FINAL REPORT FROM THE TASK FORCE ON THE DEVELOPMENT IMPACT OF

ILLICIT FINANCIAL FLOWS

A Task Force led by Norway, set up under the Leading Group on Solidarity Levies to fund Development, November 2008

Introduction

It is today recognised that illicit financial flows represent a significant and growing leakage of capital from most countries in the world. While difficult to quantify, and impossible to measure accurately, there is no doubt they constitute a considerable drain on often scarce public resources available to fund development. These are resources that could have been spent on education or health, supporting a welfare state. As such, the problem fits well within the Financing for Development Agenda and its focus on domestic resource mobilisation. For that reason it was a concern for the "Leading Group on Solidarity Levies to fund development" (hereinafter "the Leading Group").

At the plenary meeting of the Leading Group in Seoul, September 2007, Norway was given the assignment of heading an international task force (hereinafter "the Task Force") to study the phenomenon of illicit financial flows, and their impact on development. According to the Terms of Reference drawn up by Norway (See full ToR in Annex 1), the Task Force would assess the scale and development impact of illicit financial flows, identify the actors and modus operandi, map the existing legal framework and capacity constraints, identify possible partners and additional policy tools. Finally, the Task Force would seek to raise awareness and promote discussion of the issue in relevant fora. A list of action-oriented proposals and policy tools are provided in Annex 2. This report is the answer to the assignment from the Leading Group.

The Task Force that was put together was a unique group, consisting of representatives from national authorities, intergovernmental organisations, civil society, and experts in various fields[1]. A number of specialists were invited to speak to the Task Force on issues of interest. The Task Force has met three times – December 12-13 2007, April 1-2 2008 and October 21-22 2008, all in Oslo – with between 50 and 60 participants at each meeting. The core of the Task Force was present at all the meetings. Some countries, and intergovernmental and civil society organisations, have participated as observers or want to be counted as observers. Some countries and organisations that were invited to participate or observe declined. The full list of participants is in Annex 3.

Despite the diversity in background, expertise, and motivation of the participants, the meetings proved extremely engaging and productive. It is our impression that all participants have found the discussions interesting and important.

Following this introduction, the next chapter sets the scene and discusses illicit financial flows as a development challenge, particularly in light of the current global financial turmoil. Thereafter, the report largely covers the objectives of the ToR, ending with a conclusion, and looking to the future.

Illicit Financial Flows – a development challenge

Illicit financial flows are facilitated and encouraged by the lack of transparency and the lack of supervision/regulation in onshore and offshore financial centres. This lack of transparency

[1] This report is the result of the work of the Task Force in consolidating the many views expressed during its meetings by the participants. The report and its list of policy tools and action-oriented proposals do not necessarily coincide with the positions of each country and organisation represented and have in no way been endorsed by them.

and lack of supervision/regulation in such financial centres has also been one of the causes of the current global financial crisis. The current breakdown of the financial markets has led the global community to assert that the time has come to introduce stricter transparency and supervision/regulation of financial markets and cross-border financial flows. The current global financial crisis therefore ought to bring about greater prudential regulation, through a reassessment and strengthening of national and international financial legislation, a clarification of institutional responsibilities, and greater international financial cooperation and exchange of information. Such measures will also help stem cross-border illicit financial flows.

According to official data, there has been a significant and increasing net outflow of capital from developing countries since at least 1998 with the most recent data indicating the outflow for 2007 in excess of USD 700 billion. This depresses the resources available for the financing of development. However, the additional illicit outflow estimated to as much as USD 500-800 billion, and not captured by official statistics, has an even more pernicious impact on financing for development.

The scale

While there is no exact definition of illicit financial flows, they can be classified into three main categories – proceeds of criminal activities, corruption and tax evasion, including abusive transfer pricing. All three categories are empirically believed to be significant.

Several methods of estimation are in use, focussing on the totality of illicit financial flows, or different aspects of it. The most comprehensive and influential effort is Raymond Baker's, from his 2005 book "Capitalism's Achilles Heel" – source of the now commonly used estimates of USD 500-800 billion in "dirty money" annually from developing countries, about half of the global estimate. The Global Financial Integrity institute is about to release a new study, using the four most commonly used models for estimating unofficial flows.

Exercises such as these notwithstanding, further work, methodologically and statistically is needed. Statistics and analysis are needed – not to determine that illicit financial flows are of major proportions – but in order to inform policy development and target responses. A compiling of existing estimates, incl. for instance from countries' own figures on tax evasion, should be considered.

Whatever the outcome of ongoing research, one should consider more permanent support to a dedicated analytical, methodological and statistical effort - perhaps in the shape of a separate trust fund. Developing a database of a comprehensive global, regional and national level range of estimates of the annual illicit financial flows could make a significant contribution. Such a fund might also be broadened to include issues of international taxation. Alternatively, interested governments and organisations such as the IMF, the World Bank and OECD could be asked to develop an internationally recognised methodology for measurement of illicit financial flows.

However, while policy work does require a rigorous analytical base, absolute precision in estimating economic flows that are, by their very nature, concealed, will remain chimerical. We must be willing to settle for the "good enough," remembering a quote made at one of our

meetings in relation to the search for estimates: "Accuracy is meaningless – credibility is everything".

The impact

Domestic resource mobilization lies at the heart of development. Illicit financial outflows drain development resources.

Tax havens sustain a system where corporate and personal wealth gains, achieved or transferred illicitly, are placed beyond the reach of appropriate authorities. By depressing the overall level of fiscal resources and helping siphon off natural resource rents, illicit financial flows from developing countries directly undermine life saving and growth enhancing development expenditure and retard efforts to meet the Millennium Development Goals (MDGs).

To compensate for a reduction in fiscal revenues, countries sometimes borrow too much. This may lead to a building up of unsustainable debt burdens and may precipitate economic crises. Depressed fiscal revenues also make governments in poor developing countries more aid dependent. This can undermine the development effort.

Beyond the reduction in fiscal revenues, illicit financial flows also lead to a reduction in overall capital resources available to an economy. This depresses investment as well as expenditure in the economy, reducing both short and long term growth as well as wealth and employment generation.

While domestic, internal illicit financial flows are also detrimental to development, at least the resources stay within the country. Cross-border illicit financial outflows have a far more pernicious effect on developing economies as scarce domestic resources usually are permanently drained from the economy.

The illicit flow of capital violates laws, bends rules and undermines good governance in both the public and private sector. Once the rule of law is undermined, confidence in systems of accountability and governance suffers and the development of a vibrant democratic society and economy can be seriously thwarted.

So far, the interests of developing countries on the issue of illicit financial flows have not been adequately discussed, and these countries are often not even invited to take part in the discussion. This is a systemic problem with a pernicious impact on development, and which must be included in any comprehensive debate on the challenges of development.

The actors and modus operandi

While there is no typical transaction or a standard modus operandi, illicit financial flows may involve the following steps:

1) A source of money – which could be licit or illicit.

2) A way to get this out of the country unnoticed, unreported and illegally – which involves using channels such as smuggling of cash, bank transfers, mis-pricing trade and investment related transactions.
3) A safe first destination for the funds – e.g. financial centres which typically provide bank secrecy and a legal armoury of shell corporations & sham trusts etc. Such centres may provide conduits for disguising the origin of funds. The secrecy and low tax regime many financial centres provide can act as pull factors for illicit funds.
4) A final destination for the funds – many financial centres are small economies with little investment opportunities and act as conduits for the funds invested in larger economies. Such investment is sometimes facilitated by the lack of proper regulation and lax due diligence on the source of incoming funds. Other, larger financial centres, handle also investment directly in their jurisdiction.

These steps require the support of facilitating professionals such as lawyers, accountants, bankers, import-export agents, company and trust formation agents. Professionals not only advice clients but actively solicit illicit funds and design strategies involving manipulated accounts, dubious bank transfers, nominee run shell companies, secretive bank accounts and other convoluted legal structures.

Many of the transactions are hidden behind a veneer of legality, but many would probably not stand up to scrutiny were all the facts known.

> For example, a thieving public official could pay a colluding exporter in local currency to illicitly transfer public funds abroad using under-priced exports. The exporter earns the declared value of the exports and receives the income in the home country at the same time as instructing his importer counterpart to pay the balance into a particular offshore bank account in a financial centre that provides bank secrecy. In order to disguise the ownership of funds more effectively, the offshore bank account may belong to a shell company which is registered in another (second) financial centre with nominee directors resident in a different (third) financial centre. To make such a transaction fool-proof, relatives or friends of the public official may even own the company not directly but through a trust registered in yet another (fourth) financial centre.

Corporate entities can use similar structures to transfer profits abroad for example to reduce tax liability or circumvent local regulation in developing countries. Multinationals can use additional tools of transfer mis-pricing (manipulating prices of inter-subsidiary transactions to shift profits) to divert profit to no- or low tax jurisdictions and which are very hard to detect. Convoluted structures of this kind are fairly common as a way of siphoning off and handling illicit funds and make it very difficult for investigators to uncover the true nature of any transaction and trace the beneficial ownership and origin of funds. The modus operandi of illicit financial flows are not aberrations, but a part of a broad structural problem.

Many financial centres do not have agreements for legal co-operation with other countries. Even where such agreements exist, their scope and terms might still make it time consuming and difficult to uncover the illicit flow of funds. Also, the multiplicity of jurisdictions means that any investigation may face big obstacles.

Multinational corporations often report only consolidated accounts which do not break down sales, profits and costs etc by jurisdiction or between subsidiaries. This adds a layer of opacity which prevents investigators from uncovering the facts. Finance centre secrecy, regulatory

arbitrage (jurisdictional shopping), opaque accounting practices, active complicity of professionals and the lack of a proper international framework for co-operation on matters of cross-border illicit financial flows significantly reduce the likelihood of anyone engaging in illicit financial flows being found out and punished.

Specifically on natural resource management

Experience on the ground has shown that the natural resource and extractive industries are closely associated with illicit financial flows in a significant number of developing countries. Natural resource rents are often the most substantial source of funds in such countries, and can easily be siphoned out when they get captured by the business or political elite. Moreover, resources, especially high value precious commodities such as diamonds, can be smuggled directly.

There is a particular need for transparency in the natural resource sector. Two examples of best practice in this regard are the IMF Code Guide on Resource Revenue Transparency and EITI, illustrating how transparency can be used to achieve results. If information is not published, citizens will not know if and how much is being taken.

One way to expose illicit financial flows connected to natural resource exploitation may be to look closer into situations where politically exposed persons (PEPs) and their relatives and close associates in resource rich countries are buying luxurious properties far in excess of their salaries and/or there is a paper trail showing diversion of resource revenues into apparent PEP accounts, and subsequent expenditures for personal purposes. Financial institutions should recognize the risk for corruption when, for example, there are oil-backed loans to state owned companies in oil-rich countries or central bank accounts are held abroad under the sole control of a PEP.

The awarding of natural resource concessions, which generate lucrative rents, has often been used as a tool for patronage and some corporations are known to have paid substantial bribes to win these concessions. The tools used to plunder natural resource wealth could be the establishment of shell corporations, falsified reporting, mis-priced invoices, or efforts to disguise origin.

Illegal, unreported and unregulated (IUU) fishing, for example, thrives by using regulatory loopholes in national regulations and international regimes (regulatory arbitrage). IUU activities use false names, false flags and sometimes twin ships with identical documents and identity to avoid detection. They sometimes falsify documents of ships and cargo and use mailbox (shell) ownership and financial centres and lightly regulated or unregulated jurisdictions that sell flags to reduce the risk of detection and out-manoeuvre investigators.

When used responsibly, replenishable natural resources such as forestry and fisheries can be profitably managed in a sustainable way and generate substantial revenues. These in turn can help finance development expenditure, build up infrastructure and stimulate growth in an economy.

When the exploitation of replenishable natural resources such as forestry and fishing is done irresponsibly to maximise short-term rent – a mis-management pattern that is characteristic of corruption – it can destroy the resource base through excessive deforestation and associated soil erosion and over-fishing and the collapse of fish stocks, thereby linking illicit financial flows to environmental degradation.

The link between riches in natural resources and conflict is documented in many academic and field studies. The possibility of rent capture (and its subsequent transfer abroad through illicit financial flows for safekeeping abroad) can spur armed conflicts. Once control is established over critical natural resources, the rents generated can often finance conflict for many years.

The illicit trade in natural resources can be tackled at two levels. One at the first stage of extraction/exploitation where better control, verification and certification procedures can help stem at least part of the illicit trade. There are several initiatives which are being tried at this level for example in logging. A certification initiative called the Kimberly process was helpful in stemming the trade in conflict diamonds.

The second stage, which is more directly relevant to the work of the Task Force, is about stemming the flow of illicit funds linked to natural resource mismanagement. Efforts in this arena will have positive repercussions not just for development but will also help mitigate the environmental degradation and conflict often associated with natural resource mismanagement.

Initiatives such as the EITI (Extractive Industry Transparency Initiative) and the proposed new international accounting standard (which asks for a jurisdictional breakdown of company accounts) could help stem some of the illicit activity in natural resource extraction.

Increased transparency could help regulators, citizens, civil society and international organizations hold both relevant governments and companies involved in natural resource extraction to account.

The legal and normative framework

Broadly speaking, while the UN Convention against corruption has been a large step forward, the present legal and tax structure instruments are inadequate. Greater transparency and effective exchange of information are needed.

The UN Convention against corruption (UNCAC)

UNCAC is the first global, legally binding convention on corruption and a normative instrument at the international level. Today, there are 140 signatories and 126 states parties to the convention. It was negotiated in record time and adopted by the general assembly in 2003. It entered into force in 2005 and contains provisions on prevention, criminalization and law enforcement, international cooperation, technical assistance and asset recovery. The provisions on asset recovery are the major breakthrough of the convention.

UNCAC's scope of application is broad and covers corruption-related practices in both the public and private sectors. "Corruption" itself is not defined, but a wide array of conduct associated with it is established as criminal offences.

Each State may decide according to national needs and thus treat tax evasion either as a criminal and/or administrative offence outside the ambit of UNCAC, or as criminal and/or administrative offence within the scope of application of the Convention. Such flexibility does not impede international cooperation under the UNCAC, as the Convention provides for

flexible determination and application of double criminality for extradition and mutual legal assistance purposes. In addition, extradition/assistance may not be refused on the sole ground that the offence for which cooperation is sought is also considered to involve fiscal matters and, if tax evasion is treated as administrative offence, it is possible to extend assistance in civil and administrative matters relating to corruption.

In article 2 (d) "property" is broadly defined and an interpretation may include tax revenues. In 2005, the U.S. Supreme Court in the Pasquantino case held that the right of the government to receive tax revenue is a property right and that tax evasion (depriving the government of that right) is in effect a theft by the taxpayer of government property, similar to embezzlement. Article 17 of UNCAC only refers to embezzlement by a public official, and not by a private person, and therefore Article 17 could not cover tax evasion by a private person (a person who is not a public official). However, States Parties to the Convention are obliged to adopt the widest possible approach with regard to the definition of predicate offences for the purpose of applying article 23 on the laundering of proceeds of crime. This could allow the consideration of tax evasion as a criminal conduct that could trigger anti-money laundering mechanisms, as appropriate. Nevertheless, it may be technically difficult to include tax evasion within the scope of anti-money laundering legislation, particularly because most money laundering provisions are based on assets being "proceeds" of a specific illegal activity, and identifying the "proceeds" of tax evasion may often be complicated.

As it is not generally a self-executing instrument, the Convention requires States parties to enact implementing legislation and enables them to adopt stricter or more severe measures than those provided for by the Convention (Article 65, paragraph 2). Therefore each State party has the discretion to determine how to treat tax evasion. Consequently, there is a need at the national level to focus on tax issues in looking for solutions. Financial centres with secrecy and tax free treatment facilitate illicit financial flows and limit cooperation between governments.

Dealing with Tax Havens

OECD listed 35 tax haven jurisdictions and encouraged them to commit to implement high standards of transparency and exchange of information in order to be considered a "cooperative tax haven jurisdiction". These jurisdictions have now signed 45 tax information exchange agreements with OECD countries and many more are under negotiation. Tax Information Exchange Agreements (TIEA) provide for information exchange upon request, which is a potential shortcoming. Accordingly, they work best when they are combined with effective domestic compliance measures. A number of developing countries are considering the negotiation of TIEAs with tax havens. Moreover even in without TIEAs the improvements in transparency in tax havens such as the elimination of bearer shares which have resulted from the OECD project will reduce the possibilities of tax evasion by residents of both developed countries and developing countries. 26 OECD and CIAT member countries have and will continue to assist developing countries to help improve their exchange of information. Note that the OECD has also undertaken work on defensive measures that both source and residence countries - developed and developing - could take to limit the use of tax havens.

The EU savings tax directive

The savings directive has been seen as a possible solution to some of the difficulties of information exchange. But, the directive only covers interest payments to individuals within the EU (and not interest payments to companies nor trusts), nor the other types of income,

which limits its effectiveness in combating illicit financial flows. Moreover, three EU countries operate a withholding tax instead of providing information exchange during a transitional period.

Anti-money laundering framework

The basis for current anti-money laundering efforts can be found within the legal instruments of the UN, the Council of Europe, the European Union and the standard as set by the Financial Action Task Force (FATF). Two important conventions in this regard are the Vienna Convention (UN's convention against illicit traffic in narcotic drugs and psychotropic substances, 1988) and the Palermo convention (the UN's convention against trans-national organised crime, 2000). The Vienna convention calls on countries to criminalize laundering of proceeds from drug trafficking. The Palermo convention has a broader scope and calls for criminalizing laundering of proceeds from all serious crime, as defined in the Convention.

The FATF standard consists of 40 anti-money laundering (AML) recommendations and 9 Special Recommendations that focus on combating the financing of terrorism (CFT). One of the benefits of implementing the standard is a more transparent and stable financial system. Another important aspect of the work of FATF is the mutual evaluation process (peer review) which promotes the implementation of sound AML/CFT policies and practices. However, the recommendations are difficult to fully and properly implement and no country has achieved a rating of "fully compliant" on all 49 recommendations at this time.

It is important that States implement the Vienna and Palermo conventions as well as the FATF standard effectively to ensure that criminals are deprived of the proceeds of their crimes and of the resources needed for their activity.

Mis-pricing as a channel for illicit financial flows

There is no definite method to determine the total amount of mis-pricing (both overpricing and underpricing), but work on statistics from a few countries show it is significant, and probably constitutes the largest share of illicit financial flows. A rough, global estimate is USD 1.5-2 trillion annually in the period 2001-2004 (Simon Pak, Pennsylvania State University). Mis-pricing can serve as a technique for money laundering, tax evasion, capital flight and import duty fraud. Numbers are uncertain, and some variation from standard prices is explained by clerical/recording errors, product heterogeneity and dissimilar national standards. In addition to statistical analysis of trade data, shipping costs etc, audits and inspections are ways to detect abnormal pricing.

Anti-corruption reform

Anti-corruption drives may fail or under-perform for a number of reasons. A major problem is that the root causes of corruption in many cases are not diagnosed and the necessary anti-corruption measures not adequately prescribed and implemented. This further entails legislative and administrative weaknesses and deficiencies which undermine the efficiency and jeopardize local ownership of national anti-corruption efforts. There are seldom time-bound indicators and there is information overload. Personnel on the ground are overworked and learning from experience can be difficult.

There is no single best practice for combating corruption. Programs need to be tailored to local context and needs. UNODC is involved in technical assistance to promote UNCAC. The scope and multidisciplinary approach of the Convention make the related technical assistance needs both complex and diversified. Also, experience has shown that technical assistance

needs emerge at different stages of the ratification and implementation process and require different approaches. In the pre-ratification phase, for example, technical assistance may be required to support legislative and political action designed to ensure adherence to the Convention. Such assistance may include knowledge-building and awareness-raising in order to generate, sustain or strengthen momentum for States to initiate or advance in the ratification or accession process. Technical support is also likely to be required for translating the provisions of the Convention into domestic legislation, a process that is key to successful implementation. In terms of the asset recovery agenda the International Centre for Asset Recovery (ICAR) also provides tailor made training and case specific programmes that are aimed at assisting in the fight to prevent and detect the flow of funds that are the proceeds of corruption and illegal activity.

Beyond legislative assistance and legal advisory services, technical assistance may also include advisory services to support the development and adoption of anti-corruption policies and action plans for their implementation; training and capacity-building for relevant institutions to ensure the implementation of anticorruption legislation or policies; and the establishment or strengthening of the institutional framework prescribed by the Convention, such as independent anticorruption bodies (article 6) or central authorities responsible for processing requests for mutual legal assistance (article 46, paragraph 13). Institution-building may require specified assistance aimed at prompting structural changes and institutional reform.
Even after the adaptation process, States may require follow-up support to assess and consolidate their achievements. Technical assistance may also be needed to enable States parties to meet legal reporting and notification obligations emanating from the Convention, as some States may lack the expertise or resources to properly fulfil such obligations.

To be effective and have a sustainable impact, technical assistance requires a method for the identification of needs and priorities. Assessing needs and priorities requires the collection of accurate and complete information from countries. By developing and strengthening ownership, such an approach offers significant possibilities for success and sustainability. Information-gathering tools, such as questionnaires and checklists, are the most commonly used mechanism established by treaty bodies to collect information on compliance. Such tools may also be utilized to collect useful information on implementation gaps and technical assistance requirements. That, for instance, is the approach chosen by both the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and the Conference of the States Parties to the United Nations Convention against Corruption. While the former Conference adopted questionnaires and established reporting cycles, the latter – cognizant of the underreporting problem encountered by the former – opted for a different approach: a self-assessment checklist. The objective of the checklist is to ascertain the implementation status of selected articles of the Convention and identify technical assistance needs related to their implementation. By promoting a self-assessment exercise, the approach offers the advantage of fostering ownership by reporting States, as they are requested to identify their own gaps and needs.

The Conference of the States Parties to the UNCAC has established a working group to advise and assist it in the implementation of its mandate on technical assistance. The working group is entrusted with the task to a) review the technical assistance needs; b) provide guidance on priorities, based on programmes approved by the Conference and its directives; c) take into consideration information gathered through the self-assessment checklist approved by the Conference; d) consider information on technical assistance activities of the Secretariat and

States, including successful practices, projects and priorities of States, other entities of the United Nations system and international organizations; e) promote the coordination of technical assistance in order to avoid duplication; and (f) formulate project proposals to address the needs identified.

Finally there should also be a carefully developed international strategy on technical assistance to ensure that the funding of such critically important exercises and programmes is delivered in a focused and relevant manner. The international donor community should devise a strategy that is free of national interests and also cuts through much of the self-interest on the ground itself.

National policy tools and examples

There are various examples of positive experiences from mainstreaming asset recovery from proceeds of crime; a legal framework allowing for extended confiscation of benefits; a national database accessible for all law enforcement agencies; incentive schemes where 50 % of recovered assets can be shared between the collecting agencies. In one country's case, money-laundering prosecution has increased from 300 to 2000 cases over 4 years, with 1100 confiscation orders issued. Generally, taking the proceeds out of crime should be a strong disincentive to criminal behaviour. Existing confiscation and money laundering powers may be underused.

There are examples of financial and fiscal reforms, such as budget execution being made public on the Internet – resulting in increased transparency. New laws providing for taxation of foreign companies, as well as national companies operating abroad, has made tax evasion more difficult, but secrecy jurisdictions create obstacles to enforcement. A financial transaction tax might reduce illegal capital flight through formal channels, since transparency and the possibility to track financial flows create disincentives. However, experience of countries in Latin America with such taxes is that they can also encourage capital to move offshore and/or underground, and they discourage the development of the banking system.

In African countries illicit financial flows are often tied to the extractive industries. While there are improvements, there is a need for capacity to control, more South-South cooperation, and collaboration between UN and African bodies. Political will seems to be a prerequisite for succeeding.

Capacity

Capacity is lacking in every field and in most countries, but there is quite clearly a large gap between developed and developing countries. A key issue is how to bring relevant authorities together. Once brought together, various national authorities and entities must be able to cooperate, and information exchange is essential. There is a large scope for increased South-South cooperation and between North and South for that matter.

The World Bank, the UN, OECD, IMF, bilateral donors and others are active in providing technical assistance, but the efforts need to be increased several fold. In many poor countries there is a need for increased capacity in the whole chain of public responsibilities; from the ability to assess the value of the country's resources, negotiating contracts, enforcing contracts, taxation, customs, auditing, regulating business, investigating crime and tax evasion etc., to prosecuting those offences that arise from such behaviour. In weak systems, every part of the chain can be bought off or subverted in a criminal manner, requiring a major effort to avoid exploitation and corruption. Corruption in such systems will often go unpunished, along with even large-scale theft and state looting.

Poor countries often lack the necessary skill and capacity to secure their rightful share – whatever it might be – of natural resource exploitation or other economic activity. In terms of contract-, auditing- and taxation competence, a poor country will have little of the expertise that is available to large multinational companies. Additionally, countries outside the OECD area have less influence on the processes where global standards are debated and decided.

However, some promising developments are underway. A notable recent development is the creation by 35 member countries of an African Tax Administration Forum which aims to act as a focal point for exchanging experiences on good practices, benchmarking performance, improving cooperation between them, and setting the strategic direction for African Tax Administrations.
Another initiative being taken by non-OECD countries to build capacity and share best practice amongst themselves include the Central America, Panama, and Dominican Republic Working Group on Tax coordination.

Conclusion

The volume of cross-border illicit financial flows, from corruption, criminal activity, and tax evasion, is evidence of the seriousness of the problem. The impact of cross-border illicit financial flows on developing countries is especially severe: such financial flows frustrate the capacity of developing countries to mobilize domestic financial resources as mandated by the 2002 Monterrey Consensus, the 2005 United Nations World Summit, and the 2008 Doha Conference, and make more difficult the realization of the UN's Millennium Development Goals.

The current global financial crisis emphasises the need to improve financial transparency and implement adequate regulation/supervision in both a domestic and an international financial architecture, especially in onshore and offshore financial centres. Such steps will also help reduce cross-border illicit financial flows. The problem of cross-border illicit financial flows is multifaceted, and the many suggestions in this report should help provide solutions.

Annex 1 – Terms of Reference for the Task Force

Framework for the Task Force, set up under the Leading Group, on the development impact of illicit financial flows

Main focus
Global illicit cross-border financial flows are estimated to be between USD 1 trillion and USD 1.6 trillion per year. Half of this amount is thought to originate in developing countries. This leakage of funds undermines the mobilisation of domestic resources, reduces funding for development, facilitates corruption and other criminal activities, weakens accountability and increases inequality.

There is a need to assess the scale of the problem, the actors involved and the *modus operandi* of illicit financial flows, and to map the tools available. The objective of the Task Force is to raise awareness and increase knowledge and understanding of this issue, and to identify possible policy tools to prevent and combat the negative impact of illicit financial flows.

Specifically, the Task Force will seek to:

- Assess the scale and nature of illicit cross-border financial flows
- Assess the impact on development
- Identify the various actors involved (e.g. national and international businesses, public officials, financial centres and professionals such as lawyers, bankers and accountants) and the role they play
- Assess the *modus operandi* of illicit cross-border financial flows such as mis-pricing in trade and financial transactions, wire transfers, smuggling and bribes
- Map the existing legal framework, (e.g. national and international norms, rules, regulations and treaties) that could be used to prevent and combat illicit financial flows, and identify gaps and shortcomings in the existing legal framework
- Map the capacity of relevant national, regional and international governmental and intergovernmental actors to stem illicit financial flows
- Identify possible partners, including both governmental and nongovernmental actors
- Identify additional policy tools that could be used to prevent and combat illicit financial flows
- Raise awareness and promote discussion of this issue in relevant international forums.

Given the complexity of the issues and the initial time frame of the Task Force of approximately one year, the work of the Task Force will be of a preliminary nature.

Work format and modalities
All Leading Group member countries are invited to participate in the Task Force, together with invited representatives from civil society, intergovernmental organisations and observer countries.

The work will be organised in the form of seminars with in-depth discussions on selected topics at each meeting. The overall aim of these meetings will be to analyse current illicit financial flows and mechanisms, learn from experience, and identify policy measures to be recommended.

Preparatory meetings and breakout groups will be arranged as needed.

Invitations to specific meetings will be sent to relevant actors identified by governments or organisations.

The Chatham House Rule will apply[2].
The Task Force will continue its work up to the Monterrey+6 Conference in Doha in the second half of 2008. At that point, the need to continue the work and a suitable format for such work will be evaluated.

Norway will report to the Leading Group on the work undertaken.

Possible topics for Task Force meetings

Meeting 1 Assessing the problem (held in Oslo 12–13 December 2007)

- Assessing the scale and nature of illicit financial flows
- Assessing the impact of illicit financial flows on development
- Assessing the main actors involved, and the *modus operandi* of illicit financial flows
- Case: illicit financial flows and natural resource management (the fishing, logging, extractive industries)

Meeting 2 Mapping the legal framework and identifying gaps (held in Oslo 1- 2 April 2008)

- Mapping the legal framework, especially relevant international norms, treaties, rules and regulations that could be utilised to prevent and combat illicit financial flows
- Mapping national and regional initiatives
- Mapping the capacity of governments and relevant intergovernmental actors to effectively implement existing rules and regulations
- Identifying possible partners, both governmental and non-governmental, in preventing and combating illicit financial flows (with focus on rules, standards and cooperation on money laundering, corruption, confidentiality and information sharing, cross-border criminal activities, tax evasion, etc.)
- Case: lessons learned from selected countries

Meeting 3 Looking ahead

- Identifying gaps in the legal framework, including policies and legislation, and insufficient capacity – both at national and international level
- Identifying obstacles to progress, including lessons learned and obstacles relating to current initiatives
- Identifying additional policy tools that could be used to prevent and combat illicit financial flows
- Long-term and short-term policy recommendations.

[2] When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed

Annex 2 – List of policy tools and action-oriented proposals

This annex contains a list of ongoing initiatives, policy tools, action-oriented proposals and recommendations relevant to stemming illicit financial flows. It should be underlined that this list reflects the discussions and views expressed within the context of the work of the Task Force, and are not necessarily the formal positions of the countries and organisations represented in the Task Force. They represent the input from different members of the Task Force, and the whole group may not agree with every proposal or suggestion. The proposals should be seen more as a "menu for choice" than steps to be implemented immediately and in their entirety. Some proposals are for the short term, others for the long term. Some are ambitious and will require more work and detailing – including further discussions in countries and within relevant intergovernmental organisations.

The initiatives, policy tools and recommendations and proposals are grouped in areas relevant to any comprehensive effort to tackle illicit financial flows globally.

Illicit Financial Flows – magnitude

1. The World Bank-Norway Research Conference
A range of specific studies covering all the central issues related to illicit financial flows – including with a view to obtaining better estimates of scale. The final studies will be presented at a conference in April 2009, and subsequently published. A separate conclusion from this research may be proposals for further studies and research.

2. Global Financial Integrity Study
GFI has undertaken one of the most comprehensive studies on the multitudes of illicit financial flows out of developing countries ever undertaken, comparing the methodology of the most commonly used models for estimation. To be published in November 2008.

3. A Research fund
Further research could be linked to an existing institutional organisation or programme – or a new programme set up if necessary. Specifically, there's a need to better coordinate the collection and standardisation of data and statistics in areas such as customs and trade, various categories of crime, financial transactions etc. – in order to better inform the political debate. The UN would be one candidate for such a fund, and the thematic focus of the work could be expanded to study related issues of taxation, such as tax competition, tax reform, global public goods etc. – preferably in coordination with relevant national and international institutions. Alternatively, the IMF, the World Bank and OECD could be asked to develop an internationally recognised methodology for estimating or measuring illicit financial flows, including tax evasion.

4. The international financial institutions
The international financial institutions should be involved in the appraisal of the magnitudes of illicit financial outflows from developing countries, and take account of scale and effect both in advisory and analytical work.

Money laundering
Tax evasion as a predicate offence for money laundering purposes is included in the legislation of over half of all OECD countries. Identifying the "proceeds" of tax evasion can

be a practical problem, though, even if suspicion of an offence is all that is required for reporting purposes. Whether or not tax evasion is included in anti-money laundering legislation, it ought to be clear that automatic exchange of information helps diminish cross-border illicit financial flows from money laundering and/or corruption.

1. Suspicious activity reporting (SAR)

The FATF 40 Recommendations require that anti-money laundering legislation cover a broad range of foreign activities as indicated in Recommendation 1:

"Predicate offences for money laundering should extend to conduct that occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence had it occurred domestically. Countries may provide that the only prerequisite is that the conduct would have constituted a predicate offence had it occurred domestically."

An extension from this is that SAR requirements would apply to foreign persons trying to evade foreign taxes where tax evasion is a predicate offence in both countries. Therefore all countries are encouraged to; (i) make a violation of the tax laws of a victim country a predicate offence under the receiving country's laws, (ii) allow their tax authorities access to SARs to combat domestic and international tax evasion, and (iii) encourage tax authorities to exchange information obtained from SARs on foreign persons engaged in tax evasion with other competent authorities. While suspicious activity reports contain information that is potentially useful to a range of authorities, they are based on confidentiality, and the system could be at risk if they are made accessible to too many. Any change would have to be carefully considered.

2. OECD work

A study on how anti-money laundering legislation might be made more effective in identifying cases of international tax evasion or other illicit activity could be proposed. Anti-money laundering (AML) legislation exists in most countries (including offshore locations) but so far there are no clear indications that it has provided much assistance in identifying international tax evasion, at least. Part of the answer may be that some countries have not criminalised tax evasion for money laundering purposes but there may be other reasons which, if identified, would point to ways in which the effectiveness of AML frameworks could be enhanced. The OECD works on tax crimes and money laundering and could be asked to examine this issue.

3. IMF work

IMF will strengthen its work on anti-money laundering and counter terrorist financing through the establishment of a trust fund dedicated to AML-CFT. Broadening the scope to also include tax evasion and other illicit flows should be considered.

4. FATF work

As with other intergovernmental cooperation there might be a case for stronger enforcement of recommendations, greater transparency and accountability to a wider set of stakeholders. Proposals would need to be discussed with FATF and authorities represented there. Unfortunately, neither FATF nor national representatives in FATF were able to attend the Task Force meetings. Among specific proposals discussed were:

- Consider publishing country-lists of compliance and non-enforcement, while giving due consideration to delays caused by lack of technical expertise and resources
- Continuing to encourage countries to make their AML/CFT mutual evaluations undertaken by FATF, its regional-style bodies, the World Bank, or the IMF public

- Requiring jurisdictions to publish a national registry of ownership and control details for all companies and legal persons registered in the country, and a national registry of details on all trusts (including settlors, trustees, beneficiaries and protectors) and other legal arrangements registered in that country, in order to be in compliance with Recommendations 33 and 34
- Measures to ensure that banks follow proper due diligence procedures and externalising control of banks' internal compliance procedures. Such measures would be particularly important when a government cannon account transparently for its receipt and disbursement of revenues

5. US initiative

Senator Charles Grassley has proposed a bill on closing loopholes in the range of predicate offences that can serve as the basis for a money laundering charge.

Beneficial ownership and transparency

The main objective is to secure greater transparency and effective exchange of information.

1. Country-by-country reporting

International accounting standards should include country-by-country reporting, whereby multinational companies would report in its accounts; in which countries it operates, under what name it trades, its financial performance in each country (sales, purchases, labour costs, pre-tax profit, tax payments etc.). The information should reconcile with published accounts. The proposal could be implemented first for the extractive industries and later by all companies. A detailed proposal is available.

2. Beneficial ownership

Beneficial ownership much be addressed. Jurisdictions must ensure that they maintain a current list of the beneficial owners of corporations, limited liability companies, and other legal persons organized under their laws. The list should be available to law enforcement authorities of any nation upon a showing of legitimate need. For federal states, the federal government must ensure that each of its subdivisions is in compliance. The FATF requirements for establishing beneficial ownership as part of the customer due diligence process must be implemented globally. A beneficial owner is a natural person and not a corporation or trust.

3. Compendium of model clauses

A "compendium" of model clauses that have been suggested by governments, international organizations, and civil society should be prepared.

4. G8 initiative?

The G8 could be approached before the meeting in Canada in 2010, regarding
a) standardisation of predicate offences across all G8 countries in the first instance and all OECD countries next, and b) agreement on identifying tax evasion as a crime on a par with corruption and money laundering. The G8 could adopt these positions and give renewed directives to FATF and the OECD to pursue these ends. The G8 Communiqué following the Meeting of Heads of Government in Hokkaido Japan in July 2008, urged all countries that have not yet fully implemented the OECD standards of transparency and effective exchange of information in tax matters to do so without further delay, and encouraged the OECD to strengthen its work on tax evasion and report back in 2010.

The G8 should revisit commitments made at the Sea Island meeting in 2004 endorsed and reaffirmed by Heads of State at Gleneagles in 2005, and in St. Petersburg in 2006, when they announced a collective effort to provide technical and case support to countries victimized by grand corruption and to consider development of practices and procedures necessary to enable the G8 governments to most effectively assist in asset recovery.

Involving other groups, such as G-77 and G-24, should be considered.

5. The Extractive Industries Transparency Disclosure (EITD) Bill
Proposal from senators Schumer, Feingold, Leahy, Lieberman, Durbin and Cantwell, which would require all extractive industry companies listed in the US – including foreign corporations – to publish their revenue payments to all foreign governments on a country-by-country basis through their regular annual filings to the SEC. Model clauses, based on the EITD Bill, and which could be used as the basis for proposed legislation in other countries, might be helpful.

Tax evasion and Tax Havens

1. Tax information exchange
Pressure should be put on all countries to sign up to sharing tax information upon request, particularly within the OECD, with the long term goal of automatic tax information exchange. The technical aspects of automatic exchange of information have to be studied and publicized. "Restricted lists" or "Blacklists", with a menu of defensive measured against non-cooperative jurisdictions, should be considered. As one example; it could be required that jurisdictions on the list negotiate tax information exchange agreements with developing countries. The OECD Model Tax Information Exchange Agreement and the EU Savings Tax Directive need to include more countries.

2. Transparency
There should be consideration of additional measures (not alternative) through exchange of information agreements or income tax treaties, such as obliging banks and other financial institutions to require depositors, account holders, and users of services (such as wire transfers) of banks/financial institutions, to waive confidentiality and secrecy protection, and permit banks and other financial institutions to give relevant information directly to the government of country of residence of the taxpayer. This would be independent of and irrespective of any bilateral or multilateral exchange of information agreement. Even if such authority were not exercised by the bank or other financial institutions, the client would know that he/she/it would not have the protection of confidentiality.

3. Effective exchange of information
Some specific proposals on what should constitute effective exchange of information were discussed:
- A technical study about what constitutes "effective exchange of information" should be prepared.
- ECOSOC should approve the resolution concerning the development of a Code of Conduct on Cooperation in Combating Capital Flight and International Tax Evasion and Avoidance. Has been presented to the UN Tax Committee.
- Monitor and publicize the implementation of the work of institutions working on transparency and exchange of information issues.

These proposals should be considered in the light of work undertaken by the OECD's Global Forum, with international standards of transparency and exchange of information that have achieved almost global acceptance – assessed annually by the OECD's Global Forum. Again, implementing existing standards is essential.

4. A Financial Transparency Index

The index will categorize onshore financial centres and offshore financial centres based on the degree of their financial transparency - to be published by Tax Justice Network.

A forthcoming report will map the offshore financial centres and the types of services they provide, what information they hide and make available, to whom. Indicators built on perception are not actionable, but it would be prudent to ensure that indicators used are actionable, disaggregated and the methodology behind the index transparent. This would enable the countries named and shamed in such an index to rectify its rating by improving the objective factors contributing to its rating. The same reference to OECD's Global Policy Forum as for 3. above, applies.

5. The revenue rule

Establish principles to allow sovereign countries to set and enforce their own tax policy. The revenue rule, where governments do not enforce tax laws of other governments, undermines sovereign states' rights to enforce its laws. The UN and OECD Model Tax Conventions permitting states to agree on assistance in tax collection should be followed. Strengthening and implementing Article 27 of the OECD and UN Model income tax treaties, and a study of relevant non-tax provisions such as wire fraud statutes and theft statutes (the Pasquantino case) would be helpful. More intensive work on this important issue is necessary.

6. Predicate offences

A common set of specified unlawful activities (predicate offences) need to be adopted by all OECD countries. OECD has prepared a report providing information on tax crimes and predicate offences in OECD countries.

7. The UN Committee of Experts on International Cooperation in Tax Matters

The UN Tax Committee should be upgraded to an intergovernmental commission and developing countries encouraged to utilise it as a policy forum. Additionally, it should be considered setting up a sub-committee of the Committee, supporting efforts to reduce cross-border illicit financial flows and the resulting tax evasion and to help developing countries mobilize domestic resources. If required, additional expertise in tax policy and administration should be built up.

8. The Stop Tax Haven Abuse Bill

Proposed by senators Levin, Obama, and Coleman. The bill would correct misuse of tax havens by U.S. citizens and corporations and add hedge funds, private equity funds, and company agents to anti-money laundering efforts. The bill could serve as a basis for model clauses.

9. Senator Dorgan has proposed a bill that would treat tax haven entities as though they are domestic corporations. The bill could serve as a basis for model clauses.

Abusive transfer pricing (or transfer mis-pricing)

1. Statistical price filter matrix

It is proposed to generate and keep updated a statistical price filter matrix, using deviations in pricing from the standard to determine abnormal import or export transactions. For effective and low cost monitoring of the reported prices of inbound and outbound cargos and identifying suspiciously priced transactions for physical inspection, it is recommended that the Customs Agency of a country develop and maintain statistical price filter matrix, including median price and upper and lower price bounds by commodity and by trading partner countries. The price filter will assist the Customs Agency in conducting real-time inspections of inbound and outbound cargos as well as auditing of suspicious shipments reported in the past. It is recommended that one country (or a few countries) may be selected to implement this approach as a pilot project to test its effectiveness, perhaps as a technical assistance project supported by an international development agency. Trade in services and non-tangibles poses greater challenges. More specifically:

- Generate and update the relevant statistical price filter matrix regularly
- Employ a network of workstations and servers at the country's ports to facilitate the computerized analysis of international trade prices in real time
- Use a printed price filter matrix if the country does not currently have computerized trade data entry system and need to implement the system manually
- Decide who will conduct the audit of trade documents and the physical inspection of cargo with suspected transactions prices. This can be done by a private inspection firm or its customs agency.

Countries who are members or the WTO and the World Customs Organisation already have access to the WTO standardized valuations and this information is filtered by low, median and high values. Further refinement of this register, and the development of a similar data bank for services, where the potential for mis-pricing is even greater, could be considered.

2. It is recommended that banks financing import and export transactions be required to report suspiciously priced import/export transactions to appropriate authorities.

3. The arms length principle

Transparency and developing countries' access to information on transfer pricing issues, such as application of the "arms length principle", is key to "fair" taxation of multinationals. Work is ongoing in the UN, the OECD and in other places. The specific problems of the OECD rules should be discussed: (i) complexity; (ii) the difficulties for tax administrations in getting sufficient information about the taxpayer; (iii) the need for tax administrations to have more technical expertise. One option may be to explore whether less developed countries currently seek to apply the arms length principle and if not, why not. There are, for instance, gaps in legislation. It may be that targeted initiatives to improve the application of this principle in developing countries should be attempted. Another option is to improve communication between customs authorities and direct tax authorities as customs authorities have also developed internationally accepted mechanisms for pricing goods for customs purposes. A more long term approach may be consideration of formulary apportionment methods.

4. Bringing together, coordinating and publicising the work of civil society and international organisations working on transfer pricing issues.

5. The role of the big four auditing firms on transfer pricing issues should be reviewed and analysed.

For all proposals; cooperation with the UN in particular would be relevant – and should be considered as part of an anticipated Germany-initiated "International Tax Compact" or "Task Force on tax flight issues".

Intermediaries, ethics and Code of Conduct

Intermediaries can be divided into (i) Financial institutions and (ii) Designated non-financial businesses and professions. Lawyers and accountants fall into the latter group.

Pursuant to recommendation 12 of the FATF 40 Recommendations customer due diligence, record-keeping and reporting requirements already apply to lawyers notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning certain activities. The same applies to company and trust service providers.

Which standards are in place today, what are their shortcomings and strengths, and which additional standards may be developed? Voluntary standards have not proved particularly effective, as shown by the current financial crisis. Could voluntary standards be a first step towards ethical standards being mandatory? We need to look at the incentive structure, to monitor adherence, prevent "lip service", and assure a stick and carrot dynamic with de facto implementation of standards. Non-compliance must be sanctioned. The standards pertain to bilateral relations between states and professional associations. Standards need a moral framework. A basic presumption is that such standards, codes of conduct or guidelines would add value to the existing anti-money laundering provisions many intermediaries are already subject to.

1. Code of Conduct

All intermediaries should be persuaded to conduct their business in line with commonly accepted Codes of Conduct, including when advising clients abroad. Monitoring of compliance is necessary, though, and cannot be left to the business associations themselves. If standards and code-of-conducts are established, civil society will play an important role in monitoring, lobbying, publishing adherence and generally focus public opinion on the issue.

2. Blacklisting

Intermediaries assisting foreign persons to violate foreign laws have to be publicized generally, and brought to the attention of the international community. Also consider blacklisting of service providers such as lawyers, accountants and company formation agents who assist in hiding proceeds of crimes. Attention must be focused on the role and activities of the big four accounting and auditing firms.

3. Enforce control

One should focus on those intermediaries, such as Service Providers, which are not yet licensed or regulated, and enforce control. Cooperation with those intermediaries that work for transparency and legal/moral standards in their sectors should be sought. A list of national and international professional associations and applicable regulators of intermediaries should be compiled.

4. The practice of Legal and Tax Advisors and Financial intermediaries, already subject to some regulatory or licensing requirements, are relevant in terms of the following:

- the OECD and its Tax Intermediaries Project
- international financial institutions and bank regulatory agencies
- national and international professional associations such as the International Bar Association and the International Fiscal Association.

5. The International Accounting Standards Board (IASB)

The current accounting standard enables transfer pricing on a large scale. IASB has a pivotal role in changing such practices, with its power of law within the EU. EU and US standards are converging and becoming global. There should be a truly global, standard-setting body for accounting practices – requiring setting one up, or changing IASB into an intergovernmental organisation.

6. Reversing funds

A study of asset regularisation procedures should be considered, such as partial amnesties, charitable contributions, payments to low tax/no tax jurisdictions in order to steer them away from the cross-border illicit financial flows business. A longer list of practical measures to "reverse" funds in onshore and offshore financial centres but undeclared in the country of residence, should be prepared.

Corruption

1. Jurisdictional issues/State looting

States need to adopt a flexible approach on jurisdictional and international cooperation issues and, thus, ensure that no serious corruption crime, and especially large scale state looting, goes unpunished and fugitives cannot find safe havens and escape justice. The relevant provision of article 42 of the UNCAC, as well as similar provisions of other pertinent instruments, need to be considered by national law-makers in order to ensure that appropriate jurisdictional bases are in place in domestic laws to address corruption offences

2. The United Nation Convention Against Corruption (UNCAC)

UNCAC reflects the culmination of the efforts of the international community to agree upon a legally binding instrument of universal range against corruption. After its entry into force, focus should be on ensuring the widest possible adherence to its provisions, as well as on its implementation through national legislation, beginning with its full incorporation in the domestic legal systems through enabling national legislation.

- The implementation body established by the Convention, the Conference of the States Parties to the UNCAC, is already in place and, through its working group on the review of its implementation, has already begun the process of establishing an appropriate mechanism for reviewing the implementation of the Convention. This process should receive the broadest and strongest possible support;
- No definition of corruption is included in the Convention due to the evolving nature of the concept, but the scope of application of the Convention is broad enough to cover corruption-related offences in both the public and private sectors.
- The link of crimes related to cross-border illicit financial flows to corruption practices is to be determined by States and, in this regard, the UNCAC enables States parties to adopt stricter or more severe measures than those provided for by the Convention.

The UNCAC includes extensive provisions on international cooperation in criminal matters which enable States parties to, among others, identify, trace and freeze or seize and confiscate proceeds of corruption. Such international cooperation presupposes the existence of robust confiscation regimes at the national level, which may further facilitate non-conviction based forfeiture.

There is an undoubted need for a broader endorsement for UNCAC particularly from a number of leading countries and even a small number of G8 countries who to date have still not ratified the UNCAC.

Another relevant standard-setting instrument is the UN Convention against Transnational Organized Crime, which includes provisions dealing with corruption in the public sector.

3. Politically Exposed Persons (PEP) lists

Each jurisdiction should be required to maintain a public asset declaration database for its senior public officials (those who would qualify as Politically Exposed Persons).
The range of public officials obliged to make asset declarations is to be determined by national laws and regulations and according to national priorities. In any case, the requirements on the disclosure of assets should ensure that:

- Disclosure covers all substantial types of incomes and assets of officials
- Disclosure forms allow for year-on-year comparisons of officials' financial position
- Disclosure procedures preclude possibilities to conceal officials' assets through other means such as by using overseas institutions
- Officials have a strong duty to substantiate/prove the sources of their income
- To the extent possible, officials are precluded from declaring non-existent assets, which can later be used as justification for otherwise unexplained wealth
- Oversight agencies have sufficient manpower, expertise, technical capacity and legal authority for meaningful controls
- Appropriate deterrent penalties exist for the violations of these requirements.

4. Health and Education Services

Providers of medical and education services to PEPs should be required to undertake the same due diligence requirements as entities providing financial services.

5. Joint funding of investigation and prosecution of cases involving illicit financial flows.

6. Strengthen and coordinate capacity building efforts through OECD, IMF, World Bank, the UN and bilateral actors, in line with the Paris Declaration, and work to broaden these institutions definitions of corruption, and include tax evasion.

7. Cooperate with TI and advocate an expansion of its definitions of corruption to cover intermediaries facilitating cross-border illicit financial flows.

Asset Recovery

Chapter V on asset recovery represents the most groundbreaking and innovative part of the UNCAC. Asset recovery is considered a fundamental principle of the Convention, with parties agreeing to afford one another the widest measure of cooperation and assistance. The Convention places emphasis on effective mechanisms to prevent the laundering of the proceeds of corrupt practices and on the recovery of assets diverted through corrupt practices,

and includes provisions specific to asset recovery. Chapter V is also interlinked with other parts of the Convention. For example, the provisions on the prevention and detection of transfers of proceeds of crime complement the measures to prevent money-laundering, while the provisions on international cooperation for purposes of confiscation (chapter V, articles 54 and 55) tie in closely with the overall provisions on international cooperation, particularly mutual legal assistance. Together, these provisions provide a unique and innovative framework for asset recovery, but much will depend on their effective implementation by States parties.
The Conference of the States Parties to the UNCAC, through its working group on asset recovery, attaches great importance to the matter and has made concrete recommendations towards the creation of fully operational systems for asset recovery. The work of the Conference in this field should receive the broadest and strongest possible support.

The Stolen Asset Recovery Initiative (StAR) through the World Bank and UNODC is also important in terms of producing positive results that will benefit states that have been looted or where significant amounts of money have been stolen from the treasury. It may also have a positive impact in terms of prevention – demonstrating that it will be difficult to hide away stolen money for ever. Furthermore, it will include significant capacity building and strengthen cooperation between relevant authorities at the national level. The International Centre for Asset Recovery (ICAR) at the Basel Institute on Governance provides specialised and tailor-made training to law enforcement authorities and other relevant groups of the public or other sectors in asset tracing, mutual legal assistance (MLA) and asset recovery. ICAR also provides policy advice in both requesting and requested countries, in particular in the context of legal and institutional reform processes.

The element of speed in providing assistance plays a crucial role in asset recovery. Therefore there is a need for establishing informal channels for swift and direct communication and cooperation among competent authorities. Such cooperation includes the rapid exchange of information among financial intelligence units. UNODC, the World Bank and INTERPOL are working towards establishing a global network of focal points on asset recovery. ICAR also has a publicly available Knowledge Centre (www.assetrecovery.org) which provides practical tools and legal processes to which an increasingly large body of international asset recovery and international cooperation experts in many different jurisdictions currently subscribe as an informal network.

There is generally a need for developing best practices and training tools which can guide practitioners from different jurisdictions and enhance their knowledge and common understanding of the steps needed for effective cooperation.

Other initiatives

1. The Human Rights Agenda
Illicit financial flows need to be brought on to the human rights agenda.

2. Competence and capacity building
There are several challenges in this area; an apparent lacking willingness to use existing legal standards; low capacity in the developing world; ensuring that corruption syndromes or country characteristics are properly diagnosed before anti-corruption measures are prescribed; preventing the abuse of existing legal frameworks; internationalising the reach of functioning jurisdictions; ensuring state-looting does not go unpunished; and lastly to prosecute and

punish intermediaries for aiding illicit money flows. Strengthening of all efforts and improved coordination of current support are key issues.

3. South-South cooperation

Increased South-South cooperation, for instance through The Special Unit for South-South Cooperation at the United Nations and within regional organisations such as the African Union, should be considered. North-South cooperation and dialogue need strengthening, too. See also examples under "Capacity" in the main report above

4. OECD Fora

The OECD is active in various types of initiatives, including the Forum on Harmful Tax Practices, the OECD Global Forum's work on transparency and exchange of information, the Forum on Tax administration and on transfer pricing. Synergies of cooperation are likely.

5. Germany and taxation

Germany is advocating a new International Tax Compact, with links to many of the topics discussed in this report.

Annex 3 – Full list of participants

Name	Affilation	Country
Members/countries		
Subhankar Saha	Bangladesh Bank	Bangladesh
Yasin Ali	Bangladesh Bank	Bangladesh
Sergio Eduardo Moreira Lima	Embassy of Brazil in Oslo	Brazil
Phan Ho	National Bank of Cambodia	Cambodia
Claudio Rojas Rachel	Ministry of Foreign Affairs	Chile
Pablo Gonzalez-Suau	International Revenue Service	Chile
Cyrille Pierre	Min. of Foreign Affairs	France
Julien Meimon	Min. of Foreign Affairs	France
Veronique Aulagnon	Ministry of Foreign Affairs	France
Andrea Gebauer	German federal ministry for finance	Germany
Dorothee Richter	GTZ	Germany
Johanna Beate Wysluch	GTZ	Germany
Matthias Witt	GTZ	Germany
Tobias Ehritt	GTZ	Germany
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Yayé Mariama Barry	Ministry of Foreign Affairs and Cooperation	Guinea
Luigi Biondi	Italian Embassy in Oslo	Italy
Dr. Moïse Yao-Kouman	Ministry of Economy and Finances	Ivory Coast
Koffi Leon Konan	Ministry of Foreign Affairs	Ivory Coast
Moise Yao Kouman	Ministry of Economy and Finances	Ivory Coast
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Mari Skåre	Ministry of Foreign Affairs	Norway
Eva Joly	NORAD	Norway
Morten Eriksen	Natl. Auth. for Investig. and Prosec., Econ. Crime	Norway
María Villanueva	Ministry of Foreign Affairs	Spain
Manuel Santaella	Ministry of Economy and Finance	Spain
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Christian Monnoyer	Belgian Embassy in Oslo	Belgium
Pierre Coppola	Belgian embassy in Oslo	Belgium
Ronald De Swert	Ministry of Finance	Belgium
Véronique Bernard	Belgian embassy in Oslo	Belgium
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Matt Deutscher	Canadian Embassy in Oslo	Canada
Karen Grønlund Nielsen	Danish Ministry of Foreign Affairs	Denmark
Ghada Moussa	Ministry of State for Administrative Development	Egypt
Hussein Mubarak	Ministry of Foreign Affairs	Egypt
Mohamed Maher Abdel Wahed	High Constituional Court	Egypt
Rabab Abdel Hadi	Enbassy of the Arab Republic of Egypt i Oslo	Egypt

Walid Osman	Egyptian Embassy in Oslo	Egypt
Yousra Ebada Abou-Shabana	Egyptian Ministry of Foreigh Affairs	Egypt
Mikko Leppänen	Ministry of Foreign Affairs	Finland
Nina Kataja	Finnish Ministry of Foreign Affairs	Finland
Malcolm Couch	The Treasury gov. office	Isle of Man
Satoko Yazaki	Embassy of Japan in Norway	Japan
Yuki Yoshida	Embassy of Japan in Norway	Japan
El Kbir Ez-Zahouani	Embassy in Oslo	Morocco
Frederik Haver Droeze	Min. of Foreign Affairs	Netherlands
Hans Pelgröm	Ministry of Foreign Affairs	Netherlands
Ibrahim Lamorde	Economic and Financial Crime Commission	Nigeria
Henrik Lunden	NORAD	Norway
Ingjerd Haugen	Min. of Foreign Affairs	Norway
Ragna Fidjestøl	Ministry of Foreign Affairs	Norway
Andreas Danevad	NORAD	Norway
Arne Austdal	Norwegian Tax Authority	Norway
Audun Gleinsvik	Norwegian Public Inquiry Commission on Tax Havens	Norway
Per Olav Gjesti	Ministry of Finance	Norway
Trude Steinnes Sønvisen	Ministry of Finance, Tax Law Departement	Norway
Elisabeth Frankrig	Ministry of Finance, Tax Law Department	Norway
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Helle Klem	Minstry of Foreign Affairs	Norway
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Ismail Coovadia	South Afrcan Embassy in Oslo	South Africa
Salman Bal	Embassy of Switzerland in Oslo	Switzerland

Members from Civil Society

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David Spencer	Tax Justice Network	US
Gavin Hayman	Global Witness	UK
John Christensen	Tax Justice Network	UK
Raymond Baker	Global Financial Integrity	US
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Sony Kapoor	Re-DEFINE	Norway

Member/Experts

Jack Blum	Baker & Hostetler
Catriona Purfield	IMF, Fiscal Affairs Dept.
Paul Ashin	IMF, Research, Financial Integrity Group
Alan Bacarese	International Centre for Asset Recovery
Donál Godfrey	OECD
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Manuel F. Montes	UN Financing for Development Office
Demostenes Chryssikos	UNODC
Dorothee Gottwald	UNODC
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Other civil society, experts, observers and presenters

Elisabeth Ryder	Open Society Justice Initiative	US
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Rachel Moussie	Action Aid UK	UK
Mona Thowsen	Publish What You Pay Norway	Norway
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Sam Bartlett	EITI	Norway