

# Financial Integrity and Transparency in the Post-2015 Agenda

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## Introduction

In this contribution to Session V (“From Millennium to Sustainable Development Goals: Is transparency the key to unlocking our human potential?”) of the GFI/FES Conference on “Financial Transparency and Human Rights” we will not try to elaborate on the positive impact of more financial transparency and the curbing of illicit financial flows for the realization of the new set of global goals. It is fairly obvious that increasing the availability of funds in the order of magnitude in which the developing world, Africa in particular, is estimated to currently losing them, could boost development significantly. Instead this contribution a) looks at the role financial integrity and transparency is playing so far in the Post-2015 Development Agenda and b) makes some suggestions as to how this framework could be harnessed further to promote the agenda for financial justice and the curbing of illicit financial flows. Before doing so it will start with a short background on the road from Millennium to Sustainable Development Goals and on some of the main characteristics of SDGs and the Post-2015 Development Agenda as a whole.

## 1. From MDGs to SDGs – A Short Background

With the Millennium Development Goals (MDGs) set to conclude at the end of 2015, governments are in the midst of negotiating an ambitious follow-up agenda, known as the Post-2015 Development Agenda designed to achieve a “people-centered and planet-sensitive development” (UN Secretary-General Ban Ki Moon). This agenda is itself the result of the merger of two international processes, one being the MDG follow-up process, the other being the follow-up to the Rio+20 UN Conference on Sustainable Development (UNCSD) of 2012. It was at the UNCSD where the Member States decided to launch a process to develop a set of Sustainable Development Goals (SDGs). In July 2014, the intergovernmental Open Working Group (OWG), under the mandate of the General Assembly, presented its proposal for 17 SDGs and 169 targets.<sup>1</sup> In September 2014, the General Assembly decided that this proposal was to “be the main basis for integrating sustainable development goals into the post-2015 development agenda”.

At present we are at the final round of intergovernmental negotiations. They will lead to a **Summit** to be held from **25 to 27 September 2015** in New York where the UN General Assembly is expected to adopt the Post-2015 Development Agenda.

This agenda will have some unique features of which three are highlighted here:

Firstly, the post-2015 agenda will be a **universal agenda** insofar as the SDGs, unlike the MDGs, will apply to all countries, rich countries, countries with emerging economies and poor countries alike. Every country is expected to translate the aspirational global goals and targets into their “*own national targets guided by the global level of ambition but taking into account*”

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<sup>1</sup> Open Working Group Proposal for Sustainable Development Goals  
<https://sustainabledevelopment.un.org/content/documents/1579SDGs%20Proposal.pdf>

*national circumstances*". Consequently, all countries are also expected to align their national sustainability strategies or their development strategies with the new agenda.

Secondly, while eradicating poverty remains a central goal of the agenda, like in the MDGs, the post-2015 agenda is not just a "MDG-plus" agenda, but considerably much broader. It also covers the protection of ecosystems, sustainable consumption and production patterns (SCP), peace and governance, as well as inequality within and between countries. As an agenda for not only improving people's lives but also protecting the planet for future generations, it is an agenda not only for "more", more goods and services, more employment, more access to education, health, water, electricity or social protection. It is **also an agenda for "less"**, less carbon emissions, less resource use, less depletion of un-renewables, less environmental destruction, less inequality. One fundamental challenge will be to manage **conflicts and trade-offs** between **short-term development successes** on the one hand and **long-term sustainability and respect for the planetary boundaries** on the other. A switch to a global "green economy" is necessary, but by far not sufficient and entails in itself many challenges.

Thirdly, the UN Secretary General in his Synthesis Report on the Post-2015 Agenda therefore calls for nothing less than a global transformational change. Such a transformational agenda is a "**shared responsibility**" of humankind. This implies a fair sharing of costs, responsibilities and opportunities among and within countries. However, there is considerable disagreement as to the applicability and the precise interpretation of the Rio principle of "common but differentiated responsibilities" (**CBDR**) in the context of post-2015. The question remains how this translates into different levels of ambition and different obligations for different categories of countries, e.g. to contribute to the reduction of harmful environmental practices (e.g. CO<sub>2</sub>-emissions), or to provide means of implementation. This also begs the question as to what extent states are prepared to accept **responsibilities for negative spillovers of domestic policies to other countries**, such as tax policies for example, or any other policies that may be harmful to the enjoyment of human rights of people elsewhere.<sup>2</sup>

Another issue in this regard would be whether or to what extent states accept **home country responsibilities for actions and omissions of non-state actors**, such as transnational corporations when it comes to harmful practices like tax evasion, trade mispricing or bribery.

## **2. Financial integrity and transparency in the Post-2015 Development Agenda**

For gauging the role that financial integrity and transparency does actually and could potentially play in the Post-2015 Development Agenda the approach taken here is to first look at what is already known. Most likely the final agenda will consist of four major parts: 1) a Declaration, 2) the SDGs, 3) Means of Implementation and a "Global Partnership" and 4) a Monitoring and Review Mechanism. While a draft text for the political declaration on the objectives and the underlying principles of the agenda is not yet publicly available, one can already speculate with some degree of certainty about what will or could potentially be in the other three parts, although intergovernmental negotiations still continue.

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<sup>2</sup> For more on cross-border and international responsibilities in the Post-2015 context see Reflection Group for Global Development Perspectives, Goals for the Rich – Indispensable for a Universal Post-2015 Agenda, Discussion Paper, Friedrich-Ebert-Stiftung, International Policy Analysis, March 2015 (<http://library.fes.de/pdf-files/iez/11253.pdf>)

## 2.1. Financial integrity in the list of SDGs

All indications are that the list of 17 SDGs proposed by the intergovernmental Open Working Group is a well-grafted political compromise and therefore final. A good number of the 169 targets, though, still seem to be up for revision or reformulation, but even here major changes or additions can no longer be expected.

If one wants to know how financial integrity is going to be treated in the SDGs, or if at all, the OWG document may serve as a reference. Here one finds a direct reference under goal 16 (on peace and governance) and an indirect one under goal 17 (on means of implementation and global partnership) of the OWG proposal.

Under goal 16, target 16.4 calls to “*by 2030, significantly reduce illicit financial flows and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime*”. Therefore here, the curbing of illicit financial flows is explicitly mentioned.

In addition, under goal 17, target 17.1 recommends to “*strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection*”. This can be interpreted as an indirect reference and be used to ask for improving domestic capacity for tracking and stopping illicit financial flows as a major source of improved revenue collection.

One will also have to see how these targets will translate into measurable and time-bound indicators. It is perhaps significant that the UN Statistical Commission (UNSC) in their first technical report on potential SDG-indicators didn't come up with any proposal neither for target 16.4 nor for target 17.1.<sup>3</sup> The Sustainable Development Solutions Network (SDSN), led by Jeffrey Sachs, in their report on indicators and a monitoring framework for the SDGs (Revised working draft – March 20, 2015) at least suggested one indicator that relates to financial transparency (“*Proportion of legal persons and arrangements for which beneficial ownership information is publicly available*”). But this document also states that “complementary national indicators” on illicit financial flows still had to be developed.<sup>4</sup>

For those who seek to strengthen the international agenda for curbing illicit financial flows within the SDGs it may be time now to spend some energy to propose indicators under targets 16.4 and 17.1. This could be along the lines of the one already suggested by GFI (“*by 2030, reduce illicit financial flows related to trade misinvoicing by 50%*.”) as a kind of international benchmark. For actual progress monitoring on the ground it would perhaps be even more important to start working on national indicators on a country by country basis.

## 2.2. Financial integrity and means of implementation

While there is not yet any publicly available information on how the means-of-implementation-part of the Post-2015 document will look like, it is likely that it going to be linked somehow to

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<sup>3</sup> Technical report by the Bureau of the United Nations Statistical Commission (UNSC) on the process of the development of an indicator framework for the goals and targets of the post-2015 development agenda [https://sustainabledevelopment.un.org/content/documents/6754Technical%20report%20of%20the%20UNSC%20Bureau%20\(final\).pdf](https://sustainabledevelopment.un.org/content/documents/6754Technical%20report%20of%20the%20UNSC%20Bureau%20(final).pdf)

<sup>4</sup> Sustainable Development Solutions Network, Indicators and a Monitoring Framework for the Sustainable Development Goals - Launching a data revolution for the SDGs - A report by the Leadership Council of the Sustainable Development Solutions Network, Revised working draft (Version 7), March 20, <http://unsdsn.org/wp-content/uploads/2015/03/150320-SDSN-Indicator-Report.pdf>

the outcome document of the **Third International Conference on Financing for Development**, scheduled for **13 to 16 July 2015** in Addis Ababa, Ethiopia. The stated main aim of this conference is *“to mobilize support for the post-2015 development agenda by further strengthening the framework to finance sustainable development and the means of implementation for the universal post-2015 agenda.”*<sup>5</sup> This “Addis Ababa Accord” – as it is going to be called - might even become an official part of the post-2015-agenda, at least as far as the financial means of implementation are concerned.

Hence it is important to note that the Revised Draft of the Addis Ababa Accord (of May 6, 2015) in its part on domestic resource mobilization includes a whole section – seven paragraphs in total – on issues pertaining to combatting tax evasion and ending harmful tax competition, substantially reducing and eventually eliminating illicit financial flows, deterring corruption and recovering and returning stolen assets. Member States also commit to further increase transparency and accountability of the financial and banking systems as well as to strengthen cooperation and national institutions to combat money laundering and financing of terrorism. (For more detail cf. para 20 to 26 of the Revised Draft of the Addis Ababa Accord in annex 1). In part the document is making reference to already existing international initiatives in the field. For instance, *to develop the capacity to track ‘to whom, from whom’ information on cross-border transactions*” the Financial Stability Board (FSB) is asked *“to work expeditiously with relevant institutions to implement the proposed global Legal Entity Identifier system”* (para 21).

It remains to be seen how much of this will be implemented by Member States in their legislative and regulatory policies. It is also far from clear if any of the recommendations of Addis Ababa will actually make it into national commitments under Post-2015 and be subjected to scrutiny under a monitoring and review mechanism. The fight for more financial integrity and transparency is essentially not a technical issue but has to reckon with economic and political power. Tax evasion, corruption, capital flight and the like may not always and entirely be the exclusive preserve of the politically and economically powerful, but it is definitely not a game played by the poor. Any attempts at seriously doing away with the veil of secrecy and opacity that today still covers large parts of financial transactions of any kind, illegal as well as formally legal ones, will always meet stiff resistance from powerful vested interests.

### **2.3. Financial transparency and Post-2015 accountability**

Here one first has to bear in mind that the Post-2015 Development Agenda is not going to become an internationally binding treaty, but only an internationally agreed policy framework, “consistent with international law”. Hence Member States will at best feel morally obliged to adhere to this framework either by conviction, or by pressure from constituencies within their own countries, by “peer pressure” from other governments, or because countries don’t want to be seen as spoilers but rather as “good global citizens” in the international public opinion. Under post-2015 Member States’ national targets and commitments are purely voluntary contributions to a common global agenda. This is different, for instance, to what will be negotiated at the United Nations Conference on Climate Change in Paris in December this year.

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<sup>5</sup> The Addis Ababa Accord of the Third International Conference on Financing for Development, Revised Draft, 6 May 2015 ( <http://www.un.org/esa/ffd/wp-content/uploads/2015/05/revised-draft-outcome.pdf> )

Second, while there is agreement that a monitoring and review mechanism will be put in place as part of the agenda, it is not clear yet how this mechanism is going to be constructed – and how it will later work in practice, remains, of course, also to be seen.

So far, what we have is the creation of the **High Level Political Forum on Sustainable Development (HLPF)** in 2013 following a decision of Member States at the Rio+20 Summit.<sup>6</sup> According to its mandate, the HLPF under the auspices of the ECOSOC is to “*follow up and review progress in the implementation of sustainable development commitments*” and to provide “*political leadership, guidance and recommendations*”. The resolution on the HLPF states that a voluntary and state-led review process should be built on, and subsequently as of 2016 replace, the existing ECOSOC review process for the MDGs, the Annual Ministerial Review (AMR) and its National Voluntary Presentations (NPV).

As far as this new mechanism is concerned, civil society proposals from as early as June 2012 suggested a “*Universal Periodic Review (UPR) on Sustainability, modeled on the UPR mechanism of the Human Rights Council*”<sup>7</sup> This idea to use **UPR as a model** was subsequently taken up and reiterated by many contributors to the debate, including from within the UN system itself.

However, a purely multilateral monitoring and review mechanism based on the UPR to replace the AMR is most likely not what Member States will eventually agree to, given, for instance, the voluntary nature of national commitments. As a stand-alone such a global mechanism also doesn't seem to be “fit for purpose”, to the extent that a) national policy commitments would also require first and foremost national accountability and b) a review process that is not primarily geared towards “naming and shaming” or “finger-pointing” but has mutual learning at its core may benefit greatly from a “regional peer review”. At least in the case of Africa it could also build on existing regional reviews, such as the APRM.

Although no firm decision seems to have been taken, indications are that some form of a multi-level system of monitoring and review might eventually be agreeable to Member States.<sup>8</sup>

Efforts to promote financial integrity and transparency could benefit greatly from such a **multi-tier accountability mechanism**, but of course, only to the extent that commitments to policies to combat tax evasion and illicit financial flows as means for domestic resource mobilization to realize the SDGs became part and parcel of, firstly the system of national and international SDG indicators as well as, secondly, the national and international action programmes for the implementation of the Post-2015-Development Agenda.

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<sup>6</sup> The Forum replaced the largely defunct UN Commission on Sustainable Development which had been created after the first Rio Summit (“Earth Summit”) in 1992.

<sup>7</sup> Cf. „No Future without justice, Report of the Civil Society Reflection Group on Global Development Perspectives“ in: development dialogue No. 59, June 2012, Dag Hammarskjöld Foundation, pp.100 (<https://www.reflectiongroup.org/stuff/no-future-without-justice> )

<sup>8</sup> The most sophisticated and thought-through proposal on an accountability architecture for Post-2015 comes from Marianne Beisheim, a researcher with the German Government think tank SWP and an adviser to the OWG, who came up with a proposal for a voluntary, state-led, bottom-up multi-level or three-tier “Commit and Review” process. (Cf. Marianne Beisheim, Reviewing the Post-2015 Sustainable Development Goals and Partnerships - A Proposal for a Multi-level Review at the High-level Political Forum, SWP Research Paper, Berlin, January 2015; [http://www.swp-berlin.org/fileadmin/contents/products/research\\_papers/2015\\_RP01\\_bsh.pdf](http://www.swp-berlin.org/fileadmin/contents/products/research_papers/2015_RP01_bsh.pdf) )

In such a multi-level accountability architecture the third and international tier, i.e. the future HLPF-review, could probably be harnessed in at least two ways:

- firstly, in one of the annual *thematic reviews* that HLPF is likely to undertake during the commitment period, experiences and practices in domestic resource mobilization as part of a broader review on means of implementation could come up, whereby the policies and practices to curb illicit financial flows could figure prominently;

- secondly, in case voluntary *mutual country reviews* are undertaken as part of the HLPF-review they could be systematically used to examine Member States' impact on post-2015 progress beyond their borders as well as to review the commitments Member States have undertaken to meet their differentiated international responsibilities, for instance in financing. In such a **cross-border impact and international responsibility review**, cooperation and non-cooperation in the areas of tax policies and the curbing of illicit financial flows could certainly play an important role. In this way developed countries could also be held accountable for their actions and omissions regarding the combat of illicit financial flows out of developing countries into their jurisdictions. This accountability could also extend to non-state actors, such as transnational companies, residing in their jurisdiction. Transfer mispricing of such companies could then become subject of the post-2015 review process.

### 3. Conclusion

With the Post-2015 Development Agenda the international community will for the first time in history adopt a universal development agenda applying to all countries. As a broad agenda for “people-centered and planet-sensitive development” it is bound to be transformational and a shared responsibility of human kind. As such it will have to manage trade-offs between short-term development aims and long-term sustainability imperatives and the respect for nature. Financial justice and transparency and the curbing of illicit financial flows are part of this broad agenda, both on the level of global targets for sustainable development and with regard to the means of financial implementation for the new global agenda. The latest draft of the outcome document for the forthcoming Financing for Development Conference dedicates not less than seven paragraphs to issues pertaining to combatting tax evasion, curbing illicit financial flows, deterring corruption as well as recovering and returning stolen assets as part of its “action agenda” on domestic resource mobilization. As global goals and targets are now more or less final, the discussion is moving towards transforming goals and targets into measurable and time-bound indicators. This is where those who seek to strengthen the international agenda for curbing illicit financial flows within the post-2015 framework should now concentrate their efforts on. To the extent that policies for financial justice will be reflected in the national and international SDG indicators and become part of national and international action programmes for the implementation of the Post-2015 Development Agenda, the monitoring and review mechanism with the High Level Political Forum for Sustainable Development (HLPF) at the top, can then serve as an import tool to hold governments accountable with regard to their actions and omissions to curb illicit financial flows including the cross-border impact of their policies. However, one has to bear in mind that the struggle for greater financial integrity and transparency is essentially not a technical issue. Ultimately this struggle is about economic and political power and the necessary political will to take on vested interests that continue to benefit from the veil of secrecy and opacity that still covers large parts of financial transactions of any kind, illegal as well as formally legal ones.

Annexe 1:

**Extracts from The Addis Ababa Accord of the Third International Conference on Financing for Development (Revised Draft, 6 May 2015)**

(...)

20. We will combat tax evasion and substantially reduce and eventually eliminate illicit financial flows, through strengthened national regulation and increased international cooperation. We will also reduce opportunities for tax avoidance, consider anti-abuse clauses in new bilateral tax treaties, and increase transparency, including by ensuring that all payments to governments from large companies are fully transparent. We will make sure that a fair share of taxes is paid where economic activity occurs and value is created.

21. We welcome the Report of the High Level Panel on Illicit Financial Flows (IFFs) from Africa, and invite other regions to carry out similar exercises building on this initiative. We urge all governments to take into consideration the recommendations of the report. To help track illicit flows, we invite the United Nations, the IMF, the World Bank, in collaboration with regional organizations, to publish official estimates of their volume and breakdown. We will work to develop the capacity to track 'to whom, from whom' information on cross-border transactions, bearing in mind that the poorest and most vulnerable countries will need assistance. We ask the Financial Stability Board to work expeditiously with relevant institutions to implement the proposed global Legal Entity Identifier system.

22. Countries relying significantly on natural resource exports face particular challenges. We encourage investment in value addition and processing of natural resources. At the same time, we will address excessive tax incentives in extractive investments. We encourage countries to implement measures to ensure transparency such as the Extractive Industries Transparency Initiative Standard. We will continue to share best practices and promote peer learning and capacity building for forging successful state relationships with the extractive sector, including fair concession and royalty agreements.

23. We commit to more concerted international tax cooperation, based on the principles of non-discrimination and trust. We encourage countries, in accordance with their national capacities and circumstances, to work together to strengthen transparency and adopt appropriate policies, including: country-by-country reporting by multinational enterprises; public beneficial ownership registries; and automatic exchange of tax information, with assistance to developing countries, especially the poorest, as needed to upgrade their capacity to participate, taking into consideration the compliance costs for business. We agree to work through relevant fora to end harmful tax competition and call on competing countries to engage in voluntary discussions on tax incentives in regional and international fora. We call on all multinational companies to comply with national tax laws and regulations.

24. While we welcome ongoing efforts, including the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, we stress that efforts in international tax cooperation should be universal in approach and scope and should fully take into account the differentiated needs and capacities of all countries, in particular LDCs, LLDCs, SIDS and African countries. We commit to strengthen intergovernmental efforts to develop global norms on taxation, taking into account the work of the Organisation of Economic Cooperation and Development (OECD) for the Group of 20 on Base Erosion and Profit Shifting, and call for more inclusive deliberations to ensure that these efforts benefit all countries. We take note of the efforts of the International Monetary Fund (IMF), including on tax spillovers and capacity building. We recognize the need for technical assistance through multilateral, regional, bilateral and South-South cooperation, based on differentiated needs of countries. We support establishment or strengthening of regional networks of tax administrators.

25. We welcome the work of the United Nations Committee of Experts on International Cooperation in Tax Matters, including on double taxation treaties, transfer pricing, exchange of information, the taxation of extractive industries and capacity building. We decide to upgrade the Committee to an intergovernmental committee, to complement the work of other ongoing initiatives and further enhance the voice and participation of developing countries in norm setting for international tax cooperation.

26. We urge all States that have not yet done so to ratify or accede to the UN Convention against Corruption (UNCAC) and commit to making it an effective instrument to both deter corruption and recover and return stolen assets. We support the Stolen Asset Recovery Initiative of the United Nations and the World Bank, and encourage Parties to the UNCAC to actively and fully participate in the Mechanism for the review of implementation of the Convention, including on Chapter 5 ("Asset Recovery"), while preserving the intergovernmental, voluntary and impartial nature of the Mechanism. We commit to further increase transparency and accountability of the financial and banking systems. We will strengthen cooperation and national institutions to combat money laundering and financing of terrorism.

(...)