guardia, Claire Lukacs, Michelle Ng, and David Rosenberg. Secretariat interns included Ujjaini Rao Desirazu, Julian Christopher Atanassow, Sebastian Andres Uchida Chavez, Anna Pomortseva and Qi Shuai.

The Panel would like to thank the members of the UN Core Group supporting the Panel, including colleagues at UNODC, UNCTAD, UNDP and the UN regional commissions. The Panel has drawn on extensive engagement with UN Member States and regional groups, international organizations, experts, civil society organisations and the private sector; for further detail please see Annex 3. The Panel would also like to thank all the authors who participated in drafting background papers.

The Government of Norway has provided funding to support the work of the FACTI Panel. The Trust Fund of the 74th President of the General Assembly provided services in kind to the Panel.

FURTHER INFORMATION

Information about the FACTI Panel and downloads of this report, as well as background papers and more information about the process can be accessed at https://www.factipanel.org/.

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FOREWORD

Global finance is currently skewed, as gaps, loopholes and shortcomings in rules, and their implementation, allow tax abuses, corruption, and money laundering to flourish. These illicit financial flows represent a double theft: an expropriation of funds that also robs billions of a better future.

This situation undermines trust in public ethics, drains resources, pushes people into poverty and hamstrings efforts to tackle global challenges, including COVID-19 and the climate crisis.

It is to address this situation, which prevailed long before the COVID-19 pandemic and economic crisis, that the 74th President of the United Nations General Assembly and the 75th President of the United Nations Economic and Social Council jointly appointed us to chair the High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel).

As the pandemic continues, wreaking havoc on our health and economies, and exacerbating inequality, we see ever more clearly the need for greater public resources to invest in recovery. We also realise the urgent need to restore trust in national and international governance.

By strengthening integrity within global finance, the FACTI Panel believes that all countries can better deliver peace and prosperity for people and the planet now and into the future.

Building on decades of work, the Panel has developed a blueprint to free the global economy from illicit financial practices and ultimately enable sustainable development for all, everywhere. Our approach is driven by a unified aim: to foster a system of "financial integrity for sustainable development".

The FACTI Panel has conceived of the phrase "financial integrity for sustainable development" as an aspirational call-to-arms, to describe the world we want. Creating financial integrity for sustainable development, and using the resources generated to finance the Sustainable Development Goals, will constitute a double win.

Resources, instead of vanishing into an offshore maze,



Ibrahim Assane Mayaki



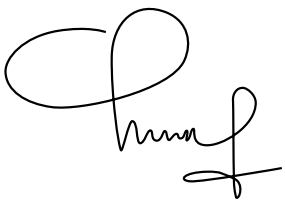
Dalia Grybauskaitė

will be used to benefit the people and places from which they were generated. Trust will regrow as States are better able to fulfil their human rights obligations.

Achieving these ambitious aims requires a set of values, policies, and institutions. Together they create a financial integrity for sustainable development ecosystem. The FACTI Panel has developed 14 recommendations to chart out the way. They represent an ambitious set of measures to reform, redesign and revitalise the global architecture, so it can effectively foster financial integrity for sustainable development.

Recommendations are not enough. All people must contribute through their actions. This is not a job for each government acting on its own. Political leadership is needed, both at the national and international levels. Governments must come together to agree on new solutions for financial integrity. The private sector must meet higher standards. Civil society and the media have to help hold the powerful accountable.

We remain confident that by working diligently and in concert, Member States can succeed in building peaceful and inclusive societies, with access to justice for all, and accountable and inclusive institutions at all levels. Strengthening coordination and global governance related to financial integrity is an essential component of the common agenda for the common future of present and coming generations.



Ibrahim Mayaki



Dalia Grybauskaitė



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EXECUTIVE SUMMARY

LACK OF RESOURCES HAMPERING GLOBAL PROGRESS

The 2030 Agenda for Sustainable Development envisioned extensive global transformation to end poverty and shift the world onto a sustainable and resilient path. The Addis Ababa Action Agenda on Financing for Development provided the framework for aligning all financing for the implementation of the Sustainable Development Goals (SDGs) and targets. However, six years after these agreements in 2015, the world has fallen short in achieving transformative change.

The COVID-19 pandemic has introduced a series of formidable stumbling blocks on top of pre-existing systemic challenges. It has compounded the inability of all States to generate domestic resources for vital investments for sustainable development. The impacts are also deeply gendered, with grave implications for advancing progress towards gender equality and the empowerment of all women and girls. However, even before the present crisis, the international financial system was not conducive to directing investment of resources into sustainable development.

Illicit financial flows (IFFs) — from tax abuse, cross-border corruption, and transnational financial crime — drain resources from sustainable development. They worsen inequalities, fuel instability, undermine governance, and damage public trust. Ultimately, they contribute to States not being able to fulfil their human rights obligations.

The FACTI Panel's mandate was to assess the limitations of current systems, their impact on financing the SDGs, and recommend ways to address the challenges. Given the magnitude of illicit outflows, these resources, if recovered or retained, have immense transformative potential.

- **States need robust financing to revitalise transformative action to eradicate poverty, reduce inequalities, strengthen human rights, build back better from the pandemic and invest in sustainability.**
- **Mobilisation of public resources, internationally and domestically, can be enhanced, through curbing illicit financial flows.**

A SYSTEMIC PROBLEM, REQUIRING A SYSTEMIC SOLUTION

IFFs are a systemic problem requiring a systemic solution. A web of existing international instruments and institutions has grown organically over time, responding to a wide variety of interests in the fields of tax cooperation, anti-money-laundering, and anti-corruption. Yet, they leave gaps around inclusion, implementation and enforcement. Moreover, there is no single body tasked with global coordination, allowing incoherence and duplication. An entire ecosystem approach is needed to address the shortcomings of the present patchwork of structures and adapt them to ever-evolving risks. It should have a unified aim: to foster integrity for sustainable development. This will require three types of actions: reinforcing values for integrity, strengthening policy frameworks and redesigning institutions.

- **The world needs to envision a system of financial integrity for sustainable development.**
- **Achieving this vision would require concrete actions to ensure that all economic and financial activities conform to rules and standards that are compatible with and contribute to sustainable development.**

A GLOBAL PACT FOR FINANCIAL INTEGRITY FOR SUSTAINABLE DEVELOPMENT

Substantial resources can be released by taking action to strengthen financial integrity. The Panel begins where previous efforts concluded. Beyond tracking IFFs, stopping them, and returning assets, the Panel adds, "and use them to finance the SDGs".

- **The Panel proposes a Global Pact for Financial Integrity for Sustainable Development based on countries' priorities.**
- **Given the magnitude of resources that could be unlocked with financial integrity, the Global Pact could have a substantial impact on the well-being of people and planet in developing and developed countries.**
- **It would also constitute a major contribution to improving multilateral and national governance.**

VALUES FOR INTEGRITY: ACCOUNTABILITY, TRANSPARENCY, LEGITIMACY AND FAIRNESS

Values that undergird an approach towards financial integrity for sustainable development can be incorporated into a coherent set of principles endorsed by Member States.

Laws must strengthen accountability, prevent malfeasance and tackle impunity on all sides of every transaction. Businesses should hold accountable those who foster illicit financial flows or turn a blind eye to them. Countries should ensure that all perpetrators and enablers are adequately sanctioned.

The international community must ensure that the norms they develop have broad legitimacy by making sure that they are framed and negotiated in an inclusive manner. That has not been the case for international tax norms. A UN Tax Convention with universal participation should be initiated.

Countries have varying standards of financial transparency, with some States' policies allowing secrecy to flourish. Progress towards transparency is needed on beneficial ownership information, multinational corporate accounting, and public procurement and contracting.

There must be greater fairness, especially in tax cooperation and in the recovery of stolen assets of States. All taxpayers should pay their fair share, including a minimum global corporate income tax rate on profits. Fair and impartial mechanisms should be ensured to adjudicate disputes. A multilateral mediation mechanism can help resolve difficulties in asset recovery and return.

- **» The global financial system must be reformed, redesigned and revitalised so that it conforms to four values – accountability, legitimacy, transparency, and fairness.**
- **» These values can lay the foundations for concrete actions by States, businesses and others towards financial integrity for sustainable development.**

STRENGTHENED POLICY FRAMEWORKS TO PROMOTE FINANCIAL INTEGRITY

Aside from values, policies are needed to promote financial integrity.

Those financial institutions, lawyers and accountants that enable illicit financial flows to course through the international financial system must be held accountable on an equivalent basis as those that commit the abuses. Civil society and the media play a critical role in building the support for financial integrity.

To address the lack of cooperation presently hampering efforts against cross-border corruption and tax abuse, governments must adopt unified approaches at the national level built on shared information. States must also facilitate the global exchange of financial information to strengthen enforcement.

International rules and standards to promote financial integrity must adjust to changing behaviour and technologies. Capacity building must be strengthened to implement this agenda and respond to new risks and context-specific challenges.

- **» Policies shaping the global financial system and furthering financial integrity must be redesigned to adhere to the values of accountability, legitimacy, transparency and fairness.**
- **» Enablers should be held accountable to agreed standards; the media should be protected; and civil society should be included in policy-making.**
- **» International cooperation should increase information sharing, enable dynamic responses to new risks, and provide capacity building to ensure that no country is left behind.**

REDESIGNING INSTITUTIONS TO FURTHER FINANCIAL INTEGRITY

Values and polices need to be implemented through a coherent ecosystem of institutions, nationally, regionally and internationally. Global coordination needs to be strengthened.

States must commit to consistent data collection to monitor compliance nationally and internationally, including gender-disaggregated data. All implementation review mechanisms related to financial integrity need to be updated to improve their comprehensiveness and monitoring mechanisms should be updated to avoid duplication. Countries should publicly report on their progress, and the utilisation of additional resources in accordance with the Global Pact.

Global governance needs improvement, with fully inclusive bodies for tax and the fight against money-laundering to match the one that exists for combatting corruption. While there is much room for regional progress, the United Nations can bring together technical, legal and political consideration in a single overarching global forum for coordination.

- **» International institutions should be updated or created to match the systemic nature of the challenge, and address the need for systemic solutions.**
- **» The creation of financial integrity for sustainable development requires nothing less than a transformation of the global financial system**

RECOMMENDATIONS BY THE FACTI PANEL

RECOMMENDATION 1: ACCOUNTABILITY

1A: All countries should enact legislation providing for the widest possible range of legal tools to pursue cross-border financial crimes.

1B: The international community should develop and agree on common international standards for settlements in cross-border corruption cases.

1C: Businesses should hold accountable all executives, staff and board members who foster or tolerate illicit financial flows in the name of their businesses.

RECOMMENDATION 2: LEGITIMACY

International tax norms, particularly tax-transparency standards, should be established through an open and inclusive legal instrument with universal participation; to that end, the international community should initiate a process for a UN Tax Convention.

RECOMMENDATION 3: TRANSPARENCY

3A: International anti-money-laundering standards should require that all countries create a centralised registry for holding beneficial ownership information on all legal vehicles. The standards should encourage countries to make the information public.

3B: Improve tax transparency by having all private multinational entities publish accounting and financial information on a country-by-country basis.

3C: Building on existing voluntary efforts, all countries should strengthen public procurement and contracting transparency, including transparency of emergency measures taken to respond to COVID-19.

RECOMMENDATION 4: FAIRNESS

4A: Taxpayers, especially multinational corporations, should pay their fair share of taxes. The UN Tax Convention should provide for effective capital gains taxation. Taxation must be equitably applied on services delivered digitally. This requires taxing multinational corporations based on group global profit.

4B: Create fairer rules and stronger incentives to combat tax competition, tax avoidance and tax evasion, starting with an agreement on a global minimum corporate tax.

4C: Create an impartial and fair mechanism to resolve international tax disputes, under the UN Tax Convention.

RECOMMENDATION 5: FAIRNESS

5A: Create a multilateral mediation mechanism to fairly assist countries in resolving difficulties on international asset recovery and return, and to strengthen compensation.

5B: Escrow accounts, managed by regional development banks, should be used to manage frozen/seized assets until they can be legally returned.

RECOMMENDATION 6: ENABLERS

6A: Governments should develop and agree global standards/guidelines for financial, legal, accounting and other relevant professionals, with input of the international community.

6B: Governments should adapt global standards for professionals into appropriate national regulation and supervision frameworks.

RECOMMENDATION 7: NON-STATE ACTORS

7A: The international community should develop minimum standards of protection for human right defenders, anti-corruption advocates, investigative journalists and whistle-blowers. States should consider incorporating these standards in a legally binding international instrument.

7B: Civil society should be included in international policy making forums in an effective and efficient manner.

RECOMMENDATION 8: INTERNATIONAL COOPERATION

8A: End information sharing asymmetries in relation to information shared for tax purposes, so that all countries can receive information.

8B: Enable free exchange of information at the national level as standard practice to combat all varieties of illicit flows.

8C: Promote exchange of information internationally among law enforcement, customs and other authorities.

RECOMMENDATION 9: DYNAMISM

9A: International organizations must provide timely advice related to IFFs, so that procedures, norms and policies can be updated regularly.

9B: Governments must dynamically adjust their national and international systems in response to new risks.

RECOMMENDATION 10: CAPACITY BUILDING

10A: Create an International Compact on Implementing Financial Integrity for Sustainable Development to coordinate capacity building. Extend existing capacity building that tackles tax abuse, corruption, money-laundering, financial crime and asset recovery.

10B: The international community should finance the creation and maintenance of public goods that can lessen the cost of implementing financial integrity commitments.

10C: Strengthen the capacity of United Nations Office on Drugs and Crime (UNODC) to do research on anti-corruption, including in collaboration with other international organizations, with the strategic aim of improving the effectiveness of capacity building and technical assistance.

RECOMMENDATION 11: DATA

11A: Establish a Centre for Monitoring Taxing Rights to collect and disseminate national aggregate and detailed data about taxation and tax cooperation on a global basis.

11B: Designate an entity to collect and disseminate data about mutual legal assistance and asset recovery efforts.

11C: Designate an entity to collect and disseminate data on enforcement of money-laundering standards, including beneficial ownership information.

RECOMMENDATION 12: IMPLEMENTATION REVIEW

12A: Update the United Nations Convention against Corruption (UNCAC) implementation review mechanism to improve comprehensiveness, inclusiveness, impartiality, transparency and especially monitoring.

12B: Update UNCAC and other peer review mechanisms to reduce duplication and increase efficiency.

RECOMMENDATION 13: NATIONAL GOVERNANCE

Governments should create robust and coordinated national governance mechanisms that efficiently reinforce financial integrity for sustainable development and publish national reviews evaluating their own performance.

RECOMMENDATION 14: GLOBAL GOVERNANCE

14A: Establish an inclusive and legitimate global coordination mechanism at United Nations Economic and Social Council (ECOSOC) to address financial integrity on a systemic level.

14B: Building up on existing structures, create an inclusive intergovernmental body on tax matters under the United Nations.

14C: Starting with the existing FATF Plenary, create the legal foundation for an inclusive intergovernmental body on money-laundering.

14D: Design a mechanism to integrate the UNCAC COSP into the coordination body under the auspices of ECOSOC.

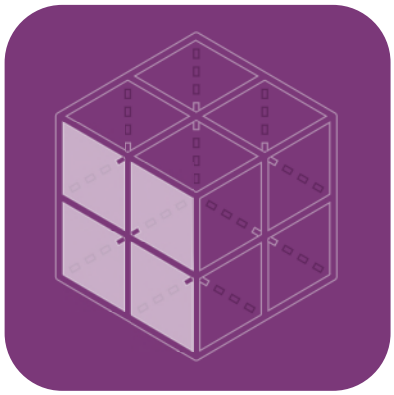




PART 1: BACKGROUND

On the threshold of transformation

In September 2015, the world's leaders gathered at the United Nations headquarters in New York to make a historic pledge: in fifteen years, by fostering sustainable development, they would secure the health of the planet and ensure that all its residents enjoyed peace, prosperity, and contentment. The 2030 Agenda for Sustainable Development crystallised its commitment to "transform the world" in a set of aspirational, comprehensive and universal targets and goals. It brings together governments, the private sector, civil society, the United Nations system and other actors in an intensive global engagement.



Together, these 17 goals and 169 targets conjured a vision which was nothing short of transformational: a world in which poverty and hunger ceased to exist; whose societies were just, equal, and peaceful; whose natural riches were no longer subjected to relentless plunder, with leaders united by a shared mission and the same rallying cry: "to leave no one behind".

The world's leaders recognised that implementing the transformative 2030 Agenda requires stronger resource mobilisation at all levels, supported by effective governance frameworks. The 2015 Addis Ababa Action Agenda on Financing for Development provides the framework for aligning all financing flows and policies with the economic, social and environmental priorities set out in the 2030 Agenda. The Addis Agenda makes clear that success depends not only on national policies and regulations, but also on an international environment that would enable such transformation.

Six years after this historic pledge, however, we find ourselves barely on the threshold of transformation. In some respects, we have even veered off-track.

On climate change, we fall short of action to limit global warming to 1.5°C or 2°C above pre-industrial levels, as the Paris Agreement stipulates. At the same time, every new year sets new records – for the hottest ocean and surface air temperatures, the most ice loss, the highest sea levels – with grim regularity.[1] Every year, the world is blighted by an apocalyptic flurry of extreme events, with ever-more destructive floods and wildfires robbing the most vulnerable of their lives and homes and exacerbating conflict, food insecurity, and inequality.

Reducing inequality within and among countries – Goal 10 of the SDGs – also remains in abeyance. In most of the world, the rewards of economic growth of the past quarter century have been enjoyed by an ever-shrinking minority,[2] particularly in places where deeply regressive tax policies have prevailed for decades.[3] Evidence also shows that although the percentage of people living in extreme poverty globally fell over the last three decades, the decline in extreme poverty rates has slowed, while the number living above higher poverty thresholds has increased.[4] This raises concerns about achieving the goal of ending poverty by 2030 and points to the need for increased investment in social and productive sectors.[5]

A run of risks amid systemic challenges

To this bleak picture, add the economy-shattering, death-dealing COVID-19 pandemic, and you have the confluence of serious risks that the world is confronting today.[6] Governments of developed and developing countries around the world have galvanised into action, undertaking exceptional measures to bring the crisis under control and stave off economic collapse. As tax revenues plummeted alongside the slowdown in economic activity, governments needed to undertake colossal public spending on health and social

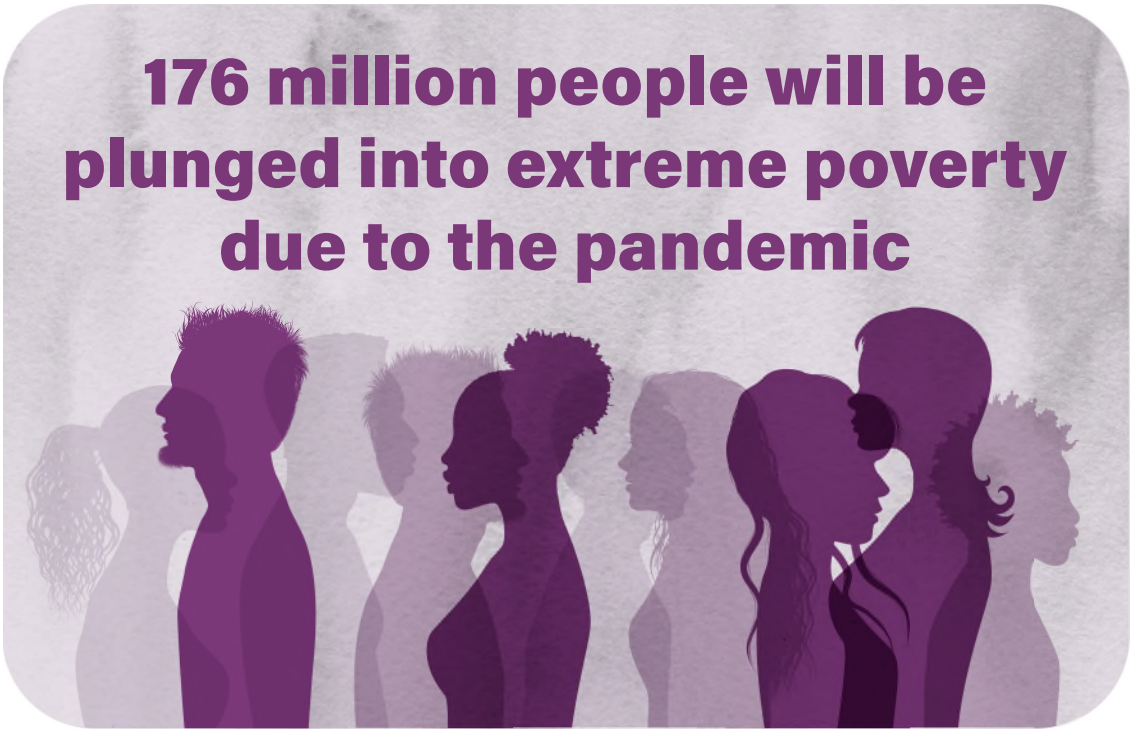
welfare, which left them reeling from already mounting debt burdens amid insufficient levels of revenue mobilisation.[7]

The crisis has sharpened pre-existing divides within and between countries. The impassioned declarations made at the start of the pandemic – that "we're all in this together"[8] – rapidly started to subside. It soon became clear that less developed countries with low tax-to-GDP ratios were worse equipped to tide their societies over the disaster. All countries were in the same storm, but they were not on the same boat. Developing countries could ill afford social safety nets, medical equipment, and vaccines, compared to developed countries.[9]

A year into the crisis, this grim trend has only intensified. The pandemic threatens to reverse hard-won progress in developmental gains. And it has brought the most vulnerable to the brink. Global advances in combating child labour are likely to be reversed for the first time in two decades.[10] Children, older people, persons with disabilities, migrants, and refugees have been left brutally exposed to the worst ravages of the pandemic. Gender inequality, which was already stark, has intensified during the pandemic, while women's sexual and reproductive rights continue to be denied.[11] Violence against women and girls worsened dramatically alongside economic vulnerability.[12] The widespread and intensifying unemployment and underemployment caused by the crisis has decimated the livelihoods of half the global workforce – as many as 1.6 billion workers in the informal economy – who had already been teetering at the edge of precarity.[13] An analysis by the World Bank estimates that 176 million more people will be plunged into extreme poverty due to the pandemic.[14] This is on top of the 736 million people who already live in immiseration.[15]

The COVID-19 pandemic has abruptly exposed deficiencies in development paradigms that have severely reduced the capacity of the State to generate domestic resources for economic, social and environmental investment. It has laid bare the environmental cost of the current economic system, and the destabilising force exerted by intense anthropogenic changes.[16] Before it struck, a number of factors had affected the health of the global economy, including unsustainable levels of debt, weak investment, wage stagnation in the developed countries and insufficient jobs in the developing world.

Across the world, countries grappled with rising inequalities and lack of resources and prioritisation, which led to underfunded social sectors, and large infrastructure deficits, besides a massive need to decarbonise energy generation,



transport and other economic activity to combat climate change. The international financial system was not conducive to facilitating the sufficient investment of resources into sustainable finance or development, while also being plagued with financial integrity and financial stability risks. This contributed to States not being able to fulfil their human rights obligations, undermining particularly the achievement of economic, social and cultural rights. The impacts are also deeply gendered, with grave implications for forging progress towards gender equality and the empowerment of all women and girls.

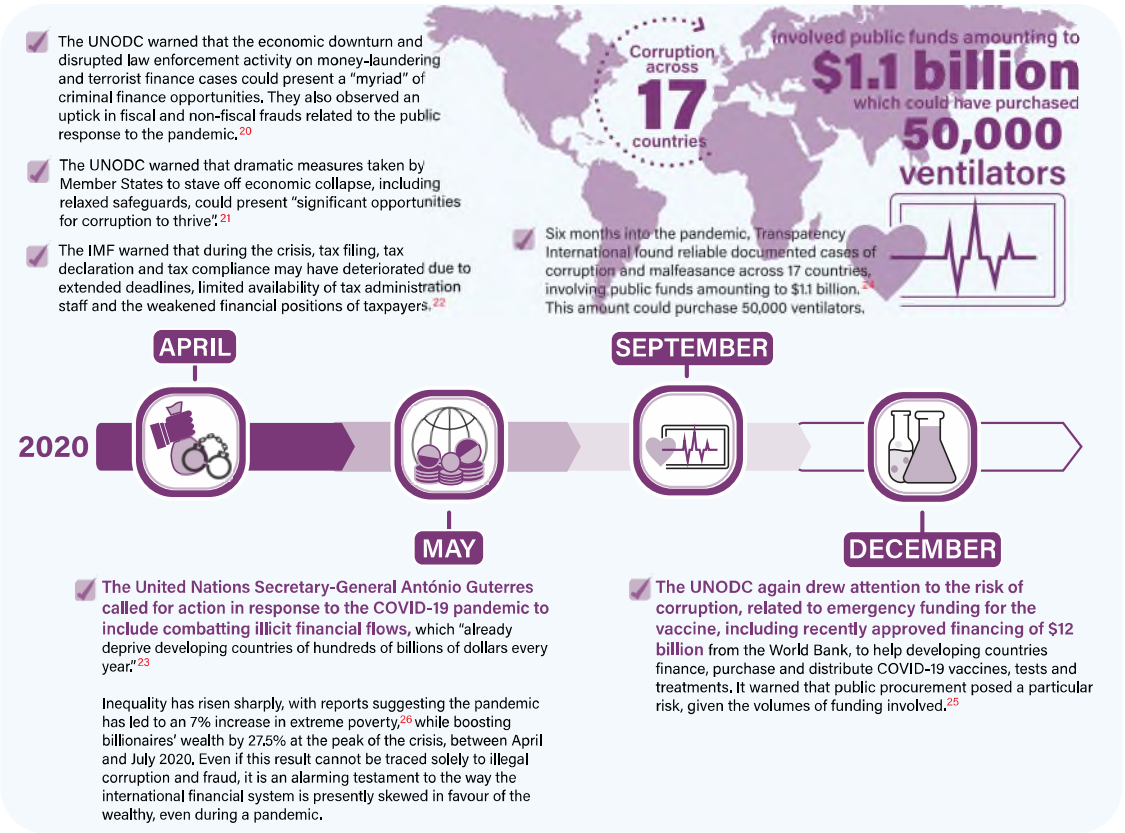
Renewing progress through robust financing

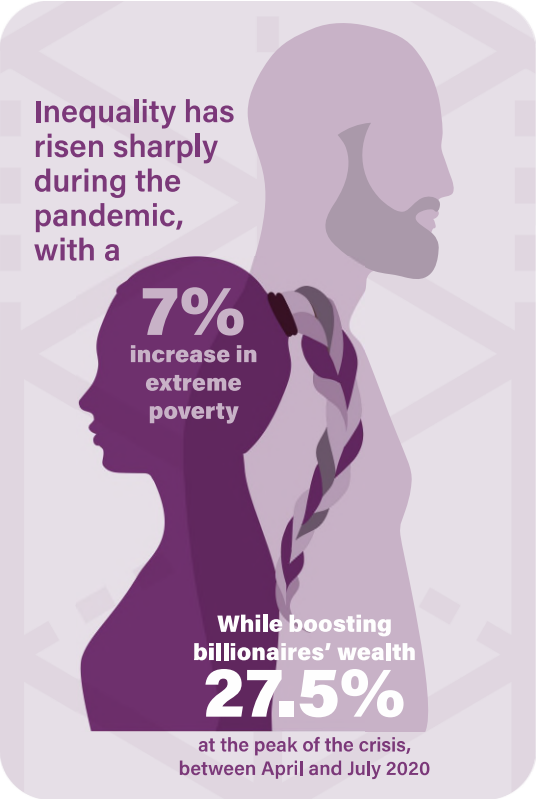
The scale of these challenges is nothing short of vertiginous. Tackling them head-on, to get on track towards meeting the SDGs, will require robust financing. The Addis Ababa Action Agenda established a firm foundation by providing a policy framework that would help finance the implementation of the transformative vision encapsulated in the 2030 Agenda for Sustainable Development. Among the comprehensive solutions it outlined were the revitalised mobilisation of public resources, on international and domestic levels, as well as other sources of finance. It pointed out that mobilising international finance was of critical importance to poorer countries, which had fewer resources at their disposal due to meagre budgets. It also sought to substantially curb illicit financial flows (IFFs) from tax evasion, tax avoidance and other harmful tax practices, as well as money laundering and corruption.[17]

Six years on, it has become clear: more financing is critical, though we acknowledge that it is not the only barrier to achieving the scope of the transformation we want. However, it is a major obstacle. The persistence of illicit financial flows,[18] from transnational organised crime to tax abuse, continues to stand in the way of a truly inclusive, stable, equitable future.

Illicit transactions are found everywhere, but they have a much heavier impact on developing countries. They undermine public service delivery, productive investment, public trust, the integrity of institutions and the rule of law, within and across borders. The impacts are greater on women and girls.[19]

Box: Illicit financial flows in the time of COVID-19





This drain on resources does more than financial damage. It erodes trust in both social contracts as well as international governance systems. Meanwhile, it increases inequalities within and between nations. The drain also undermines the ability of States to respect, protect and fulfil human rights.

If these flows are left unimpeded, they will continue to exacerbate inequalities and instability, by orchestrating a vast wealth transfer from the poorest to the richest. The ensuing degradation of governance capacities will allow the powerful to further exploit the gaps and loopholes in the global financial system. Above all, these illicit financial flows will continue to divert crucial resources away from sustainable development, even during a world-shattering crisis, when countries need them most.

A complex web of agreements, initiatives, programmes, conventions and treaties, both within and apart from the United Nations system, has developed to address different aspects of financial accountability, transparency and integrity. Each instrument addresses part of the problem. But there are also many questions around inclusion, implementation and enforcement, especially given the limited capacity of many of the most severely affected jurisdictions. The prevailing dissatisfaction with these arrangements, even before the ravages of COVID-19 eviscerated public finances and confidence in the system, is what led to the convening of the FACTI Panel.

Cross-border flows pass along, often unseen, through financial structures which are akin to fiendishly complex mazes. Despite the rapid changes in technological advancement, countries and people are struggling to find their way through, or locate the resources as they hide away in unseen corners of the maze, often with the help of new technologies. If we bring down the walls of this maze through greater transparency, however, then we can spot those who are doing wrong – and, with an improved international architecture, we can hold them accountable.

However, transparency alone is not enough. Transformative change can only truly be possible

when all countries commit to acting together for the greater good of the larger part of humanity; to taking collective action to combat illicit financial flows, and to committing to a pact to ensure that the funds recouped from the process are directed to achieving the SDGs.

To renew progress towards achieving our visionary targets and goals, we must first effectuate a dramatic change in rules and institutions – in markets, governance arrangements and economies – that continue to facilitate, even incentivise, this drain of resources. This calls for concerted, coordinated international action, and for global measures targeted towards politicians, policy-makers, civil society, as well as the private sector. Reorienting financial flows to promote sustainable development requires a fundamental change in how we operate together. It calls for reinvigorated collective effort to promote transparency by all parties; to catalyse crucial and necessary changes that will help countries finance the ambitious SDGs.



PART 2: FOSTERING FINANCIAL INTEGRITY FOR SUSTAINABLE DEVELOPMENT: ADVANCING A NEW APPROACH TO ILLICIT FINANCIAL FLOWS

Shifting definitions of illicit financial flows

Concerns about illicit financial flows (IFFs) have been raised before. But these discussions have tended to rapidly run aground, with some vociferously focusing only on illegal activities such as bribery and money laundering, to the exclusion of tax avoidance.[27] This fault line explains in part why there is still no intergovernmentally agreed universal definition of IFFs.



From a legal perspective, tax avoidance utilises loopholes in tax laws, exploiting them, albeit within the bounds of legality. In contrast, tax evasion is defined as non-compliance with tax laws. However, taxpayers do engage in "aggressive tax planning", a term which describes artificial arrangements designed to manipulate tax laws in order to achieve results that conflict with the intention of legislatures.[28] It blurs the line between tax avoidance and tax evasion. Both aggressive tax planning and tax evasion foster inequalities, deprive countries of resources that could be used for financing public goods, and undermine trust in governance and the social contract.

The year 2015 witnessed the publication of a landmark report by the AU-ECA High Level Panel on Illicit Financial Flows from Africa (the Mbeki Panel).[29] This report made several important contributions. First, it defined illicit financial flows as international transfers of wealth that are harmful to development – a definition that included aggressive tax avoidance and financial secrecy. The report firmly indicates the need for action in both sending and receiving countries. Second, it brought to the fore the particular vulnerability to illicit financial flows of countries dependent on extractive industries. Finally, the use of the term by African heads of State and government on the global stage helped facilitate a wider dissemination of the concept.

Two years later, the acceptability of this expanded definition was bolstered even further, when the United Nations Inter-Agency Task Force on Financing for Development included, as one of the three components of IFFs, tax-related IFFs, and indicated that intra-corporation transactions could be one channel of IFFs. The other two components were corruption-related IFFs and those originating from transnational criminal activities.

The next important contribution came from United Nations Office on Drugs and Crime (UNODC) and United Nations Conference on Trade and Development (UNCTAD), which together developed the first statistical definition of the term to contribute to the development of SDG indicators. In October 2020, they issued a "Conceptual Framework for the Statistical Measurement of Illicit Financial Flows", which defined IFFs as "Financial flows that are illicit in origin, transfer or use, that reflect an exchange of value and that cross country borders."[30] Their publication too made explicit reference to tax avoidance as a component of IFFs. And crucially, it showed that such flows, which are notoriously obscured from view, might actually be estimated.[31]

What the FACTI Panel brings: financial integrity for sustainable development

The FACTI Panel builds on all these previous efforts and advances them further. It takes up

the United Nations Inter-Agency Task Force's analytical framework for illicit financial flows that includes illegal financial flows, as well as legal, but aggressive tax planning schemes used by the wealthy and transnational corporations.[32] It also recognises that some financial outflows from developing countries represent the corrupt enrichment of political and economic elites, even if they have not yet been prosecuted.

This report recognises the UNODC/UNCTAD statistical definition, which provides a way to measure such flows, has been endorsed by the Statistical Commission, and is acceptable to all countries. And, like the AU/ECA High Level Panel, it emphasises that IFFs pose a formidable impediment to countries' development and require integrated national, regional and international actions to eliminate them. Further, the FACTI Panel ties the consideration of such flows to an explicit purpose. It says: we can define them; we can locate them in their specific developmental context; we can draw attention to them; and, with enough resources and technical expertise, we can even measure them. Now, let's stop them and redirect these flows to finance the implementation of the 2030 Agenda and the achievement of the SDGs.

However, the UNODC/UNCTAD statistical and analytical approach to IFFs has one crucial drawback. It considers such flows in a disaggregated way, according to channels and sources. This means each type of flow is measured in isolation, which is indeed appropriate for the quantitative work. However, this may prompt correspondingly siloed policy responses. The lack of a unified, systemic perspective is limiting, particularly from a development perspective, because the current design of financial systems contributes to overlapping maladies in many different parts of the system. Policy silos undermine the ability to garner political will and galvanise coherent policy changes. In many cases, this leaves substantial gaps as well as substantial redundancies in the mechanisms used to combat IFFs.

The Panel sees the problem clearly for what it is: the result of a system designed to function the way it does. It eases the way for the powerful to accumulate resources, while hindering reforms and thwarting efforts to improve transparency and accountability. We point out that what all these mingled illicit financial flows have in common is the circumstance that allowed them to exist in the first place: a persistent lack of financial integrity. Corruption, for example, involves entrenched power structures, societal relations and social norms. Vulnerabilities in controls, coupled with incentives for wrongdoing, engender systems that entrench corruption. Similarly, abusive tax practices arise out of fiscal systems characterised by weakness of social contracts, incentives that divert taxpayers (both corporate and individual) away from society's goals, and political systems that are vulnerable to capture by powerful interest groups.

In other words, illicit financial flows are a systemic problem that requires a systemic solution. The Panel therefore advocates an "entire ecosystem" approach to the issue. This approach should be based on values, policies, and institutions which are driven by a unified aim: to foster a system rooted in financial integrity for sustainable development.

The FACTI Panel defines "financial integrity for sustainable development" as all economic and financial activities being conducted in line with the content, and spirit, of legitimate financial rules and standards, which must be fully compatible with – and contribute to – sustainable development. Financial rules and standards include policies, norms and laws related to taxation, public financial management, money laundering and corruption. Achieving financial integrity for sustainable development requires greater transparency, stronger institutions, enhanced accountability, and more cooperation at the national, regional and global levels, with all people contributing towards financial integrity in all aspects of their lives.

Our approach targets systemic factors that allow illicit flows to course through financial systems, and it holds that reversing the drain of resources is not an end in itself. It asserts that the mobilisation of public resources from tackling illicit flows can and should be put to use to achieve all the SDGs. In fact, taking action to strengthen financial integrity would directly contribute to the realisation of SDG 16, which calls for the promotion of just, peaceful and inclusive societies, including by providing access to justice and building accountable and inclusive institutions. International cooperation and increased resources are also explicit targets in SDG 17.

Strengthening financial integrity: the scale of resources we stand to gain

The magnitude of the resources the world stands to gain by creating financial integrity for sustainable development is enormous. As much as 10 per cent of the world's GDP might be held in offshore financial assets.[33] An estimated $7 trillion of the world's private wealth is funnelled through secrecy jurisdictions and haven countries.[34] Taking into account just one sub-type of illicit financial flows – corporate profit-shifting, or the shopping around for tax-free jurisdictions by multinational corporations – such practices cost countries where these profits are actually made on the order of $500 to $650 billion a year, according to some estimates.[35, 36] Turning to the illegal flows, as much as 2.7 per cent of the global GDP is laundered by criminals.[37] And bribery of all types across the world amounts to an estimated $1.5 to $2 trillion dollars every year.[38] While these opaque transactions occur in all countries, they have a much heavier impact on developing countries.

These resources are of a scale that is unfathomable by ordinary citizens. And yet, it is ordinary citizens, everywhere, who stand to gain the most from their recovery when financial integrity for sustainable development is realised. Financial integrity is relevant to all nations.

Illicit financial flows represent a double theft: an expropriation of funds that also robs billions of a better future. Taking action to recover hidden outflows could reduce inequalities everywhere,[39] improving peoples' well-being, as well as socioeconomic and health outcomes.[40] It could give developing countries the ability to provide their citizens basic social services, such as adequate water, sanitation, electricity, healthcare, and housing. Ordinary citizens in developed countries, too, stand to benefit. Funds that are drained out of their countries' coffers can be used, for example, to bolster affordable housing, fund better social protections for vulnerable communities, and strengthen their renewable energy grid infrastructure. In September 2020, UNCTAD argued that curbing IFFs in Africa could cut by half the continent's annual financing gap of $200 billion.[41]

Of course, eliminating offshore and secrecy jurisdictions would not automatically contribute to achieving the SDGs. Member States would need to work to realise additional tax revenue, and much of this will tend to flow to already wealthy countries. Achieving the SDGs will require both deploying these resources effectively and addressing the other constraints in the financing for development agenda.

A Global Pact: Fostering financial integrity for sustainable development

More than five years ago, the AU/ECA high level panel on Illicit Financial Flows from Africa exhorted the world to "Track it. Stop it. Get it." The FACTI Panel would add one more exhortation: "and use it to finance the SDGs." What the Panel is proposing is a Global Pact for financial integrity for sustainable development: a compact through which all countries agree to take comprehensive action to foster and strengthen financial integrity for sustainable development, and commit to using the proceeds released by this action to make additional investments in achieving the SDGs.

This Global Pact for financial integrity for sustainable development is especially compelling when you juxtapose the magnitude of the possible gain from creating financial integrity for sustainable development with the financing gap for the SDGs. If such funds are deployed judiciously, they can fill a massive gap. Resources, instead of vanishing into an offshore maze, could be used to benefit the people and places from which they were generated. However, based on their development plans, governments would need to commit to using the money recovered from action on illicit flows for additional investments towards achievement of the SDGs.

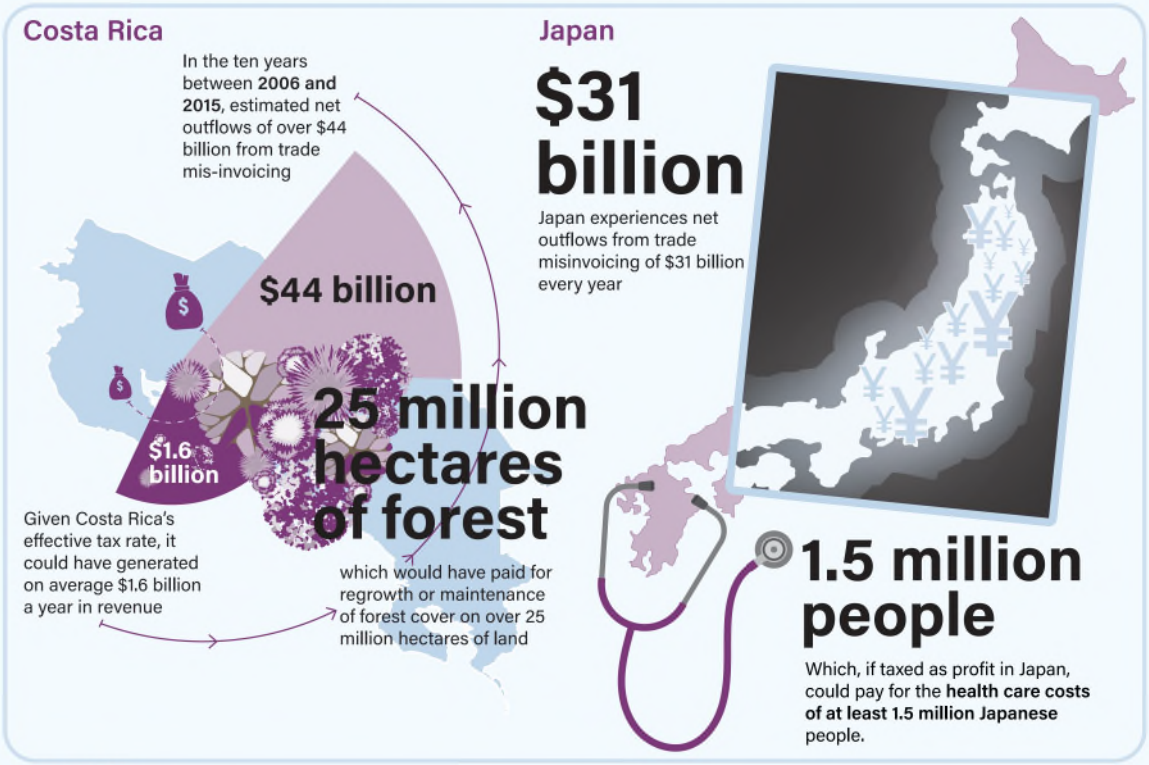
Now is not the time for a lowest common denominator approach, but for a level of ambition that matches the 2030 Agenda. Let's all act together and in solidarity with one another to fulfil our existing national and international commitments, and engage in new ones. A better world is in reach; and so are the resources to fund it.

Box: Out of the offshore maze: How countries might use recovered resources for sustainable development

Measuring and tracking illicit financial flows (IFFs) is extremely challenging, since by their very nature illicit flows are not transparently or systematically recorded. Currently, no single tool or process can effectively establish a comprehensive measure of IFFs at the global or country level, though estimation techniques are improving, and a statistical methodology agreed. Nonetheless, there are a few methods that are currently used to attempt to estimate the scope of the problem. The Panel views such estimates as useful signals of scale rather than precise indicators for targeted action.*

Trade mis-invoicing

Estimates of trade mis-invoicing have a been a popular indicator for thinking about the scale of the problem, particularly because trade data is readily available. Estimates by United Nations regional commissions show the regional scale of the trade mismatches in the tens or hundreds of billions of dollars.



Corruption

The estimated annual amount of bribery alone is about $1.5 to $2 trillion, but this estimate is speculative, and reliable country-level estimates are difficult to find. Historic individual cases of grand corruption show the possible heights of the loss in the tens of billions. However, the cost of corruption as expressed through estimated amounts of bribes does not reflect the far greater cost to society. A $1 million bribe can easily create $100 million worth of damage, in the form of additional costs and poor investment decisions.



* Selected countries, picked to be illustrative of the impacts in different regions, sizes and types of economies. Figures are based on available data, which is to be considered on orders of magnitude rather than reflective of a precise estimate. See Annex 4 for details on the methodology for estimates.

Tax avoidance and evasion

The Panel notes the estimates that the global loss to governments from profit-shifting by multinational enterprises may be $500 to $600 billion a year. This tax loss from profit shifting estimate is based on a calculation of the deviations in declared corporate profits from indicators of real economic activity, and is a rough estimation, indicative of how much revenue corporations are denying governments.

Thailand

The country is thought to lose $1.1 billion to corporate profit shifting annually. With this amount, it would be able to augment its social welfare program, providing its 12 million recipients an additional $100 a year.



Canada

The annual estimated tax loss of $5.7 billion could enable federal authorities to finance on average 14 kilometers of new sustainable mass transit extensions each year in the country's most expensive city, Toronto.

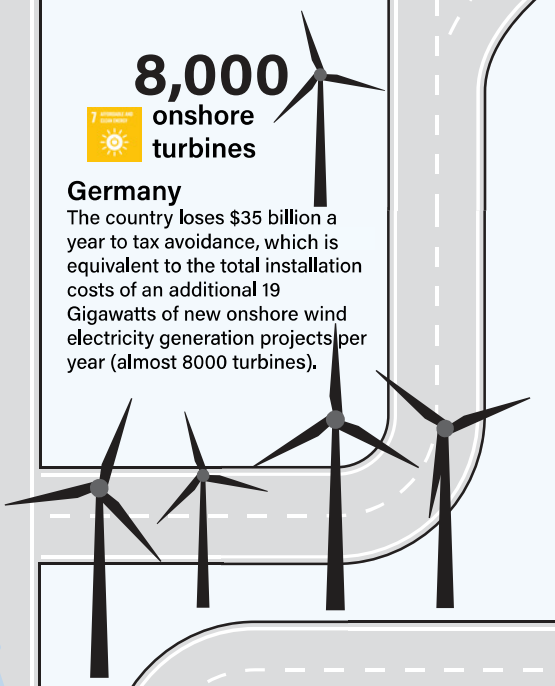
14km
of sustainable mass transit



Germany

The country loses $35 billion a year to tax avoidance, which is equivalent to the total installation costs of an additional 19 Gigawatts of new onshore wind electricity generation projects per year (almost 8000 turbines).

8,000
onshore turbines



welfare and a social safety net for
12-13 million
elderly

Bangladesh

The annual estimated loss to tax evasion would allow it to expand its social safety net for the elderly, from 4 million people above the age of 60 to 13 million elderly, while increasing the size of the cash transfer to $58 a month, instead of $6.



3,500
schools or
6 million
HIV treatments

South Africa

The country is estimated to lose over $3 billion to profit shifting annually, which it could use to build 3,500 new schools, or pay for the preventive or anti-retroviral HIV treatment of more than 6 million more people.



India

What the country is thought to lose to tax avoidance could cover the hospital treatments for 55 million low-income patients annually.

55 million
low-income patients



200%
healthcare coverage

Lebanon

Annual tax revenue loss from tax evasion is estimated at $5 billion (10% of GDP in 2019), which is more than double the total annual cost of health coverage for all Lebanese residents.



6,500
water wells

Gambia

The annual loss due to tax abuse is just under $200 million, that could be used to build 6,500 wells for citizens who suffer from a lack of access to clean water.



38,000
classrooms

Chad

The annual loss of tax revenue is $343 million, which if recovered could be used to build 38,000 classrooms for out-of-school children.



improvement and completion of homes for **8 million**
low-income families

Brazil

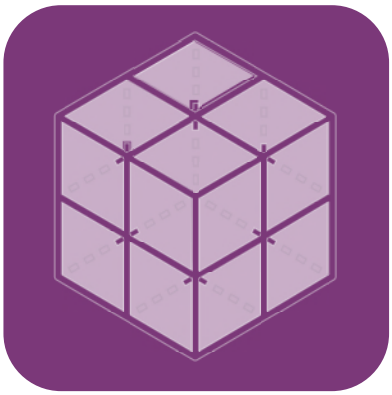
Annual tax revenue loss is estimated at almost $15 billion, which could pay for the renovation, expansion or completion of homes for 8 million low-income families.


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PART 3 THE WAY FORWARD: BUILDING A BETTER FUTURE TOGETHER

Financial integrity for sustainable development can only be nurtured and accomplished if the international community embraces systemic changes to create an entire ecosystem based on values, policies and institutions that have a unified aim.

Values refer to the ideas that are contained in the definition of financial integrity for sustainable development, which was presented in the second part of this report. Accepting these values by States, businesses, civil society and others should be complemented by policies and institutions. Existing policies leave gaps,[43] and existing international bodies do not have a wide enough reach. Neither are structured with financial integrity for sustainable development as their core purpose. The world needs concerted coordination to build better policies and make institutions work better. The recommendations constitute a set of reforms which together can address such systemic challenges. However, without concrete, multi-pronged actions, financial integrity for sustainable development risks remaining an inert aspirational slogan.



The recommendations are ambitious, but the challenges are large and systemic. The order in which the recommendations are presented do not, however, reflect prioritisation; they outline the breadth of issues to be addressed. If these recommendations are implemented, United Nations Member States stand to improve governance and recover or preserve large volumes of resources. The goal is to change the structure and functioning of the global economy, so it is aligned with improved financial integrity for sustainable development. The international community can thus release resources to contribute to the trillions of dollars required to finance the 2030 Agenda for Sustainable Development. It can also strengthen the social contract and help States meet their human rights obligations.

In the next section, the Panel proposes four values – accountability, transparency, legitimacy, and fairness – that should form the foundation of the approach to financial integrity for sustainable development. These values are applicable to all parties and can guide the relationship of the financial system with people and could be incorporated into a coherent set of principles endorsed by Member States. Principles on their own, like all soft law, do not guarantee financial integrity for sustainable development; they must be implemented through policies and overseen by institutions. Ultimately, they can serve as the basis of hard law, which typically takes a much longer time to agree.

Values underpinning financial integrity for sustainable development

A value-based approach is recommended in order to secure a wider and dynamic reach, which can develop over time. The international community should reform, redesign and revitalise the global architecture, in line with the four values indicated above, to combat illicit financial flows with a view to cementing financial integrity for sustainable development.

First, **accountability** is an essential component of financial integrity, with all people equal under the law and held responsible for their behaviour.

Second, establishing a **legitimate** global ecosystem of laws, norms, standards and institutions would enhance the consistency of instruments with UN principles and standards as set out in the 2030 Agenda for Sustainable Development and foundational human rights instruments.

Third, **transparency** is essential in creating an ecosystem that can help people identify the ways in which criminals and tax abusers use impenetrable mazes of secrecy structures for private gain.

Finally, this ecosystem needs to be **fair** to all involved, and each person or entity must also contribute fairly to the system.

ACCOUNTABILITY

Corruption schemes and tax abuses have no borders, due to the laundering of proceeds throughout the globe. Measures to strengthen accountability should incentivise following not just the letter but also the spirit of the rules. A demonstrable lack of trust among jurisdictions is getting in the way of prosecuting many cases of bribery and corruption. This has made it difficult to hold people accountable. All UN Member States have a responsibility to tackle wrongdoing and to ensure that there are no lawless zones for both perpetrators and enablers and that robust sanctions are provided and implemented.



The United Nations Convention against Corruption (UNCAC) and the United Nations Convention against Transnational Organized Crime (UNTOC) already contain many relevant provisions in this regard, but they are not implemented effectively, especially the non-mandatory provisions. While implementing such accountability measures, States must uphold both the provisions that are mandatory, such as the criminalisation of bribery, and the ones that they have been asked to consider, such as criminalising trading of influence and attempts at corruption. Implementation success is also hard to measure, as the jurisdictions with the most corruption-related prosecutions do not necessarily correlate with locations with the most corruption.

Without upholding the spirit as well as the letter of UNCAC measures, efforts to uphold accountability will inevitably fall short. For example, governments should criminalise the payment of bribes by their own firms and citizens regardless of where they are paid, and also act to restrict the economic and financial activities in their own jurisdictions of demonstrably corrupt foreign officials. Similar criminalisation is needed on attempts at corruption. Criminalisation combined with enforcement is especially important for jurisdictions that serve as the home base for any multinational corporation.

» **Enhancing the effective implementation of UNCAC is critical for improved accountability.**

Law enforcement bodies and the judiciary should be able to operate with independence, and be sufficiently well-resourced. Safeguards should guarantee that there is no undue influence, including political influence, on enforcement decisions.

Corrupt regimes undermine enforcement and weaken national legal frameworks, for example by attacking the independence of the judiciary and independent-minded judges; derailing prosecutions; hamstringing or subverting independent anti-corruption agencies and workers; persecuting whistle-blowers; and closing down independent media.

Greater transparency and information exchange are not enough. In many countries, the details of serious corruption are public knowledge, but knowledge does not translate into accountability. As long as powerful, corrupt people control the government or sabotage investigations, they can enjoy impunity. The time has come for the international community to deny safe haven to grand corrupters and their ill-gotten gains.

» **Grand corruption continues when corrupt regimes capture state institutions.**

» **Awareness of serious corruption does not always translate into accountability.**

Tackling cross-border corruption cases necessitates all concerned jurisdictions providing one another the widest measure of assistance and cooperation. Moreover, they can consider the establishment of joint investigation bodies

with a view to achieving proper accountability of all actors. This requires adequate resources being devoted to investigation and enforcement in all countries, as well as dedicating resources to building trust among officials of different governments who will need to work together to investigate and prosecute crimes.

There are obstacles to foreign enforcement of corruption offenses. Where international cooperation with the country of origin is constrained, jurisdictions hosting those who commit crimes or launder the proceeds of crime should take autonomous and proactive enforcement action to eliminate impunity for wrongdoers and end safe haven for their ill-gotten gains. Even when perpetrators of crimes might be safe at home, the money laundering associated with their conduct should be pursued abroad.

» **Cross-border corruption cases suffer from a lack of transparency and proactive information sharing.**

Another challenge to accountability in cross-border corruption cases that deserves special attention is non-trial resolutions. These legal settlements with wrongdoers are increasingly used to solve foreign bribery cases. Non-trial resolutions are often a cost-effective way to resolve a complex corruption case and obtain a substantial monetary settlement. In recent years, a growing number of jurisdictions — both in common law and civil law countries — have introduced settlement mechanisms into their legislation to address foreign bribery. Although greater enforcement of foreign bribery is a positive development, the use of settlements poses challenges that ought to be addressed to ensure proper accountability and ultimately, effective deterrence.

However, such settlements might insufficiently sanction one side of a corrupt transaction, while the perpetrator on the other side of the transaction is let off the hook because their government has insufficient information or interest in prosecution. Foreign bribery is a two-sided affair, and it is critical not to give the impression that a case is resolved where only the supply-side of the transaction — the bribe-providing party — has been dealt with.

During some non-trial settlements, there is little international cooperation with demand-side enforcement countries. The outcome is that supply-side countries accumulate fines and disgorged profits, while affected countries are most often left out of the bargain. The low level of cooperation with demand-side enforcement authorities also hinders the prosecution of bribe payers. These non-trial resolutions may become a type of protection for corrupt officials.

Moreover, the current system remains extremely fragmented, with considerable gaps in the way some countries make use of non-trial resolutions. Challenges include the lack of proper safeguards (to ensure that settlements are in the best interests of justice, and to prevent them from becoming vehicles of impunity for corporate wrongdoers). Moreover, there are often insufficient incentives to pursue prosecution in such cases, (posing the risk that settlements become a part of the business model of multinational companies, thus creating uneven playing fields for smaller businesses), and opacity pervades the way some settlements are concluded.

» **Non-trial resolutions of foreign bribery pose challenges because safeguards are missing.**

» **Sanctions from bribery settlements do not provide sufficient disincentive for bribery.**

Additionally, it is critical to recognise that not everything can be left to the State and its enforcement agencies. Tax is one of the ways in which businesses contribute to the societies on whose legal and financial infrastructure the businesses rely for the orderly execution of their activities. Aggressive tax planning schemes undermine the effectiveness of tax systems. In addition, corporations need to bring the model of accountability into their internal operations. Positive leadership from the top is essential to set a culture of accountability and integrity; to instil an understanding that paying corporate taxes is part of the social contract; and to respect the spirit and letter of the law in all matters. However, proper incentives are also needed to ensure management is held accountable for crimes and abuses committed on their watch.

» **The private sector needs to cultivate a stronger culture of integrity so that businesses comply with the letter and spirit of all laws.**

Recommendation 1A: All countries should enact legislation providing for the widest possible range of legal tools to pursue cross-border financial crimes.

Countries need to enhance enforcement actions against wrongdoers. The widest possible range of enforcement tools are needed to prevent impunity on corruption offences and other financial crimes. Special tools include illicit enrichment laws, non-conviction-based confiscation systems, reasonable limits on immunity, and having a broad scope of money-laundering offenses. Establishing dedicated units with suitable mandates and strategies can help in the pursuit of cross-border financial crimes. These tools and strategies are especially important in situations where countries of origin have limited capacity, suffer from endemic corruption, experience conflict or an ongoing transition of power that opens up risks of corruption.

Recommendation 1B: The international community should develop and agree on common international standards for settlements in cross-border corruption cases.

Settlements need to serve both the interests of justice and the global fight against bribery. They can help ensure public officials are prosecuted for their involvement in corruption and financial abuse. International standards on the use of settlements should include strong safeguards, sufficient sanctions to provide a deterrent effect, as well as transparency, information sharing and victim compensation.

Monetary penalties should be substantial and be combined with other actions, such as reforms in corporate contracting and foreign direct investment policies combined with ongoing monitoring and whistleblower protections. The corporations implicated need to be on notice that future behaviour is subject to enhanced oversight.

Recommendation 1C: Businesses should hold accountable all executives, staff and board members that foster or tolerate illicit financial flows in the name of their businesses.

Business must play a role. Corporate boards and management must exercise greater oversight, especially over financial institutions and professional services providers, so that pay, benefits, and employment itself are conditional on financial integrity outcomes. Investors should also embrace financial integrity for sustainable development and be clear in their expectations related to the companies in which they invest. This implies considering conscientious tax compliance, anti-corruption policies, and regulatory compliance alongside other governance factors when making investment decisions. To further incentivise businesses, countries can also hold companies liable for failing to prevent bribery alongside greater liability for failing to pay taxes that are due. Global standards for boards and management will help (see Recommendation 6). All types of legal entities must uphold these higher ethical standards.

LEGITIMACY

The lack of financial integrity, by its nature and by the scale of lost resources, represents a global challenge. There are devastating consequences for all the nations in the world. Given this, all voices ought to be heard and engaged when making decisions. Voices from developing countries, which are affected the most, particularly need to be heard. The lack of universality in norm setting is a major shortcoming that undermines legitimacy and ought to be addressed. All countries should have a say in the setting of international norms, to ensure these norms reflect their varying needs and contexts. Adjusting norms does not mean watering them down; the Panel supports high standards in order to create financial integrity for sustainable development, and supports holding all countries to those standards. Equal treatment of all countries, based on mutually agreed norms, is the foundation of legitimate multilateralism.

OECD countries influenced the shape and content of the foundations of the international tax norms

when these norms were first framed a century ago. At the time, many developing countries had not yet won their independence. As a result, many newly independent countries inherited bilateral tax treaties from the colonial era, and could only begin to renegotiate their own treaty networks from the late 1960s onwards. The United Nations emerged almost immediately as a forum for discussion on the inadequacies of international norms for the needs of developing countries.[44]

However, given the dominance of existing norms, it was challenging for developing countries to carve out a distinctive approach that better fit their needs. A large number of lower-income countries still do not effectively participate in the international forums where global tax norms are set. Those that do participate face a triple disadvantage in the negotiations: (1) the starting point for any discussion is a set of tax norms developed largely without their input; (2) the G20 and OECD governments still dominate agenda-setting at the system level, and (3) capacity mismatches limit their ability to make the most of opportunities to negotiate.



» **The institutional environment is dominated by voluntary forums and bilateral tax treaties, which contain numerous imbalances.**

Legitimacy is critical as blacklists and other coercive measures already result in sanctions on countries for not complying with norms and standards. The international community should ensure that international norms enjoy the highest levels of legitimacy, by providing a level-playing field in a negotiating process that has universal participation. The UN Convention Against Corruption (UNCAC) is one such instrument. It enjoys wide support, as it was negotiated through a universal and inclusive body. The international community needs to frame such instruments on other aspects of financial integrity, through a similarly inclusive process.

Legitimacy must not be considered to be only the realm of States, but a matter of how all citizens of the world find rules and standards to be legitimate. Linking financial integrity for sustainable development to the enjoyment of human rights can accomplish this. States have an obligation to respect, protect and fulfil human rights, which will require financing for delivery of the related public goods and services. Making financial integrity instruments consistent with human rights principles, including gender equality, is a way to ensure they have legitimacy in the eyes of individuals.

» **There are institutional deficits in tax norm setting, including that there is no globally inclusive intergovernmental forum for setting norms.**

Recommendation 2: International tax norms, particularly tax transparency standards, should be set out through an open and inclusive legal instrument with universal participation; to that end, the international community should initiate a process for a UN Tax Convention.

Ensuring legitimacy in international norms through a more inclusive process that takes into account countries' needs and contexts will foster a sense of ownership and incentivise implementation. The negotiation of this convention, which should build on, but also strengthen, existing standards in use by the majority of member States, will provide the basis for legitimate action against any jurisdiction that is undermining global norms and damaging the legitimate tax base of any country. It would create a universal and more effective mechanism of international tax cooperation. It can create a legal foundation for a new intergovernmental body on tax matters (see Recommendation 14B), and cover topics raised in recommendations 3, 4, 8, 11, and 12.

To hasten implementation, the UN Tax Convention should contain provisions holding that its terms will be automatically incorporated into signatories' tax

treaties, so that they would not need to renegotiate individual bilateral treaties.

TRANSPARENCY

In its very first session, the General Assembly recognized that "freedom of information is a fundamental human right".[45] Yet, different countries and societies have different norms and levels of financial transparency that their citizens consider acceptable. For example, in some countries, all income and tax information of taxpayers is made publicly available, while others have systems that do not even allow public authorities regular access to relevant information.

Individuals have rights to privacy. However, these rights have been exploited by the wealthy elite and perverted into a secrecy privilege accorded to legal entities. Allowing people to use the right to privacy to hide their ownership of assets impinges on the creation of financial integrity for sustainable development, and has impacts on the ability of the State to fulfil their other human rights obligations.



Secrecy flourishes because of State policies. A basic tool for addressing these secrecy risks is to identify the natural persons who ultimately own, control or benefit from legal vehicles: their "beneficial owners". Beneficial ownership transparency can reveal that apparently legitimate and unrelated companies and trusts are in fact implicated in a global financial crime or tax-abuse scheme. It can also help in asset recovery, promote deterrence, and help companies conduct due diligence and to know who owns the entities with which they do business.

Moving from secrecy to transparency is an essential step towards creating financial integrity for sustainable development. However, developing new social norms around financial integrity requires changes in both attitude and expectations about others' behaviour. The provisioning of public information greatly aids such a shift in expectations and attitude, and contributes to building trust. Such provisioning should naturally flow from transparency requirements rooted in the public purpose of the State, to protect citizens and ensure equitable treatment under the law. However, while mediating such information, governments have a responsibility to take appropriate safeguards to make exceptions on the rare instances in which they are needed.[46]

The Financial Action Task Force (FATF) first agreed on a standard on beneficial ownership in 2003. The current recommendation requires that competent authorities have timely access to accurate and up-dated beneficial ownership information. However, it allows countries to choose one of three methods to meet the standard. Despite this flexibility, there is comparatively low compliance. As of April 2020, no country subject to the fourth round of FATF mutual evaluations obtained a high level of effectiveness on preventing vehicles from being misused, or on availability of beneficial ownership information.[47]

Existing beneficial ownership information systems, which attempt to bring some transparency to such structures, are rendered ineffective due to the varying scope and thresholds of application, inadequate information collection, and the lack of consistent verification. Moreover, information is also not available to all parties who need it.

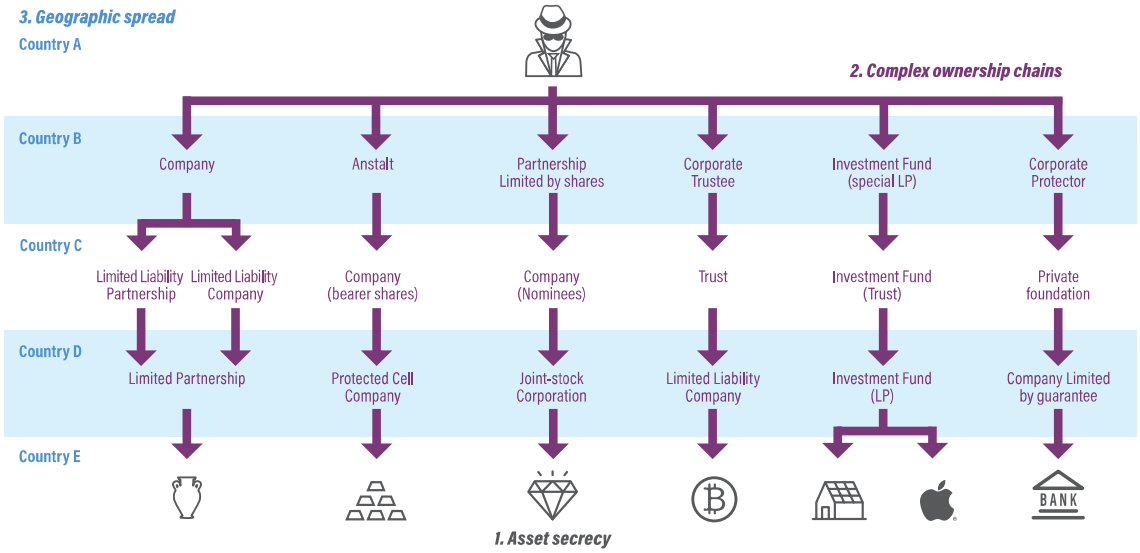
» **Secrecy flourishes because of inconsistent and ineffective beneficial ownership information regimes.**

To try to overcome these challenges, countries have already moved increasingly towards the registry approach. A new wave of countries has started to give public access to beneficial ownership information, primarily in the European Union but now extending to countries in Africa, Latin America, Eastern Europe and Asia. However, this recent trend is not yet universal.

» **There are unaddressed gaps and vulnerabilities in beneficial ownership information, including lack of information, verification, sanctions as well as built-in loopholes such as secrecy structures.**

Working through the OECD/G20, many Member States agreed in 2015 that all very large multinational enterprises (MNEs) are required to prepare a country-by-country (CbC) report with

FIGURE 1: SCHEMATIC DIAGRAM OF THREE TYPES OF SECRECY



Source: FACTI Panel

aggregate data on the global allocation of income, profit, taxes paid and economic activity among tax jurisdictions in which they operate. This critically important standard allows high level transfer pricing and base erosion and profit shifting (BEPS) risk assessments by governments.

The current design of the international framework for CbCR information exchange has several weaknesses that greatly diminish its potential benefit and do so more systematically with respect to lower-income countries. Currently, there are 137 members of the Inclusive Framework, and only 85 signatories of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (CbCR MCAA). CbCR MCAA limits the use of data for purposes other than risk assessment. The guidelines on CbCR enable countries to pass legislation to demand local filing, but only in very limited circumstances. In addition, the OECD/G20 standards only cover MNEs with annual consolidated group revenues of at least €750 million. While the reporting obligations for MNE groups cover over 90 per cent of total global corporate revenues, this high revenue threshold permits approximately 85 to 90 per cent of MNE groups to escape their obligations under CbCR.

» **Country-by-country reports of multinational enterprises are valuable transparency tools.**

» **Limits on their production and use undermine their effectiveness in tackling abusive practices.**

In the realm of corruption prevention, there is insufficient progress on many fronts. Transparency in public procurement and contracting is a powerful tool to expose wrongdoing and deter corruption. There is a trend towards greater transparency, with governments publishing documentation such as budgets, tenders and contracts. Voluntary initiatives to create and strengthen international transparency norms and practices include the Open Government Partnership (which has 78 country members and 20 subnational authorities) and the Open Contracting Partnership (41 jurisdictions are committed to or already implementing the Open Contracting Data Standard). The Extractive Industries Transparency Initiative (54 implementing countries) has also advanced anti-corruption practices in its efforts to improve transparency in the highly corruption-prone resource, mining and hydro-carbon sectors.

Various special initiatives with wider anti-corruption mandates that include transparency have also been established, including the intergovernmental International Anti-Corruption

Academy (IACA), and the private sector Partnering Against Corruption Initiative. However, reviews suggest that there is insufficient progress in tackling the issue of corruption. According to implementation reviews on public procurement and public reporting conducted under UNCAC, fewer than 40 per cent of countries had recognised good practices, while the vast majority received recommendations for improvement.

Although it would be ideal to have a single online international registry of all public procurement contracts over a certain threshold, this will be logistically difficult to achieve. However, existing standards, for example from the Open Government Partnership and Open Contracting Partnership, are examples of good frameworks that should be more widely used. There are also good practices that can be followed for requiring asset declarations, either for just public officials, or for all citizens and residents.

To speed up their essential COVID-19 pandemic-related responses, countries have weakened or eliminated some of the already insufficient administrative controls and accountability tools, with higher risks of revenue losses, corruption, and budget shortfalls. Emergency purchases of health care supplies is one of three channels that provides especially large opportunities for malfeasance. COVID-19-related income support to individuals can be subject to corruption or theft, especially where robust and accountable social protection systems are missing. Third, support to the private sector can be manipulated for political or private gain, as well as be prone to straightforward fraud and abuse.

» **Transparency in public procurement has weakened during the COVID-19 pandemic.**

Recommendation 3A: International anti-money-laundering standards should require that all countries create a centralised registry for holding beneficial ownership information on all legal vehicles. The standards should encourage countries to make the information public.

There is strong value in having an online registry of the beneficial ownership of all kinds of financial and business entities with a value above a certain global level, and many countries have already adopted such policies, based on the FATF and Global Forum standards. Member States should adopt a mandate for this at the United Nations. The FATF and Global Forum can develop and agree on the detailed standards and associated technical information, particularly through the FATF Strategic Review to be finalised in 2021. Some countries are already finding it difficult to meet the current standards, and thus will need technical assistance to comply, as well as time to implement these systems based on their capacity.

To maximise the usefulness of this transparency tool, registries should be established in accordance with agreed international standards, which could include uniform definitions that accommodate different legal systems, clear information requirements, mechanisms for verification, and expansive scope of coverage covering all legal vehicles, including those ostensibly for non-profit purposes. This transparency tool can be made more effective by tying public contracts to compliance with the regulations, holding directors liable, and applying penalties such as deregistration for deliberate wrongdoing.

The turning point is transparency to outsiders, not just law enforcement agencies. When the public can access and understand the data, it helps incentivise ethical business conduct, rebuild public trust and strengthen the social contract. Legitimate privacy concerns can occasion some restrictions in limited circumstances related to personal safety and security. Countries implementing this standard should be provided assistance (see Recommendation 8).

Lessons learned can be useful to efforts to create asset registries with wider coverage in the future. Member States should consider adopting full asset registers after they have implemented beneficial ownership registers and learned relevant lessons.

Recommendation 3B: Improve tax transparency by having all private multinational entities publish accounting and financial information on a country-by-country basis.

Multinational entities should adopt appropriate and prudent tax policies and be transparent about

where they generate economic value. Multinational enterprises should publish country-by-country breakdowns of how and where their business model generates economic value, where that value is taxed, and the amount of tax paid as a result. This should include reporting on metrics such as revenue, profit/loss, tax paid and number of employees, disaggregated by jurisdiction. Information should be universally accessible for all countries, cover a greater number of entities and as much as possible be made public while respecting reasonable security and confidentiality needs.

There is a public interest in the transparency of corporations, to enable stakeholders such as outside investors (e.g. pension funds) to appropriately judge the value of an enterprise, including by weighing the risks embedded in the approach of the MNE management to tax planning. This broader transparency requirement can quickly be adopted through the Inclusive Framework on BEPS, reinforced by listing standards at global stock exchanges and inclusion in the United Nations Principles for Responsible Investment, and then universalized through a broader UN Tax Convention (see Recommendation 2). Thresholds for reporting should be lower, while MNEs below mandatory disclosure thresholds can also be incentivised to publish this information.

Recommendation 3C: Building on existing voluntary efforts, all countries should strengthen public procurement and contracting transparency, including transparency of emergency measures taken to respond to COVID-19.

Countries can adopt already developed standards from the Open Government Partnership and Open Contracting Partnership and speed their implementation of these initiatives. As a first step towards greater transparency, Governments should put online for public review all emergency contracts issued in response to the COVID-19 pandemic and should refuse future contracts with commercial confidentiality clauses or with entities that have not disclosed their beneficial ownership information. Transparency of non-procurement contracts related to extractive industries and resource exploitation should also be a priority because of the propensity for corruption in this sector. Countries can choose from a range of good procurement practices tied to their sustainable development strategies.

FAIRNESS

Fairness should be based on justice and equity. First, "global justice" is required in the institutional frameworks to ensure "distributive justice".[48] Second, all countries need "global equity". Realising these two principles calls for effective developmental policies and for institutions to be administered fairly and to provide equitable treatment.

We can see from historical experience that even legitimately agreed norms and frameworks will not be implemented effectively if the parties to the frameworks regard them as unfair. Outcomes, not just processes, must be equitable and just. They must also be seen to be equitable and just. This value is particularly important because of the imbalance of impacts from illicit financial flows. Women are disadvantaged the most by existing frameworks to address tax abuse and corruption, due to gender-based inequality in the ownership of wealth, enterprises, and offshore capital income, as well as unequal burdens of unpaid work when public services are insufficient.

Fairness in taxation

All taxpayers, especially wealthy people and large companies, should aim to pay tax responsibly, not to erode the tax base, shift profits, or hide assets. Fair taxation represents a system under which taxpayers pay the right amount of tax at the right time and in the right place and report on their tax practices transparently. Financial structures that comply with the letter of the law but have the essential or sole purpose of decreasing the tax basis or diminishing the tax burden in ways not compatible with the spirit of the law do not represent fair taxation. Such structures result in an unfair cost on other taxpayers, with both workers and consumers paying higher taxes to compensate.

International tax norms are not well adapted to developing countries' needs and circumstances.[49] Bilateral tax treaties have inherent imbalances because they often concentrate on issues of importance to countries that export capital,

meaning those that are the residence of multinational corporations. This imbalance has been exacerbated by weak treaty negotiating capacity in developing countries. The transfer pricing rules enforced by treaties are complex, providing space for manipulation. Developing countries often lack information to enforce them effectively.

The current international tax rules have enabled MNEs to avoid paying their fair share of taxes in the countries where they have operations. The research consensus is that losses to both corporate profit-shifting and hidden offshore wealth have the most impact on countries with lower per capita incomes.[50]

» **Developing countries are systemically disadvantaged in the current international tax architecture.**

» **There are vulnerabilities in international tax norms, resulting in large revenue losses to governments.**



Transfer pricing refers to a method for pricing transactions within related MNE groups. For example, a company would charge its subsidiary in another country for transfer of goods, the products it is selling, as well as for the use of its accounting systems or logo. For the pricing of internal MNE transactions, tax treaties rely on the arm's length principle (ALP), a key international tax norm. This principle would have companies charge their related entities the same prices that would prevail in external transactions between non-related companies.

The ALP is implemented through over 3,000 tax treaties in force worldwide, covering 96 per cent of foreign direct investment. The United Nations and the OECD are the two main venues for the development and maintenance of model treaties, which serve as the starting points for bilateral agreements, and commentaries as well as codes of conduct and guidance related to treaty practice. While the OECD Transfer Pricing Guidelines are widely adopted by developed countries, the United Nations Transfer Pricing Manual is intended to address issues involved in transfer pricing from a developing country perspective, covering all topics from the conceptual framework to the effective application of transfer pricing rules.

However, the application of transfer pricing rules and the comparability approach that underpins the ALP is complex and it is often difficult to enforce. It is also not in line with how MNEs operate in a global economy. The practice of multinational corporations shifting profits to subsidiaries in low-tax or secrecy jurisdictions, often through manipulating transfer pricing, is a large drain on potential tax revenues. Applying the arm's length principle is difficult, particularly for those developing countries' tax administrations with under-resourced transfer pricing units. Tax administrations are at an inherent disadvantage because there is little transparency about the internal financial arrangements of MNEs.

One major challenge disproportionately affecting developing countries is the lack of relevant information to apply the arm's length principle, in particular the absence of reliable comparables. This has led many to propose moving towards unitary taxation. Unitary taxation uses a formula to divide up consolidated corporate group profits, based on real factors indicating economic activity, such as sales, assets, or employees in each jurisdiction. This approach has gained support from civil society stakeholders, such as the Independent Commission for the Reform of International Corporate Taxation, and also has qualified support from some governments.

» **Transfer pricing rules are too complex to effectively prevent aggressive tax planning.**

Taxpayers have also found loopholes enabling them to avoid paying capital gains taxes. Sales of assets frequently attract taxes on the gains. By selling, not an asset, but an entity that owns the asset, and conducting those sales in other countries, companies have found a way to avoid capital gains taxes in some places. Many developing countries' treaties are missing

appropriate provisions that protect countries' right to capital gains tax on the sale of property and assets via this technique, called an offshore indirect transfer. Corporations can also shop around for a jurisdiction in which to conduct such sales, finding the bilateral treaties with the widest possible gaps in coverage. Such transfers have been especially concerning in the case of extractive industries. A group of international organisations have identified that the issue has become of much greater importance in recent years.[51]

Tax competition contributes to such challenges, as governments face demands from big investors for large tax exemptions. This continues, despite ample evidence that the major determinants of investment location decisions are related to market size, growth and other real economic factors.

» **Gaps in any bilateral tax treaty might enable avoidance of capital gains tax.**

» **Tax competition continues to undermine the tax base.**

The growth of digital business models has disrupted fiscal systems. There is a broad consensus that the current international tax norms, when applied to digitalised business models, prevent countries from taxing MNEs adequately. Digitalisation means that MNEs are increasingly able to sell goods and services in countries without setting up the kind of corporate structures that would allow them to be taxed under existing rules. This has led to proposals on international tax reform being made in the OECD/G20-led Inclusive Framework on BEPS. There are two pillars to the proposals.[52]

The discussions in Pillar One focus on some limited redistribution of the tax base to jurisdictions in which businesses have sales or users. This proposal seeks to make it harder for profits to be transferred to low-tax jurisdictions with little real activity. This includes recognition of the need to move beyond arm's length pricing and tax some of the profits of some multinational groups based on a formula. The proposed formula would only apply to 'residual' profits of the MNE rather than on the total profits of the MNE as a group.[53] The OECD's impact assessment of the proposals shows that it is unlikely that developing countries will benefit much from them because already a low share of global profits from MNE are declared in these jurisdictions.[54]

Pillar Two represents a substantial change to the international tax architecture. It includes a proposal to make MNEs subject to a minimum level of tax globally to address profit shifting and tax competition among jurisdictions. The aim of the proposal is to establish a floor on tax rates by ensuring that an MNE would be subject to tax on its global income at the minimum rate regardless of where it was headquartered. In the case of income taxed below the minimum rate and benefiting from a harmful preferential regime, it could be taxed at the higher of the minimum rate or the full domestic rate.

The proposal specifies that the minimum tax will operate as a top-up to an agreed fixed rate. The actual rate of tax to be applied will be discussed once other key design elements of the proposal are fully developed. Some of the key design issues that have been proposed in an October 2020 blueprint include the determination of the tax base, the extent to which the rules will permit blending of low- and high-tax income, and questions as to the need for (and design of) carve-outs and thresholds.[55]

However, the proposal is filled with complexities, which may hinder the ability of countries to administer it. The rules may continue to function in favour of residence countries rather than the source countries.[56] Since developing countries generally have high published corporate tax rates, it is important that the minimum tax rate is not set at a very low level, if they are to benefit from the system. A recent study by the Independent Commission for the Reform of International Corporate Taxation (ICRICT) proposes a minimum rate of 25%, which is determined by the current corporate average tax rate in G7 countries.[57]

At its 21st session held in October 2020, the UN Committee of Experts on International Cooperation in Tax Matters voted to include in its next version of the UN Model Tax Convention, Article 12B on income from automated digital services, which would allow market jurisdictions greater taxing rights. It provides two options for taxing income from such digital services, a gross and a net basis, with administrative guidance including on how net profits can be calculated. The proposed Article 12B could provide a major step in providing a practical and simple approach that is well-adapted to developing countries' context.

» **Proposed new rules on digital economy taxation at the OECD are excessively complex and not adapted to developing countries' needs.**

» **Setting a global minimum tax rate on an agreed tax base could help lessen the impact of harmful tax competition.**

» **The proposed new UN model treaty rule to tax automated digital services is seen as providing a practical approach.**

Tax administrations need to strengthen the efficiency and fairness of resolving tax disputes. Currently, dispute resolution mechanisms commonly available in bilateral tax treaties include mutual agreement procedures (MAPs) and, less commonly, mandatory binding arbitration. The number of tax disputes, as measured by the number of MAP cases, has continued to increase. Proposals at the OECD for addressing taxation of the digitalised economy also introduce mandatory binding arbitration. This would mean that companies embroiled in related international tax disputes would have their cases adjudicated, not by countries and their courts, but by international arbitration panels whose decisions would be binding. Such a move will exacerbate tensions between countries' sovereignty to enforce tax rules and taxpayers' desire for certainty. Moving to mandatory arbitration could have dramatic, and unexpected, negative implications for raising revenue.

The proposed new rules on dispute resolutions also need to be adapted to developing country situations. The mandatory binding arbitration proposed at the OECD does not take into account the lack of required experience in tax dispute resolution matters in many developing countries. Other methods of resolving disputes, such as mediation and conciliation as recommended by the UN Tax Committee, need to be taken into consideration. Lessons should also be learned from the negative experiences countries have had with investor-state dispute settlement under international investment agreements. Countries have grappled with challenges relating to sovereignty; the potential violation of national constitutions; cost of arbitration and lack of resources; the possibility of unfair outcomes and biased arbitrators; lack of transparency; and lack of experience with investment dispute settlement.

» **Concerns abound about mandatory binding arbitration of tax disputes.**

Recommendation 4A: Taxpayers, especially multinational corporations, should pay their fair share of taxes. The UN Tax Convention should provide for effective capital gains taxation. Taxation must be equitably applied on services delivered digitally. This requires taxing multinational corporations based on group global profit.

Fair taxation requires a fair approach to addressing transfer pricing issues that disproportionately undermine revenue generation in developing countries. The current system of transfer pricing based on the arm's length principle merits adjustment. A simple and fair formulaic approach to taxing rights should be adopted based on total profits of a multinational corporation as a group.[58] This approach will require States to negotiate and agree on the factors and their weighting in an agreed formula. However, it will need to include appropriate provisions for double taxation and withholding taxes. Regardless, developing countries need assistance in improving enforcement of tax rules.

Special attention should be given to the schemes used to avoid capital gains tax. In other words, measures must be taken to constrain the ability of companies to use offshore indirect transfers, which involve ownership changes of corporations that own assets being recorded in a different jurisdiction from the asset itself. This requires changes to domestic legislation, as well as a more uniform adoption of the relevant treaty provisions. The UN Tax Convention can help facilitate this universally, and with greater speed.

Fair taxation of digitalised economic activity requires equitable treatment of digital businesses and business models with traditional business. The formulaic approach to taxing rights described above would help achieve this. To strengthen

multilateralism, additional proposals to allow taxation of automated digital services should be adopted in the UN Tax Convention. Countries are already moving ahead with digital services taxes. Therefore, incorporating provisions to address this in the UN Tax Convention will create a multilateral framework based on international agreement and enable additional countries to start taxing the digital economy with realistic prospects of obtaining substantial revenue.

Recommendation 4B: Create fairer rules and stronger incentives to combat tax competition, tax avoidance and tax evasion, starting with an agreement on a global minimum corporate tax.

The international community should create mechanisms to ensure taxpayers cannot avoid paying taxes. A global minimum corporate tax, setting a rate of 20-30% on profits,[59] would help limit incentives against profit shifting, tax competition and the race to the bottom. Its adoption would greatly increase fairness. Governments should agree on this in the current negotiations at the OECD Inclusive Framework on BEPS, and it should also be included in a legitimate, universal UN Tax Convention (see Recommendation 2). However, both Action 5 of the OECD BEPS reports, which addresses the harmful tax competition issues, as well as a number of studies on the economic history of Europe, USA and East Asia, show that preferential tax regimes were integral components of their industrial strategies.[60] The minimum corporate tax needs to be designed to allow countries to appropriately incentivise sustainable development investment while retaining sufficiently high effective taxation.

Recommendation 4C: Create an impartial and fair mechanism to resolve international tax disputes, under the UN Tax Convention.

A tax dispute resolution mechanism under the auspices of the UN would provide an unbiased forum for Member States to resolve tax disputes. This fair international mechanism for dispute resolution should maintain a focus on the policy objective of raising resources for sustainable development investment. Through training programmes, this mechanism could also help create better channels for dispute settlement, such as mediation and conciliation, at the national level. It would retain some respect for both sovereignty and tax certainty for taxpayers. At the regional level, it would provide better channels for enhancing the capacity of regional bodies, and to promote experience sharing. To better resolve disputes, international bodies can provide technical assistance to help train national courts and arbitrators and enhance capacity at the national and regional levels.

Fairness in asset recovery

Despite the entry into force of the UNCAC more than 15 years ago, the known volume of asset returns accounts for only a tiny fraction of the proceeds of corruption laundered worldwide.[61] Asset recovery refers to the process by which proceeds of corruption transferred abroad by the corrupt are recovered and repatriated to the country from which they were taken.[62]

Indeed, large proportions of the proceeds of corruption are yet to be returned to the requesting States. Cooperation on confiscating and returning the proceeds of corruption is not effective. According to UNODC, the average time to respond to a request for mutual legal assistance (MLA) ranges from one month to six, and in some cases, more than a year.[63] UNODC further reports that several central authorities in requested jurisdictions were not provided with adequate resources, financial, technical and human, to follow up on incoming requests in a timely fashion and carry out their responsibilities in accordance with the Convention.

The result of these constraints is that the whole asset recovery process remains extremely burdensome and lengthy for requesting countries that saw their resources drained – especially those that are seeking to recover assets stolen by formerly entrenched kleptocratic rulers who remained in power for decades. Although it is critical to ensure due process throughout the asset recovery process, it is equally important to recognise that requesting jurisdictions face huge and asymmetrical burden of proof and the critical need to explore new approaches to challenge this unfair situation, facilitate MLA requests, and enhance asset recovery.

» **The asset recovery process remains onerous for requesting countries.**

» **Efficient asset return is hobbled by a lack of trust between jurisdictions.**

In practice, only a small number of the countries harmed by bribery have been awarded damages in the cross-border corruption cases that have been settled or otherwise resolved to date (see above Recommendation 3). In fact, there is insufficient international cooperation between supply-side authorities and enforcement in demand-side countries. As a result, affected countries are usually not aware of legal proceedings in supply-side countries until after they are concluded or settlements have been reached, and thus are not in a position to make compensation claims. The outcome is that supply-side countries accumulate fines and disgorged profits, while affected countries and people receive nothing.[64]

» **UNCAC provisions on compensation to the victim states in foreign bribery cases are rarely used.**

Confiscated assets often remain in the possession of either financial institutions, which continue to unduly benefit from the assets, or requested States that are managing them for many years. There are situations where the government of the country holding confiscated assets lacks trust in the government of the country of origin, particularly when the assets were confiscated without a request from the country of origin.[65] Trust may not be warranted when the assets are linked to people who continue to exert influence on government, although suspicions may be unfounded in other cases. Meanwhile, asset management, particularly financial assets, often remains with a financial institution that enabled the wrongdoing in the first place. As a result, fees for the management of the assets may continue to be earned by the holder of the assets. Requesting states also lose a substantial part of the money to so-called administrative fees taken by the requested state.

» **Facilitators and enablers sometimes benefit from management fees of frozen assets.**

Recommendation 5A: Create a multilateral mediation mechanism to fairly assist countries in resolving difficulties on international asset recovery and return, and to strengthen compensation.

Building on current efforts at UNODC, World Bank and non-State actors, a voluntary mediation mechanism hosted by a multilateral institution should be set up as a neutral third party to help the requesting and requested State to solve any disputes or difficulties that may arise in the course of proceedings, and to reach decisions more quickly. Staffed by legal experts, its role would be to work with both sides to explore the interests underlying their positions and find consensus on a way forward for the faster return of the confiscated assets and on improving compensation to victims. It can use common standards and procedures, building on good practice guidance already developed, to ensure that asset return is fairer and that victims are compensated. The mechanism should be impartial and transparent in its functioning.

Recommendation 5B: Escrow accounts, managed by regional development banks, should be used to manage frozen/seized assets until they can be legally returned.

Assets that are subject to return or negotiation of return should be held and invested in escrow accounts, at the behest of requesting states. Some value may be added to funds that are subject to protracted negotiations, and the requesting state may get more than face value at the end of the day. Regional development banks may be well placed to hold these funds.

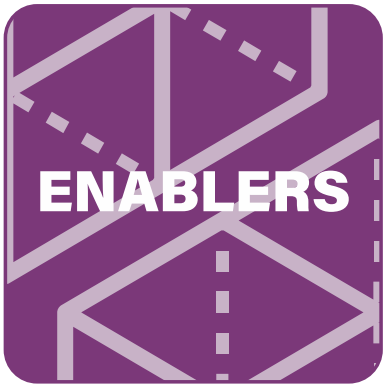
Policies to further support financial integrity for sustainable development

With acceptance of the values just enumerated, and their associated implications, the international community will be moving in the right direction. However, there are a number of policy areas that need additional actions.

ENABLERS

Very few types of illicit financial flows are conducted purely by criminals. Most of them are enabled by a variety of professionals, including lawyers, accountants and representatives of financial institutions. Such enablers are found in a broad swathe of jurisdictions, from small developing countries to countries hosting offshore financial centres. The greatest responsibility lies with traditional financial centres in developed countries, where the biggest markets and professional services firms are to be found. However, all jurisdictions, including those trying to build up new financial centres, must be held accountable for what transpires in their territory.

Professionals such as bankers, lawyers and accountants are important players in international business dealings. As advisors, facilitators, negotiators and mediators, they are right to look after the interests of their clients. However, this does not excuse them from acting anything less than ethically and in line with global values, norms and standards.



Financial Action Task Force (FATF) Recommendations require a broad range of preventative measures that are applied to enablers, including customer due diligence, record keeping, beneficial ownership, international cooperation, and suspicious transaction reporting. Financial institutions and designated non-financial businesses and professions (DNFBPs) are expected to adhere to standards to counter money laundering and the financing of terrorism (AML/CFT) set by the FATF. Countries are expected to take a risk-based approach to implementation of the FATF Recommendations, meaning that national rules should evolve to mitigate risks as they arise. Failure to comply with anti-money laundering requirements should lead to administrative or criminal sanctions; yet there are still many gaps in implementation. For example, in some jurisdictions, real estate agents and some types of financial institutions are not subject to anti-money laundering regulations, while in others there is no regulatory and supervisory regime for DNFBPs. Lawyers and law firms often abuse their legal professional privilege, asserting that routine tasks, such as creating a corporation, that may be performed by non-lawyers are protected from disclosure on grounds of privilege.[66] The International Bar Association has already issued a report indicating that legal professional privilege should not be used to shield wrongdoers.[67]

Creating financial integrity for sustainable development will require professionals across the world to enable sustainable investment, rather than facilitate illicit financial flows. While there is a widespread practice of criminal prosecution of those complicit in aiding or abetting violent criminal offences, there is no corresponding practice for financial crimes. This is puzzling because some enablers of illicit financial flows make the planning and execution of financial abuses and crimes their unique selling proposition to their clients. Professionals should instead require their clients to furnish proof of their funds' legitimacy, through a trail tracing them back to a legitimate source. Handling any funds should make enablers liable for their provenance.

» **Enablers of IFFs are not held to account for their activities, due to gaps in enforcement and abuse of legal privilege.**

Self-regulation has proved to be insufficient and unreliable. This is a lesson that Governments learned about banks and financial institutions over the centuries, which they were forced to relearn recently, in the wake of the 2008 global financial crisis. Over the past few years, the inadequacies of self-regulation have also been laid bare by a number of high-profile leaks and investigations by the media and civil society. The world must demonstrate that it has heeded this lesson, by addressing gaps in coverage of enablers of illicit financial flows, as well as ineffective enforcement, and abuse of legal privilege.

Moreover, while a large number of financial institutions in countries participating in the Global Forum on Exchange of Information for Tax Purposes are now proving banking account information to their country authorities for international exchange, many financial institutions

do not have sufficient incentive to block the inflow of illicit finance in the first place. This is because sanctions are weak or do not exist at all, or there is an abject lack of political will to enforce where there are sanctions in place.

» **Many financial institutions do not have sufficient incentive to block the inflow of illicit finance.**

» **Self-regulation does not work.**

Meanwhile, the International Bar Association, a private organization made up of the world's bar associations, adopted a set of International Principles on Conduct for the Legal Profession in 2011.[68] In some jurisdictions, national bar associations have a history of developing their own standards of conduct, such as those created by the American Bar Association.[69] Law associations, in particular, assert that they must have self-regulation rather than governmental regulation to safeguard the independence of the advice they provide to their clients. However, lawyers in multiple jurisdictions have used their legal privilege to assist criminals in money-laundering and other criminal conduct.[70]

While many professions have codes of conduct and other standards for membership in professional bodies, these codes are divorced from the demands of sustainable finance and the public interest. Governments should not complain about the behaviour of these enablers if they have not taken responsibility for setting the standards for appropriate conduct. It is too easy for enablers, especially those in haven markets and countries, to ask too few questions about the origin of resources. Their activities become additionally worrisome when they help people engage in tax evasion and aggressive tax planning that blurs the line between the legal and illegal, doing so often to garner their share of the proceeds through fees charged to their clients.

» **Many governments, particularly in haven countries, refrain from setting standards for appropriate conduct of enablers, despite the social costs.**

Recommendation 6A: Governments should develop and agree global standards/guidelines for financial, legal, accounting and other relevant professionals, with input of the international community.

Strengthening global standards will be important. Member States should task an international organization with coordinating this standards development. These should build on existing voluntary standards. They should be redeveloped with the input of all stakeholders, and agreed by Member States multilaterally through a universal body. Professional standards should also address all types of financial actors, including non-bank financial institutions, and cover their staff, management and boards. Consideration should be given to having fit and proper tests for management. Additional relevant professions to be covered may also include notaries, real estate agents, and other corporate service providers. Most importantly, the standards should require transparency and integrity in professional practice, with due diligence requirements. The standards should make clear the obligation of all professionals to report suspicious activities or transactions to authorities, and that enablers will be held liable alongside criminals.

Recommendation 6B: Governments should adapt global standards for professionals into appropriate national regulation and supervision frameworks.

Measures to promote adherence to global standards can be mainstreamed in existing and new international frameworks. National laws and frameworks need to adapt international standards and guidelines to the context of each country without diluting them. National efforts on developing professional codes should work independently of, but in consultation with, the national professional bodies and other stakeholders. Regulations should include effective, proportionate and dissuasive (administrative/criminal) sanctions, with particular attention given to banks and other financial institutions. Supervision regimes should be robust. Financial services regulators need to cooperate with financial intelligence units to promote financial integrity. The rapid improvements in computing power and innovations in artificial intelligence are making the task of finding and using relevant

information for enforcement easier, faster, and more accurate. Countries need to ensure that they use these approaches to eliminate hiding places domestically and help others do so (see Recommendation 8).

To incentivise compliance with standards, in addition to prosecution alongside their clients, national sanctions for violations might include losing a license to operate or being included on a public list of those that fall short of standards. International financial integrity peer reviews should check the actual implementation of these provisions by reviewing data on the volume and circumstances of relevant prosecutions and highlighting non-cooperative professional bodies.

CIVIL SOCIETY AND MEDIA

Citizens, workers, professionals, business leaders, journalists, researchers, and activists: all non-state actors have a key contribution to make in shaping the world we want. Their voice does count, and it is critical to include them as far as possible in policymaking. In fact, as recognised by SDG 16, inclusive societies are key to sustainable development. Instead, governments tend to give privileged access to the rich and powerful, including those hailing from their own country and abroad. This mirrors the state of affairs at the international level, where powerful states often exclude the less powerful from effective participation.

Preventing entrenched financial abuses and impunity calls for sustained domestic demand for reform. Non-state actors can often effectively bring corruption and tax abuse to public attention and sensitise the public about its impact. They can also galvanise durable changes in social norms and societal relations. The composition of stable social coalitions to change the embedded power structures that support corruption and tax abuse are specific and particular to each country, but they are likely to include some combination of non-governmental organisations (NGOs), faith-based groups, trade unions, the media, and the private sector, as well as parliamentarians and politicians.

Inclusiveness is even more vital nowadays, as many states, in response to COVID-19, have declared a state of emergency and reduced the exercise of the oversight role of the parliament over the executive.

A growing number of citizens throughout the planet are dissatisfied with restrictive measures adopted to cope with the crisis. Instances of corruption in COVID-19 response contracting, which undermine trust in governments' response to the pandemic, have been brought to light through the vital work of media outlets.

» **Civil society actors, whistle-blowers, and journalists perform a critical role in promoting accountability, tackling vested interests and building coalitions for reform.**

Non-state actors need to be involved at the interface of national policies and international reviews. This is standard practice at the Human Rights Council and can be adapted to other institutions. Currently, effective participation of non-state actors is limited in many peer reviews, as a result of choices made by the State being reviewed. At all times, governments should strive to ensure responsive, inclusive, participatory and representative decision-making at all levels. At a minimum, all peer review mechanisms should be updated with a view to providing more effective inclusion of relevant stakeholders, such as civil society and the private sector, in all relevant stages of the reviews.

It is further critical to recognize the critical role played by civil society actors – including human rights defenders, investigative journalists and whistle-blowers – in promoting financial integrity for sustainable development. Their very effectiveness makes them targets for intimidation and suppression. Whistle-blowers are not universally protected,[71] and legal protections are often ineffectively implemented in practice. Activists and journalists continue to face intimidation, threats to their livelihood, and death threats. In some cases, their vital work costs them their lives. The most dangerous media stories are investigations into cases of local corruption or misuse of public funds (which led to the killing of 10 journalists in 2020) or investigations into the activities of organised crime (which led to four journalists being killed).[72]

To be able to conduct their much-needed work, all non-state actors need support and protection for their rights in all jurisdictions. Minimum standards of protection for human rights defenders, investigative journalists and whistle-blowers can be

incorporated as guidance or protocols to existing international instruments, such UNCAC and the International Covenant on Civil and Political Rights.

» **Despite the vital importance of their work, civil society actors lack support and protection.**

Recommendation 7A: The international community should develop minimum standards of protection for human right defenders, anti-corruption advocates, investigative journalists and whistle-blowers. States should consider incorporating these standards in a legally binding international instrument.



States must commit to eliminating any impediments in law and practice that constrain civil society and should take all necessary measures to help foster a safe and enabling environment for civil society. Minimum standards should be incorporated into national legal frameworks. This could involve appropriate measures for respecting, protecting and promoting the right to seek, receive, publish and disseminate information concerning corruption and other financial crimes, and the ability for civil society organisations and the media to operate independently and without fear of reprisal due to their work. States should consider adopting these standards in a legally binding international human rights instrument.

Recommendation 7B: Civil society should be included in international policy making forums in an effective and efficient manner.

As is the usual practice at many United Nations bodies, civil society should have access to forums and bodies on financial integrity issues, including any bodies or mechanisms suggested in this report. Expansion of consultations beyond expert groups allows for more holistic representation and diverse voices, and can improve policy making.

INTERNATIONAL COOPERATION AND INFORMATION SHARING

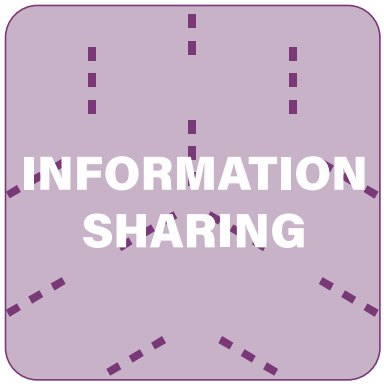
Without collective efforts by all countries, the international financial system will remain vulnerable to the different forms of illicit financial flows operating in the spaces facilitated by those who refrain from cooperation. Therefore, exchanging or sharing of information is crucial to effective enforcement of laws, rules, and regulations, and is key to creating financial integrity for sustainable development. The availability of information has greatly increased in the last decades due to innovative international instruments and technological developments. Nonetheless, delays and barriers to effective cooperation may allow criminals and other illicit financial flows perpetrators to move funds out of the grasp of authorities. And some countries or institutions are still not receiving important information.

Nationally, a whole-of-government approach to creating financial integrity for sustainable development is needed (see Recommendation 13). All jurisdictions should allow sharing of information among various institutions and agencies of government responsible for advancing financial integrity for sustainable development. There are problematic restrictions, which emanate from international rules on usage of data received from other countries. Where such restrictions on inter-agency information exchange exist, such as those on information exchanged for tax purposes under the Common Reporting Standard,[73] States should find ways to allow exchanged information to be used by any domestic agency for the purposes of tackling money laundering, tax evasion, corruption, or any other crime.

Internationally, the multilateral convention on mutual administrative assistance in tax matters, promoted by OECD and G20, have played an important role in enhancing tax transparency and combating cross-border tax evasion by enabling automatic exchange of information. However, there are also many gaps in what information gets exchanged and who receives information. The lack of complete coverage and exclusion of some developing countries from data networks

results in some countries being unable to combat illicit financial flows. The international cooperation needed comprises all sectors, including greater tax information sharing, exchange of information among financial intelligence units, sharing of information among anti-corruption bodies, and proactive information provision from prosecutors and other investigative authorities.

Special attention should be paid to the challenges related to the exchange of information between customs officials in different countries, as well between customs officials and other institutions and agencies of governments charged with combating IFFs to address trade mis-invoicing. Illicit movements of money can occur in import as well as export trade flows, causing a significant drain on resources. They consist of a deliberate misreporting of the value, volume, or type of commodity in customs transactions, and thus constitute illegal tax evasion, not legal tax avoidance. However, trade mis-invoicing should be regarded as a separate policy problem with separate solutions to other forms of tax evasion. The motivations for this channel of illicit financial flows vary. They include evading tax and custom duties, money laundering and dodging capital controls. Further, many criminals consider trade mis-invoicing to be a low-risk mechanism exploiting the opportunities opened up by countries attempting to process customs transactions quickly, in an effort to promote trade and enhance economic growth.



» **There are large gaps in the exchange of international financial information.**

Current information sharing mechanisms, for example those organised under the Global Forum for Exchange of Information for Tax Purposes, involve jurisdictions obtaining information from their financial institutions and automatically exchanging that information with other jurisdictions. This requires reciprocal exchange, with both jurisdictions agreeing to send information to each other.

Although capacity building resources are deployed to increase the ability of developing countries to exchange and use information, developed countries should explore sharing information with developing countries to assist them in combatting tax evasion without necessarily requiring reciprocity. In many cases developing countries are unlikely to hold information of interest on citizens of developed countries, while they may have citizens with undeclared assets hidden in developed countries. Developed countries are generally not sharing information with developing countries who are not yet capable of or have not yet signed up to sending information. There are already countries offering unidirectional information sharing under existing non-reciprocity arrangements related to financial account information.[74]

» **Developing countries are excluded from data networks, impairing their ability to fight illicit flows.**

Financial intelligence units (FIUs)[75] receive large volumes of suspicious transaction reports and may not have the capacity to investigate many individual reports. The Egmont Group, the international FIU network, has established secure mechanisms for FIUs to request information from each other along with principles and operational guidance on conducting exchanges.[76] However, FIUs can still face barriers to exchange of information based on national regulations, for example based on privacy rights.[77] Despite the clear FATF guidance that FIUs need to be able to spontaneously share information so as to alert a counterpart jurisdiction of suspicious activity that the counterpart is not aware of,[78] this is not yet normal practice.[79] The Egmont Group, as the international FIU network, should continue its work in removing the legal obstacles to the exchange of information among FIUs in its efforts to facilitate the rapid exchange of financial intelligence across-borders.

States must also promote informal and spontaneous exchange of information among anti-corruption and judicial authorities so that jurisdictions that are related to an investigation can be informed that a party of interest to them is being investigated. UNCAC Article 56 encourages States Parties to share information on proceeds

of corruption with another State Party without prior request whenever they consider that "the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings, or might lead to a request by that State Party under this chapter of the Convention." In practice, however, Article 56 is poorly implemented; as a result, countries are not always in a position to take enforcement action or, where applicable, to make compensation claims in cross border corruption cases.[80]

» **There are persisting impediments to international cooperation and accountability.**

Recommendation 8A: End information sharing asymmetries in relation to information shared for tax purposes, so that all countries can receive information.

Governments should not cherry-pick their preferred partners while developing countries are left in the dark under the "reciprocity" principle. All governments that comply with regulatory requirements for data protection, should receive information. Capacity building should help address any problems of insufficient data controls. Data on compliance with exchange of information for tax purposes (see Recommendation 11A) will help in setting the right incentives.

Recommendation 8B: Enable free exchange of information at the national level as standard practice to combat all varieties of illicit flows.

This will require removing any national restrictions on information sharing among government entities. Simultaneously, international restrictions, especially in the agreements for international exchange of information for tax purposes, should be amended so that the information may be used for all criminal and law enforcement matters. Countries should continue to respect relevant privacy and data confidentiality controls, and may require assistance in upgrading their capabilities in this regard (see Recommendation 10).

Recommendation 8C: Promote exchange of information internationally among law enforcement, customs and other authorities.

Building networks among customs officials, anti-corruption and other law enforcement officials across borders is important to enhancing the trust that will make proactive exchange easier and more frequent. Existing bodies, such as the OECD Working Group on Bribery and regional networks of anti-corruption authorities can serve as initial venues to make spontaneous information exchanges a reality.

Unfettered and spontaneous sharing of information between financial intelligence units (FIUs) is also important to effectively combating money-laundering. Better cooperation and information exchange is also needed between customs agencies, to help combat trade mis-invoicing. Greater digitalisation can enable seamless information exchange of trade-related data and documents.

GENERATE DYNAMISM IN POLICY MAKING AND ENFORCEMENT

New risks are constantly cropping up, and the system fostering financial integrity for sustainable development needs to diligently endeavour to adjust to these changes. International institutions should be monitoring for these risks, sharing their analyses, and informing countries in a timely fashion. Digitalisation and the formation of global platforms have transformed value creation and thus renewed the importance of coordinated and enhanced analytical work at inclusive multilateral bodies to ensure all Member States can receive timely and well-founded advice on approaches to new challenges.

However, the relevant international bodies have a mixed record on such dynamism. FATF has been effective at promptly taking into account technical developments and updating money-laundering standards, for example with respect to virtual asset providers. By contrast, tax norms, embedded in thousands of bilateral treaties and slowly evolving model agreements, have not yet been able to fully grapple with changes wrought by digitalisation, despite the more than two decades since the founding of some of the biggest digital technology giants.

It is important to note that even as Member States implement the recommendations of this Panel, actors intent on evading regulations will seek to subvert the new paradigm of financial integrity for sustainable development. International rules and standards will need to adjust to changing behavior and technologies. These changes are accelerating as technology alters the way the financial system works.

» **Policymakers need to be nimble to tackle ever-evolving risks to financial integrity.**

Recommendation 9A: International organisations must provide timely advice, so that procedures, norms and policies can be updated regularly.



Many relevant international organisations are already doing analytical work, but it should be enhanced at inclusive multilateral bodies to ensure all Member States can receive timely and well-founded advice on approaches to new challenges. It can also be more coordinated and brought to a discussion involving all Member States and stakeholders (see Recommendation 14A).

Recommendation 9B: Governments must dynamically adjust their national and international systems in response to new risks.

Member States must remain flexible through their participation in international forums; major international reforms cannot wait decades, especially given the fast pace of technological developments. Technological changes bring not only new risks, which need to be addressed quickly, but also new possibilities for improved enforcement, which should be capitalised on in a timely fashion. Meanwhile, national level regulations must also adapt nimbly to changing local contexts. Effective national governance systems will help (see Recommendation 13).

CAPACITY BUILDING

The systemic nature of financial integrity problems, and the vast range of sectors in which they are involved, means that the international community must implement a broad range of policies, and create stronger or additional standards. However, the lack of necessary knowledge, skills and capacities is a major impediment.

Developing countries, especially the smaller and least developed, have less institutional capacity; a gap which must be addressed. Capacity can be limited by the scarcity of resources in general, as well as human capacity constraints. In many countries with a high risk of corruption, tax evasion and aggressive tax avoidance, as well as money-laundering, capacity across competent authorities is uneven and shallow. Countries also lack the capacity to act on information, which might be, at least partially, attributable to political capture.

There is a pressing need for technical assistance across anti-tax-abuse, anti-corruption, anti-money-laundering and asset recovery fields. This will necessitate upgrading capacities for all governments.

» **Many developing countries lack the institutional capacity to create financial integrity.**

Although the cost of promoting financial integrity policies might be minimal (in relative terms) for countries with high human and technological capacities, the cost of compliance with stronger international norms might be prohibitive for the poorest countries and those with the lowest existing capacities. This can impede agreement on stronger norms as well as undermine political will for implementation of already agreed commitments.

The international community should be prepared to assist by providing necessary resources to countries which have the political will to create financial integrity systems. Demand-driven capacity building should be readily available on all aspects of financial integrity and without fear that such requests might diminish other types of assistance.

A host of international institutions do provide capacity building, but it has not been sufficient. Intergovernmental bodies and initiatives that assist countries in building capacity — including the International Anti-Corruption Academy, the Platform for Collaboration on Tax, the Addis Tax Initiative, Tax Inspectors Without Borders, regional tax organisations, the Stolen Assets Recovery Initiative, and the African Legal Support Facility — should be further strengthened. Design of universal international capacity building mechanisms should be explored with equal participation of countries to ensure relevance to different contexts. This should explicitly go hand-in-hand with the setting of norms, including those recommended here. This will encourage ownership and adoption of stronger norms. Capacity building should also provide for long-term recurrent expenditure, if needed, to train and retain staff with appropriate technical expertise in regulatory and administrative bodies.



It is also critical to build the capacity of countries to help them negotiate international norms and conventions. Such training is often best delivered through specialised organisations and regional bodies, which can develop stronger knowledge-sharing mechanisms based on similarities between countries in the same region.

» **Greater resources are a necessary complement to political will, to upgrade capacities in all countries.**

» **Specialised organizations and regional bodies add value through more effective knowledge-sharing.**

Anti-corruption intervention effectiveness needs improvement, partly because of the historical lack of attention to research on the effectiveness of different interventions in different contexts. Much early research focused on corruption, rather than researching anti-corruption policies. A wealth of studies on effectiveness of different anti-corruption policies has emerged only recently, as some development cooperation providers increased their focus on evaluation and effectiveness. These studies show mixed effectiveness of different types of anti-corruption interventions, and demonstrate the need for better understanding of what works.[81] As part of a recommitment to anti-corruption, the World Bank has done some stocktaking of lessons from its programmes,[82] but coordination with UNCAC-related capacity building and United Nations Development Programme programmes on governance is relatively weak.

In addition, public awareness programmes should be conducted to reinforce increased investment in financial integrity outcomes. Systemic change implies disruption, but maintaining financial integrity following a breakthrough depends on stable forces that can defend and build on the progress made. Financial integrity outcomes will be reliant on the capacities of civil society, media, and business. Thus, capacity building should not focus only on states, with public awareness playing a role to maintain the political will and cement new social norms related to corruption. Influencing citizens' tax consciousness in a positive manner, by emphasising the social contract and the civic duty to contribute, can strengthen tax compliance to combat tax evasion.

Rapid developments in technology and the sharp reduction in its costs will make the adoption and use of information technology to build implementation capacity affordable, while also furnishing information on a timely basis. New technology, such as artificial intelligence, can enable better identification of suspicious activity – for example, by matching tax filing data to other data sets, such as customs declarations, financial account information, or real estate transaction registers. Governments can implement technology solutions such as machine learning and data analytics to minimize the risks of money laundering. The G20 recently agreed High Level Principles for Promoting Public Sector Integrity Through the Use of Information and Communications Technologies.[83]

» **More research is needed on the effectiveness of anti-corruption interventions.**

» **Non-state actors need capacity to reinforce political will, while public awareness can change societal norms.**

» **Technology tools are available to strengthen enforcement capacity.**

Recommendation 10A: Create an international compact on implementing financial integrity for sustainable development to coordinate capacity building. Extend existing capacity building that tackles tax abuse, corruption, money-laundering, financial crime and asset recovery.

The international community should scale up the volume of financing and technological assistance channelled towards capacity building, based on respective needs. The compact will include, but not be limited to, direct financing of governments that need assistance as well as provision of resources for international agencies and institutions that will assist in capacity-building. The mechanisms should not take a 'one size fits all' approach, but instead recognize the complexity of different contexts and be tailored appropriately based on the need and political will. And it should serve as a useful feedback mechanism to norm setting bodies and coordination structures (see Recommendation 14). Evaluations of the success of capacity building can also highlight where international standards are diverging from the needs of Member States. It can build on the model of tax capacity building coordination happening at the Platform for Collaboration on Tax.

Recommendation 10B: The international community should finance the creation and maintenance of public goods that can lessen the cost of implementing financial integrity commitments.

Examples of such public goods include beneficial ownership registry software, artificial intelligence software for analysing suspicious financial transactions and tax filings, as well as software with sufficient privacy controls for automatic exchange of information for tax purposes. International organisations can develop such goods and serve as their custodians. Capacity building support should be provided to facilitate the adoption or use of these public goods in countries that need assistance.

Recommendation 10C: Strengthen the capacity of UNODC to do research on anti-corruption, including in collaboration with other international organisations, with the strategic aim of improving the effectiveness of capacity building and technical assistance.

As capacity building initiatives increase to generate financial integrity for sustainable development, it is critical that they focus on impact. Capacity must not only be assessed based on the ability to implement legal provisions, but must also focus on what is effective to combat corruption. This requires a greater capacity to do research on all aspects of anti-corruption strategies, including corruption prevention. It also calls for learning from and collaborating with relevant international institutions such as the World Bank, UNDP, International Anti-Corruption Academy, and other researchers. Moreover, these lessons must be applied to capacity building agendas. This will require an upgrade to the UNODC Secretariat to enable them to better bring policy-relevant research to practitioners.

Institutions to support financial integrity for sustainable development

Even with the values for financial integrity reinforced and policies adjusted as described above, the international community will still not have created the needed ecosystem that will foment financial integrity for sustainable development. Institutional changes at the national and international level will be needed to buttress and sustain action.

DATA COLLECTION AND PUBLICATION

Efforts to improve financial integrity are severely impeded by the absence of neutral and authoritative bodies with the responsibility of collating and analysing data (including gender-disaggregated data). Without data, it is impossible to effectively assess progress. What data gathering there is tends to focus on box-ticking rather than qualitative and impact analysis. Data availability is critical across the fields of tax, money-laundering, corruption, and asset return.

To counter aggressive tax planning and tax evasion it is important to continue to produce and use taxation data. This has been the focus of most norm development in the last decade, with tax transparency standards strengthened and automatic exchange of information for tax purposes initiated and operational. Yet, there are many glaring gaps in the publication of global tax data, such as gaps in the publication of country aggregates of corporate country-by-country reports as well as limited aggregate information on automatic exchange of information under the common reporting standard. There is a lack of a neutral body with universal membership that takes responsibility for such tasks. These gaps make the case for systematic, regular and frequent global data collection and dissemination.



» **There is no neutral, authoritative body tasked with publishing comprehensive global tax data.**

There is also a considerable lack of reliable and comprehensive data on asset recovery. Indeed, to date, most UNCAC States Parties do not collect or publish data related to asset recovery. Data currently available on countries' asset recovery efforts is either non-existent or patchy, partial and inconsistent.[84] And yet, collecting and disseminating reliable, comprehensive and disaggregated data on the actual volume of assets seized, confiscated and returned, is critical to help provide a comprehensive picture of asset recovery efforts and assess effectiveness in meeting UNCAC's commitments.

Asset recovery should be as transparent and accountable as possible. Indeed, transparency and accountability are of critical importance to restore trust in institutions and thus to the credibility of the whole asset recovery process. It was their absence that helped facilitate the diversion of assets in the first place. Against that backdrop, the current absence of comprehensive data on asset recovery, from both requesting and requested states, is a startling failure.

» **There is a lack of data and evidence about asset recovery and return.**

Similar challenges bedevil the implementation of money-laundering controls. Researchers say that the system for reporting suspicious transactions has uncovered very few instances of corruption,[85] money laundering or other cross-border financial crimes.[86] Failure to assess the effectiveness of the system, including through data on volumes of reported transactions and the number of investigations and prosecutions, undermines trust.

Currently, national data and metrics inform FATF mutual evaluations, as well as those conducted by the FATF-style regional bodies. Some regions publish analytical reports in this area, albeit irregularly. For example, EUROPOL analysis shows that even in the European Union, which possesses the highest capacity for monitoring and investigation, authorities use, on average, just over 10 per cent of reports submitted; a percentage that has not changed since 2006.[87] Yet, even this EU data is not regularly published and used. Aggregate information in the public domain can assist countries in benchmarking their work, learning from each other, and targeting technical assistance. The lack of uniform data on the volume of suspicious activity reports, prosecutions, sanctions, or on exchange of information among FIUs impedes cross-border comparison and assessment of the actual effectiveness of implementation of AML/CFT rules.

» **The lack of uniform, public data on the volume of suspicious activity reports gets in the way of assessing the effectiveness of the current system.**

Recommendation 11A: Establish a Centre for Monitoring Taxing Rights to collect and disseminate national aggregate and detailed data about taxation and tax cooperation on a global basis.

The bare minimum to begin addressing the massive scale of tax avoidance and evasion is to obtain consistent annual data on a global basis. A body with universal membership is needed to make detailed data available for analysis and research, including gender-disaggregated data. This body could be placed at a multilateral organization with inclusive membership, such as the International Monetary Fund, given its strengths in data production and publication, while the United Nations can collaborate with the Fund under the auspices of an intergovernmental tax body (see Recommendation 14B).

National, regional and global level information should be provided on declared corporate profits, corporate real economic activity, the location of assets and their beneficial owners, as well as on the international tax cooperation mechanisms and their operation. Another important aspect is the design of templates for data reporting. This would be useful for the proposed indicators for SDG 16.4 on combatting illicit financial flows. But it should go much deeper, to collate data that would be helpful for country authorities for a range of activities, from conducting risk assessments to determining capacity needs. Citizens will also be able to use the data to hold their governments accountable for their performance.

Recommendation 11B: Designate an entity to collect and disseminate data about mutual legal assistance and asset recovery efforts.

A body with universal membership should regularly collect and disseminate reliable, comprehensive and disaggregated data on mutual legal assistance requests and their results. This should be a regular annual exercise through the statistical department of the chosen entity. This data will not only be able to feed into the UNCAC implementation review mechanism to assess the effectiveness of implementation but can also be used by senior officials in each country to judge the effectiveness of their own staff, policies and procedures.

Recommendation 11C: Designate an entity to collect and disseminate aggregate data on enforcement of money-laundering standards, including beneficial ownership information.

A body with universal membership should regularly collect and disseminate reliable, comprehensive national data related to money-laundering, with appropriate aggregation so as not to undermine confidentiality. This data can be helpful for comparator analysis for reviews of FATF Recommendation compliance at global and regional levels.

IMPLEMENTATION REVIEW

Effective implementation review mechanisms are critical to enhance trust and incentivise implementation of international norms, though they are not a panacea for resolving cases of entrenched corruption. Neither are they likely to compensate for a complete lack of political will to implement reforms. The five components critical for effective peer review are comprehensiveness, inclusiveness, impartiality, transparency and monitoring.

For comprehensiveness, peer review should assess more than a government's legal compliance with international norms. It must also examine compliance in practice, as well as the impact of compliance. Moreover, it is vital to include all relevant stakeholders – most notably civil society, academics and the private sector – in reviews, to improve the whole process and promote implementation. All states under review should be treated equally and reviews should be immune from political bias and power imbalance.[88] Both the review process and its outcomes should be accessible to the public. Regular and systematic monitoring is also crucial to ensure that recommendations are being addressed.

» **Implementation reviews should be comprehensive, inclusive, impartial, transparent and have follow-up monitoring.**

Although none of the peer review systems related to international financial integrity norms fully meet these requirements, the implementation review mechanism (IRM) of the UNCAC deserves special attention. The IRM, a trailblazer agreement when it was made 20 years ago, has had many achievements, but could be further improved to respond to the new realities in anti-corruption policies. It has not been noticeably updated since its creation, while most other mechanisms have undergone significant changes over time. The IRM now departs significantly from the practices at other peer review mechanisms and has fallen behind on the five key metrics enumerated above.



The IRM of the UNCAC only covers legal implementation. It has no requirement for involving stakeholders, leaving it to the discretion of the reviewed state, contrary to most peer reviews in the field of financial integrity. It does not provide for discussions of individual country reports in implementation review group meetings; nor does it require review reports to be made available to the broader public.[89] Finally, it does not have a formalised system for monitoring in between rounds of review,[90] which opens the possibility that gaps in implementation will persist. This is especially problematic as the practice for the first two rounds of review have focused on only certain chapters of the convention. Thus, a check on progress on an already-identified implementation shortcoming may not occur for decades.

» **The UNCAC implementation review needs updating to improve effectiveness.**

Recommendation 12A: Update the UNCAC implementation review mechanism to improve comprehensiveness, inclusiveness, impartiality, transparency, and especially monitoring.

The upcoming United Nations General Assembly Special Session on corruption offers a unique opportunity for UNCAC State Parties to agree to update the UNCAC implementation review mechanism and thus contribute to enhancing the implementation of the Convention. Improvement of the UNCAC implementation review mechanism should be done within the framework of the Convention. Action should be taken on all five aspects, comprehensiveness, inclusiveness, impartiality, transparency, and monitoring mechanisms:

» **Improving comprehensiveness by reviewing both the legal implementation of UNCAC as well as states' actual compliance and impact;**

» **Enhancing meaningful inclusion of relevant stakeholders, such as civil society and the private sector, in peer reviews in particular (1) during the preparation of the self-assessment report; and (2) during country visits (where applicable);**

» **Ensuring impartiality and reducing the risks of political bias in the reviews by mandating (1) involvement of national experts in country examinations; (2) involving the UNODC Secretariat, and not just other countries, on the review team; and (3) discussing and adopting country reports individually in implementation review group meetings;**

» **Increasing visibility of and accessibility to the whole review process by (1) webcasting implementation review group sessions; and (2) requiring that full review reports be made available online;**

» **Creating an adequate follow-up monitoring mechanism, which includes (1) results-oriented recommendations which are frequently monitored for adoption; (2) better linkage to capacity building; and (3) enhanced public communication by the implementation review group on the countries with the best track records of improvement, as an incentive for progress.**

These changes should enhance openness and honesty while still keeping to the consensus and

Member-State-driven approaches of the UNCAC, which allow it to respect the diversity of legal, political, judicial and social systems.

Recommendation 12b: Update UNCAC and other peer review mechanisms to reduce duplication and increase efficiency.

Ensuring consistency among review processes and reducing the risk of monitoring fatigue is also critical. Member States should further shorten the intervals between evaluations and enhance collaboration among different peer reviews in the area of financial integrity, for example, through mechanisms suggested under Recommendation 13. Finally, it is absolutely essential that all peer reviews mechanisms have stable and impartial funding over time. This means a regular budget not subject to political whims, so that reviews can be remain impartial and effective.



NATIONAL GOVERNANCE ARRANGEMENTS

At present, no government in the world gets everything right. Financial integrity for sustainable development is a universal agenda that requires universal action. Political will and financing are needed, even to create the correct reform plans and ask for the needed capacity building. It is no longer good enough to talk about – or even create – standalone institutions to promote progress on specific aspects of financial integrity, such as an apex anti-corruption body.

In many countries, there is lack of coordination, due to different national institutions being responsible for different types of IFFs and some regulatory bodies saying that financial integrity is not part of their mandate. Establishing separate specialised organisations to deal with IFFs not only increases operating costs but may also reinforce the status quo. Whole-of-government systems are needed, while allowing for specialisation of work. A more holistic approach to policy making would benefit from economies of scale and scope, encompassing all sources and channels of IFFs and drawing on a range of expertise. In a sense, the proposed structure would be similar to a multidivisional firm that shares many facilities and costs but addresses different markets.

» **The variety of international institutional arrangements presents challenges of national coordination and burdens government capacities.**

Financial integrity for sustainable development requires national innovations in cooperation and coordination, including with non-state actors. A whole-of-government approach should provide the architecture for inter-agency collaboration, coordinated reporting, and removal of duplicated or competing mandates. It needs consistent political support and needs to be integrated with broader development planning. This framework should be a core part of integrated national-financing frameworks and be coherent with medium-term revenue strategies. Such a holistic framework will help ensure governments have the capacity to fully implement financial integrity for sustainable development policies. It will also help ensure that the overarching national sustainable development strategies address challenges to enforcing existing laws, norms and regulations.

In order to build capacity, interagency collaboration at the national level should be enhanced through regional experience sharing. The Panel notes, for example, that tax administrations in different parts of the world have established regional tax authority groupings to exchange experiences and to discuss relevant issues with each other.[91] However, aside from the African Tax Administration Forum (ATAF), the technical assistance provided focuses mainly on various types of tax administration issues and less on tax policy, tax legislation and tax treaty issues.

Equally important for the success of interagency collaboration is its ability to domesticate the existing global and regional norms and instruments at the national level, and to mainstream them across the different national institutions responsible for financial integrity. This process will help bring these national institutions together for coordinated regional cooperation and will

provide effective risk analysis to identify major gaps in resources and capacities to address tax abuse and criminal activities. The success of these policy tools and frameworks will depend on how well adapted they are to the particularities of each country's circumstances.

» **Within countries, there are uneven capacities within national bodies dealing with corruption, tax avoidance and evasion and money-laundering risks.**

Recommendation 13: Governments should create robust and coordinated national governance mechanisms that efficiently reinforce financial integrity for sustainable development and publish national reviews evaluating their performance.

Due attention must be paid to monitoring and evaluation of the national policies to promote financial integrity. There is a need to strengthen the oversight role of parliamentarians in relation to financial integrity, as they need to legislate for changes and can represent affected constituents. Parliamentary committees can hold the executive and enforcement agencies accountable for their performance. Civil society engagement within these governance arrangements is important. This can help ensure financial integrity rules are not being subverted or politicised. Each government should publish, for public review, an annual report on its progress and the utilisation of additional resources according the Global Pact discussed in Part II.

GLOBAL GOVERNANCE ARRANGEMENTS

The global architecture is fragmented and uncoordinated. Some bodies are not universally inclusive. Others lack the right norm setting infrastructure. Further, existing institutions deal with overlapping aspects in silos, and are unable to address illicit financial flows systematically. These bodies are also not dynamic. Some political bodies do not mobilise enough expertise, while some technical bodies face a marked lack of political backing. There is currently no inclusive forum that brings the disparate parts of the system together. The patchwork of institutional arrangements presents, at a minimum, challenges of coordination, burdens government capacities, and raises questions of legitimacy. The inadequacies of the present architecture suggest the need for a legitimate and coherent ecosystem of instruments and institutions invested in delivering financial integrity for sustainable development.

Figure 2 shows a schematic diagram of some of the complex web of intergovernmental initiatives, programmes, agreements, conventions and treaties that have developed organically over time and are based on historic relationships.[92] Each of these instruments, along with some others, address part of the problem, sometimes in functional, institutional and geographical silos.

» **The present global architecture to tackle illicit financial flows is fragmented and inadequate.**

As a consequence, there is still no single globally inclusive intergovernmental forum for setting norms in tax matters. The process of setting international tax norms and standards is largely led by the OECD and the G20, though the UN Committee of Experts on International Cooperation in Tax Matters has a role through its model treaty and innovative approaches. The OECD/G20 have designed two important frameworks to address tax cooperation: the Inclusive Framework on BEPS and the Global Forum on Transparency and Exchange of Information for Tax Purposes (see Figure 2 for the size of their membership). Countries are only invited to participate in these frameworks on the condition that they agree to implement the underlying standards and norms, although most developing countries were excluded from the process of negotiation and elaboration.

The FATF originally encompassed just 16 Member States, but currently has 39 members, including all G-20 countries, as well as additional countries with large financial centres. FATF has near universal participation through its Associate Members, the FATF-style regional bodies (FSRBs), which taken together have nearly all States as members. The FSRBs sit as observers in FATF plenaries, participate in FATF meetings and provide input in standard setting.[93] However, associate members do not enjoy formal equal representation in the plenary, where standards are officially set.

Meanwhile, UNCAC is a legally binding universal anti-corruption instrument which created a

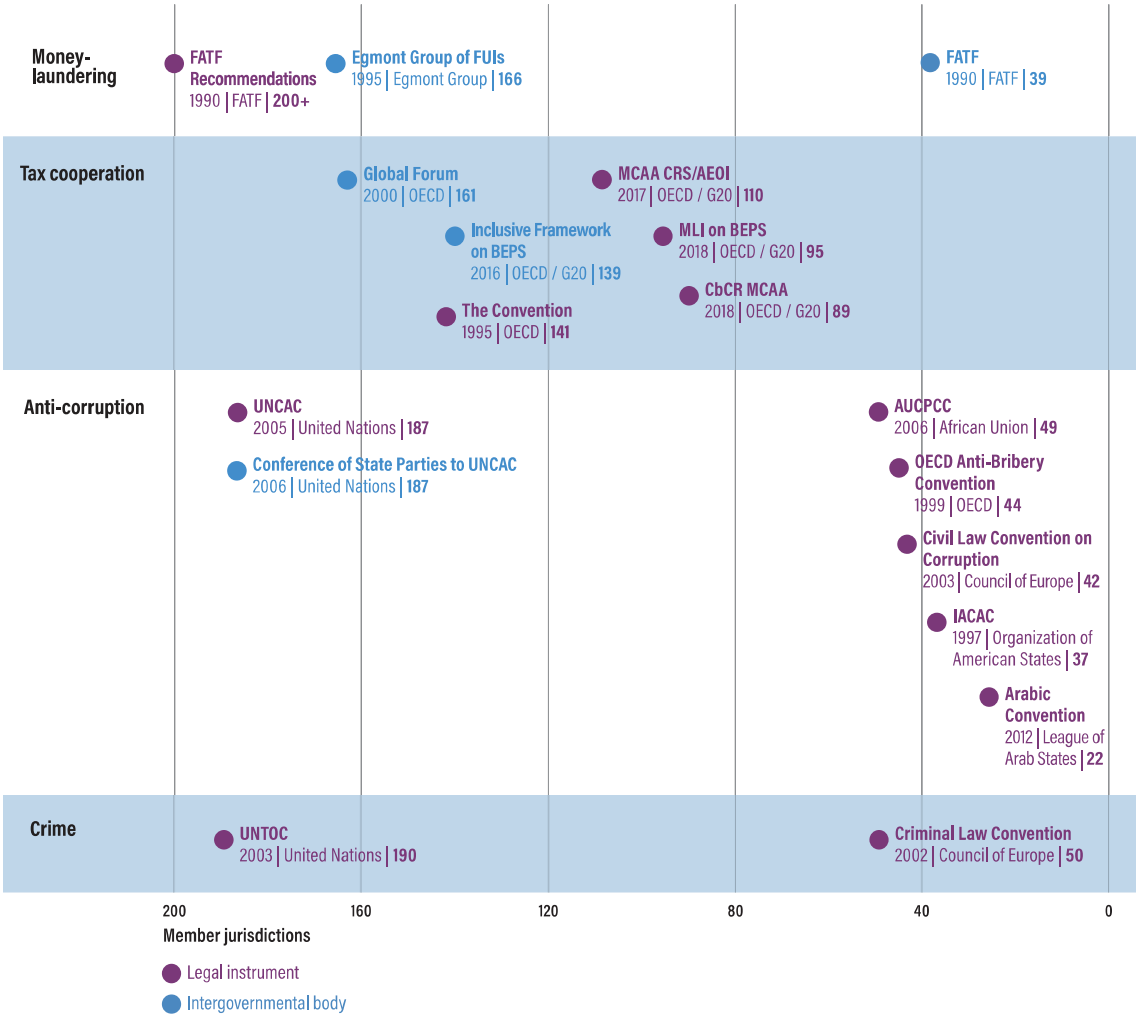
Conference of the States Parties (COSP) to improve the capacity of and cooperation between States and to promote the convention and review its implementation. However, the COSP is a high-level body established by the convention, and does not have a formal mechanism to coordinate its decisions or activities with any other body inside the United Nations.

In each area, existing structures can be utilised and built on for the implementation of financial integrity for sustainable development. Yet there are no formal structures for coordination among the existing independent silos. States cooperate and coordinate most effectively when they share responsibilities and are committed to accountability. States already have obligations at domestic, international and collective levels, stemming from the instruments mentioned.



Yet, a weak link anywhere in the systems for financial integrity can undermine all other parts of the system. This necessitates stronger coordination. The current presidency of FATF has already identified cooperation and alignment with the United Nations as a key priority.[94] This signals the readiness and willingness of international institutions to

FIGURE 2: SELECTED EXISTING MECHANISMS FOR FINANCIAL ACCOUNTABILITY, TRANSPARENCY AND INTEGRITY



Source: FACTI Panel

Note: "The Convention" is the OECD Convention on Mutual Administrative Assistance in Tax Matters. Each entry shows: the year of agreement; the negotiating body, host or secretariat; and the number of members.

address the shortcomings which have already been identified.

» **A legitimate, coherent ecosystem of instruments and institutions needs coordination.**

Moreover, a number of multilateral mechanisms in the global financial integrity system exhibit hidden plurilateralism, or the rallying together of small sub-groups to ensure their interests prevail. This creates unequal treatment and outcomes for countries, with developing countries primarily losing out. Global governance needs improvement. The United Nations, as an inclusive and universal body, with norm setting and review functions, is uniquely positioned to address such concerns. It can bring together technical, legal and political consideration in a single forum. Given that intergovernmental consideration of financing for sustainable development issues is already located within ECOSOC, it makes sense that ECOSOC, supported by the whole UN system and relevant organisations, becomes the venue to facilitate international cooperation as well as solutions related to building financial integrity for sustainable development.

» **Revitalised global governance is needed to facilitate international cooperation on fostering financial integrity for sustainable development.**

Like all other recommendations, improved global governance arrangements will not instantly resolve technical challenges or differences of opinion. Just as with national structures, international structures must find coherence within what are now disparate policy discussions with little overlap. Global governance should foster better coordination and cooperation across borders and silos to implement the values, policies and institutions described above.

Multilateralism can also be advanced at other levels beside the global. There is much space for regional and national innovation and learning. While multilateral reforms are initiated and agreed upon, productive work can be pursued at the regional level on financial integrity issues. Regional coordination can build on innovations from national legislation and bilateral agreements. And such progress is facilitated by building understanding and demonstrating the efficacy of new norms, standards, rules, or regulations at the national and regional level.

» **Coherence and coordination can be improved with international structures, both regionally and globally.**

Recommendation 14A: Establish an inclusive and legitimate global coordination mechanism at ECOSOC that can address financial integrity on a systemic level.

Existing ECOSOC structures, such as the Commission on Crime Prevention and Criminal Justice and the Committee of Experts on International Cooperation in Tax Matters, should be brought together with parallel United Nations structures such as Conference of State Parties to the UNCAC to coordinate actions across financial integrity topics. A critical challenge is bringing the various technical silos in finance ministries, justice ministries, and financial intelligence units together for coordinated discussion. This will be greatly helped by the implementation of national governance arrangements described in Recommendation 13.

A further challenge to be addressed is a mechanism for the coordination of intergovernmental discussion with bodies outside of the United Nations. There are three bodies with important norm setting and peer review functions: on tax matters, the Inclusive Framework on BEPS and the Global Forum on Exchange of Information for Tax Purposes, and on money-laundering, the Financial Action Task Force. The Panel recommends that Member States find a way to promote coherence and coordination among these bodies. These bodies, alongside the UNCAC Conference of the States Parties (COSP), should be viewed as instrumental to a mechanism to coordinate action on financial integrity.

The ultimate aim is establishing an intergovernmental mechanism, under the auspices of a body with universal membership, to undertake this coordination. The natural venue is ECOSOC, which has a mandate to and already performs this function. For example, it already hosts coordination of the United Nations system with the Bretton Woods Institutions and the WTO, as well as the coordination of humanitarian work which involves

many UN organisations and humanitarian and development partners.

Recommendation 14B: Building on existing structures, create an inclusive intergovernmental body on tax matters under the United Nations.

The existing UN Tax Committee provides a good basis to quickly create an inclusive intergovernmental body on tax matters under the auspices of a universal membership institution. Retaining clear decision-making procedures, transparent operations, and inclusive decision-making for all members will be vital. The existing Committee already participates in an annual special meeting with ECOSOC; an upgraded committee can effectively provide the tax cooperation portion of the coordination at ECOSOC described in Recommendation 14A.

It makes sense that this body capitalise on the rules, procedures, networks and expertise already developed at both the United Nations and the Global Forum, which has an independent secretariat and very broad membership. It is critical that budgetary resources be made available to run these expanded operations and secretariat. The Global Forum could undergo a process similar to that taken by the International Organisation for Migration in becoming a "related organisation" to the UN. Its professional staff, along with the existing staff dedicated to the UN Tax Committee, could form the core of the secretariat in the UN on tax matters.

Ultimately, the negotiators for the UN Tax Convention (see Recommendation 2) could decide to create a conference of States parties to the convention. Such a body would coordinate implementation of the tax convention and can oversee peer review, while being assisted by expert committees or technical working groups. Negotiators should ensure coherence with and participation in the coordination mechanism described in Recommendation 14A.

Recommendation 14C: Starting with the existing FATF plenary, create the legal foundation for an inclusive intergovernmental body on money-laundering.

FATF, which has a Security Council mandate, operates without a legal convention or articles of agreement at its core, relying on its rules and plenary meetings to agree standards which are technically non-binding. The more than 200 jurisdictions that have agreed to implement the FATF Recommendations would benefit from a more formal establishment of the governing body, with appropriate rules for universal representation. The Panel sees merit in a constituency approach that would formally give voice for all, instead of having non-FATF-member jurisdictions speaking through FATF-style regional bodies, which are officially only observers at the FATF plenary. The constituency approach should allow continued direct representation for the existing FATF member countries, which often host the largest financial centres and have the most expertise in anti-money-laundering rules as well as the greatest responsibility to stop illicit financial flows.

Recommendation 14D: Design a mechanism to integrate the UNCAC COSP into the coordination body under the auspices of ECOSOC.

Finally, Member States should consider further improvements to the existing mechanism and procedures of the UNCAC Conference of States Parties, beyond the reforms related to peer review (see Recommendation 12). In particular, the COSP should consider violations of the UNCAC, related to all aspects of the treaty, including failure to enforce anti-corruption policies and to cooperate on the return of assets. However, it needs to coordinate action with other bodies working in the financial integrity ecosystem, which should happen through the ECOSOC coordination mechanism. At ECOSOC, Member States can agree on political priorities and further actions to coordinate UNCAC implementation with the broader financial integrity for sustainable development architecture.



CONCLUSION

The path forward is clear: to move past the threshold of transformation, towards achieving the SDGs, we must grapple with illicit financial flows. By fostering financial integrity for sustainable development, we can recommence our journey towards the visionary targets and goals set out in the 2030 Agenda for Sustainable Development.

The 14 recommendations put forth by the Panel have charted out the way. They represent an ambitious set of institutional reforms, which we recognise will take time to develop and agree. Yet, now is not the time for a lowest common denominator approach. The creation of financial integrity for sustainable development requires nothing less than transformation of the financial system, and it must proceed in parallel with the transformations being developed to address climate change and ensure sustainable investment. These transformations are the direct implication of the ambitious goals Member States have set for themselves in the 2030 Agenda.

A Global Pact, through fostering financial integrity for sustainable development and committing to invest the results in sustainable development, will build trust, reinforce multilateralism and release resources. This is needed to achieve the transformation global leaders envisioned more than five years ago. Our priorities and our aspirations have never been clearer. With such a pact, they will finally be much closer to being within reach.

No country, group of countries or institution can resolve the issue by themselves. We must all work together, charged with zeal, hope, and a unified sense of purpose. The resources generated by a Global Pact will benefit everyone, everywhere. They will be deployed for the larger good of humanity. They will help build the stable, inclusive, equitable future we want and need.

	FINDINGS		RECOMMENDATION
VALUES	Enhancing the effective implementation of UNCAC is critical for improved accountability. Grand corruption continues when corrupt regimes capture state institutions. Awareness of serious corruption does not always translate into accountability. Cross-border corruption cases suffer from a lack of transparency and proactive information sharing. Non-trial resolutions of foreign bribery pose challenges because safeguards are missing. Sanctions from bribery settlements do not provide sufficient disincentive for bribery. The private sector needs to cultivate a stronger culture of integrity so that businesses comply with the letter and spirit of all laws.	1A 1B 1C	All countries should enact legislation providing for the widest possible range of legal tools to pursue cross-border financial crimes. The international community should develop and agree on common international standards for settlements in cross-border corruption cases. Businesses should hold accountable all executives, staff and board members that foster or tolerate illicit financial flows in the name of their businesses.
VALUES	The institutional environment is dominated by voluntary forums and bilateral tax treaties, which contain numerous imbalances. There are institutional deficits in tax norm setting, including that there is no globally inclusive intergovernmental forum for setting norms.	2	International tax norms, particularly tax transparency standards, should be set out through an open and inclusive legal instrument with universal participation; to that end, the international community should initiate a process for a UN Tax Convention.
VALUES	Secrecy flourishes because of inconsistent and ineffective beneficial ownership information regimes. There are unaddressed gaps and vulnerabilities in beneficial ownership information, including lack of information, verification, sanctions as well as built-in loopholes such as secrecy structures. Country-by-country reports of multinational enterprises are valuable transparency tools. Limits on their production and use undermine their effectiveness in tackling abusive practices. Transparency in public procurement has weakened during the COVID-19 pandemic.	3A 3B 3C	International anti-money-laundering standards should require that all countries create a centralised registry for holding beneficial ownership information on all legal vehicles. The standards should encourage countries to make the information public. Improve tax transparency by having all private multinational entities publish accounting and financial information on a country-by-country basis. Building on existing voluntary efforts, all countries should strengthen public procurement and contracting transparency, including transparency of emergency measures taken to respond to COVID-19.

	FINDINGS		RECOMMENDATION
VALUES	Developing countries are systemically disadvantaged in the current international tax architecture. There are vulnerabilities in international tax norms resulting in large revenue losses to governments. Transfer pricing rules are too complex to effectively prevent aggressive tax planning. Gaps in any bilateral tax treaty might enable avoidance of capital gains tax. Tax competition continues to undermine the tax base. Proposed new rules on digital economy taxation at the OECD are excessively complex and not adapted to developing countries' needs. Setting a global minimum tax rate on an agreed tax base could help lessen the impact of harmful tax competition. The proposed new UN model treaty rule to tax automated digital services is seen as providing a practical approach. Concerns abound about mandatory binding arbitration of tax disputes.	4A	Taxpayers, especially multinational corporations, should pay their fair share of taxes. The UN Tax Convention should provide for effective capital gains taxation. Taxation must be equitably applied on services delivered digitally. This requires taxing multinational corporations based on group global profit.
		4B	Create fairer rules and stronger incentives to combat tax competition, tax avoidance and tax evasion, starting with an agreement on a global minimum corporate tax.
		4C	Create an impartial and fair mechanism to resolve international tax disputes, under the UN Tax Convention.
VALUES	The asset recovery process remains onerous for requesting countries. Efficient asset return is hobbled by a lack of trust between jurisdictions. UNCAC provisions on compensation to the victim states in foreign bribery cases are rarely used. Facilitators and enablers sometimes benefit from management fees of frozen assets.	5A	Create a multilateral mediation mechanism to fairly assist countries in resolving difficulties on international asset recovery and return, and to strengthen compensation.
		5B	Escrow accounts, managed by regional development banks, should be used to manage frozen/seized assets until they can be legally returned.
POLICIES	Enablers of IFFs are not held to account for their activities, due to gaps in enforcement and abuse of legal privilege. Many financial institutions do not have sufficient incentive to block the inflow of illicit finance. Self-regulation does not work. Many governments, particularly in haven countries, refrain from setting standards for appropriate conduct of enablers, despite the social costs.	6A	Governments should develop and agree global standards/guidelines for financial, legal, accounting and other relevant professionals, with input of the international community.
		6B	Governments should adapt global standards for professionals into appropriate national regulation and supervision frameworks.

	FINDINGS		RECOMMENDATION
POLICIES	Civil society actors, whistle-blowers, and journalists perform a critical role in promoting accountability, tackling vested interests and building coalitions for reform. Despite the vital importance of their work, civil society actors lack support and protection.	7A	The international community should develop minimum standards of protection for human right defenders, anti-corruption advocates, investigative journalists and whistle-blowers. States should consider incorporating these standards in a legally binding international instrument.
		7B	Civil society should be included in international policy making forums in an effective and efficient manner.
POLICIES	There are large gaps in the exchange of international financial information. Developing countries are excluded from data networks, impairing their ability to fight illicit flows. There are persisting impediments to international cooperation and accountability.	8A	End information sharing asymmetries in relation to information shared for tax purposes, so that all countries can receive information.
		8B	Enable free exchange of information at the national level as standard practice to combat all varieties of illicit flows.
		8C	Promote exchange of information internationally among law enforcement, customs and other authorities.
POLICIES	Policymakers need to be nimble to tackle ever-evolving risks to financial integrity.	9A	International organisations must provide timely advice, so that procedures, norms and policies can be updated regularly.
		9B	Governments must dynamically adjust their national and international systems in response to new risks.
POLICIES	Many developing countries lack the institutional capacity create financial integrity. Greater resources are a necessary complement to political will, to upgrade capacities in all countries. Specialised organisations and regional bodies add value through more effective knowledge-sharing. More research is needed on the effectiveness of anti-corruption interventions. Non-state actors need capacity to reinforce political will, while public awareness can change societal norms. Technology tools are available to strengthen enforcement capacity.	10A	Create an International Compact on Implementing Financial Integrity for Sustainable Development to coordinate capacity building. Extend existing capacity building that tackles tax abuse, corruption, money-laundering, financial crime and asset recovery.
		10B	The international community should finance the creation and maintenance of public goods that can lessen the cost of implementing financial integrity commitments.
		10C	Strengthen the capacity of UNODC to do research on anti-corruption, including in collaboration with other international organisations, with a strategic aim of improving the effectiveness of capacity building and technical assistance.
INSTITUTIONS	There is no neutral authoritative body tasked with publishing comprehensive global tax data. There is a lack of data and evidence about asset recovery and return. The lack of uniform, public data on the volume of suspicious activity reports gets in the way of assessing the effectiveness of the current system.	11A	Establish a Centre for Monitoring Taxing Rights to collect and disseminate national aggregate and detailed data about taxation and tax cooperation on a global basis.
		11B	Designate an entity to collect and disseminate data about mutual legal assistance and asset recovery efforts.
		11C	Designate an entity to collect and disseminate data on enforcement of money-laundering standards, including beneficial ownership information.

	FINDINGS		RECOMMENDATION
INSTITUTIONS	Implementation reviews should be comprehensive, inclusive, impartial, transparent and have follow-up monitoring. The UNCAC implementation review needs updating to improve effectiveness.	12A 12B	Update the UNCAC implementation review mechanism to improve comprehensiveness, inclusiveness, impartiality, transparency, and especially monitoring. Update UNCAC and other peer review mechanisms to reduce duplication and increase efficiency.
INSTITUTIONS	The variety of international institutional arrangements presents challenges of national coordination and burdens government capacities. Within countries, there are uneven capacities within national bodies dealing with corruption, tax avoidance and evasion and money-laundering risks.	13	Governments should create robust and coordinated national governance mechanisms that efficiently reinforce financial integrity for sustainable development and publish national reviews evaluating their own performance.
INSTITUTIONS	The present global architecture to tackle illicit financial flows is fragmented and inadequate. A legitimate, coherent ecosystem of instruments and institutions needs coordination. Revitalised global governance is needed to facilitate international cooperation on fostering financial integrity for sustainable development. Coherence and coordination can be improved with international structures, both regionally and globally.	14A 14B 14C 14D	Establish an inclusive and legitimate global coordination mechanism at ECOSOC that can address illicit financial flows on a systemic level. Building on existing structures, create an inclusive intergovernmental body on tax matters under the United Nations. Starting with the existing FATF Plenary, create the legal foundation for an inclusive intergovernmental body on money-laundering. Design a mechanism to integrate the UNCAC COSP into the coordination body under the auspices of ECOSOC.



GLOSSARY

Aggressive tax planning	Taking advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing tax liability. Consequences for international transactions may include double deductions and double non-taxation.
Arm's-length principle	The international standard that compares the transfer prices charged between related entities with the price in similar transactions carried out between independent entities at arm's length.
Base erosion and profit shifting (BEPS)	Tax planning strategies that exploit gaps and mismatches in tax rules to make profits disappear for tax purposes or to shift profits to locations where there is little or no real activity but the taxes are low, resulting in little or no overall corporate tax being paid.
Beneficial owner	The natural person or group of people who control(s) and benefit(s) from a corporation, trust, or account.
Country-by-country reporting	Report by multinational enterprises with aggregate data on the global allocation of income, profit, taxes paid and economic activity among tax jurisdictions in which it operates.
Crypto-asset	Private assets that depend primarily on cryptography and distributed ledger or similar technology; examples include bitcoin, litecoin and ethereum.
Designated non-financial businesses and professions (DNFBPs)	Enablers of illicit wealth, including professions such as lawyers, accountants, trust and company service providers.
Double taxation	Overlapping claims on the taxing rights of countries on same declared income of a company or individual that incurs a tax liability in more than on country.
Dual criminality	The requirement that applies in Mutual Legal Assistance processes according to which the requesting jurisdiction must demonstrate that the offence underlying the request for assistance is criminalised in both the requested and requesting jurisdictions.
Haven country	Any country where assets can be safely held while minimizing legal, regulatory and tax scrutiny.
Illicit enrichment	A significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.
Illicit financial flows (IFFs)	There is no universally agreed intergovernmental definition on this term, though it appears in the 2030 Agenda, Addis Ababa Action Agenda, and is widely used in the UN System. In 2020, the Statistical Commission of the United Nations agreed on the use of a definition and a statistical methodology for estimation of IFFs for the purposes of monitoring progress on the 2030 Agenda for Sustainable Development.
Mutual legal assistance	A formal channel for international cooperation by which States seek for and provide assistance to other States.
Non-conviction-based confiscation	A legal procedure that allows the confiscation of illegal property without requiring prior criminal conviction of the offender, also known as civil forfeiture or in rem proceedings.

Non-trial resolutions	The term refers to any agreements between a legal or natural person and an enforcement authority to resolve foreign bribery cases short of full criminal proceedings.
Offshore indirect transfer	The sale not of an underlying asset itself, but of some entity owning the asset, when the sale of the entity is conducted not in the country of the asset.
Peer review	The systematic examination and assessment of the performance of a state by other states, with the ultimate goal of helping the reviewed state improve its policy making, adopt best practices and comply with established standards and principles.
Proceeds of corruption	Any property (assets of every kind, movable or immovable, tangible or intangible) obtained through or derived from the commission of a corruption offence.
Shell bank	A bank without a physical presence or employees in the jurisdiction in which it is incorporated.
Suspicious transaction report	A report filed by a financial institution, or other entity, to their local anti-money-laundering authorities if they have reasonable grounds to suspect that a transaction is related to criminal activity or it is of an unusual nature or circumstance.
Tax avoidance	The legal practice of seeking to minimise a tax bill by taking advantage of a loophole or exception to tax regulations or adopting an unintended interpretation of the tax code.
Tax evasion	Actions by a taxpayer to escape a tax liability by concealing from the revenue authority the income on which the tax liability has arisen.
Tax treaty shopping	The attempt by a person to indirectly access the benefits of a tax agreement between two jurisdictions without being a resident of one of those jurisdictions.
Trade mis-invoicing	The act of misrepresenting the price or quantity of imports or exports in order to hide or accumulate money in other jurisdictions.
Trade-based money laundering	A technique where trade mispricing is used to hide, or disguise income generated from illegal activity.
Transfer pricing	The price of transactions occurring between related companies, in particular companies within the same multinational group.
Virtual asset service providers	Any entity that conducts any of the following activities: exchanges among virtual assets and fiat currencies; transfer, safekeeping or administration of virtual assets; or provision of financial services related to a virtual asset.
Whistle-blower	A person who informs on a person or organisation engaged in an illicit activity; in the UNCAC this is called a reporting person.

ANNEX 1: TERMS OF REFERENCE OF THE HIGH LEVEL PANEL ON INTERNATIONAL FINANCIAL ACCOUNTABILITY, TRANSPARENCY AND INTEGRITY FOR ACHIEVING THE 2030 AGENDA

An initiative of the President of the General Assembly and the President of the Economic and Social Council

Introduction

The 2030 Agenda for Sustainable Development is a plan of action for people, planet and prosperity. It recognizes that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development. It seeks to shift the world on to a sustainable and resilient path and, in it, Member States pledge that no one will be left behind.

Mobilising sufficient financing for implementing the 2030 Agenda remains a major challenge. Additional annual investment needed to achieve just a few of the goals is estimated at over USD 2.5 trillion by 2030. The Addis Ababa Action Agenda on Financing for Development emphasises the complementary nature of public and private finance, and domestic and international finance, but highlights that domestic public finance is essential to providing public goods and services. Yet public goods and services, such as education and health care are underfunded. Without more public investment, achieving the 2030 Agenda will be impossible.

In these two global Agendas, Member States pledge to enhance revenue administration; improve transparency; promote good governance; identify, assess and act on money laundering risks; significantly reduce illicit financial flows; and deter, detect, prevent and counter corruption and bribery. Yet, many are concerned that insufficiency in financial accountability, transparency and integrity erodes the ability of States to raise revenue and directly undermines the efforts of the global community to successfully achieve the Sustainable Development Goals (SDGs). Hidden, secret, fraudulent and misleading transactions prevent States from enforcing the law and collecting their fair share of taxes. Trillions of dollars are estimated to be held in off-shore undeclared financial holdings. Insufficient accountability, transparency and integrity create uneven playing fields that harm small- and medium-sized businesses and undermine equity and inclusiveness in our economies. It also impacts on the effectiveness of macroeconomic policies, and facilitates criminals being able to hide the proceeds of their crimes.

Tax evasion, money laundering and corruption, as well as tax avoidance, especially in an era of digital economic activity, demonstrate that the world needs to put more effort into preventing financial crimes, creating level playing fields, ending financial opacity, and mobilising resources equitably. The international community needs multilateral action to tackle these challenges if we are to reach our global goals.

Countries are taking action nationally to reach SDG 16 and its targets by strengthening existing institutions and enhancing the effectiveness of law enforcement. This is evidenced by a number of high-profile prosecutions related to tax evasion, bribery and corruption. Nonetheless, as noted

in the Addis Agenda, in a world of cross-border trade, investment and finance, there are limits to the ability to raise resources and enforce financial accountability, transparency and integrity through domestic action alone.

There are existing mechanisms of international cooperation, both within the United Nations and outside of it, including the United Nations Convention against Corruption and the United Nations Convention on Transnational Organized Crime, which provide important frameworks for Member States to take action together. A number of international institutions are stepping up their work on financial accountability, transparency and integrity. The United Nations Inter-agency Task Force on Financing for Development, which includes 60 UN and non-UN institutions, agencies and programmes, continuously analyses financial accountability, transparency and integrity challenges, surveys the various estimates of the challenges and also reviews policy advancements. Work is ongoing to improve estimation of the volume of illicit transactions, both through the SDG indicator process and in separate research and analytical work.

Yet, in the view of many Member States and other stakeholders, there is room for improvements in the implementation, inclusiveness, and/or design of the international institutional architecture and related commitments. To promote financial accountability, transparency and integrity further action may be needed in the following areas: financial and beneficial ownership transparency, tax matters, bribery and corruption, confiscation and disposal of the proceeds of crime, money laundering and the recovery and return of stolen assets. Ensuring the effective implementation of comprehensive international frameworks related to financial accountability, transparency and integrity is critical to financing the SDGs. This is a global problem that requires global cooperation.

The Addis Agenda acknowledges the need to address these aspects and advance international cooperation through fair, inclusive and universal platforms. Recognising the delicate balance on key issues contained in intergovernmental documents, all voices need to be heard and engaged when making decisions in these areas. General Assembly Resolution 74/206 includes an invitation to the President of the General Assembly, the President of Economic and Social Council to give appropriate consideration to the importance of combating illicit financial flows and strengthening good practices on asset return to foster sustainable development.

The President of the General Assembly and the President of the Economic and Social Council welcome this call. On this background, they are convening a high-level panel on international financial accountability, transparency and integrity for achieving the 2030 Agenda.

Objectives

The high-level panel is expected to contribute to the overall efforts undertaken by Member States to implement the ambitious and transformational vision of the 2030 Agenda. Our common goal, as set out in SDG 16, is to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

In pursuing its work autonomously, the panel is expected to:

- Review current challenges and trends related to financial accountability, transparency and integrity;
- Review existing international institutional and legal frameworks related to financial accountability, transparency and integrity, with a view to identify any gaps, impediments and vulnerabilities in their design and/or implementation, including with regard to their comprehensiveness, effectiveness and universality;
- Make evidence-based recommendations, building on the successes and ongoing work of existing mechanisms, on:
  - How to make the systems for financial accountability, transparency and integrity more comprehensive, robust, effective, and universal in approach;

» Ways to address identified gaps, impediments and vulnerabilities, including by: (i) strengthening the implementation of existing mechanisms, standards and commitments; (ii) improving existing international frameworks related to financial accountability, transparency and integrity, where possible; (iii) exploring the need for, and feasibility of, establishing additional international instruments or frameworks, where warranted; and (iv) governance arrangements to match the challenges; and

» Ways to strengthen international cooperation, including through existing bodies, that will enhance capacity to implement the recommendations.

Composition

The Presidents will appoint fifteen members to the panel, including two co-chairs. They will be drawn from policymakers, academia, civil society, the public and private sectors, with due consideration to geographic and gender balance. The panel will include members: (i) with an understanding of the complex and interrelated aspects of financial accountability, transparency and integrity; (ii) who have a grasp of the strengths and weaknesses of existing institutions; (iii) with experience in designing and implementing policies in relevant domains; and (iv) with knowledge of the challenges faced by countries from different regions of the world and at different levels of economic and social development.

Role of panel members

The panel members will serve in their individual capacities and will have four roles:

» Analytical role: the panel members will contribute their knowledge, experiences and ideas to the group. They should jointly agree on the panel's analysis and recommendations;

» Topic leadership role: the co-chairs may request some panel members to lead aspects of the Panel's work based on their expertise. This may include participation in events and conferences, consultations, meetings with officials, and other engagements;

» Engagement role: throughout the term of the panel's work, the panel members will engage with Member States to understand their circumstances, practices and needs; with relevant international institutions and bodies to understand the effectiveness and limitations of existing mechanisms and their implementation; as well as civil society, the private sector, academia and other stakeholders; and

» Outreach role: the panel members may wish to support the dissemination of the panel's report and recommendations after the conclusion of the panel's work.

Panel members should plan to attend all four meetings of the panel and the final report presentation.

Expected outcome

July 2020 The panel will produce an interim report setting out its analysis of the situation.

February 2021 The panel will produce its final report providing recommendations.

Panel secretariat and funding

The panel will be supported by an independent secretariat, hosted by the United Nations Department of Economic and Social Affairs/ Financing for Sustainable Development Office. The secretariat will be responsible for producing and editing background papers and the panel's interim and final reports, supporting the panel's communications and outreach, coordinating the engagement of the Panel with all stakeholders, and organising the panel's meetings and other events. A core group of UN agencies will assist the secretariat in its work.

The funding for the Panel's work and the independent secretariat will be provided through voluntary contributions to the Trust Fund to Support Activities for the Follow-up to the International Conference on Financing for Development. All contributions are managed and audited in accordance with the UN Financial Regulations and Rules. Information about the secretariat's funding and staffing will be posted on the website of the Panel (www.factipanel.org).

Process and consultations

The panel will hold at least four meetings of up to three days each. It will solicit comments and suggestions from interested stakeholders including policymakers and government officials, representatives of international agencies, academics, the private sector and members of civil society, both at its formal meetings and between them. International bodies, including UN System agencies and non-UN institutions, are invited to work with the Panel. Together, these deliberations and inputs will feed into an interim report of findings to be presented in July 2020 at the time of the High Level Segment of ECOSOC.

On the basis of the interim report, panel members will participate in regional consultations and discussions with Member States and interested stakeholders to seek input and get feedback on their analysis. The Panel will seek close coordination with existing international bodies. These consultations will inform the final report and recommendations, including the analysis that motivated the recommendations. The panel will conclude its work by publishing its final report, expected in February 2021. Updates on the progress of the panel will be provided to all stakeholders periodically throughout the process.

The Panel will post all relevant information on its webpage (www.factipanel.org) to be launched early March 2020.

ANNEX 2: PANEL MEMBERS

Dalia Grybauskaitė

(Lithuania)



Dalia Grybauskaitė served as President of Lithuania from 2009 to 2019. She is the country's first woman President and the only President in Lithuania's post-Soviet history to have served two consecutive terms. As a European Union Commissioner for Financial Programming and Budgets, she was elected Commissioner of the Year in 2005. She served as Finance Minister for Lithuania from 2001 to 2004. Within the Ministry of Foreign Affairs, she was Director of the Economic Relations Department, responsible for economic diplomacy and development assistance. She also was Chief Negotiator for Lithuania's Free Trade Agreement with the European Union.

Ibrahim Assane Mayaki

(Niger)



Ibrahim Assane Mayaki is the Chief Executive Officer of the African Union Development Agency (AUDA-NEPAD). He was Prime Minister of Niger from 1997 to 2000. He previously served as Minister in charge of African Integration and Cooperation and as Minister of Foreign Affairs, and as Executive Director of the Rural Hub Think Tank, based in Dakar, Senegal. He has been awarded high distinctions and decorations from Niger, France, Spain and Japan.

Annet Wanyana Oguttu

(South Africa)



Annet Wanyana Oguttu is a professor of tax law in the Department of Taxation and the African Tax Institute at the University of Pretoria. She authored the seminal book International Tax Law: Offshore Tax Avoidance in South Africa and has co-authored or contributed chapters to seven other tax law books. Dr. Oguttu has served as a member of the Davis Tax Committee to assess South Africa's tax policy framework, chairing subcommittees on base erosion and profit shifting (BEPS) and corporate tax.

Benedicte Schilbred Fasmer

(Norway)



Benedicte Schilbred Fasmer is the Chief Executive Officer of SpareBank 1 SR-Bank. She has more than 30 years of executive experience in the financial sector, capital markets, industry and shipping. She previously served on the Executive Board of Norges Bank (the Norwegian central bank) and has served as non-executive director and chair in listed and unlisted companies within several industries and government-owned businesses. She has served as Chairman of the Board of the Oslo Stock Exchange. She was Group Executive Director for Corporate Banking at Norway's largest bank, DNB.

Bolaji Owasanoye

(Nigeria)



Bolaji Owasanoye is Chairman of the Independent Corrupt Practices and Other Related Offences Commission, the first and pioneer anti-corruption and integrity institution in Nigeria. He is a distinguished Professor of Law at the Nigerian Institute of Advanced Legal Studies and a Fellow of the Chartered Institute of Arbitrators of Nigeria. Mr. Owasanoye has served as Executive Secretary of the Presidential Advisory Committee Against Corruption. He has been Secretary of the National Working Group on Review of Investment Laws in Nigeria and served as a Member of the African Union Committee on the Draft of the Pan African Investment Code. He helped draft the Common African Position on Asset Recovery.

Heidemarie Wieczorek-Zeul

(Germany)



Heidemarie Wieczorek-Zeul is Vice-President of Friends of the Global Fund Europe and a member of the German Council for Sustainable Development (RNE). Ms. Wieczorek-Zeul was Germany's Minister for Economic Cooperation and Development and Governor of the World Bank from 1998 to 2009. She has also been a member of the National Parliament and a member of the Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System. She was a member of the European Parliament, where she was on the Committee on External Relations.

Irene Ovonji-Odida

(Uganda)



Irene Ovonji-Odida is a lawyer and women's rights activist. She was a Member of the AU/ECU High Level Panel on Illicit Financial Flows from Africa (the Mbeki Panel). She has also served on the Independent Commission for Reform of International Corporate Tax (ICRICT) and on the Pan African Lawyers Union task force on Illicit Financial Flows. Ms. Ovonji-Odida served in the East African Legislative Assembly. She is a former International Board Chair for ActionAid International and the former Chief Executive Officer of the Uganda Association of Women Lawyers.

José Antonio Ocampo

(Colombia)



José Antonio Ocampo is Professor at the School of International and Public Affairs at Columbia University, former United Nations Under-Secretary-General for Economic and Social Affairs, and former Finance Minister of Colombia. He has occupied numerous positions at the United Nations and in his native Colombia, including Executive Secretary of the UN Economic Commission for Latin America and the Caribbean (ECLAC), Minister of Agriculture, and Director of the National Planning Office of Colombia. He has published extensively on macroeconomic theory and policy, international financial issues, economic and social development, international trade, and Colombian and Latin American economic history.

Karim Daher
(Lebanon)



Karim Daher is an international business lawyer and tax adviser. He is a lecturer on Tax Law and Public Finance at Saint Joseph University of Beirut. He has been involved in legislative commissions for the modernization of Lebanese financial and commercial laws, and represents the Beirut Bar Association at the Parliament for the drafting and adoption of anti-corruption laws and rules. Mr. Daher is a member of the anti-corruption committee of the Lebanese Ministry of Justice and has attended on behalf of the Lebanese Ministry of Finance sessions on fiscal law and governance at the IMF's Institute for Capacity Development.

Magdalena Sepúlveda
(Chile)



Magdalena Sepúlveda is the Executive Director of the Global Initiative for Economic, Social and Cultural Rights and Senior Research Associate at the United Nations Research Institute for Social Development (UNRISD). From 2008-20014 she served as the United Nations Special Rapporteur on Extreme Poverty and Human Rights. She is also a member of the Independent Commission for the Reform of International Corporate Taxation (ICRICT). Dr. Sepúlveda's 20-year career has focused on the intersection of poverty, development and human rights and has bridged research and policy formulation. In 2015, she was recognised in the Global Tax 50, a list of individuals and organizations with the biggest impact on taxation worldwide.

Manorma Soeknandan
(Suriname)



Manorma P. Soeknandan is Deputy Secretary-General of the CARICOM Secretariat. The first female Resident Ambassador of the Republic of Suriname to Guyana, she has also served as Ambassador to CARICOM, Cuba and Jamaica. Ambassador Soeknandan has experience as a lawyer, legislative drafter, and judicial advisor with the Government of Suriname Ministry of Justice and Police and Ministry of Foreign Affairs. She has served on the Chamber of Commerce and Industry, the Council for Trade and Economic Development, and the Council for Finance and Planning (COFAP), among others.

Shahid Hafiz Kardar
(Pakistan)



Shahid Hafiz Kardar is Vice Chancellor of Beaconhouse National University in Pakistan. He has served as Governor of the State Bank of Pakistan and Minister for Finance, Planning, Excise and Taxation, Industries and Mineral Development in the Government of Punjab, Pakistan. Mr. Kardar has served on the Board of the Royal Bank of Scotland (Pakistan operations). He has been Honorary Treasurer of the Human Rights Commission of Pakistan (HRCP) and is Life-long Treasurer of its Trust. He advises organizations such as the World Bank, Asian Development Bank, DFID/UK Aid, ILO, and UNDP on matters related to fiscal and monetary policy, external trade, and social protection

Susan Rose-Ackerman

(United States of America)



Susan Rose-Ackerman is Henry R. Luce Professor Emeritus of Law and Political Science and Professorial Lecturer in Law, Yale University. She is the author of Corruption and Government: Causes, Consequences and Reform, one of the most widely used textbooks on corruption. She has published in the fields of law, economics, and public policy, and has edited nine books on corruption and administrative law. She has held fellowships at the Wissenschaftskolleg zu Berlin, at the Center for Advanced Study in the Behavioral Sciences in Palo Alto, Collegium Budapest, the Stellenbosch Institute for Advanced Study in South Africa, Queen Mary University of London, and from the Guggenheim Foundation and the Fulbright Commission.

Tarisa Watanagase

(Thailand)



Tarisa Watanagase is a former governor of the Bank of Thailand. She was instrumental in the 1997 Thai crisis resolution and the ensuing supervisory and financial sector reforms, the modernisation of the Thai payment system, including the first settlement risk-free high-value fund transfers in Asia, the passage and successful adoption of legislation guaranteeing central bank independence, and the successful steering of the economy and banking sector through the global financial crisis in 2008. She has served as an economist at the International Monetary Fund and as an advisor to the World Bank Group and regional central banks.

Thomas Stelzer

(Austria)



Thomas Stelzer is Dean and Executive Secretary of the International Anti-Corruption Academy. Mr. Stelzer served as Austrian Ambassador to Portugal and Cabo Verde from 2013 to 2017. He was appointed in 2008 as United Nations Assistant Secretary-General for Policy Coordination and Inter-Agency Affairs. He served as the Secretary of the United Nations Chief Executives Board. He was appointed Permanent Representative of Austria to the United Nations Office in Vienna. He served as a co-negotiator of the United Nations Convention Against Corruption; Vice-Chair of the Commission on Crime Prevention and Criminal Justice; Facilitator and Chair of the Vienna Terrorism Symposiums.

Yu Yongding

(People's Republic of China)



Yu Yongding is an Academician of the Chinese Academy of Social Sciences, and is a Member of Advisory Committee of National Planning of the National Development and Reform Committee of the People's Republic of China. He was Director-General of the Institute of World Economics and Politics and served as President of the China Society of World Economy. He has also served on the Monetary Policy Committee of the People's Bank of China, the Advisory Committee of Foreign Policy of the Ministry of Foreign Affairs of the People's Republic of China, and the Foreign Affairs Committee of the Chinese People's Political Consultative Conference.

Yury Fedotov

(Russian Federation)



Yury Fedotov is the former Executive Director of the United Nations Office on Drugs and Crime and Director-General of the United Nations Office in Vienna, serving from 2010 to 2019. Mr. Fedotov has also served as Ambassador Extraordinary and Plenipotentiary of the Russian Federation to the Court of St. James's in London. Prior to this, he was the Deputy Minister of Foreign Affairs of the Russian Federation for International Organizations. He has served a number of diplomatic assignments in Moscow, as well as at the Embassies in Algeria and India.

ANNEX 3: PANEL'S APPROACH TO ITS MANDATE

In the Panel's first video conference, it agreed to split up further work into three clusters: improving cooperation in tax matters; accountability, public reporting and anti-corruption measures; and cooperation and settling disputes.

Improve cooperation in tax matters: fostering universal participation in international legal instruments on tax matters; further work on tax avoidance and evasion; preparing consistent and reliable global data on taxation.

Accountability, public reporting and anticorruption measures: promoting accountability in contexts where it is currently lacking such as beneficial ownership; anticorruption measures; improving tracking of asset ownership and use of this information including through the establishment of a global asset registry.

International cooperation and settling disputes: improving cooperation and standardisation on bribery investigation and prosecution; examining options to strengthen peer review processes; exploring options to improve capacity; improving international cooperation on asset recovery and return.

The table below provides a full list of the Panel's meetings and engagements.

Date	Meeting
2 Mar 2020	Public launch of the Panel
31 Mar 2020	1st video meeting of the FACTI Panel
24 Apr 2020	First discussion with United Nations Member States
28 Apr 2020	Global townhall with civil society organizations
30 Apr 2020	Expert discussion: accountability, public reporting and anti-corruption measures
5 May 2020	Expert discussion: improving cooperation in tax matters
8 May 2020	Expert discussion: cooperation and settling disputes
14 May 2020	Meeting with UN Committee of Experts on International Cooperation in Tax Matters
22 May 2020	Meeting with International Trade Union Confederation, Public Services International, and UNI Global Union
29 May 2020	Meeting with Organisation for Economic Co-operation and Development (OECD)
29 May 2020	Briefing by United Nations Office on Drugs and Crime (UNODC)
16 Jun 2020	Meeting with Financial Action Task Force (FATF)
25 – 26 Jun,	
29 Jun – 1 Jul 2020	2nd video meeting of the FACTI Panel
10 Jul 2020	UN HLPF high-level side event on international financial integrity
14 Jul 2020	Meeting with High-level Panel on IFFs from Africa
21 Jul 2020	Second discussion with United Nations Member States
23 Jul 2020	Meeting with Caribbean private sector representatives
30 Jul 2020	Meeting with United Nations African Group
9 & 11 Sep 2020	3rd video meeting of the FACTI Panel
24 Sep 2020	Launch of the FACTI Panel Interim Report
9 Nov 2020	High-level Europe regional consultation
12 Nov 2020	High-level Asia-Pacific regional consultation
18 Nov 2020	High-level Africa regional consultation
24 Nov 2020	High-level Latin America and Caribbean regional consultation
30 Nov - 1 Dec 2020	4th video meeting of the FACTI Panel
11 Dec 2020	Third discussion with United Nations Member States
11 Jan 2021	5th video meeting of the FACTI Panel
29 Jan 2020	6th video meeting of the FACTI Panel

Inclusive consultations

From the outset, the Panel was committed to carry out the work with ultimate transparency and inclusiveness despite the constraints due to the COVID-19 pandemic. Since late April, the Panel has conducted various consultations with United Nations Members States, regional groups, civil society organisations, private sector representatives, experts and academics with interest in the subject. Many of these discussions were streamed live for full transparency.

The Panel also engaged directly with the various international institutions that play a role in financial integrity matters. This has included extremely useful discussions with the standard setting bodies like the Organisation for Economic Cooperation and Development and the Financial Action Task Force, as well as with UN agencies, including UN Office on Drugs and Crime and UN Committee of Experts on International Cooperation in Tax Matters.

Recognising that it is not possible for all interested stakeholders to participate in the consultation meetings, the Panel issued a call for written inputs in April 2020 and received over 30 written inputs from around the world. The Panel also launched an online survey for private sector globally in August 2020.

Research

The FACTI Panel secretariat developed the first background paper to review existing international institutional and legal frameworks, as per the Panel's terms of reference. The paper builds on inputs from agencies both inside the UN System and outside of it, as well as material previously provided by UN and non-UN bodies to the Inter-agency Task Force on Financing for Development. It provides an issue-based overview based on the six areas in the terms of reference of the Panel: financial and beneficial ownership transparency, tax matters, bribery and corruption, money-laundering, confiscation and disposal of the proceeds of crime and the recovery and return of stolen assets. The paper also introduces cross-cutting analysis.

To gain a full understanding of the current trends and challenges related to financial accountability, transparency and integrity, the Panel reviewed the existing literature and commissioned background papers on top of the wide-ranging consultations. The Panel Secretariat commissioned expert consultants in the fields of financial accountability, transparency and integrity to develop seven more background papers on specific topics of interest to the Panel. All the papers are available online at https://www.factipanel.org/documents.

- **BP1 - Overview of existing international institutional and legal frameworks related to financial accountability, transparency and integrity**
- **BP2 - Tax information production, sharing, use and publication**
- **BP3 - The appropriateness of international tax norms to developing country contexts**
- **BP4 - Transparency of asset and beneficial ownership information**
- **BP5 - Anti-corruption measures**
- **BP6 - Current trends in foreign bribery investigation and prosecution**
- **BP7 - Recommendations for accelerating and streamlining the return of assets stolen by corrupt public officials**
- **BP8 - Peer review in financial integrity matters**

Outreach and communication

From its inception, the Panel saw outreach and communication as an essential part of its work. In keeping with the commitment to full transparency, the FACTI Panel published meeting summaries and videos, related papers and shared updated information through the FACTI Panel's website, monthly newsletter, Twitter account, LinkedIn page and YouTube channel.

Interim report

The FACTI Panel interim report was published in September 2020 and launched during the General Debate of the United Nations General Assembly. It provided the Panel's analysis of the

gaps, vulnerabilities and impediments present in the current systems related to a broad set of financial accountability, transparency and integrity issues. The launch event consisted of a high-level segment, with participation at the head of state/government and deputy head of state/government level, and a moderated panel discussion segment among invited ministers and non-state actors with a brief interactive dialogue.

The interim report served as the basis for the high-level regional consultations the Panel held in November 2020. The regional consultations involved governments and other stakeholders in Europe, Asia-Pacific, Africa and Latin-America and the Caribbean. In these consultations, ministers and other high-level participants discussed possible means to address the shortcomings identified in the interim report. The Panel also invited further written input from all stakeholders in October 2020 and posted another 11 of these inputs on its website.

Final report

The Panel's work is ultimately focused on exploring what further action is needed by governments and financial institutions to strengthen financial accountability, transparency and integrity of the global financial system. The High-Level Panel came together as a diverse group of individuals from different backgrounds, experiences and national and regional contexts. Even if members of the High-Level Panel did not agree on every detail of the final report, consensus was reached on the vast majority of recommendations. And most importantly, the Panel is unanimous on the need to act to promote financial accountability, transparency and integrity for achieving the 2030 Agenda.

ANNEX 4: METHODOLOGY FOR ESTIMATES

The Panel views estimates of the volume of illicit financial flows as useful signals of scale rather than precise indicators for targeted action. Countries were selected to be illustrative of the impacts in different regions, sizes and types of economies. Figures are based on available data, which is to be considered on orders of magnitude rather than reflective of a precise estimate. In addition, the same resources may be included in estimates of tax avoidance and evasion, corruption and trade mis-invoicing, while some illicit financial flows are not captured by any of these estimation techniques.

Tax avoidance and evasion

The country level estimates on the revenue impact of base erosion and profit shifting and undeclared offshore wealth holdings are drawn from the State of Tax Justice 2020 report published by Tax Justice Network on 20 November 2020. The report provides the most up-to-date country level estimations, using among other data, the OECD country-by-country reporting data for large multinationals in 2016, which was published in July 2020. It seeks to estimate the degree of misaligned profits observed in the declarations by multinational corporations. The report's total estimates of revenue lost to base erosion and profit shifting and tax evasion globally ($427 billion) are lower than the peer reviewed studies cited in this report, which had estimated losses on the order of $500 billion - $600 billion. This reflects a set of conservative choices in the methodology used for making the estimations, such as estimating only direct losses, covering only those corporation that make country-by-country reports, and using effective rather than statutory tax rates. For more details see https://taxjustice.net/wp-content/uploads/2020/11/SOTJ-2020-Methodology.pdf.

The country level estimates are then compared to the sustainable development investment costs available in various official or other publicly available documents.

Source: *The State of Tax Justice 2020: Tax Justice in the time of COVID-19, Tax Justice Network, November 2020: https://www.taxjustice.net/reports/the-state-of-tax-justice-2020/*

Germany: Estimated tax loss is compared to total installation cost of new onshore wind projects for renewable electricity, which is estimated at $1,800 per kWh *(IRENA: Renewable Power Generation Costs in 2019, https://www.irena.org/publications/2020/Jun/Renewable-Power-Costs-in-2019).*

South Africa: Estimated tax loss is compared to cost of construction of public schools, which is estimated at US $969,144 per school *(School Building Programme: input by Public Works Deputy Minister and Independent Development Trust, Public Works and Infrastructure, 24 July 2013, https://pmg.org.za/committee-meeting/16101/)*

South Africa: Estimated tax loss is compared to cost of HIV preventative care and treatment, which is estimated at $543 per person (*"The per-patient costs of HIV services in South Africa: Systematic review and application in the South African HIV Investment Case", PLoS One, 26 February 2019, https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0210497)*

Brazil: Estimated tax loss is compared to low-income housing costs, which are estimated at $8,512 per unit *(World Bank, Green cities: Sustainable Low-Income Housing in Brazil, http://documents1.worldbank.org/curated/ar/284471468224395437/pdf/701870ESW0P1180e0Low0Income0Housing.pdf)*

India: Estimated tax loss is compared to low-income hospital treatments, which is estimated at $180 per capita *(India Voluntary National Reviews Report 2020: https://sustainabledevelopment.un.org/content/documents/26279VNR-2020_India_Report.pdf)*

Canada: Estimated tax loss is compared to sustainable mass transit extensions in Toronto, which is estimated to average $400 million per kilometre over 3 recently completed or proposed projects *(Toronto's Transit Expansion Program: Update and next steps, 9 April 2019, https://*

www.toronto.ca/legdocs/mmis/2019/ex/bgrd/backgroundfile-131831.pdf)

Bangladesh: Estimated tax loss is compared to old age allowance targeting the poor and vulnerable elderly, which is estimated at BDT 500 ($6) per month (Social Safety Nets in Bangladesh help reduce poverty and improve human capital, World Bank, 29 April 2019, https://www.worldbank.org/en/news/feature/2019/04/29/social-safety-nets-in-bangladesh-help-reduce-poverty-and-improve-human-capital)

Gambia: Estimated tax loss is compared to clean water well building, which is estimated at $30,000 per well (UN-Water Country Briefs: the Gambia, 8 May 2013, https://www.unwater.org/publications/un-water-country-briefs-gambia)

Chad: Estimated tax loss is compared to classrooms for out of school children, which is estimated at $90,200 per classroom (UNICEF country program: https://open.unicef.org/country-details/?y=2020&measure=e&country=Chad&output=0810/A0/05/885/002)

Thailand: Estimated tax loss is compared to social welfare beneficiaries, which is estimated at $100 per recipient per year ("An end to poverty in Thailand is not on the cards", Asia and the Pacific Policy Society, 6 September 2018, https://www.policyforum.net/end-poverty-thailand-not-cards)

Lebanon: Estimated tax loss is compared to national annual health coverage, which is estimated at $2.47 billion per year *(Lebanon Economic Report, 2nd quarter 2018, Bank Audi Group Research Department, http://www.databank.com.lb/docs/Lebanon%20Economic%20Report-Q2%202018.pdf)*

Corruption

The estimate of the amount of bribery and corruption comes from an IMF Staff Discussion Note, "Corruption: Costs and mitigating strategies" published in 2016. It is based on extrapolated data from a 2005 estimate.

Source: *Corruption: Costs and mitigating strategies, International Monetary Fund, Staff Discussion Note, SDN/16/05, May 2016, https://www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2016/12/31/Corruption-Costs-and-Mitigating-Strategies-43888.*

Trade mis-invoicing

The data of country's volume of trade mis-invoicing comes from estimates by United Nations regional commissions and published in their publication and reprinted in the *Financing for Sustainable Development Report*. The tax loss is estimated by multiplying the net outflows by the national effective average tax rate published by OECD. The result is then compared to the development investment costs available in various official or other public available documents.

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Effective tax rate data, OECD: https://stats.oecd.org/Index.aspx?DataSetCode=CTS_ETR

Costa Rica: The estimated loss from trade mis-invoicing is compared to rainforest regrowth and maintenance, which is estimated at $64 per hectare *(Costa Rica Payment for Environmental Services (PES) programme https://www.fonafifo.go.cr/media/2817/montos-a-reconocer.docx).* The country's effective tax rate is 37.3%.

Japan: The estimated loss from trade mis-invoicing is compared to health care cost of citizens, which is estimated at $5,400 per capita, *(Ministry of Finance of Japan, FY 2020 Budget, https://www.mof.go.jp/english/budget/budget/fy2020/04.pdf)*. The country's effective tax rate is 27%.

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29 *Illicit financial flows: report of the High-Level Panel on illicit financial flows from Africa. Addis Ababa*. United Nations. Economic Commission for Africa, 2015, https://repository.uneca.org/handle/10855/22695. Accessed 22 November 2020.

30 Conceptual framework for the statistical measurement of illicit financial flows, United Nations Office on Drugs and Crime. United Nations Conference on Trade and Development. October 2020.

31 The statistical definition has not yet been globally applied, as it is being piloted in a handful of countries to test its usability.

32 Many countries are adopting anti-avoidance rules, which are also included in an OECD multilateral instrument adopted in 2018, which provide a further legal basis for considering tax avoidance as an IFF. See Cowx, Mary and Jon N Kerr. "The General Anti-Avoidance Rule", 16 November 2020, SSRN, http://dx.doi.org/10.2139/ssrn.3485084. Accessed 20 November 2020.

33 Alstadsæter, Annette, Niels Johannesen and Gabriel Zucman. "Who owns the wealth in tax havens? Macro evidence and implications for global inequality", National Bureau of Economic Research, September 2017, https://www.nber.org/papers/w23805. Accessed 24 November 2020

34 Zucman, Gabriel. *The hidden wealth of nations: the scourge of tax havens,* University of Chicago Press, 2015.

35 *The State of Tax Justice 2020 : Tax justice in the time of COVID-19*, Tax Justice Network, November 2020, https://taxjustice.net/wp-content/uploads/2020/11/The_State_of_Tax_Justice_2020_ENGLISH.pdf; Janský, Petr and Miroslav Palanský. "Estimating the scale of profit shifting and tax revenue losses related to foreign direct investment", *International Tax and Public Finance*, 10 June 2019, https://doi.org/10.1007/s10797-019-09547-8. Accessed 25 November 2020.

36 Cobham, Alex and Petr Janský. "Global distribution of revenue loss from corporate tax avoidance: re-estimation and country results", Journal of International Development, 13 March 2018, https://onlinelibrary.wiley.com/doi/full/10.1002/jid.3348.

37 Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes : Research report, October 2011, United Nations Office on Drugs and Crime, https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf. Accessed 22 November 2020.

38 Corruption: Costs and mjtigating strategies, IMF Staff Discussion Note, May 2016, https://www.imf.org/external/pubs/ft/sdn/2016/sdn1605.pdf. Accessed 27 November 2020.

39 Cobham, Alex, William Davis, Gamal Ibrahim and Andy Sumner. "Hidden inequality : How much difference would adjustment for illicit financial flows make to national income distributions? " *Journal of Globalization and Development*, Volume 7, issue 2, 16 June 2017, https://www.degruyter.com/view/journals/jgd/7/2/article-20160022.xml. Accessed 27 November 2020.

40 *Human Development Report 2019, Beyond income, beyond averages, beyond today : Inequalities in human development in the 21st century*, United Nations Development Programme, http://hdr.undp.org/sites/default/files/hdr2019.pdf. Accessed 27 November 2020.

41 *Tackling illicit financial flows for sustainable development in Africa, Economic Development in Africa Report 2020*, United Nations Conference on Trade and Development, https://unctad.org/system/files/official-document/aldcafrica2020_en.pdf, Accessed 27 November 2020.

42 See Annex 4 for details on the methodology for estimates.

43 Although outside the scope of the Panel's final report, the Panel reviewed the work and progress across different bodies and organizations. The Panel recognizes that there is much to commend among these bodies, nationally, regionally, and internationally (both inside the United Nations and in other international forums).

44 Cobham, A., Janský, P., & Meinzer, M. (2018) "A half-century of resistance to corporate disclosure," Transnational Corporations, 25(3), 1-27.

45 United Nations (1946), *Resolutions Adopted By the General Assembly During the Second Part of its First Session,* UN General Assembly Resolution 59(I), 14 December, A/64/Add.1

46 For example, victims of harassment or abuse may need identifying information or locational information to be kept out of the public domain to protect their safety.

47 "Consolidated Table of Assessment Ratings", FATF, 2020, https://www.fatf-gafi.org/publications/mutualevaluations/documents/assessment-ratings.html.

48 Peters, Cees, *On the Legitimacy of International Tax Law*, Amsterdam, IBFD, 2014.

49 See Hearson, M., J. Ndubai and T. Randriamanalina. "Appropriateness of International Tax Norms to Developing Country Contexts", FACTI Background Paper 3, 2020, https://www.factipanel.org/documents/background-paper-3-appropriateness-of-tax-norms-to-developing-country-contexts.

50 *Financing for Development: Progress and Prospects 2018*, United Nations, 2018; "Corporate taxation in the global economy," IMF, Policy Paper No. 19/007, International Monetary Fund, 2019; Cobham, Alex, and Petr Janský. *Estimating Illicit Financial Flows: A Critical Guide to the Data, Methodologies, and Findings*, Oxford University Press, 2020.

51 *Platform for Collaboration on Tax (2020),* "The Taxation of Offshore Indirect Transfers— A Toolkit", August 2020, https://www.tax-platform.org/sites/pct/files/publications/PCT_Toolkit_The_Taxation_of_Offshore_Indirect_Transfers.pdf.

52 For more detailed analysis of the proposals, see United Nations (2020) *Financing for Sustainable Development Report* 2020.

53 Residual profit is defined as income exceeding an agreed level of profitability that would be taxed according to existing rules. See OECD (2020), Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, https://doi.org/10.1787/beba0634-en.

54 The likely benefits from the residual profit calculation would be a modest - less than 1% of global corporate tax revenues. See OECD (2020), Tax Challenges Arising from Digitalisation – Economic Impact Assessment: Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, https://doi.org/10.1787/0e3cc2d4-en

55 *Tax Challenges Arising from Digitalisation* – Report on Pillar Two Blueprint, OECD, Inclusive Framework on BEPS, 14 October 2020.

56 The "income inclusion rule" (IIR) rule is given priority over the "undertaxed payments rule" (UTPR), which may result in transferring of revenue from source to residence countries if the "subject to tax rule" (STTR) is not implemented effectively.

57 *International Corporate Tax Reform: Towards a fair and comprehensive solution*. Independent Commission for the Reform of International Corporate Taxation (ICRIT), October 2019.

58 Under a unitary tax approach, governments treat a multinational corporation as a group made up of all its local branches, instead of treating each local branch as an individual entity separated from the global chain. The profits that the multinational corporation declares as a group are then apportioned to each country where it operates based on how much of its real economic activity took place in that country. Significant work would be needed to adjust the rules for addressing double taxation, for example measures to account for withholding taxes on royalties and technical fees.

59 The minimum global tax rate should be set high enough to not incentivise countries to lower their maximum rate close to the minimum. The minimum rate is likely to become the maximum in practice, so very low rates below 20-25% would greatly undermine the current rates in most developing countries. This would negatively impact on public revenues.

60 For more details see Chang, H-J. *Kicking Away the Ladder: Development Strategy* in Historical Perspective, Anthem World Economics, 2002.

61 In 2014, StAR and the OECD published the most recent and reliable data about asset recovery, which found that between 2006 and June 2012, around $2.6 billion of assets were frozen and only around $423.5 million were returned by OECD countries. While no comparable analysis of international returns of proceeds of corruption is available since 2012, open-source research on asset recovery cases by StAR showed that between 2012 and 2019 $1.4 billion in proceeds of corruption were repatriated internationally. UNODC and StAR launched a new exercise to collect data from States in 2019. For more on this, see Gray, Larissa, Kjetil Hansen, Pranvera Recica-Kirkbride and Linnea Mills, *Far and Few: The hard facts on stolen asset recovery*, World Bank and OECD, 2014, p.19; StAR Annual Report 2019, page 12.

62 Asset recovery may also involve direct recovery of property through compensation claims, to provide a concrete remedy to States harmed by corruption in situations such as bribery or trading in influence, where the proceeds of corruption involve funds of private origin to which the State was never entitled. For more information, see UNCAC Technical Guide reference to UNCAC Article 53.b.

63 "Practical Trends and Challenges in International Cooperation in Corruption Matters: Observations from the United Nations Convention against Corruption Implementation Review Mechanism," UNODC, 2018, CAC/COSP/IRG/2018/CRP.19.

64 The Stolen Asset Recovery initiative highlighted that only 3 per cent of the payments imposed on companies in the course of foreign bribery settlements reached over the period 2000-2013 went back to the affected countries; see World Bank (2013) *Left out of the bargain: Settlements in foreign bribery cases and implications for asset recovery*, Stolen Asset Recovery Initiative. A 2016 update showed that the number of settlements was steady or decreasing, but that the value amounts were higher and that compared to the previous period only 0.18 per cent had been returned; see: CAC/COSP/WG.2/2016/2.

65 Under UNCAC, the return of confiscated assets to the country of origin is mandatory only where the assets in question were confiscated pursuant to a mutual legal assistance request from the affected country. In all other cases, there is no legal obligation for the holding country to return the assets to the country of origin.

66 Lawyers associations in some countries have rejected the imposition of some requirements of money laundering standards, see for example Sahl, Jack P. "Lawyer ethics and the financial action task force: call to action," *New York Law School Law Review*, 59(3), 2015, 457-486.

67 In 2016, the International Bar Association (IBA) and the OECD set up a Task Force on the Role of Lawyers in International Commercial Structures. The Report of the Task Force, published May 2019, states: "a lawyer should not use the confidential nature of legal professional privilege to shield wrongdoers. A lawyer should give due and proper consideration to refraining from acting for a client if the lawyer is aware of, or has reasonable grounds to believe, that the main purpose of the retainer is to allow the client to be able to rely on the confidential nature of the lawyer–client relationship (or privileged communication) so as to permit or encourage the client to engage in illegal conduct."

68 "IBA Guides, rules, and other free materials", International Bar Association, https://www.ibanet.org/Publications/publications_IBA_guides_and_free_materials.aspx.

69 "Model rules of professional conduct", American Bar Association, https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/.

70 Benson, Katie. *Lawyers and the Proceeds of Crime: The Facilitation of Money Laundering and Its Control. Routledge*, 2020.

71 At the time of the first round of peer reviews more than two thirds of States had no comprehensive whistle-blower protections. UNODC (2017). State of Implementation of The United Nations Convention Against Corruption: Criminalization, law enforcement and international cooperation, Second edition.

72 "RSF's 2020 round up: 50 journalists killed, two thirds in countries 'at peace'", Reporters without Borders, 28 December 2020, https://rsf.org/en/news/rsfs-2020-round-50-journalists-killed-two-thirds-countries-peace. Accessed 20 January 2020.

73 The Common Reporting Standard (CRS) is a tool for the exchange of financial account information. International agreements for CRS include provisions limiting the use of the information exchanged to persons or authorities concerned with the assessment, collection or recovery of, taxes, but not related to other financial crimes. Section 5 (1) of the CRS MCAA reiterates the limitation on usage: "All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged,.."

74 *Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information*, Section 2.1.2, Global Forum on Transparency and Exchange of Information for Tax Purposes.

75 A financial intelligence unit is a national centre for the receipt and analysis of suspicious transaction reports and other information relevant to money laundering.

76 For more on this, see the Key Egmont Group Documents, https://egmontgroup.org/en/document-library/8.

77 Quintel, Teresa. "Follow the money, if you can: Possible solutions for enhanced FIU cooperation under improved data protection rules". *University of Luxembourg Law Working Paper*, nr 1, 18 January 2019, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3318299.

78 FATF (2016-2017), Consolidated FATF Standards on Information Sharing, FATF, Paris, updated November 2017, www.fatf-gafi.org/publications/fatfrecommendations/documents/consolidated-fatf-standard-information-sharing.html.

79 Scherrer, Amandine Marie Anne. "Fighting tax crimes – Cooperation between Financial Intelligence Units", Ex-Post Impact Assessment, European Parliamentary Research Service, PE 598.603, March 2017.

80 *Thematic discussions: proactive and timely sharing of information, in accordance with article 56 of the Convention*, Conference of the States Parties to the United Nations Convention against Corruption, 15 June 2017, CAC/COSP/WG.2/2016/2.

81 See for example Gans-Morse, Jordan, Mariana Borges, Alexey Makarin, Theresa Mannah-Blankson, Andre Nickow and Dong Zhang. "Reducing bureaucratic corruption: Interdisciplinary perspectives on what works", *World Development*, Volume 105, 2018, pp. 171-188; Prasad, Monica, Mariana Borges Martins da Silva and Andre Nickow, "Approaches to Corruption: a Synthesis of the Scholarship", *Studies in Comparative International Development,* 54(1), 2018, pp. 96-132.

82 Bajpai, Rajni and Bernard C Myers, *Enhancing Government Effectiveness and Transparency*: The Fight Against Corruption (Vol 2), World Bank, Washington, DC, 2020.

83 "G20 High-Level principles for promoting public sector integrity through the use of Information and Communications Technologies (ICT), G20 Saudi Arabia 2020 Riyadh Summit, https://g20.gov.sa/en/media/Documents/HLPs%20ICT.pdf.

84 For more on this, see Gray, Larissa, Kjetil Hansen, Pranvera Recica-Kirkbride and Linnea Mills. *Far and Few: The hard facts on stolen asset recovery,* World Bank and OECD, 2014, p.19.

85 Findley, Michael, Daniel Nielson and Jason Sharmon. "Anti-Corruption Measures", FACTI Background Paper 5, 20 July 2020, https:// www.factipanel.org/documents/background-paper-5-anti-corruption-measures.

86 A financial institution is often required to file a suspicious-activity report with authorities based on triggers in national money laundering regulations, such as cash transactions over a certain limit.

87 European Union Agency for Law Enforcement Cooperation (Europol), *From Suspicion to Action: Converting financial intelligence into greater operational impact,* 5 September 2017, https://www.europol.europa.eu/publications-documents/suspicion-to-action-converting-financial-intelligence-greater-operational-impact.

88 Research indicates that states under review frequently engage in negotiations to change the wording of final reports in order to depict a more positive situation than emerged during the review. See in that regard: Carraro, Valentina. "The United Nations Treaty Bodies and Universal Periodic Review: Advancing Human Rights by Preventing Politicization?" *Human Rights Quarterly*, 39(4), November 2017, 943-970.

89 States can decide whether to allow these reports to be made public, and only a short executive summary needs to be published.

90 States may voluntarily report on the measures they have taken to address the recommendations during Conferences of States Parties and through subsidiary bodies. There are ongoing discussions among Member States on how to follow up on both cycles of peer reviews once they are completed.

91 Examples include the Asian Tax Authorities Symposium (ATAS), the African Tax Administration Forum, the Inter-American Center of Tax Administration (CIAT), The Pacific Islands Tax Administrators Association (PITAA), The Caribbean Organisation of Tax Administrators (COTA), and the Centre de Rencontres et d'Études des Dirigeants des Administrations Fiscales (CREDAF).

92 See "Overview of Existing International Institutional and Legal Frameworks Related to Financial Accountability, Transparency and Integrity", FACTI Panel, Background Paper 1, 6 April 2020, http://www.factipanel.org/documents/background-paper-1-overview-of-existing-international-institutional-and-legal-frameworks-related-to-financial-accountability-transparency-and-integrity.

93 "High-Level Principles for the relationship between the FATF and the FATF-style regional bodies," FATF, 2012, updated February 2019, Paris, France, https://www.fatf-gafi.org/publications/fatfgeneral/documents/high-levelprinciplesfortherelationshipbetweenthefatfandthefatf-styleregionalbodies.html.

94 Pleyer, Marcus. *Priorities for the Financial Action Task Force (FATF) under the German Presidency*: Objectives for 2020-2022, FATF, 2020, https://www.fatf-gafi.org/media/fatf/documents/German-Presidency-Priorities.pdf.