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THESSALONIKI INTERNATIONAL STUDENT
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SECOND COMMITTEE OF THE UNITED NATIONS GENERAL ASSEMBLY

*Topic area A: The fight against illicit
financial flows (IFFs): Promoting
international cooperation and supporting
asset recovery*



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The fight against illicit financial flows (IFFs): Promoting international cooperation and supporting asset recovery

WELCOMING LETTER

Dear participants,

We would like to express our most sincere honor and excitement to serve as Chairs of the 2nd Committee of the General Assembly and in this capacity we shall cordially welcome you to ThessISMUN 2019.

We are convinced that your passion and enthusiasm towards International Relations is indisputably proven by your participation in this simulation. More specifically, your fervor to get involved in the international economic agenda and use your ThessISMUN 2019 as a springboard for your further engagement with the field of International Economic Relations constitutes our duty to deliver. Therefore, we pledge our full devotion on succeeding our goal, which is to facilitate your ThessISMUN and specifically, your 2nd GA Committee experience.

Our agenda this year, contains pertinent and intriguing topics of debate, which are closely connected with each other, as both target the enhancement and facilitation of the UN Development Agenda. Concerning the topic A of our Agenda, we aim at creating a comprehensive framework regarding the topic of illicit financial flows. Our objective is to examine the various component of the problem, pinpoint its causes and create effective strategies to cut its thread in multiple stages. It is a matter that requires multidimensional analysis as it is interwoven with our globalized economy.

Regarding now topic B, the purpose is to cover the different field of international relations, ie trade, energy and financial relations, and their role in achieving the 2030 Development Agenda and the Sustainable Development Goals. The substantial nexus between trade, energy and financial relations with the respective Sustainable Development Goals, and more distinctively, the importance of

each of those fields for the International Community as a whole and for each Member State, renders this Topic extremely multifaceted and crucial.

We do hope you find this Study Guide useful. We have strived to provide you with the fundamental background information as well as summarized details and further bibliography, for those wishing to further expand their knowledge in preparation for the conference. Through this, we hope that you will be ready for what will be a sensational and passionate simulation.

Finally, we want to ask all of you to not only carefully read this guide, but also the Rules of Procedure (RoP), as you cannot play the game if don't know the rules. It goes without saying that we are very much looking forward to meeting each and every one of you in person; it is in these conferences where amazing memories are forged and strong friendships are built. As your chairing team we cannot wait for it to start!

Kind regards,

Board of the 2nd committee of the General Assembly

The 2nd Committee of the General Assembly

The Second Committee of the General Assembly of the United Nations (also known as the Economic and Financial Committee) is one of the six main committees of the United Nations General Assembly. The membership status in the Second Committee is attributed to all 193 members of the organization.

The Second Committee was established in 1945 during the San Francisco conference where “*representatives of over eighty per cent of the world's population, people of every race, religion and continent; all determined to set up an organization which would preserve peace and help build a better world*”¹ gathered, with an aim in other words, to lay the foundations for the creation of the United Nations. Hence, we can understand the importance of the Economic and Financial Committee since it is an integral part of the UN from the first moments of its existence. The first meeting of the 2nd committee of the GA has held one year later in London.

The 2nd Committee’s administration comprises of one chairperson, three vice-chairpersons and one rapporteur. The 2nd Committee regularly updates its working methods and practices to enable deeper debate and greater impact of the committee’s deliberations and decisions. These efforts include streamlining the agenda, holding “question time” sessions with secretariat officials after the presentation of substantive reports and reducing the number and length of draft resolutions adopted. The Committee currently holds a dialogue with the Executive Secretaries of the Regional Commissions as well as a number of side events as part of its program of work.

¹ United Nations 1945: The San Francisco Conference un.org Available in: <http://www.un.org/en/sections/history-united-nations-charter/1945-san-francisco-conference/index.html>

List of Abbreviations



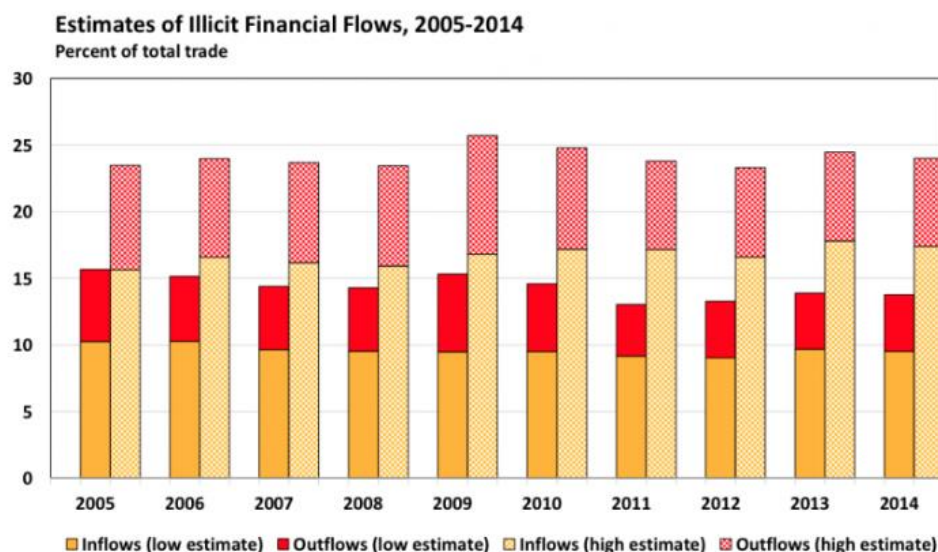
BEPS	Base Erosion and Profit Shifting
FDI	Foreign Direct Investment
IATF	Inter-Agency Task Force
IBRD	International Bank for Reconstruction and Development
IMF	International Monetary Fund
IFF	Illicit Financial Flows
OECD	Organization of European Commerce and Development
SDG	Sustainable Development Goals
UNCAC	United Nations Convention Against Corruption
UNODC	United Nations Office on Drugs and Crime
WB	World Bank

Introduction to the Topic

The rapid advance of globalization has redefined the terms of international economic practice. The economic and political chaos that followed the end of Second World War determined many fundamental features of the global economy. In the mid-1900's representatives from 44 nations met at the Mount Washington Hotel in Bretton Woods and launched the IMF and the International Bank for Reconstruction and Development (IBRD, soon called the World Bank). These two institutions were created as specialized agencies of the United Nations and aim, inter alia, at ensuring the rule of law in international financial transactions, promoting market-based growth and poverty alleviation, setting new rules and possibilities for all the actors of the global economy.² Since then, the interaction between the emerging capital markets and the developing countries does not rely exclusively on the trade of commodities but also on the movement of capital that may occur through a multitude of activities. There are numerous benefits that stem from countries opening up their economies to capital. The most striking advantage in this respect is that globalization enables capital to move from the developed countries, to developing countries in which the average return on capital is high. Capital movements of this type increase world product, and can thereby increase overall welfare. However, as expected from any economic activity, capital movement has a significant negative component commonly referred to in literature and political discourse as “Illicit Financial Flows.”

² (2016) *Bretton Woods Monetary Conference, July 1-22, 1944* World Bank Group Archives Exhibit Series Available in: <http://documents.worldbank.org/curated/en/538791468000300309/pdf/104697-WP-PUBLIC-2008-07-Bretton-Woods-Monetary-Conf.pdf>

The concept of IFF's is a versatile and powerful notion that emerged in the late 1900's serving as a constructive umbrella aiming to address various malignant activities that curb development worldwide. Though the term initially described as *capital flight* without pinpointing its source, now it encompasses the cross-border transfer of money that has either been obtained illegally or serves illegal purposes.³ Unfortunately there is no exact scale that can indicate the measures of IFF's originating in developing countries and their direct economic impacts cannot be precisely quantified.⁴ Nevertheless, it has been empirically proven that not only are they negative, but also of great consequence.⁵ There is broad consensus in the political and economic literature that IFFs deprive the affected countries of appreciable amounts of investment funds, which could otherwise spur economic growth, complement foreign loans and aid payments in funding the public sector.⁶



³ (2017) Illicit Financial Flows (IFF's) The World Bank [online] Available in: <http://www.worldbank.org/en/topic/financialsector/brief/illicit-financial-flows-iffs>

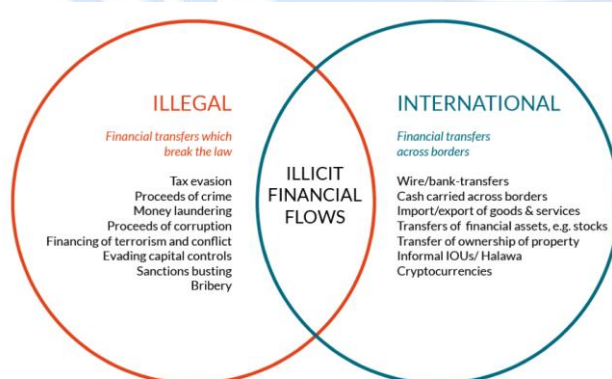
⁴ *Illicit Financial Flows* Global Financial Integrity [online] Available in: <https://www.gfintegrity.org/issue/illicit-financial-flows/>

⁵ Ogonnaya A. K., Ogechukwu O. S. (2017) *Impact of Illicit Financial Flow on Economic Growth and Development: Evidence from Nigeria* International Journal of Innovation and Economic Development [online] Available in: <https://researchleap.com/impact-illicit-financial-flow-economic-growth-development-evidence-nigeria/>

⁶ Herkenrath M. (2014) *Illicit Financial Flows and their Developmental Impacts: An Overview* International Development Institute, Graduate Institute of International & Development Studies Available in: <https://journals.openedition.org/poldev/1863#tocto1n6>

It is without no doubt that controlling the growing issue of IFF's is key to international development. However, the complex nature of IFF's demands a multilateral approach. Though it would be reckless to dismiss international policy measures designed to curb IFFs viewing them as symptoms in development policy terms, the problem should indeed be tackled at the root through international financial and technical cooperation. In order to assess the matter and compose an comprehensive strategy for its mitigation, it is essential to delve into the definitive features of IFF's in an attempt to conceptualize the term and consequently provide certain flagrant examples of illicit capital transfer and explain their technical characteristics and their impact on growth. In addition it is necessary to examine a timeline of the normative action taken by the designated UN bodies and the International Financial Institutions, regarding the issue through addressing all its components, including inter alia, measuring illicit flows; preventing the underlying behaviors that give rise to illicit funds; and strengthening efforts to recover stolen assets.⁷

Illicit Financial Flows: a general definition



Author's Illustration,
Source: Forstater M.
(2018) *Pinning Down
Illicit Financial Flows:
Why Definitions Matter*
Center for Global
Development [online]
Available in:
<https://www.cgdev.org/blog/pinning-down-illicit-financial-flows-why->

⁷ World Bank Group : Equitable Growth, Finance, and Institutions (EFI) (2017) *Domestic Resource Mobilization (DRM) and Illicit Financial Flows (IFFs)* The World Bank Available in:
<http://documents.worldbank.org/curated/en/164931499323319580/pdf/117235-WP-PUBLIC-Equitable-Growth.pdf>

Whereas the term of Illicit Financial Flows is rather widespread in the international political discourse it remains a rather vague and controversial concept. **In general it is used to describe the cross-border transfer of capital either concealing illegal activities or facilitating them.**⁸ Despite the lack of an exact definition, the term “*Illicit Financial Flows*” appears increasingly in official documents. For instance, a significant attempt to conceptualize the term can be detected in the first footnote of the United Nations’ “Coherent Policies for Combatting Illicit Financial Flows” that indicates:

*The term “illicit financial flows” (IFFs) is not defined in the international normative framework. For the purposes of this paper, IFFs are defined broadly as all cross-border financial transfers, which contravene national or international laws. This wide category encompasses several different types of financial transfers, made for different reasons, including: funds with criminal origin, such as the proceeds of crime (for example tax evasion, money laundering, fraud and corruption); funds with a criminal destination, such as bribery, terrorist financing or conflict financing; transfers to, by, or for, entities subject to financial sanctions under UN Security Council Resolutions such as 1267 (1999) and its successor resolutions (e.g. Al Qaida and other terrorist organizations); and transfers that seek to evade anti-money laundering/counter-terrorist financing measures or other legal requirements (such as transparency or capital controls).*⁹

⁸ Herkenrath M. (2014) *Illicit Financial Flows and their Developmental Impacts: An Overview* International Development Institute, Graduate Institute of International & Development Studies Available in: <https://journals.openedition.org/poldev/1863#tocto1n6>

⁹ United Nations Office on Drugs and Crime (UNODC) and Organization for Economic Co-Operation and Development (OECD) (2016) *Coherent Policies for Combatting Illicit Financial Flows*, United Nations Issue Brief Series from the Inter-Agency Task Force on Financing for Development Available in: https://www.un.org/esa/ffd/wp-content/uploads/2016/01/Coherent-policies-for-combatting-illicit-financial-flows_UNODC-OECD_IATF-Issue-Brief.pdf

Furthermore, attempts to break down the complex notion of IFF's have been made by other International Institutions. The **World Bank** underscores that the term initially referred to as capital flight. However now it “*generally refers to cross-border movement of capital associated with illegal activity or more explicitly, money that is illegally earned, transferred or used that crosses borders*” and distinguishes three main sectors that comprise the vast majority of illicit financial flows; acts that are illegal (e.g., corruption, tax evasion); funds which are the results of illegal acts (e.g., smuggling and trafficking in minerals, wildlife, drugs, and people), or funds are used for illegal purposes (e.g., financing of organized crime).¹⁰ The **International Monetary Fund** (hereinafter: IMF) mentions: “*Illicit financial flows (IFFs) refer to the movement of money across borders that is illegal in its source (e.g. corruption, smuggling), its transfer (e.g. tax evasion), or its use (e.g. terrorist financing).*” providing a similar but equally vague definition with the World Bank.¹¹

The Organization of Economic Cooperation and Development is yet another international financial institution that has grappled the topic of cross-border capital transaction concealing illegal activity. In 2014, the OECD issued a comprehensive report entitled “Illicit Financial Flows from Developing Countries: Measuring OECD Responses” discussing exclusively the topic of IFF's for the first time¹². In this report the OECD attempt to describe the term through its main components and in that light it clarifies the main practices, methods and criminal activities that set the grounds for the illicit transfer of capital, pinpointing money laundering, tax evasion, bribery by international companies and trade mispricing.¹³ The following year, OECD produced a thematic module on illicit financial flows which suggesting the following definition:

“Illicit financial flows (IFFs) means all cross-border financial transfers which contravene national or international laws. This

¹⁰ (2017) *Illicit Financial Flows (IFF's)* The World Bank Available in:

<http://www.worldbank.org/en/topic/financialsector/brief/illicit-financial-flows-iffs>

¹¹ (2018) *The IMF and the Fight Against Illicit Financial Flows*, International Monetary Fund Available in:

<https://www.imf.org/en/About/Factsheets/Sheets/2018/10/07/imf-and-the-fight-against-illicit-financial-flows>

¹² Chowla P. Falcao T. (2016) *Illicit Financial Flows: concepts and scope* Inter-agency Task Force on Financing for Development FfDO/ UN –DESA, Available in: http://www.illicit-financial-flows-conceptual-paper_FfDO-working-paper.pdf

¹³ (2014) *Illicit Financial Flows from Developing Countries: Measuring OECD Responses*, OECD Available in: https://www.oecd.org/corruption/Illicit_Financial_Flows_from_Developing_Countries.pdf

is a wide category which encompasses several different types of financial transfers, made for different of reasons. It can include:

Funds with criminal origin, such as the proceeds of crime (including corruption);

Funds with a criminal destination, such as bribery, terrorist financing or conflict financing;

Funds associated with tax evasion;

Transfers to, by, or for, entities subject to financial sanctions; and

Transfers which seek to evade anti-money laundering /counter-terrorist financing measures or other legal requirements (such as transparency or capital controls). ”¹⁴

As with the previous definitions, the crux of this explanation relies on the contravention of national and international law. The definition and the examples cited rely on the occurrence of some form of criminal or illegal activity. It is therefore clear from all the aforementioned that the concept of IFFs tends to be reduced to its elements. The uncontested characteristic of those definitions is the illegality associated with the flow. In order to meet the definition, either the act must be illegal, or the funds must have resulted from the pursuit of illegal or criminal activity.

Historical Background and Action Taken

2010 Salvador Declaration

¹⁴ Policy Coherence for Sustainable Development (PCSD) (2015) *Thematic Module on Illicit Financial Flows*, Workshop OECD Available in: <http://www.oecd.org/governance/pcsd/thematic%20module%20on%20IFF.pdf>

The main organs of the United Nations have considered the phenomenon of illicit financial flows in multiple occasions recognizing its devastating effect on development and the need for its mitigation. The first distinct mention of the matter can be found in the 2010 Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World.¹⁵ More precisely in clause 23, Member states are encouraged to consider *“encourage Member States to consider developing strategies or policies to combat illicit capital flows and to curb the harmful effects of jurisdictions and territories uncooperative in tax matters.”* In addition to the aforementioned objective, the document also addresses the relevant matter of asset recovery in clause 24 calling *“(…) on all Member States within their national legal systems to adopt effective mechanisms for the seizure, restraint and confiscation of proceeds of crime and to strengthen international cooperation to ensure effective and prompt asset recovery (…).”* The 2010 Salvador Declaration was an important “wake-up call” on the topic of Illicit Financial Flows, a concept that had just begun to take form in official UN documents. The following year, the Economic & Social Council launched debate on the topic resulting to a holistic resolution explicitly on IFF’s (*“Strengthening international cooperation in combating the harmful effects of illicit financial flows resulting from criminal activities”*), which would set the ground-works for any further discussions. The complex nature of the topic would inevitably draw the attention of the General Assembly who adopted the aforementioned resolution in 2011 setting precedent for further debate on the issue of IFF’s.¹⁶

2030 SDG’S & The Addis Ababa Action Agenda

¹⁵ (2010) *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World* United Nations Congress on Crime Prevention and Criminal Justice Available at: https://www.unodc.org/documents/crime-congress/12th-Crime-Congress/Documents/Salvador_Declaration/Salvador_Declaration_E.pdf

¹⁶ A/RES/66/177

Furthermore, IFF's have a significant impact on development as they lead to losses in tax revenues, adversely affecting governments' abilities to finance the Sustainable Development Goals. In addition, corruption among political and administrative actors, which is often linked to illicit financial flows, undermines confidence on countries' governance, which effects voluntary tax compliance, decreases investment. Recognizing the corrosive impact of IFF's on development they appear in Goal 16 of the 2015 Sustainable Development Goals (SDGs)¹⁷ and their reduction constitutes one of the basic objectives outlined in the Addis Ababa Action Agenda¹⁸ and the relevant resolution that was adopted by the General Assembly in July 2015¹⁹ More precisely, Member States *“underline the need to promote peaceful and inclusive societies for achieving sustainable development and to build effective, accountable and inclusive institutions at all levels. Good governance, the rule of law, human rights, fundamental freedoms, equal access to fair justice systems and measures to combat corruption and curb illicit financial flows will be integral to our efforts”* ; establishing, thus, the clear linkage between IFF's and sustainable development and underscoring the need to curb such phenomena in order to achieve the SDG's. Moreover, the document includes clauses 23 & 24 which focus explicitly on the curbing of IFF's.

Inter-Agency Task Force on Financing for Development

As financing for development was a growing concern, the adoption of the Addis Ababa Action, inter alia, resulted in the formation of a designed task force, the Inter-Agency Task Force on Financing for Development (FfD). The IATF, which was convened by the Secretary-General, comprises of over 50 UN Agencies, programs and offices, regional economic commissions and other relevant international institutions and its main coordinator is the “Financing for Sustainable

¹⁷ Goal 16.4 “By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime”

¹⁸ (2015) Addis Ababa Action Agenda of the Third International Conference on Financing for Development Available in: https://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf

¹⁹ A/RES/69/313

Development Office” of the UN ECO.SO.C.²⁰ Its mandate as it is stated in paragraph 133 of the Addis Ababa Action Agenda²¹ and more precisely explained in the conclusion and recommendations of the 2016 Forum for Financing and Development²², include a broad variety of action areas amongst which lies elimination (in the long term) of IFF’s. Indeed, in September 2016, IATF held a meeting, bringing together academics and experts on the topic of tax-related IFF’s. The meeting led to various conclusions a propos the broader concept of IFF’S and its determinants.²³

2nd Committee of the General Assembly

As the phenomena of the IFF’s was beginning to take more distinct form and its effect on development was rising issue for multiple UN Agency and non-UN Institutions, in 2016 the 2ND Committee of the General Assembly drafted and proposed to the 71st Plenary Session on December 21st of the same year, their first resolution on the objective of combatting IFF’s. 24 The document (71/213. Promotion of international cooperation to combat illicit financial flows in order to foster sustainable development) aimed primarily at:

- announcing its endorsement on the action taken by the ECO.SO.C on addressing the topic,
- pledging its support to the IATF and
- scheduling its further engagement on tackling with IFF on its forthcoming session.

Indeed, in its 72th Meeting, the 2nd Committee included in its Resolution 72/207. Promotion of international cooperation to combat illicit financial flows in order to

²⁰ IATF <https://developmentfinance.un.org/about-iatf>

²¹ (2015) Addis Ababa Action Agenda of the Third International Conference on Financing for Development Available in: https://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf

²² (2016) *Inaugural 2016 Report of the Inter-agency Task Force on Financing for Development – Addis Ababa Action Agenda: Monitoring commitments and actions* Forum for Financing Development, Economic & Social Council Available in: https://www.un.org/esa/ffd/wp-content/uploads/2016/03/Report_IATF-2016-full.pdf

²³ IATF *Illicit Financial Flows* Available in: <https://developmentfinance.un.org/illicit-financial-flows>

²⁴ A/RES/71/213

foster sustainable development²⁵ more specific clauses applauding initiatives to tackle with IFF such as those of Norway and Nigeria and appreciating the progress made in terms of asset recovery in Switzerland and Ethiopia (cl.3) Furthermore, the document pinpoints new advancing forms of capital transaction that could serve channel of IFF's such crypto-currencies. (cl.4). In the same document, the 2nd Committee condemns various practices linked to IFF's such as transfer mispricing and trade misinvoicing by multinational corporations (these will be explained later in this Study Guide) and finally urges multi-national and inter-Agency collaboration.

Finally, in its most recent 73rd Session, the 2nd Committee included in its Agenda items regarding Macroeconomic Policy Questions an extended proposal on combatting IFF'S" complementing the previous document²⁶. Notable addition in comparison to the previous resolution include recognizing the benefits of utilizing multiple method, such as digital financial services that could facilitate revenue collection, in order to enhance the fight against IFF's. (cl. 7) and underlining the importance of adopting an inclusive approach that could serve the interests of all member states and other participating actors. (cl. 10) .

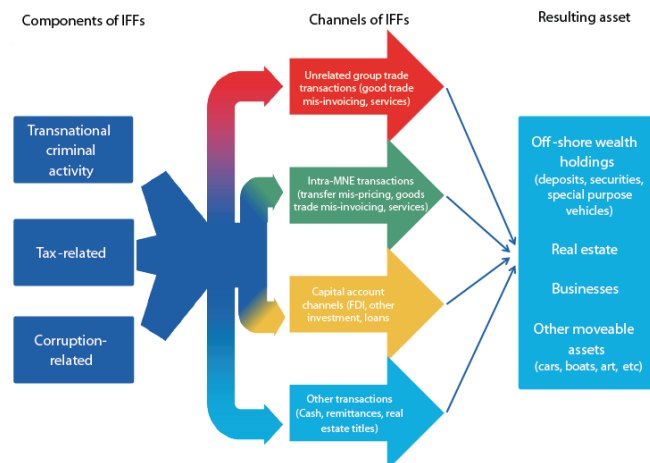
Basic components of Illicit Financial Flows

Bearing in mind that there yet no firm agreement on the conceptual framework defining Illicit Financial Flows as it was mentioned earlier in this study, a comprehensive approach can be achieved through analyzing the basic component that fuel the flight of capital earned illegally or form illegal activity. Though, the disaggregation of the elements that determine IFF's seemingly render it even more complex, it is a process that surfaced many solutions. Hence it is crucial to determine the sources, the channels and the methods used to transfer funds internationally and the conditions that incentivize them. Finally it is notable to assess certain common examples off assets that are often obtained through IFF's in an attempt to trace them

²⁵ A/RES/72/207

²⁶ A/73/536/Add.4

reversely. The following figure is a schematic approach designed by the IATF aiming at deconstructing IFF's to its basic elements.



Source: IATF

Illegal Activity linked to Illicit Financial Flows

It is a rather common practice in modern open markets, for **Multinational Corporations** to transfer their funds from developing countries to low-tax jurisdictions via methods of questionable legality as Transfer Pricing Abuse (hereinafter: TPA). There are multiple factors that incentivize MNC's to move their capital to weaker states. Tax rates, foreign exchange restrictions and political risk are identified as the most common causes that encourage MNC's to transfer their income to other countries. Another incentive can be found in more restrictions on the convertibility of the local currency or on the amount that can be repatriated in a year.²⁷

Furthermore, **corruption** is another genre of illegal economic activity that can be traced to the source of IFF's. Most common example of corruption is **bribery** to government or law enforcement officials that is linked to criminal organizations.²⁸

²⁷ Reuter, P. (2017) *Illicit Financial Flows and Governance: The Importance of Disaggregation* Background paper for World Development Report 2017, WBG Available in: <http://documents.worldbank.org/curated/en/538841487847427218/pdf/112973-WP-PUBLIC-WDR17BPillicitFinancialFlows.pdf>

²⁸ Reed Q. , Fontana A. (2011) *Corruption and illicit financial flows: The limits and possibilities of current approaches* U4 Issue, Chr. Michelsen Institute Available in: <https://www.cmi.no/publications/3935-corruption-and-illicit-financial-flows>

Corruption, hence falls into two types of IFF sources, both from individual and larger entities.

Organized crime, such as drug trafficking, arms trade, human trade and smuggling, is the most perplexing root of IFF's. By their very nature, organized crime network not only violate a series of laws in diverse legal jurisdiction but also utilize multiple methods to procure their illegally earned funds that involve both Money Laundering and Illicit Financial Flows.²⁹

Finally, **tax evasion** is often considered as one more source, though many advocate that it does not necessarily fall into the distinct illegal practices linked directly to IFF's. For instance, certain tax avoidance practices such as *base erosion* and *profit shifting* are often in grey areas between legality and illegality due to parities between legal standards across countries, and different interpretations of norms on international taxation.³⁰ In general terms tax avoidance is considered to be the practice by which a tax payer takes advantage of a mismatch between the tax legislation of two countries so as to reduce his domestic tax burden. More precisely, it involves either re-classifying income or reallocating it to a different jurisdiction aiming at reducing the tax payers liability. Hence, provided that domestic law of the State does not cover the practice in any anti-avoidance framework, tax-avoidance is considered a legal practice that is fueled by tax competition between States. For example, a State might offer flexible tax planning options in order to attract Foreign Direct Investments.³¹

However, though tax-avoidance cannot be regarded as illegal in multiple instance, it is often referred to in literature as abusive tax practice as it deviates from the initial intentions of the legislator.³² Furthermore, alarmed by the corrosive effect of tax evasion OECD addresses the topic of tax arbitrage, mentioning in its BEPS Action Plan various “*actions set out below equip governments with domestic and international instruments to address **tax** avoidance, ensuring that profits are taxed*

²⁹ Zeiler I., *Illicit Financial Flows related to Illegal Activity* UNODC Available in: https://unctad.org/meetings/en/Presentation/tdb_efd1_ppt_unodc.pdf

³⁰ IATF *Illicit Financial Flows* Available in: <https://developmentfinance.un.org/illicit-financial-flows>

³¹ Chowla P. Falcao T. (2016) *Illicit Financial Flows: concepts and scope* Inter-agency Task Force on Financing for Development FfDO/ UN –DESA, Available in: http://www.illicit-financial-flows-conceptual-paper_FfDO-working-paper.pdf

³² Christensen, John (2009). *Africa's Bane: Tax Havens, Capital Flight and the Corruption Interface*, Working Paper 1/2009, Real Instituto Elcano, 2009

where economic activities generating the profits are performed and where value is created.” Regarding the extent to which tax evasion can be linked to IFF’s, the World Bank comments that the correlation between tax avoidance and tax fraud remains under discussion, underlining the cases in which tax is avoided through legal tax planning and optimization in comparison to fraudulent mispricing. The first does not rend tax avoidance as a source of illicit financial flows, whereas the second is a common practice that is closely linked to IFF’s. Moreover in cl.8 the WB Group expresses its commitment to tackle with the issue of tax avoidance, clarifying “that cross-border movement of financial assets are considered illicit only when they are associated with activities that are deemed to be illegal in the local jurisdiction.”³³

Economic Benefits of Illicit Financial Flows

Moving on, another way to trace IFF’s is to identify the incentives that might encourage individuals or other holders of illegally obtained funds, to transfer them abroad. First and foremost, regardless of the nature of the fund (the possible illegality pertaining either to its generation or its cross-border transfer) it is common to seek option for the **diversification of one’s portfolio**. In this case, the owner aims to reduce the risk of his portfolio through acquiring assets in States where the economic conditions are weakly correlated with those in their own country. Indeed, capital holders frequently transfer funds in countries with more stable economic environment that foster investor confidence through more predictable exchange rates, interest rates and tax rates. Bearing that in mind, though maintaining stability in order to attract investment is a suggested practice in macroeconomic management that is not linked to IFF’s, its power to curb flight of illegally obtained capital could be an added value.

Moreover, in many developing countries, political regimes of questionable democratic nature (e.g. authoritarian or military regimes, or even corrupt political elites) connive at preventing the enrichment of government officials who aim to avoid confiscation of their assets by their successor by transferring them outside the borders.

³³ World Bank (2016) *The World Bank Group’s Response to Illicit Financial Flows: A Stocktaking*, pg. 2.

It comes therefore as a conclusion **political instability and the lack of democratic regimes** encourages illegal economic practices and by extent incentivizes IFF's.

Another factor that encourages profit shifting are **tight currency controls**. Strict restrictions on the repatriation of profits are a very strong incentive for IFF's as such restrictions render the legitimate transfer of assets over seas increasingly difficult and encourage illegal methods instead.

Finally, as maintaining assets overseas are more difficult for domestic governments to track and confiscate, one of the most common reasons lying behind IFF's is **hiding assets**.

Channels of Capital Shifting

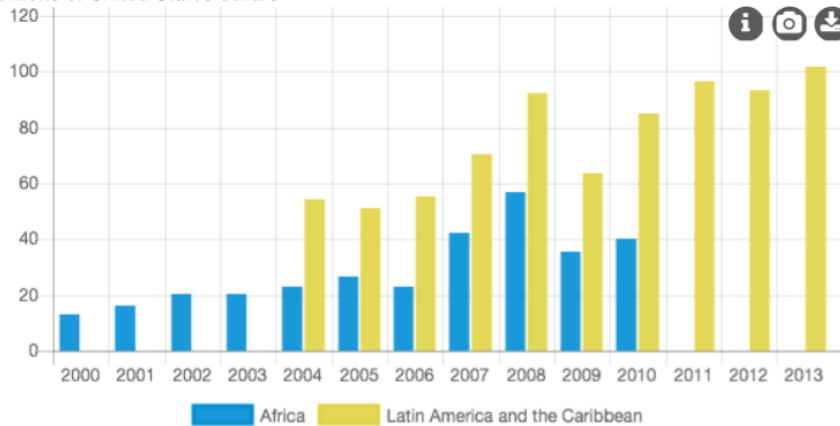
Having identified the most common sources of IFF's and consequently attempted to rationalize them through their incentives, it is high time to examine some of the main methods used to illicitly transfer capital across borders.

There is, indeed, a considerable variety of channels through with an individual or a larger entity (e.g. MNC or Organized Crime Networks) can "move money out of a country." Ways of moving capital illegally include unreported movements of money abroad by carrying large amounts of cash on trips, using couriers to carry cash, or even hiding cash in freight or the post.

A widespread method is **trade misinvoicing**. Trade Misinvoicing is a term used to describe the practice by which at least one of the parties involved in an international transaction, deliberately under-reports the value or volume of the traded goods or services. Falsification of the price, quantity, or quality of a good or service on an invoice submitted to customs is a low risk method by which criminals can quickly shift substantial sums of money across international borders. Trade misinvoicing constitutes a rather common endeavor of criminals wishing to transfer illegally obtained capital across border hence constituting a major component of IFF's.

Estimates of goods trade mis-invoicing, selected regions, 2000-2013

Billions of United States dollars



Source: Global Financial Integrity

Furthermore a great number of experts argue that Foreign Direct Investments also serve as a channel to establish affiliates with other countries and transfer capital of illegal origin. Briefly, the term FDI is used to describe an investment by a firm or an individual that serves business interests in another country. It usually occurs in cases where the investor establishes certain business activity in a foreign country, acquires business assets abroad or has interest in a foreign business.³⁴ Although the two phenomena, FDI's and IFF's are distinct and appear to have no clear relation, there has been literature suggesting that FDI's could serve as an effective method to shift funds abroad without raising suspicion regarding their origin.

More precisely FDI's can be considered a relatively safe and cost-effective vehicle for IFF's for two conceptually separate reasons. On one hand by their very nature FDI's present themselves as an excellent way to justify cross-border large capital movements. As investment shifting abroad usually reflect the pursuit of a more stable combination of risk and returns, they also give a solid motive to "cover-up" IFF's. The second less clear motive to transfer funds through FDI's can be traced in the ability to internalize and pursuantly, reduce the transaction costs of the capital movement between the home country and the country of the affiliate via various

³⁴ Investopedia *Foreign Direct Investment* Available in: <https://www.investopedia.com/terms/f/fdi.asp>

methods such as, but not limited to, falsifying invoices, false payments for services and phony loans.³⁵

Impact of Illicit Financial Flows

Illicit Financial Flows: An impediment to Sustainable Development & Economic Growth

Although there has not yet been developed any tool or process capable of estimate the exact measure the IFF's account for hitherto, reports indicate that nearly \$1 trillion in corruption, trafficking and tax evasion is being drained from developing countries. It is clear that the phenomenon of IFF's is depleting emerging economies from important resources contributing in persisting poverty undermining any efforts made towards sustainable development. For instance, the downsized tax revenue limits the task of the government to fully fund basic public services and move ahead with urgently needed institutional reforms. Furthermore, it incentivizes governments to proceed to international capital lending in order to cover public need and keep up with global development.

However the growth-inhibiting impact of IFF does not only manifest through its economic-related components. As the economic and political conditions in any state are highly interdependent, it is natural to find that IFF's also put political stability at risk. The weakening of countries' abilities to fund their own development projects damages citizens' confidence in their governments, potentially leading to political instability and hampering potential progress in the realm of human development and the guarantee of basic human rights.

Illicit Financial Flows & their Implications to Security

Even though the corrosive effects of IFF's in development have received great recognition both in literature and political discourse, their impact on security national

³⁵ Brada J. C., Drabek Z., Perez M. F. *Illicit Money Flows as Motives for FDI* FREIT Available in: <https://www.freit.org/WorkingPapers/Papers/ForeignInvestment/FREIT130.pdf>

and global has not received that much attention. Indeed cross-border movement of capital is an activity often concealing activities that undermine security.³⁶ IFFs by their very nature facilitate “crime pay” as they allow agents of transnational organized crime networks transfer and spend their illegally obtained revenue. They are also linked to the financing of terrorist organizations and similarly insurgent groups, which threaten domestic and foreign security and imperil civilians. Some of the world’s largest terrorist groups often rely on diversified and far-flung financial operations. Extended terrorist organizations need weapons, personnel, basic provisions and logistical networks that require financial funding.³⁷

Moreover, IFFs enable corruption that in its turn undermines democracy and poses a risk to national security. The abuse of entrusted power for private benefit constitutes a clear example of IFF related corruption that has implications to security.³⁸ Estimates provided by the World Bank indicate that individuals and businesses in the United States pay approximately \$1.5 trillion in bribes yearly which amount to approximately 2 percent in gross domestic product.³⁹ IFFs are described in literature as “integral to conflict dynamics” in today’s interconnected economy.

Although predatory states can be found in the map of international politics long before the globalization of the economy, IFFs amplify the success of conflict as they allow individuals and groups to store their “loots” in offshore havens. Links among IFFs, corruption, state fragility, and conflict are apparent in many other settings. For instance, in Venezuela, IFFs linked to corruption, petroleum, and narcotics trafficking have contributed to widespread impoverishment and significant rises in crime, social upheaval, and refugee outflows. However these settings will not be further examined as restoring and strengthening security measure is not stated in the mandate of the 2nd Committee.

It comes as an understanding that the combat against IFFs is key to strengthen international security and curb transnational crime and terrorism. IFFs in security sectors have especially pernicious effects, as these allow for the breakdown of the rule

³⁶ Gilman, Goldhammer, Weber, *Deviant Globalization*.

³⁷ Vitori J. (2018) *Security Dimensions of Illicit Financial Flows* Global Governance to Combat Illicit Financial Flows Council on Foreign Relations Available in: https://cfrd8-files.cfr.org/sites/default/files/report_pdf/Discussion_Paper_Collection_Kahler_et_al_IFFs_OR.pdf

³⁸ (2018) *What Is Corruption?* Transparency International, Available in: <http://transparency.org/what-is-corruption>.

³⁹ (2017) *Combating Corruption* World Bank, Available in: <http://worldbank.org/en/topic/governance/brief/anti-corruption>.

of law, provide impunity for some actors, and incentivize security sector actors and state leaders at times to value insecurity and authoritarianism over democratic reforms, human rights, free media, and open markets.⁴⁰

Asset Recovery

International Framework and Asset Recovery Initiatives

Alarmed by the devastating effect that corruption has to growth, various IFI's and International Organizations began to include asset recovery in the agenda since the turn of the millennium. The first bold step towards the regulation of asset recovery was made in 2003 by creating and ratifying the **United Nation Convention Against Corruption**⁴¹ including **Chapter V**, which enshrines the recovery and return of stolen as a fundamental principle of the Convention. The UNCAC came into force on December 14, 2005 and has been ratified by over 130 parties so far. The following year, the United Nations Office on Drugs and Crime established an Open-ended Intergovernmental Working Group on Asset Recovery⁴² under the name "Working Group on Asset Recovery" as a subsidiary body of the Conference of the States Parties to the UNCAC. Its mandate includes aiding and consulting in the implantation of UNCAC regarding the repatriation of assets. The Working Group Holds a yearly international meeting with the objective of know-how exchanging and developing recommendations to present to the Conference.

On another front, the United Nations Convention against Transnational Organized⁴³ crime that came into force in September 29, 2003 also grapples the issue of asset recovery. The general objective of the Convention is fostering international

⁴⁰ Vitori J. (2018) *Security Dimensions of Illicit Financial Flows* Global Governance to Combat Illicit Financial Flows Council on Foreign Relations Available in: https://cfr.org/sites/default/files/report_pdf/Discussion_Paper_Collection_Kahler_et_al_IFFs_OR.pdf

⁴¹ UNODC (2004) *United Nations Convention Against Corruption* Available in: https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

⁴² UNODC *Open-ended Intergovernmental Working Group on Asset Recovery* Available in: <https://www.unodc.org/unodc/en/corruption/WG-AssetRecovery/working-group-on-asset-recovery.html>

⁴³ UNODC (2004) *United Nations Convention Against Transnational Crime and the Protocol Thereto* UN Available in: https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THEREO.pdf

collaboration and partnership in order to curb transnational organized crime and it constitutes the main instrument when it comes to combatting international crime. More specifically it contains two articles regarding asset recovery; **article 6** of the convention demands of state parties to criminalize the laundering the proceeds of crime, and **article 12**, urges the creation of a legal framework regarding the confiscation of proceeds and instrumentalities of crime.

Article 6. Criminalization of the laundering of proceeds of crime

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i)

The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(b) Subject to the basic concepts of its legal system:

1. (i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

2. (ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding,

abetting, facilitating and counseling the commission of any of the offences established in accordance with this article.

Article 12. Confiscation and seizure

1. States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences covered by this Convention or property the value of which corresponds to that of such proceeds;

(b) Property, equipment or other instrumentalities used in or destined for use in offences covered by this Convention. (...)

Other documents grappling the topic of asset recovery include the ***OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions***.⁴⁴ Moreover, there is a long list of organizations that have created initiatives targeted specifically to asset recovery, aiming to enable further international cooperation while bringing the issue to the forefront of political and public discussion. These initiatives operate internationally through providing technical assistance, research and capacity development to developing countries. Some examples are the ***Stolen Asset Recovery Initiative (STAR)***⁴⁵ by the World Bank, the ***International Centre for Asset Recovery (ICAR)***⁴⁶, the ***Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition***⁴⁷ of the Organization of American States etc.

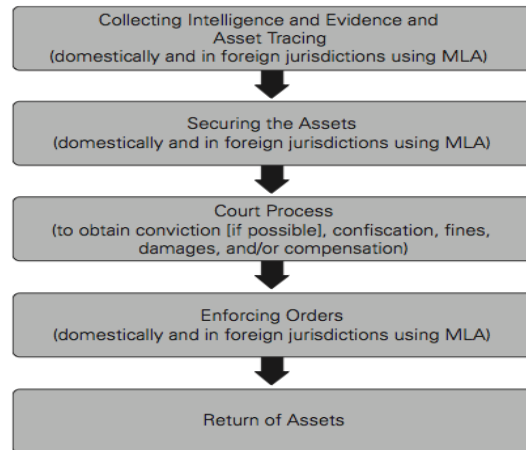
⁴⁴ OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions Available in: https://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf

⁴⁵ <https://star.worldbank.org>

⁴⁶ <https://www.baselgovernance.org/theme/icar>

⁴⁷ <http://web.oas.org/mla/en/pages/default.aspx>

The process of Asset Recovery



Source: Brun J.P., Gray L., Scott C., Stephenson K. *Asset Recovery Handbook, A guide for Practitioners* Stolen Asset Recovery (STAR) World Bank. Authors' Illustration

The process of asset recovery is a rather versatile process that involves various stages. In order to set a strong foundation in any asset recovery case it is very important to establish an effective strategy that serves two objectives; achieving criminal conviction so that the individual or organization that the IFF's originate from, will be held accountable and recovering the proceeds and instrumentalities of corruption. Indeed asset recovery should be meticulously planned a priori. Before the process is set forward, it is necessary to accumulate and carefully assess the facts in order to understand the particularities of each distinct case.

International Cooperation

It is also crucial to assemble a team. Particularly large, complex cases as are those of IFF's require multidisciplinary teams or units so as to ensure the effective investigation and pursuant confiscation. Such a task force is most likely to comprise of a range of experts such as financial investigators and experts in financial analysis, forensic accountants, law enforcement officers, prosecutors and asset managers. It is also common to appoint experts from the private sector or other agencies such as regulatory authorities like the FIU, tax authorities or auditing agencies. Furthermore, asset recovery is a process that involves multiple jurisdictions surfacing the need for

international cooperation. One option that should be considered, is the launching of a joint investigation or agency task force that would involve authorities of multiple jurisdictions. If possible, a joint investigation not only avoids duplicating efforts but enhances the performance as it facilitates information and intelligent sharing and surveillance (if necessary) coordination.

However, joint investigations are difficult and often raise friction between the authorities of different jurisdiction due to mismatches in the various legal frameworks. Another option therefor is simply establishing contact with foreign counterparts. For instance, reaching out to law enforcement attaches or liaison magistrates posted to embassies is important in order to ensure contact with the authorities in foreign jurisdictions, gather information and create goodwill in the international cooperation process. Gaining access to information in foreign jurisdictions requires the submission of either a "Mutual Legal Assistance" (MLA) request, obtain a disclosure action through a tort claim. These requests are more likely to be successful when all countries involved have treaties in place, either bilateral or multilateral, to allow for legal cooperation.

Unfortunately differences between legal systems and more specifically, regarding the confiscation systems, either those are value-based or property based create challenges and frustration during the process of asset recovery. Therefor in the case of international asset recovery efforts, there should be a clear image of the cooperation and assistance that can be provided from foreign jurisdictions.⁴⁸

Tracing the Assets

The task focuses its resources in tracing and identifying the assets. Determining the existence of illegally obtained asset demands exhaustive and multifaceted investigation. It is necessary not only to point out the current status of the assets but also to establish their causal relation to criminal activity. Tracing assets can be achieved through following money trails, such as paper trails, invoicing or audit trails. There are various challenges regarding asset identification. For instance

⁴⁸ (2011) Brun J.P., Gray L., Scott C., Stephenson K. *Asset Recovery Handbook, A guide for Practitioners* Stolen Asset Recovery (STAR) World Bank

when it comes to developing countries, a great percentage of financial transactions are not recorded as they are mostly by cash.⁴⁹

Seizure of Assets (Freezing Assets)

Once financial investigations have identified assets, securing them becomes critical in order to avoid potential movement, dissipation or destruction. Indeed efforts towards asset confiscation can't leave the ground if no asset were available to confiscate at the end of the day. Assets can be hidden or moved out of reach in a short period of time and confiscation can take years offering ample time to move or dissipate assets. That is why taking the necessary measures so as to secure the assets, is definitive for the success of their recovery. These measures are described as provisional and they involve the seizure and restraint of assets. The laws regarding the seizure of assets differ between civil and common law jurisdictions. However in both cases they are based on the equilibrium between two opposite legal principles. The first is public interest in ensuring that the instrumentalities of crime are safeguarded and preserved until the conclusion of the prosecution (in this scenario, their confiscation). On the other hand, the second principle resides on the right of any individual to enjoy the ownership of their property.⁵⁰

Court Proceedings & Enforcement of Orders

The next stage of the process of asset recovery examines the legal aspects that allow the repatriation of the assets. Court proceedings for asset recovery usually fall into three categories; criminal or non-criminal based confiscations, or civil actions that will eventually lead to the recovery of assets through orders of confiscation, compensation, damages or fines. There are two common types of confiscation, value based and property-based confiscations. In general terms the first allows the confiscation of a assets whose values is equivalent to the benefits that derive from the criminal activity. The property based confiscation on the other hand can be more challenging as it allows the confiscation of assets only under the condition that they

⁴⁹ Ibid

⁵⁰ Ibid

have been linked to some criminal offense. This may be rather difficult to prove given that they could have been laundered, converted, or transferred to conceal or disguise their illegal origin. In any case once the court has order the confiscation of the assets there are certain measures that must be taken so as to enforce that order. Most importantly, if the assets are located in a foreign jurisdiction, the order should also be enforced by the authorities in the foreign jurisdiction. This can be achieved through the process of “Mutual Legal Assistance” that was mentioned earlier in this chapter

Asset Repatriation

Pursuant to the enforcement of the confiscation order, the assets will be repatriated. They will either be transferred to the general treasury of the requested jurisdiction or some specific confiscation fund.⁵¹ If UNCAC is applicable, according to article 57, *“the requested party will be to return the confiscated assets to the requesting party in cases of embezzlement of public funds or laundering of such funds, or when the requesting party reasonably establishes prior ownership.”* Otherwise the repatriation of the assets falls into the judgment of domestic legislation or any other international conventions. Finally, there is a possibility that assets are directly returned to the victims, including a foreign jurisdiction upon the order of the court.⁵²

Legal and Political Barriers on successful Asset Recovery

In cases of international asset recovery, lack of trust between jurisdictions poses a significant impediment to time- efficient and successful asset recovery. In order to ensure the success of the asset recovery process the respective authorities are required to take urgent investigative or provisional measures to secure the evidence, including searches, seizures, arrests, monitoring orders and other investigative techniques in a spirit of mutual trust and cooperation. Hence, it is essential to develop and implement effective reporting mechanisms so as to facilitate the tracking of progress made and monitoring of the outcomes. Bearing this challenge in mind, jurisdictions should develop strategies and implement regimes that foster trust and

⁵¹ Stolen Asset Recovery (StAR) Initiative Secretariat, “Management of Confiscated Assets” (Washington, DC, 2009), <http://www.worldbank.org/star>.

⁵² Ibid. 23

communication. Frameworks allowing for the uninterrupted exchange of information and policies that enable communication between the competent authorities through liaison magistrates, financial intelligence units, liaison officers and attaches are key to achieving cross-border communication.

Furthermore, as it may concern legislation gaps on MLA request, there isn't much to be done without intervening in the respective legislation frameworks. Notwithstanding the inevitable mismatches in legislation, the composition of explanatory guidelines and sample requests could increase the rate of successful MLA requests. Such guideline could include the various types of investigation techniques permitted or disallowed, the precise burden-of-proof requirements and the nature of information that can only be shared provided the formal submission of an MLA request. Finally, in order to monitor the developments made, authorities are encouraged to publish comprehensive reports and assessments in real time.

In addition, multiple jurisdictions, especially in the cases of developing countries, exhibit lack in training and know-how. Incompetent and inexperienced practitioners are a common inhibiting factor in achieving timely and efficient asset repatriation. Therefore, jurisdictions should invest in training competent personnel in asset recovery matter with special focus on the implementation of domestic laws and international convention provision and standards. Such training can be achieved through the medium of liaison magistrates or legal mentors and supervisors. Furthermore, the provision of asset recovery assistance in international technical assistance programs could alleviate in asset recovery efforts.

Finally, achieving a higher level of transparency is required to accelerate process and ameliorate the quality of financial investigations. Notwithstanding the risks and legal barriers regarding access to financial statements, in order to conduct exhaustive research it is necessary to create more permissive criteria, allowing access to a greater range of information needed by investigators.

Controlling IFF's

The ongoing pursuit of achieving the successors to the Sustainable Development Goals presents a unique opportunity to galvanize international cooperation to tackle this issue and set a benchmark for its success. Such a prospect would require multiple international institutions to make curbing illicit financial flows a key component of their agenda.

There are various perspectives by which one can assess the problem of IFF's. From a "geographical" standpoint, it is important to realize that IFF's involve at least two agents, the country where the funds originate from and the recipient country and consequently it must be treated bilaterally. However, several IFF "routes may involve transit countries where money laundering may occur. The complexity of the capital movement by its nature surfaces the need for **international collaboration through information exchange and coordinated investigation.**⁵³

As criminals and criminal organizations wishing to hide their illicitly obtained capital in foreign jurisdictions set up companies as a facade, an important step towards tracing the chain of IFF's is ascertaining the owners and stakeholder of companies with branches in multiple jurisdictions. Furthermore another measure would be regulating the misconduct of "designated non-financial businesses and professionals" in order to ensure they are not used as a channel to launder funds. Such businesses and professions often include real estate agent and lawyer that may be used as conduits for illicit activity. **That is why they are highly urged to enforce the relevant FATF recommendation that requires them to collect a priori sufficient intelligence on their client and report to the authorities any individuals whose operation may be raising suspicions.**⁵⁴

Furthermore developmental assistance targeted specifically towards combatting IFF's would also constitute an important vehicle of progress. The existing activities in the area are often included in efforts to enhance macroeconomic management, anti-corruption schemes and legal and judicial adjustments. Unfortunately, however, OECD estimates reveal that there are only few projects and resources dedicated to

⁵³ Brun J.P., Dunker G., Gray L., Panjer M., Stephenson K. (2011) *Barriers to asset Recovery* Stolen Asset Recovery Initiative, World Bank [online] Available in: <https://star.worldbank.org/sites/star/files/Barriers%20to%20Asset%20Recovery.pdf>

⁵⁴ Fontana A. (2014) *Fighting Corruption and Illicit Financial Flows* Development Co-Operation Directorate, OECD

reforms and programs that tackle with IFF's.⁵⁵ That having said, it is important to generate ways that development agencies can support emerging economies in curbing the phenomena of illicit capital flight. For instance, these may include hiring or training expert personnel in the relevant public sector authorities in developing countries and building investigative capacity that tackles with economic crime. Supporting efforts made to build political commitment to the issue and encourage the mainstreaming of the problematic in political discourse is also necessary in order to ensure that the governments of developing countries also take a stance on the matter and engage in their share of responsibility in the fight against IFF's. Moreover expanding the knowledge on the issue through funding academic research not only benefits the country in question, but elucidates details on the topic that might not surfaced hitherto.

Another notable approach to the issue would be addressing IFF's from their source. **However, given that the mandate of the 2nd Committee does not include measures that involve strengthening domestic or international security**, there are only a few steps that can be directly targeted to the sources of illicit funds. Bribery constitutes one significant example. Unfortunately there has been only weak progress on the implementation of anti-bribery frameworks. One obstacle to the effective application of anti-bribery regimes and directives lies in gaps in countries legal frameworks. Such mismatches may include overly narrow interpretation of foreign bribery or the imposition of an impractical burden of proof. Short-term statutes of limitation also prevent the prosecution of bribery incidents that fall into multiple jurisdictions.

Furthermore, weak sanctions fail to pose a strong deterrent to those tempted to pay bribes or accept them. Finally weak protection provided to "whistleblowers" adds up to the conditions that prevent the effective reduction of bribery instances. "Whistleblowers" is a term used to describe individuals that pass over information to the authorities regarding criminal or corrupt transactions. It comes as an understanding that these individuals require protection in case of retaliation. Hence another way to increase the number of bribery cases that are pursued by the

⁵⁵ Ibid

authorities is to establish coherent and effective protection programs for confidential informants.⁵⁶

Indeed there is a broad range of possible countermeasures are now being discussed internationally. The long list of proposition comprises of suggestion for the automatic exchange of information in tax matters; extended administrative assistance providing supplementary for information in addition to the tax data automatically shared; the systematic registration and disclosure of the effective economic beneficiaries of companies, trusts, and foundations; and the detailed breakdown of corporate group accounts by country and by project.⁵⁷

Closing Remarks

Even though the direct economic impacts of illicit financial flows cannot be precisely quantified, it may be considered empirically proven that not only are they negative, but also of great consequence. Capital shifting not only deprives government of resources that would otherwise be allocated to developmental projects but also undermines the integrity of political and financial institutions. The growth inhibiting nature of illicit financial flows is a major impediment to the realization of the sustainable development goals.

There have been various effort to control the proliferation of this infectious activity. However the measures taken hitherto are weak, and most often address the matter unilaterally. The evident lack of quantitative country comparisons that could provide detailed estimates regarding the size of the impacts being posited, is one element that hinders progress. Moreover the inconsistencies of the relevant legislation, poses difficulties not only in terms of controlling the phenomenon, but also in the pursuant process of asset recovery. With this in mind, the problem generates greater need for international financial and technical cooperation, for example, in combating corruption and in reforming fiscal systems and offshore financial centers to take countermeasures in their own spheres of influence.

⁵⁶ Ibid

⁵⁷ Herkenrath M. (2014) *Illicit Financial Flows and their Developmental Impacts: An Overview* International Development Institute, Graduate Institute of International & Development Studies Available in: <https://journals.openedition.org/poldev/1863#tocto1n6>

Questions to be addressed

1. Which reasons have led to the widespread phenomena of IFF's?
2. What are the definitive characteristics of IFF's ?
3. What are the main incentives for shifting capital abroad and similar portfolio diversification?
4. Which normative loopholes allow the cross-border transfer of illicitly obtained funds?
5. Is there a starting line from the thread of IFF's originates?
6. In what stages of the process of IFF'S can the implementation of international directives hinder the effective shifting of capital
7. What is the role of the government in the manifestation of these phenomena?
8. How do IFF''s effect the realization of the 2030 Sustainable Development Goals?
9. What is the correlation of Anti-Money Laundering regimes and Anti-Bribery and Anti-Corruption Frameworks with IFFs targeted policies? By extent, how can this correlation contribute to controlling IFF's?
10. In the case of asset recovery, to what extent can be perceived as an international matter notwithstanding the legislative particularities of each jurisdiction?
11. In what way can the international community foster mutual trust between jurisdictions?
12. How can technical assistance schemes enhance efforts of asset recovery?
13. How can the international community contribute in the success and efficiency of MLA (or similar) requests?
14. How can transparency regarding financial statements be enhanced without contravening in any way national or international legislation?

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