



A GLOBAL COORDINATION MECHANISM ON ILLICIT FINANCIAL FLOWS

IMPLEMENTATION NOTE ON FACTI PANEL RECOMMENDATION 14A

BY JOSE ANTONIO OCAMPO

José Antonio Ocampo is Professor at the School of International and Public Affairs at Columbia University and Chair of the United Nations Committee for Development Policy. He is former United Nations Under-Secretary-General for Economic and Social Affairs, and former Finance Minister of Colombia. He has occupied other positions at the United Nations and in his native Colombia, including Executive Secretary of the UN Economic Commission for Latin America and the Caribbean (ECLAC), Minister of Agriculture, Director of the National Planning Office of Colombia, and member of the board of Banco de la República (Colombia's central bank).

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Members of the FACTI Panel are producing implementation notes on how they see the FACTI Panel Recommendations being implemented in practice. The notes are meant as supplementary to the FACTI Panel report and recommendations, and seek to provide more detail on how all actors can take actions on the FACTI Panel blueprint for financial integrity for sustainable development. The notes, however, represent the views of their authors, and not of the whole FACTI Panel.

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RECOMMENDATION 14A: ESTABLISH AN INCLUSIVE AND LEGITIMATE GLOBAL COORDINATION MECHANISM AT ECOSOC THAT CAN ADDRESS FINANCIAL INTEGRITY ON A SYSTEMIC LEVEL.

INTRODUCTION

The FACTI Panel, in its report and background papers, set out in great detail the existing international legal and institutional structures related to financial integrity matters. These include mechanisms on international tax cooperation, combatting money-laundering, preventing and combatting corruption, and asset recovery and return.

However, the FACTI Panel recognises that “the global architecture is fragmented and uncoordinated. Some bodies are not universally inclusive. Others lack the right norm setting infrastructure. Further, existing institutions deal with overlapping aspects in silos, and are unable to address illicit financial flows systematically.”

The FACTI Panel calls for stronger coordination to address the fact that “there are no formal structures for coordination among the existing independent silos.” It also notes that “States cooperate and coordinate most effectively when they share responsibilities and are committed to accountability.”

PROPOSED SOLUTION

The Panel addresses this state of affairs with Recommendation 14A to set up a global coordination mechanism on financial integrity for sustainable development. As with all recommendations, the Panel sought to avoid the creation of new institutions, and instead recommendations aim to make use of existing bodies while enhancing their effectiveness. For example, a separate recommendation calls for changing the status of an existing UN tax committee to make it intergovernmental (see separate Implementation Note).

This explains the Panel's suggestion of a means of coordination, but not a new institution or body. The Panel believes ECOSOC should serve this function, as it is mandated in the UN Charter to conduct international coordination. This coordination can be accomplished in a number of ways, which I outline here in greater detail than could be provided in the FACTI Panel report.

The intention is to bring the relevant existing institutions, bodies, and actors across the fields of tax, anti-money-laundering, and combatting corruption, together for coordination. There are

important considerations for the design of a new mechanism: institutional host, mandate, participation, potential results, and practicalities or scenarios for operation of the mechanism.

IMPLEMENTATION

Institutional host: The ultimate aim of the intergovernmental mechanism is to ensure a legitimate and universal forum for undertaking global coordination. Legitimacy is a core value that the Panel promotes, and no other venue would be able to achieve such legitimacy. The United Nations Charter Article 58 specifically mandates the UN to make recommendations for the co-ordination of the policies and activities of the specialized agencies in economic, social, cultural, educational, health, and related fields, and delegates this task to the Economic and Social Council (ECOSOC). ECOSOC already performs this function in related areas, for example it hosts coordination of the United Nations System with the Bretton Woods institutions and the WTO at the Financing for Development Forum. It also hosts the coordination of international humanitarian work – which involves many UN organizations, and non-UN humanitarian and development partners – in the Humanitarian Affairs Segment.

Mandate: The mechanism would be mandated to review progress on financial integrity issues, including international tax cooperation, anti-corruption efforts, combatting money-laundering and strengthening international cooperation on asset recovery and return. It can provide additional inputs for an ECOSOC resolution on financial integrity issues.

Participation: Using the model of other ECOSOC meetings, such as the Humanitarian Affairs Segment, the mechanism should be inclusive of organizations, institutions and stakeholders working in relevant areas. This naturally includes the United Nations Office on Drugs and Crime, the Conference of States Parties to United Nations Convention Against Corruption, and the United Nations Committee of Experts on International Cooperation in Tax Matters. ECOSOC should make standing invitations to all the current, and any future, norm-setting bodies, such as the Financial Action Task Force, the Inclusive Framework on BEPS, and the Global Forum on Transparency and Exchange of Information for Tax Purposes. Intergovernmental bodies with interests in these areas could also be invited to participate, including the regional tax organisations (RTOs), The Egmont Group of Financial Intelligence Units, World Customs Organization, World Bank, International Monetary Fund, International Anti-Corruption Academy, and other relevant bodies. As with other ECOSOC forums and meetings, appropriate roles and access should be given to the private sector and civil society. It would be expected that Member States would actively participate in the discussions bringing the views of their finance ministries, tax administrations, financial intelligence units, and justice ministries to the discussion. Though organised under ECOSOC, for purposes of inclusion, all Member States and observers should be afforded participation, as is the case with many ECOSOC forums and meetings.

Potential results: Given the lack of coordination among institutions working on financial integrity matters, the opportunity for dialogue has value of its own accord. More

importantly, representatives of member states will be able to discuss in depth and agree upon global priorities in tackling illicit financial flows. Member States could agree to an ECOSOC resolution on financial integrity issues based on the discussions, which would provide guidance on Member State views for other norm-setting bodies. The results should include strengthened coordination among different international policies and frameworks and improved implementation of critical financial integrity standards. The ultimate impacts would be lower levels of corruption and tax abuse, and thus more resources to invest in achieving the Sustainable Development Goals.

Scenarios: The mechanism could be designed in several ways, based on the existing calendar of ECOSOC meetings and events.

Option 1: adding a dedicated section to the FFD Forum – the ECOSOC Forum on Financing for Development Follow-up has regularly, but not always, included a dedicated session on illicit financial flows. Member States could agree to ensure financial integrity issues are given dedicated time in the FFD Forum, and the format adapted to move towards a more comprehensive assessment and discussion on coordination amongst the participants suggested below. A meaningful conversation will be difficult to accomplish in 1.5 hours, the standard length for a session at the FFD Forum, and more time may need to be dedicated to the topic than has previously been the case.

Option 2: adding a dedicated section to the Integration Segment – the ECOSOC Integration Segment discusses and consolidates all the inputs of Member States, including case studies and lessons learned, the ECOSOC subsidiary bodies, the UN System and other relevant stakeholders to promote the balanced integration of the three dimensions of sustainable development. It occurs just before the High Level Political Forum, and Member States could agree to ensure financial integrity issues are given dedicated time in the segment, though time constraints would likely inhibit a deep discussion.

Option 3: special annual meeting on financial integrity – the most advanced option is to organise a special, single-day or multi-day meeting of ECOSOC on financial integrity for sustainable development. It could be annual, but Member States may also decide to make it biennial, much as the Development Cooperation Forum is only held every other year. ECOSOC could find the additional one-two days needed for this special meeting. Additional official meetings would have small financial implications in terms of interpretation, but such costs would be minimal.

Secretarial support to any of these options can be provided jointly by relevant UN departments and offices, which may need one or two additional posts to organize and service the meeting, again minimal costs in light of the potential gains.

LOOKING FORWARD

Implementation of Recommendation 14A is an essential component of how Member States can take action on the FACTI Panel's report. Agreement on this proposal can happen in the United Nations General Assembly through a resolution originated under the second or third committee. While there would likely be some programme budget implications related to the holding of extra days of official meetings, they would not likely be large.

While agreement on the mechanism would not compel all the relevant bodies to participate, a decision at the United Nations General Assembly agreeing on this new mechanism would strongly indicate to the non-UN bodies, such as FATF

and the Global Forum, that Member States expect their participation.

The ECOSOC Bureau could be left to determine the specific timing, nature and modalities of the mechanism, in such a way that they align with the Council's existing work programme. Depending on the nature of any requested report of the Secretary General to support the meeting, the first session could be held in the same year as General Assembly agreement, perhaps in an abbreviated format. The Annex to this note provides some specific language that could be adapted by Member States for incorporation into a resolution.



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ANNEX: POSSIBLE RESOLUTION LANGUAGE

Below is possible language for use in a United Nations General Assembly resolution:

We decide to establish a global coordination mechanism at the United Nations Economic and Social Council to systematically monitor illicit financial flows and strengthen financial integrity for sustainable development, to be launched during the next Council cycle. The mechanism will include a meeting of up to two days, which will be back-to-back with the ECOSOC Special Meeting on International Cooperation in Tax Matters, and will include input from all relevant institutional and other stakeholders, with special invitations to the following bodies: UNCAC COSP, Financial Action Task Force, Global Forum on Transparency and Exchange of Information for Tax Purposes, and the Inclusive Framework on BEPS.

ANNEX: FURTHER READING

Cockayne, James, and Christoph Mikulaschek. "Transnational security challenges and the United Nations: Overcoming sovereign walls and institutional silos." (2008).

Taylor, Paul. "Managing the economic and social activities of the United Nations system: developing the role of ECOSOC." *The United Nations at the Millennium: The Principal Organs* (2000): 100-141.