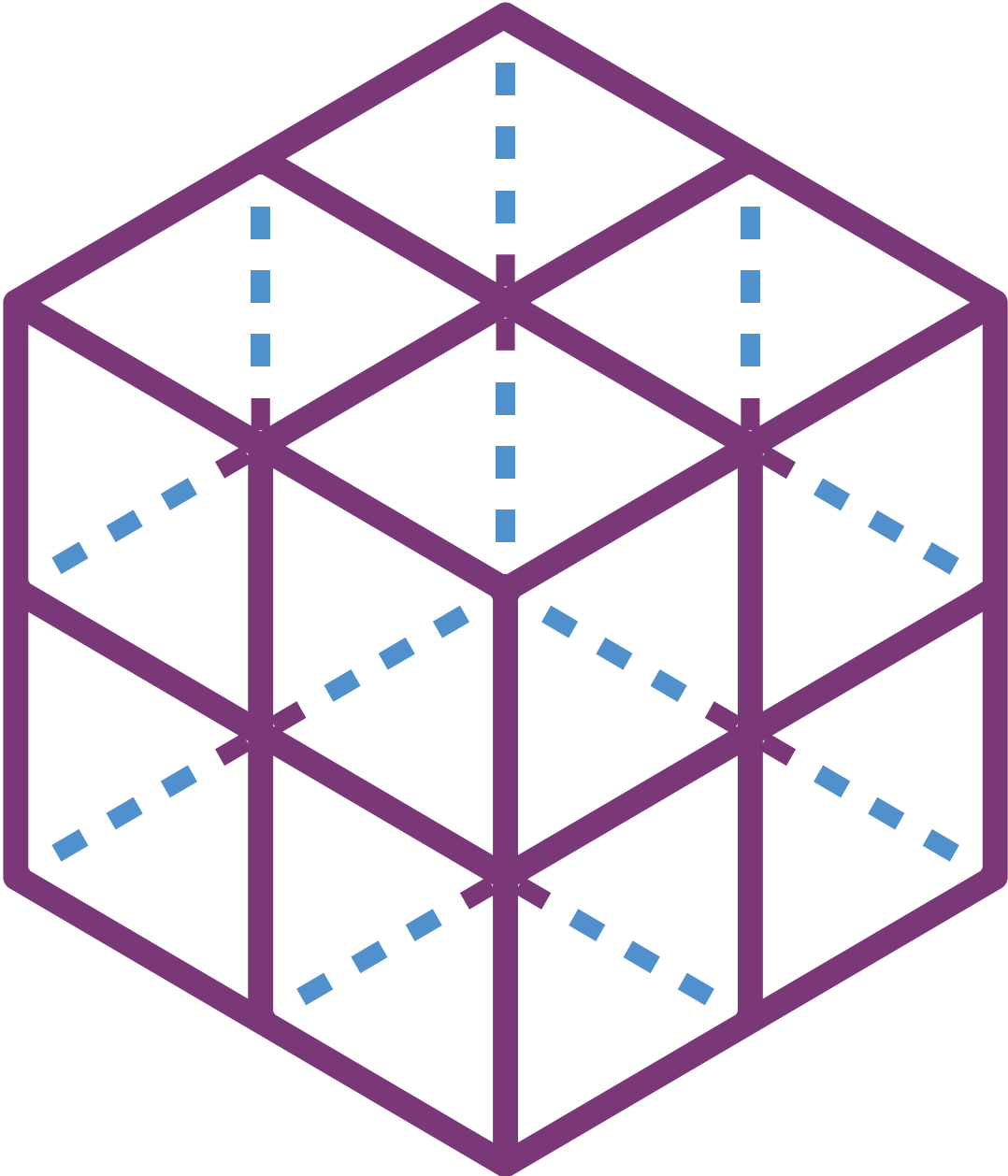


**FINANCIAL  
ACCOUNTABILITY  
TRANSPARENCY &  
INTEGRITY**

FACTI PANEL INTERIM REPORT  
SEPTEMBER 2020



## ABOUT THE FACTI PANEL

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

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

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

The Panel is supported by an independent secretariat, hosted by the United Nations Department of Economic and Social Affairs, Financing for Sustainable Development Office led by its Director, Mr. Navid Hanif. Gamal Ibrahim is the chief of the secretariat. Staff of the secretariat include Peter Chowla, Maud Perdriel-Vaissiere, Benda Gu, and Sarah Maria Rosaria Aguirre-Degidon. The secretariat has also been assisted by consultants Alex Marshall, Andrea Davis, Antonina Poliakova, Claire Lukacs and Kathryn Donovan. Additional design and technology work was provided by Jennifer Esther Garcia and Michelle Ng. Secretariat interns are Julian Christopher Atanassow and Ujjaini Rao Desirazu.

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The following individuals participated in drafting background papers for the report: Leyla Ates, Martin Hearson, Joy W. Ndubai, Tovony Randriamanalina, Andres Knobel, Michael Findley, Daniel Nielson, Jason Sharman, Abiola Makinwa, Fatima Kanji, Richard Messick, Valentina Carraro and Hortense Jongen.

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

## FURTHER INFORMATION

Information about the FACTI Panel and downloads of this report, including terms of reference, agenda, meeting summaries, inputs and related background papers can be accessed at <https://www.factipanel.org/>.

# EXECUTIVE SUMMARY

## Draining resources from development

Tax avoidance and evasion diminish national revenues, while corruption and financial crime divert resources meant for investment in sustainable development. These abuses offset the positive impact of public and private investment and international assistance. They erode countries' ability to provide basic services and undermine global efforts to achieve the objectives of the 2030 Agenda for Sustainable Development.

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

The Panel's report addresses these linked challenges to financial accountability, transparency and integrity.

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

- **Damage to the public interest far outweighs the short-term profit for abusers and their enablers.**
- **The COVID-19 pandemic and the rapid digitalisation of economic activity sharpen the challenges to financial integrity and accountability.**

## Stopping the drain, redirecting resources to development

Member States have already pledged to enhance revenue administration; improve transparency; promote good governance; identify, assess and act on money laundering risks; significantly reduce illicit financial flows; and deter, detect, prevent and counter corruption and bribery. The joint aim is to finance sustainable development and achieve the SDGs.

A web of existing international instruments has grown organically over time, responding to a wide variety of interests in the fields of tax cooperation, anti-money-laundering, and anti-corruption efforts. Despite excellent examples of cooperation and good practice, there are widely divergent views on how to meet the remaining challenges. The result is unsatisfactory progress and failure to set priorities. Each part of this web offers opportunity for joint action.

- **International instruments lack co-ordination, leave gaps and may overlap and even conflict with each other.**
- **There are many gaps around inclusion, implementation and enforcement.**
- **The aim must be to improve implementation, close gaps, reduce vulnerabilities, remove impediments, and address systemic shortcomings.**

### Estimates of the drain on resources

- \$500 – \$600 billion corporate tax revenue a year lost from profit-shifting by multinational enterprises
- \$7 trillion of private wealth is hidden in haven countries
- 10% of world GDP may be held in offshore financial assets
- \$20 – \$40 billion a year estimates in bribes received
- 2.7% of global GDP in money laundering by criminals

## Systemic challenges, global solutions

The Panel calls for a common and shared understanding about problems and solutions: lack of financial accountability, transparency and integrity is a global problem that needs global solutions, while taking into account specific country contexts.

The Panel notes that all aspects of this problem require action and ownership in developed and developing countries; in source, transit, and destination countries; in public and private sectors; and in small and large countries alike. In this, the Panel begins where the African Union High-Level Panel on Illicit Financial Flows from Africa concludes, that this is a systemic problem that requires better global coordination.

Financial integrity systems are not a mere sum of their parts: a weak link anywhere in the system can undermine the system as a whole, allowing resources to be drained through the weak spot.

- **The Panel therefore calls for total acceptance that the shortcomings are systemic and require systemic responses.**
- **Success calls for a legitimate and coherent ecosystem of instruments and institutions dedicated to financial accountability, transparency and integrity.**

## Challenging vested interests, building coalitions for reform

International norms, and their implementation in the areas of financial accountability, transparency and integrity are shaped by history, power relations and country-specific characteristics, including the political context. They are, in other words, path-dependent.

Stronger implementation and more legitimate setting of international norms call for more than technical capacity. Systemic change threatens groups with vested interests in the system and their powerful enablers. These vested interests and enablers may have power to influence policies. Systemic change equally demands stable social forces to defend and build on progress.

Non-state actors – including the private sector, civil society and the media – working in concert can create momentum and generate the political will vital to establish and maintain financial integrity. This applies equally in all countries, including havens where illicit proceeds are hidden. Investigative journalists and whistle-blowers need support and protection for their rights in all jurisdictions.

- **Member States working with other like-minded forces of change can set future directions through deliberate action.**

## Including all countries, but meeting diverse needs

Countries, particularly developing countries and those with small economies and populations, face many limitations which reinforce each other. Government agencies are already stretched.

Techniques to disguise illicit transactions – designed by lawyers, accountants, financial institutions and other enablers – are increasingly sophisticated, prompting ever more complex global standards. Yet these complex standards are often hard to apply locally for countries with low capacity. They are also sometimes set in non-inclusive forums, raising questions about national sovereignty.

- **Though abuses hit developing countries hardest, they sometimes do not participate in setting international norms, weakening acceptability and implementation.**
- **International standards should recognise countries' different needs; it is important to build national capacity, and to collaborate on a regional basis.**

## Adjusting to a changing world

Open financial systems and new technologies make it more difficult to track hidden and secret transactions. Digitalisation of the economy reduces revenue collection when international tax norms retain archaic structures and practices. At the same time, new technologies can help combat financial crime and tax abuses. With revised policy and regulatory frameworks, digitalisation will open the space for easier cooperation of the public and private sectors and new initiatives to collect, share and use information.

The high probability of more catastrophic events such as the COVID-19 pandemic calls for better legal and institutional frameworks with more resilient policies, better implementation and stronger international cooperation.

- **Detection and enforcement methods, regulations and tax systems need sufficient flexibility to allow nimble responses by law enforcement and policy makers to constantly evolving methods of draining resources.**

## Cooperation in tax matters

Two different model tax treaties have developed over time, but there remain worries that the demands of new tax norms, which seek to address tax avoidance and evasion, might overwhelm developing countries, especially those with relatively weaker capacity to negotiate.

Rapid digitalisation presents particular challenges for tax reform, given the ease with which multi-national corporate assets and profits can be moved among jurisdictions. Companies' reports to governments on their activities in each location have potential to help countries tax income fairly, but the reports' deficiencies greatly reduce their usefulness. Meanwhile trade mis-invoicing involves significant loss in revenue.

Lower-income countries are facing norms developed largely without their input; agendas set by G20 and OECD at the system level; and their own capacity limitations. Collective efforts by

all countries will be needed to close gaps in disclosure and transparency. Enhanced support will be needed from international institutions and donor countries.

- **International tax norms are not well adapted to developing countries' needs and circumstances, highlighting the need to develop a more coherent, nuanced and equitable approach to international tax cooperation.**
- **Developing countries must have full information and participate equally in crafting and agreeing norms for tackling tax avoidance and evasion in a rapidly changing world.**
- **Efforts to improve tax information are severely impeded by the absence of a neutral and authoritative body with responsibility for collating and analysing tax data (including gender-disaggregated data).**

## Accountability, public reporting and anti-corruption

Corruption affects all countries; it results in loss of resources, weakens service delivery and undermines trust in governments and the social contract. It is important to consider both where the money comes from and where it goes.

The United Nations Convention against Corruption (UNCAC) came into force in 2005 with legally binding provisions and a global footprint. Yet perceptions about the volume of corruption have not changed. Reviews found gaps and shortcomings in the domestic frameworks of at least 74 per cent of States.

Grand corruption involving vast quantities of assets continues to make headlines globally. The outlines of grand corruption often become public knowledge, but knowledge does not always translate into accountability. Preventing privilege and impunity from becoming embedded calls for more than just legislative changes, it needs sustained domestic demand for anti-corruption reform.

More than 200 jurisdictions are implementing the Financial Action Task Force (FATF) recommendations against money laundering, placing compliance requirements on a wide range of businesses. Yet governments in haven countries, most frequently developed countries, have little incentive to block the inflow resulting from tax abuses, corrupt practises and other crimes. Banks find it profitable, and enablers such as lawyers and accountants often operate without effective oversight.

Exposing the real or "beneficial" owners of assets can prevent or reveal global financial crime or tax-abuse schemes. Beneficial ownership information is therefore a critical tool, but few countries comply fully with global standards, sometimes by design. There are weaknesses in information collection and verification, and there are systemic difficulties in accessing information.

- **There are major gaps in the regulation and supervision of the enablers of corruption, tax abuses and money-laundering, with systemic implications from lapses in haven countries.**
- **Cross-border access to beneficial ownership information is too difficult; major financial centers and developed countries should take more responsibility.**

## International cooperation and settling disputes

The tax dispute resolution framework is inadequate, creating uncertainty for governments, business, and other taxpayers. Concerns by countries have arisen relating to sovereignty, cost of arbitration, weak capacity, and lack of experience with overall international tax dispute settlement. Current methods of coercing compliance with tax norms also undermine trust and faithful implementation.

Foreign bribery is a two-sided affair that can cause damage out of proportion to the amounts of bribes involved. A \$1 million bribe can easily create \$100 million worth of damage, in the form of additional costs and poor investment decisions. Non-trial resolutions are increasingly used to resolve foreign bribery cases, yet there are no international guidelines on their use and thus no safeguards to ensure they best serve the interests of justice.

Moreover, there is little cooperation with authorities in demand-side countries, which may hinder prosecution of the corrupt public officials. This further prevents potential claims for damages. In practice, compensation is quite exceptional, leaving the victims of corruption behind.

Cooperation on confiscating and returning the proceeds of corruption is far from effective. The process remains extremely burdensome and lengthy for countries that saw their resources drained—especially those that are seeking to recover assets stolen by formerly entrenched kleptocratic rulers. It is also difficult to repatriate assets to the country of origin in situations where there is no trust between the jurisdictions involved.

Peer review is a well-established mechanism to promote compliance with norms and standards, preventing disputes between countries. The reviews can allow peer and public accountability and enhance trust. However, there are gaps and weaknesses in the current review and follow-up mechanisms.

- **A systemic approach is needed to address structural deficiencies in international frameworks for settling tax disputes; and to allay the concerns of less powerful countries on methods of coercing compliance with tax norms.**
- **Resolving foreign bribery cases should not lead to impunity for corporate wrongdoers nor for corrupt officials; the ultimate victims of corruption should be properly compensated.**
- **Returning resources to countries that are victims of corruption should be more transparent, easier and faster, while still maintaining accountability.**
- **A lack of trust constrains international cooperation; strengthening the way countries check up on each other, particularly on international corruption commitments, can improve trust and strengthen the positive impact of international agreements.**

## Conclusions and next steps

Addressing gaps and systemic shortcomings requires a basic understanding among all stakeholders that there are no silver bullets or single measures that will enhance financial accountability, transparency and integrity. This interim report indicates a suggested path to reach the common destination, and indicates the following likely areas of recommendations by the Panel:

Cross-cutting issues	Cooperation in tax matters	Accountability, public reporting and anti-corruption	International cooperation and settling disputes
<ul style="list-style-type: none"> <li>■ Governance</li> <li>■ Capacity</li> <li>■ Systemic thinking</li> <li>■ Role of non-state actors</li> </ul>	<ul style="list-style-type: none"> <li>■ Architecture for cooperation</li> <li>■ Taxation of the digital economy</li> <li>■ Financial reporting and information exchange</li> <li>■ Data production and publication</li> </ul>	<ul style="list-style-type: none"> <li>■ Addressing impunity</li> <li>■ Regulation of enablers</li> <li>■ Beneficial ownership</li> <li>■ Capacity building</li> </ul>	<ul style="list-style-type: none"> <li>■ International tax dispute settlement</li> <li>■ Non-trial resolutions</li> <li>■ Foreign bribery and compensation</li> <li>■ Confiscation of assets</li> <li>■ Return and disposal of assets</li> <li>■ Implementation and peer review</li> </ul>

The Panel’s final report, to be published in February 2021, will advance specific recommendations based on the areas identified above and other issues emerging from its work in the next six months. The Panel will focus on recommendations, which are technically feasible, politically viable, and have direct bearing on releasing resources for the Sustainable Development Goals. The Panel plans to present its recommendations according to a realistic timeframe for implementation, specifying proposals for immediate action, those that require more time to formulate the response, and those that need a longer time to achieve.