



**Mandate of the Independent Expert on the effects of foreign debt
and other related international financial obligations of States on the full enjoyment of all human rights,
particularly economic, social and cultural rights**

Concept note:

**Panel Discussion and Expert Session
“Illicit financial flows, human rights and the post 2015 development agenda”**

29 October 2015, New York, United Nations Secretariat Building

30 October 2015, Yale University, New Haven

Illicit financial flows generated from tax evasion and abusive tax avoidance, crime, corruption, embezzlement and represent a major drain on the resources of developing countries, reducing tax revenues, hindering development and the rule of law, exacerbating poverty and inequality, and undermining the enjoyment of human rights. According to some estimates, developing countries lost US\$ 991 billion in illicit financial outflows in 2012 and those flows increased in real terms at a rate of 9.4 per cent per annum over the period 2003–2012.¹ The annual loss is substantially more than the estimated yearly costs of achieving the Millennium Development Goals.

Already in December 2009 academic institutions and non-governmental organisations working in the field of human rights and financial transparency adopted the “New Haven Declaration on Human Rights and Financial Integrity” recognising that human rights and international financial integrity are intimately linked.² Since June 2011, the United Nations Human Rights Council has adopted several resolutions on “the negative impact of non-repatriation of funds of illicit origin on the enjoyment of human rights” voicing concern that the enjoyment of human rights is seriously undermined by corruption and the transfer of funds of illicit origin.³

The United Nations Sustainable Development Summit, held from 25-27 September 2015 in New York, adopted new international development goals for the period 2015-2030. The outcome document of the summit ([A/Res/69/315](#)) includes under goal 16 the target to reduce by 2030 significantly illicit financial flows and strengthen the recovery and return of stolen assets (see target 16.4).⁴ At the 3rd International Conference on Financing for Development, held from 13-16 July 2015 in Addis Ababa, States made as well the commitment to “redouble efforts to substantially reduce illicit financial flows by 2030, with a view to eventually eliminating them, including by combating tax evasion and corruption through strengthened national regulation and increased

¹ See Dev Kar and Joseph Spanjers “Illicit financial flows from developing countries: 2003–2012” (Global Financial Integrity, Washington, D.C., December 2014).

² Available at: www.yale.edu/macmillan/globaljustice/docs/NewHavenDeclaration.pdf

³ HRC resolutions 17/23 of 17 June 2011, 19/38 of 23 March 2012, 22/12 of 21 March 2013, 25/9 of 27 March 2014 and 28/5 of 26 March 2015.

⁴ Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

international cooperation.” ([A/CONF.227/L.1](#)). States also agreed to “strive to eliminate safe havens that create incentives for transfer abroad of stolen assets and illicit financial flows.” However there was no consensus on substantially strengthening the UN Committee of Experts on International Cooperation in Tax Matters to an intergovernmental body, as many G77 countries and China had requested.

While reducing significantly illicit financial flows will be included as a target in the post-2015 development agenda of the United Nations, it is unclear how this specific target will be operationalized, measured and progress achieving it tracked. It remains to a large extent unsettled what commitments and activities States of origin and of destination and international and private financial institutions will undertake to achieve a significant reduction of illicit financial flows or to strengthen asset recovery. Finally, as many different stakeholders have to work together to ensure progress in curbing illicit financial flows, there is a particular challenge around ensuring accountability for implementation of this target.

Background

In March 2014 the Human Rights Council requested the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (“the Independent Expert”) to undertake a study on illicit financial flows, human rights and the post-2015 development agenda and to present an interim study to the 28th session of the Human Rights Council and a final report to the 31st session in March 2016 (Human Rights Council resolution [25/9](#)).

The Human Rights Council welcomed in March 2015 the interim study presented by the Independent Expert ([A/HRC/28/60](#)) and adopted resolution [28/5](#) requesting him to “convene an experts’ meeting with the participation of States and other stakeholders, on the issue of the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, [and] to include the outcome of that meeting in a study that he will present to the Human Rights Council at its thirty-first session”.

Previous studies by United Nations human rights mechanisms on the topic include a report of the United Nations High Commissioner on Human Rights ([A/HRC/19/42](#)) and two reports of the predecessor of the current Independent Expert on foreign debt and human rights, Cephias Lumina ([A/HRC/22/42](#) and [A/HRC/25/52](#)). In 2013 the Special Rapporteur on human rights and extreme poverty, Magdalena Sepulveda, presented a report on taxation policies to the Human Rights Council addressing among other issues illicit financial flows ([A/HRC/26/28](#)).

Planned events

In this context, the Independent Expert will organize two events:

- **Thursday, 29 October 2015, Panel Discussion from 1:15 -2:45 PM, United Nations Secretariat Building, New York**

A lunch-time panel discussion on illicit financial flows and human rights will be convened by the Independent Expert in New York on the margins of the 70th session of the General Assembly. The side event will focus on curbing illicit financial flows in the context of the post-2015 development agenda of the United Nations and related initiatives.⁵ The New York event intends to facilitate participation of State delegates, representatives of international organisations and non-governmental organisations accredited at the United Nations, encouraging them to provide comments on the interim study of the Independent Expert ([A/HRC/28/60](#)).

- **Friday, 30 October 2015, Session at Yale University, New Haven**

From 30 October to 1 November 2015 a three-day conference will be organised by the Global Justice Programme at Yale University, New Haven, CT. Its first day will focus on illicit financial flows and a dedicated session on the final study of the Independent Expert on foreign debt will be organised in collaboration with his mandate. Participants taking part in the session will be encouraged to provide in advance written comments on the interim study and background paper of the Independent Expert.

Both events will take into account the outcome of the 3rd International Conference on Financing for Development and of the United Nations Sustainable Development Summit and analyse from a human rights perspective what States and other stakeholders should undertake to reduce significantly illicit financial outflows. They will look at opportunities for promoting human rights-based approaches and financial transparency in these contexts. The side event and conference intends also to strengthen collaboration and exchange of information between institutions and organisations working in the field of human rights, financial transparency, anti-corruption and development cooperation.

Participants whose travel is funded by OHCHR are expected to take part in the side event on Thursday 29 October in New York and attend the first day of the conference at Yale University in New Haven on 30 October 2015 devoted to illicit financial flows, if a different arrangement has not been agreed upon. Depending on the place of residence of the participants, a daily subsistence allowance for the period 28 or 29 October (day coming) to 31 October (day leaving) can be provided for participants that may not be able to take part at own costs.

Purpose and envisaged outcome

The main purpose of both events is to inform the final study of the Independent Expert on foreign debt on “Illicit financial flows, human rights and the post-2015 development agenda” as requested by Human Rights Council resolutions [25/9](#) and [28/5](#). Invited experts will have the following working documents at their disposal: (1) the interim study of the Independent Expert ([A/HRC/28/60](#)) and (2) a background paper proposing new elements to be considered for the final study, including a list of recommendations.

⁵ Sustainable Development Goals (in particular target 16.4), Addis Ababa Action Agenda, United Nations Tax Committee, United Nations Convention Against Corruption, UNECA-AU High Level Panel on illicit financial flows from Africa, initiatives within the Human Rights Council, etc.

Annex

I. Panel Discussion, Thursday 29 October, 1:15 -2:45 PM, New York, UN Secretariat Building (Room: TBC).

Tentative format

Lunch time panel potentially moderated by a State representative with participation of

- Member of the High-Level Panel of Illicit Financial Flows from Africa / UN Representative / Fellow SP mandate holder)
- Independent Expert on foreign debt and human rights, Juan Pablo Bohoslavsky
- Academic expert

- 2-3 participants attending the conference on illicit financial flows the following day could be invited to make short comments (3 minutes) from the floor before opening for comments by State delegates and other participants.

II. Conference at Yale University, New Haven, 30 October - 1 November (organised in collaboration with the Global Justice Programme at Yale University)

Tentative Agenda, order and content of programme to be confirmed

Friday, 30 October 2015 -- Illicit Financial Flows

8:30-9:00 Welcome Remarks

Introductory comments from Raymond Baker, Thomas Pogge, and Juan Pablo Bohoslavsky.

9:00-10:30 Global Tax Fairness

This session will bring together several of the authors of a forthcoming book on global tax fairness addressing 16 different reform proposals that are urgently needed to correct the fault lines in the international tax system as it exists today, and which deprive both developing and developed countries of critical tax resources.

10:30-10:45 Coffee Break

10:45-12:30 Amartya Sen Prize Contest Ceremony

This year's Amartya Sen Prize contest will honour two original essays on illicit financial flows discussing from a normative, empirical or practical perspective the intelligent use of incentives towards curtailing corporations' use of tax evasion and avoidance, abusive transfer pricing or other forms of illicit financial flows

12:30-13:30 Lunch Break

13:30-14:45 Illicit financial flows, human rights and the post-2015 agenda, Juan Pablo Bohoslavsky

This session will be dedicated to inform the final study of Independent Expert on foreign debt and human rights. The panel will discuss the impact of illicit financial flows and their non-repatriation on economic social and cultural rights, civil and political rights and the realization of the future SDGs. Based on the interim study opportunities for strengthening the human rights argumentation of the final report will be explored.

14:45-15:00 Coffe Break

15:00-17:00 Addis, Post-2015, and future efforts against Illicit Financial Flows, organised in collaboration with Global Financial Integrity

This session will discuss the way forward after the 3rd International Conference on Financing for Development and the High Level Summit on the SDGs, including potential recommendations the Independent Expert should consider for his final study.

17:00-17:15 Closing of Day One

Days two and three of the conference at Yale University will focus on poverty, climate change and health issues and will be organised by the Global Justice Programme at Yale in its own capacity.

A tentative agenda of these days is provided for information only.

Saturday, 31 October 2015 -- Poverty & Climate Change

- Measuring Poverty and Innovative Anti-Poverty Strategies
- Jeffrey Sachs on Achieving the SDGs
- The Oslo Principles: Legal Commentary on Existing Obligations Relating to Climate Change

Sunday, 1 November 2015 (half day) -- Health Impact Fund

- Changing Incentives for Medical Innovation: A Mini Health Impact Fund