



# ILLICIT FINANCIAL FLOWS AND THE RIGHT TO DEVELOPMENT

## POLICY BRIEF FOR PRIVATE SECTOR

Analysed through the lens of the Declaration on the Right to Development, the 2030 Agenda and Sustainable Development Goals and the Addis Ababa Action Agenda, illicit financial flows must be addressed, prevented and controlled, to achieve domestic resource mobilization. Domestic resource mobilization in turn, is key to realizing the right to development and all other human rights, the Sustainable Development Goals, and Financing for Development. National and international policymakers in countries across all stages of development must take concrete steps to address the monumental effects of illicit financial flows on human rights, sustainable development and sustained peace. The Declaration on the Right to Development requires national and international development policies to create conditions favourable to development - an enabling environment for development, human rights as well as peace. The policy guidance which follows is grounded especially in the Right to Development and related human rights norms, standards and principles; SDG Target 16.4 wherein states pledge to significantly reduce illicit financial flows by 2030; SDG target 17.1 which entails strengthening domestic resource mobilization; SDG 10 which aims to reduce inequality within and between countries and SDG 5 aimed at advancing gender equality and women's rights.

While all countries are affected by illicit financial flows in an age of economic and financial globalization, outflows from developing countries are of particular consequence and entail disproportionate impacts given their resource-constrained settings and as a percentage of their public budgets; and longstanding systemic and structural inequalities and vulnerabilities including in the global trade and finance architecture which undermine equality of opportunity for development for all nations and peoples, as required by the Declaration on the Right to Development. The implementation of appropriate national and international policy measures to ensure development and eliminate obstacles to development in line with the Declaration on the Right to Development, mandates states to cooperate on the basis of their sovereign equality, interdependence and mutual interest. Such policy measures would significantly increase transparency in the global financial system, to prevent and regulate illicit financial flows and require the effective channels provided by national, regional and international tax cooperation.

Due to the inherently global and transnational nature of illicit financial flows, the institutional environment for international tax cooperation is of particular significance. In addition to the seminal principle of international cooperation (including shared global responsibilities and mutual accountability, as well as common but differentiated responsibilities), other principles of the Declaration on the Right to Development which apply both locally and globally, include the human rights principles of equality, non-discrimination, participation, accountability and transparency. Relevant Declaration on the Right to Development principles and elements in this context include social justice and equity; free, active and meaningful participation; fair distribution of the benefits of development and fair distribution of income; self-determination and permanent sovereignty over all natural wealth and resources; and equality of opportunity for development for all nations and individuals who make up nations.



# BANKS AND FINANCIAL INSTITUTIONS

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## RECOMMENDATION 1

Commercial banks and financial institutions have a major role in preventing and eliminating illicit financial flows. Robust regimes should be put in place for the supervision of banks and non-bank financial institutions by central banks and financial supervision agencies. Such regimes must require mandatory reporting of transactions that may involve activity regarding illicit financial flows. In particular, banks should know the true beneficial owner(s) of any account in their financial institution. Moreover, commercial banks, financial institutions and service providers, tax lawyers, and accountants should exercise due diligence with their clients by refusing to engage in commercial activities where tax evasion and avoidance are involved.

## COUNTRY-BY-COUNTRY REPORTING

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## RECOMMENDATION 2

Private sector actors should comply with regulations of the state they are domiciled within on the data required for the country-by-country reports, which require businesses to report annually and for each tax jurisdiction in which they do business. To this end, business enterprises should strive to publish the taxes they pay to every state in which they operate as part of their corporate social responsibility reporting. The private sector should endeavour to conduct Human Rights Impact Assessments, in which information and practices about commercial activities may be required. If redress is sought from the private sector actor, compliance and due diligence should be followed in line with the timelines established by the Human Rights Impact Assessments.

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