

**Economic and Social Commission for Western Asia (ESCWA)**

Committee on Financing for Development in the States Members of the Economic  
and Social Commission for Western Asia

First session

Amman, 11-12 December 2019

Item 9 of the provisional agenda

**Arab road map on financing sustainable development  
and curbing illicit financial flows****Summary**

The present document provides insight into the scope and scale of illegal cross-border movements of money in the Arab region. It responds to the call of the Third International Conference on Financing for Development for regional organizations to publish estimates of the volume and composition of illicit financial flows (IFFs). According to estimates by the Economic and Social Commission for Western Asia (ESCWA), by 2015, losses from IFF outflows exceeded the combined aggregates of both official development assistance and foreign direct investments flowing into the Arab region.

The manipulation of commercial invoices is a key channel for leaking illicit financial flows. Illicit financial flows associated with trade-based money laundering pose severe structural, socioeconomic, governance and security complications for Arab economies. They constitute substantial leakages of domestic revenues that could otherwise have been harnessed to create fiscal space to sustainably finance development in the Arab region.

In this context, ESCWA has prepared a regional road map to combat IFFs, based on the outcomes of the high-level Conference on Financing Sustainable Development, which was discussed by the Committee under item 8 of the provisional agenda of its current session, and as prescribed by the Addis Ababa Action Agenda, with a view to their eventual elimination by 2030 as envisaged by Goal 16 of the 2030 Agenda for Sustainable Development.

The Committee on Financing for Development in States Members of the Economic and Social Commission for Western Asia is invited to discuss the proposed road map and advise on the way forward in this area.

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## Introduction

1. The Millennium Development Goals revealed that sustainable development required broad systemic responses to the enablers and disablers of growth and development. The 2030 Agenda for Sustainable Development therefore aims to tackle the factors that both advance and redress sustainable development. Political commitments have been made to advance the enablers of development financing while controlling its disablers. These two contrasting dimensions were set out in the Addis Ababa Action Agenda, adopted at the Third International Conference on Financing for Development held in Addis Ababa from 13 to 16 July 2015.
2. Four years after the adoption of the 2030 Agenda and the Action Agenda, discernible progress is being made across all their levels of implementation. However, there is growing concern that progress is not happening at the pace required to finance the 2030 Agenda or to achieve the Sustainable Development Goals (SDGs). The financing gap continues to rise unabated, with trillions of dollars needed for all kinds of quality investments. The cost of conflict and post-conflict reconstruction adds to the challenges and risks diverting attention away from the 2030 Agenda. A race to the bottom to spur growth and counter underinvestment in critical social infrastructure is not only fuelling beggar-thy-neighbour dispositions, but is also breeding harmful tax competition and fiscal incentives that erode the tax base and potential tax revenue. Moreover, resources mobilized domestically may fall short of achieving the SDGs if the informal sector remains unintegrated in the formal economy and insulated from the overall planning for and implementation of the 2030 Agenda.
3. Against this backdrop, the Secretary-General of the United Nations set out three broad objectives as part of a global strategy to finance the 2030 Agenda (2018-2021). The strategy recognizes the need to align global economic and financial policies with the 2030 Agenda. It also emphasizes the need for sustainable financing strategies, enhanced institutional governance, and international collaboration to raise domestic resource mobilization capacities. Moreover, it underscores illicit financial flows (IFFs) as a major disabler to financing sustainable development, highlights actions to combat money laundering and tax evasion, and stresses the need to adopt enhanced forms of compliance and international collaboration.
4. Today, IFFs account for substantial financing leakages in developing countries, with a severe impact on domestic resource mobilization efforts, weakening tax systems and leading to low levels of investment in critical social infrastructure. IFFs undermine the rule of law, cause trade imbalances and worsen macroeconomic conditions, facilitated in part by tax evasion and tax havens, base erosion and profit shifting practices, and trade-based money laundering. These actions deprive countries of resources that could have been harnessed to achieve the SDGs, and to improve their perception-based governance and corruption standings.
5. The Action Agenda calls for redoubling efforts to substantially reduce IFFs, with a view to eliminating them by 2030. Commitments to combat IFFs are also emphasized in SDG target 16.4. International institutions are therefore called upon to publish estimates of the volume and composition of IFFs. The growing literature on the volume of these flows illustrates the magnitude of damages being caused to developing countries and their financing for development capacity.
6. Consequently, member States requested the United Nations Economic and Social Commission for Western Asia (ESCWA) to conduct a study entitled “Illicit financial flows in the Arab region”.<sup>1</sup> The study found that on average Arab economies suffered \$60.3-\$77.5 billion per year in damages owing to illicit financial flows, associated with four conduits of trade misinvoicing. Since 2014, these flows have outstripped the combined official development assistance and foreign direct investment coming into the region. The African continent also witnesses around \$73 billion in annual net illicit financial outflows, whereas IFFs in Latin America and the Caribbean amounted to \$103 billion in 2013. The implications are dire and reveal that

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<sup>1</sup> [E/ESCWA/EDID/2018/TP.1](#).

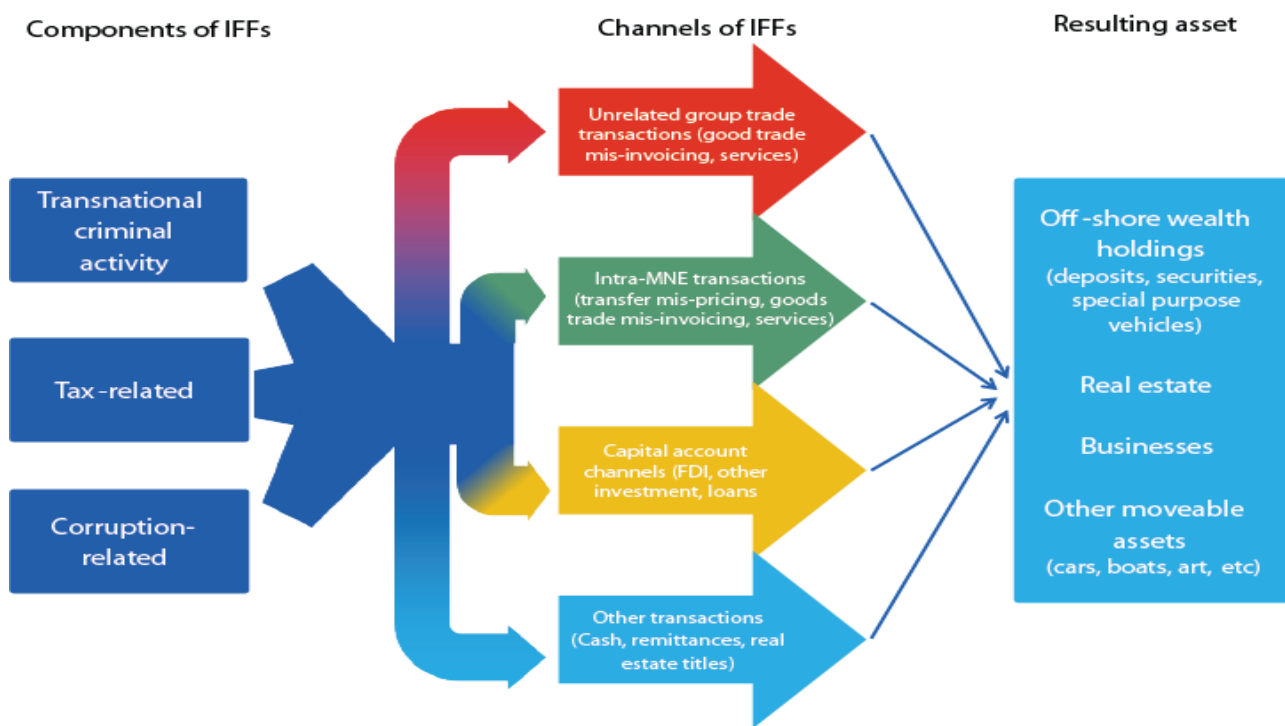
it is not possible to achieve the 2030 Agenda if no concerted action is taken to enhance domestic resource mobilization capacity by combatting IFFs.

### I. SCOPE

7. Over the past decade, IFFs have garnered greater attention in the international discourse on development financing. The Panama Papers constituted a defining moment for discussions on IFFs and the ecosystem that facilitates them in developed and developing countries. To date, however, there is neither a multilaterally agreed definition to assess IFFs,<sup>2</sup> nor agreement on a methodology to calculate its components (proceeds of crime, stolen assets, goods trade misinvoicing, transfer mispricing, undeclared offshore wealth, corruption, transnational crime, money laundering, etc.). Several modalities have been employed to estimate IFF components, but they do not reflect the full scope and scale of IFFs. Institutional stakeholders resort to various methodologies to scale the different elements that make up IFFs (figure).

8. The illicit nature of IFFs frustrates attempts to systematically capture their magnitude in both intra and inter-regional settings. Moreover, the IFF conduits and delivery channels are constantly evolving and outpacing detection. The factors influencing global interconnectivity in trade, finance, communications and transport are the same forces that allow IFFs to remain ahead of the curve, both in sophistication and use of technology.

**Schematic representation of illicit financial flows  
(by type, channel of delivery and asset displacement)**



Source: <https://developmentfinance.un.org/illicit-financial-flows>.

<sup>2</sup> There is emerging consensus that IFFs should include cross-border movement of illicit funds and assets undertaken in contravention to national laws and international conventions, including tax-related IFFs (tax evasion); trade-based IFFs and international trade fraud (including trade misinvoicing), criminal related IFFs activity (including money laundering, smuggling and trafficking in drugs, cultural objects, medicines, persons and natural resources), the financing of organized crime and terrorism, and corruption. There is disagreement, however, on whether tax avoidance, aggressive tax planning and optimization, treaty shopping, base erosion and transfer pricing should be considered under IFFs, as these flows often fall in a grey area between legality and illegality owing to differences in legal standards. Recently, the Economic Commission for Africa argued that aggressive tax planning and profit shifting practices should be considered as IFFs, whereas other institutions do not share that position. These asymmetries also exist between Governments and within countries.

9. In general, the various components of IFFs are considered non-comparable, given that the aggregation of delivery channels and components may lead to double-counting. However, by analysing regional idiosyncrasies and how they influence IFF delivery channels, some solutions can be tailored to identify regional measures and modalities to curb IFFs. This endeavour entails capturing the incidence of systemic factors (legal, fiscal, tax, cultural, security, political, governance, macro-economic) that continue to drive IFFs.

10. The proposed road map is based on a consensus that emerged at the ESCWA Conference on Financing Sustainable Development: Curbing Illicit Financial Flows (Beirut, 28-29 November 2018) between decision makers, practitioners, international experts, civil society and institutional stakeholders. It draws on the 41 presentations delivered by international and regional experts at the Conference, and builds on the findings of the ESCWA study on IFFs. It also aims to support the efforts of the Group of 77 and China, and those of Arab countries, by instigating international and regional cooperation within and between the League of Arab States and relevant Arab specialized agencies, funds and mechanisms, and by triggering the next phase of research and collaborative action to combat IFFs. Moreover, the road map strives to account for regional specificities and influence policy actions to address the multidimensional factors involved in combatting IFFs, and to account for asymmetric needs, capacities and disparities in development levels when combatting IFFs.

## II. ARAB REGIONAL ROAD MAP ON ILLICIT FINANCIAL FLOWS

### A. GENERAL CONSIDERATIONS

11. The present road map and some aspects of policy on illicit financial flows are highly technical, but the recommended actions are drafted for a non-specialist audience, and therefore some terms may be used in their non-technical sense.

12. The definition of IFFs employed in the present document is not meant to prejudge the outcome of multilateral negotiations, but rather to provide an operational premise that captures the following five main descriptive aspects of IFFs: funds with criminal origin, such as the proceeds of crime (including corruption); funds with a criminal destination, such as bribery, terrorist financing or conflict financing; funds associated with illicit tax evasion and tax avoidance; transfers to, by, or from entities subject to financial sanctions; and transfers that seek to evade anti-money laundering/counter-terrorist financing measures or other legal requirements (such as capital controls).

13. In the Arab region, regional insecurity remains a daily source of and incentive for IFFs and trade misinvoicing, be it a direct consequence of occupation, terrorism, corruption, transnational crime or militant activity. Tax revenues lost owing to IFFs also undermine the countries' ability to provide security and to invest in broader human development outcomes, so as to achieve the SDGs. Some of the action areas therefore go beyond commercial and financial considerations to touch on broader actions to curb IFFs.

14. A coherent approach to combat illicit financial flows should encompass measuring and tracking illicit funds, recognizing illicit financial techniques, assessing deficiencies in the legislative, enforcement and policy framework that allow them to take place, and measures that can be applied to fight them. Such a framework can therefore contribute to broader Arab development and structural transformation under all SDGs, rather than being limited to SDG 16.

15. The ESCWA study on illicit financial flows demonstrates that they pose a significant challenge for the Arab region. The study provides a set of policy measures to curtail IFFs. Each policy intervention can be applied at the country level, paving the way for concerted regional action in a manner that promotes the enforcement of global commitments on IFFs.

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**SDG targets related to illicit financial flows (16.4)**


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| SDG  | Summary of target                                    | Relevance to IFFs   |
|--|--|---|
| <b>Enablers and disablers</b>  |  |   |
| Factors which make an essential contribution to combating illicit financial flows, e.g. as a precondition for certain measures, or as structural factors which could undermine the effectiveness of anti-IFF measures.         |  |   |
| 10.5   | Regulation of financial markets                      | Some measures to counter IFFs rely on requiring preventive measures by financial institutions, supported by supervision.  |
| 16.3   | Rule of law  | An essential precondition for anti-IFF measures.  |
| 16.5   | Reduce corruption                                    | Corruption of key institutions can undermine anti-IFF measures.   |
| 16.6   | Sound institutions                                   | An essential precondition for anti-IFF measures.  |
| 16.9   | Identity documentation                               | Required for many anti-IFF measures.  |
| 16.10  | Public access to information                         | Transparency to relevant government authorities can discourage crime and enhance anti-IFF measures.   |
| 16.a   | Institutions to combat crime                         | An essential precondition for anti-IFF measures.  |
| <b>Potential trade-offs and policy conflicts</b>   |  |   |
| Areas where there is a risk that excessively strict, or poorly targeted anti-IFF measures could undermine the implementation of other SDG targets.   |  |   |
| 8.3  | SME development                                      | Longer company registration process, with additional information requirements.  |
| 8.10   | Access to financial services                         | Financial inclusion issues – e.g. with poor people who lack good identity documentation.  |
| 10.c   | Cheaper remittances                                  | De-risking means money remitters lack access to financial system–potential to drive remitters underground (with cost to recipients). Also the cost of compliance may make remittances more expensive. |
| 16.10  | Public access to information                         | Data protection rules, business secrecy, and censorship may conflict with measures to counter IFFs.   |
| <b>Key sources of illicit funds</b>  |  |   |
| SDG targets which relate to significant sources of IFFs. Laundering of illicit flows is an essential enabler for many of these activities, so restricting illicit flows is an effective way to combat the underlying activity. |  |   |
| 2.3  | Agricultural productivity/incomes                    | Drug production is a major source of illicit funds. Measures promoting agricultural productivity and rural incomes can reduce pressure on farmers to grow narcotics.                                  |
| 16.5   | Reduce corruption                                    | Corruption is a major source of illicit funds.  |
| 17.1   | Strengthen domestic resource mobilisation            | Tax evasion is a major source of illicit funds, which weakens the capacity of countries to fund own development through domestic resource mobilization.   |
| 3.a  | Tobacco control                                      | Illicit trade in tobacco products generates illicit funds.  |
| 5.2  | Violence against women                               | Human trafficking generates illicit funds.  |
| 10.5   | Regulation of financial markets                      | Poorly-supervised financial institutions are important facilitators of tax evasion and other sources of illicit funds.  |
| 10.7   | Safe migration                                       | Smuggling migrants generates illicit funds.   |
| 12.7   | Public procurement                                   | Public procurement, public works and construction, are at high risk of corruption, and major sources of funds.  |
| 12, 14, 15   | Sustainable use of oceans and terrestrial ecosystems | The exploitation of natural resources is a driver of corruption and source of illicit funds. This includes forestry and fisheries, as well as extractive industries.                                  |

16. Coordinated action to curb IFFs, notably those associated with trade misinvoicing, would be most effective in the context of the Arab Customs Union (ACU), which should be developed in a manner that propels the notion of Arab developmental regionalism as called for by a comprehensive regional integration framework advanced by ESCWA under the Arab Common Citizens Economic Security Space (ACCESS).<sup>3</sup> Arab countries acceding to ACU are encouraged to substantially reduce illicit financial flows, with a view to eventually eliminating them by 2030, including by combating tax evasion and trade tax avoidance, through strengthened national regulation and by scaling up international tax cooperation under the ACU common customs code, including the automatic exchange of tax information among tax authorities between ACU members or through supranational institutions.

17. Some elements of the proposed road map may have been implemented by countries; however they will remain of limited influence if they are not enforced and regularly monitored and evaluated at the national, regional and international levels. Hence, the Arab region and the present road map requires a built-in monitoring and evaluation framework, with clear intergovernmental structures to review actions taken to combat IFFs, and to suggest corrective actions and enhanced forms of collaboration to combat all forms of IFFs.

18. The scope and detail of global standards relevant to IFFs places significant constraints on countries' ability to make independent policy decisions. In principle, countries can choose not to become party to the conventions, standards, and initiatives related to IFFs. However, the costs of doing so can be high: non-participation could lead to a lack of reciprocal international cooperation, potential blacklisting, loss of access to international financial markets or IFI facilities, and sanctions.

19. Each action area can be implemented independently of the others, in varying forms and configurations depending on regional contexts and cross-sectional/country levels of development. Countries making progress in these action areas will be rewarded with greater domestic revenue mobilization, the ability to stop financial leakages and mobilize resources, and a better standing in perception-based corruption and governance rankings that remain critical to the advancement of the 2030 Agenda.

20. While considering the action areas, two aspects must be noted. Firstly, they should not be considered an all-or-nothing agenda. Secondly, multi-stakeholder involvement in implementing many of the actions could be of great benefit in elaborating a new social contract and advancing the State's role in fighting IFFs and trade-based money-laundering. Civil society organizations, academics, young people and other segments of society have a clear interest in curbing IFFs. Working with national and regional stakeholders, chambers of commerce, business associations, banking and non-financial institutions, among others, can enhance the effectiveness of government efforts, and build confidence with international investors and the development community at large, and among Arab citizens.

21. The following sections set out the action areas of the Arab road map on financing sustainable development and curbing illicit financial flows.

## B. NATIONAL AND REGIONAL IFF ECOSYSTEMS

*Action 1:* Articulate national IFFs strategies to help policymakers, operators and civil society organizations understand illicit financial flows and the measures that are in place to combat them. These strategies are of special importance as they would be part and parcel of Governments' efforts to develop a new 'SDG social contract and financing for development compact'. The strategies should build coordinated and coherent approaches to illicit financial flows, involving all relevant government departments and agencies. They should delineate the connections between policy issues to enable

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<sup>3</sup> ESCWA proposed an "Arab Common Citizens Economic Security Space" (ACCESS) in 2016 as its preferred choice for a comprehensive regional integration framework, and a basis for its 2030 Vision and future development outlook for the Arab region. ACCESS offers an integral multidisciplinary regional integration framework that is fully aligned and equipped to pursue the 2030 Agenda. For more information, refer to chapter 6 of Arab Development Outlook: Vision 2030.

Governments to take more coherent approaches and exploit synergies, especially at the regional and international levels through enhanced forms of international cooperation on IFFs. To be effective, national strategies must depend on robust evaluations of the scale of various IFF channels (and/or of the risk associated with each channel), to provide a baseline and annual assessments of progress.

- Action 2:* Establish national bodies (councils/commissions) supported by multi-agency units and regional bodies led by the League of Arab States to track and curb IFFs. Effective approaches to curtailing IFFs should be spread across three tiers, involving collaboration at the agency (operational), government (executive) and regional (intergovernmental) levels, to coordinate and develop policy. Governments should consider establishing supreme or national autonomous councils/commissions to combat IFFs and corruption, and complement efforts with a network of multi-agency units at the operational level.<sup>4</sup> Their mandate should avoid overlaps with other national entities involved in policymaking, legislative change, law enforcement and prosecution. Their mandate should include annual estimates of IFFs, if this is not robustly provided by an existing institution.
- Action 3:* For such councils and units to function effectively, countries should ensure that laws are in place allowing officials from different agencies to automatically share information, understand mutual requirements, and scrutinize in-country and regional data. Hence, the third tier of intervention (regional) would involve establishing a ministerial council within the League of Arab States or widening the mandate of a present council or the supreme coordination committee, and task it with combatting IFFs in all their dimensions, particularly to promote trade and curb trade-based money laundering.

#### C. ENFORCEMENT EFFORTS AND POWERS

- Action 4:* Adopt regional and national stand-alone laws prohibiting IFFs and trade misinvoicing, rather than settling for non-exhaustive or intermittent regulations. Trade misinvoicing is more than corruption. The manipulation of the price, value or quantity of goods on international invoices to avoid taxes, move money or evade capital controls affects the potential of achieving sustainable development. Misinvoicing represents the largest portion of measurable IFFs. Though it is a relatively simple technique, it is exceedingly difficult to identify.

The widespread customary use of misinvoicing makes enacting prohibitive laws essential, so as to put business persons on notice and to empower prosecutors to act rather than apply fines and penalties that may not be sufficient to discourage violations. Even when detected, the rate of prosecution and judgement of trade crimes may encourage launderers and smugglers to continue through proxies. It is vital that laws strengthen mechanisms to deter criminal activity and protect witnesses, experts, victims and whistle-blowers.

- Action 5:* Enhanced accountability in fighting IFFs. Countries party to the Arab Anti-Corruption Convention may consider broadening the scope of criminal offences covered under it (article 4), to capture IFF conduits associated with trade misinvoicing. Given the cross-border nature of transnational crimes, provisions on jurisdiction in the Convention may require review. Arab countries that are part of the Open Government Partnership (a multilateral initiative to secure commitments from Governments to promote transparency) should include in their national action plan commitments to carry out the actions identified in the ESCWA study on IFFs. Countries that are not yet members should consider actions to improve their eligibility scores.

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<sup>4</sup> These councils alongside multi-agency units may include officials from various ministries or departments who specialize in financial intelligence; banking supervision; trade; import and export administration; transfer pricing; income tax; national criminal investigations; national criminal prosecutions; and anti-corruption.



- Action 6:* Develop region-wide frameworks for enhanced engagement between anti-corruption bodies, including with the Arab Anti-Corruption and Integrity Network. Arab countries subscribing to action plans of the European Neighbourhood Policy may wish to consider broadening their scope to include combating trade-based IFFs, by strengthening cooperation between law enforcement agencies and promoting best practices, methods, data, standards and capacity-building partnerships. Enhanced cooperation could extend to the Financial Action Task Force to promote the exchange of information between customs, financial intelligence units (FIUs), anti-money laundering entities and financial institutions, thus enabling customs access to various data sources such as FIUs suspicious transaction reports.
- Action 7:* Establish specialized asset forfeiture and recovery units (as a form of criminal justice financial obligation). Such efforts deprive all criminal types of the proceeds of their crimes, providing a powerful disincentive from the outset. However, to be effective, efforts must be consistent and efficient. As they involve funds in other jurisdictions, asset recovery efforts require specialized knowledge of foreign legal systems and mutual legal assistance treaties. Establishing units specializing in asset forfeiture and recovery ensures all offenders face the loss of their criminal proceeds, and improves the odds that a country will recover the funds. It is also worth studying the possibility of reaching consensus on a region-wide arrest warrant for IFF crimes.

#### D. FINANCIAL TRANSPARENCY

- Action 8:* Support access to beneficial ownership information for competent authorities and disclosure of beneficial ownership information for all government procurement contract bidders and in political asset declarations. Countries should require beneficial ownership disclosures of all bidders for and recipients of government contracts to help prevent sham bidding, bidding by persons barred from government procurement for past actions, and other forms of corruption in bidding processes.
- Action 9:* Governments should also consider acceding to the plurilateral agreement on procurement of the World Trade Organization (WTO), which establishes rules requiring open, fair and transparent conditions of competition (bearing in mind these rules do not necessarily apply to all procurement activities). Governments may wish to consider expanding the scope of the Greater Arab Free Trade Area (GAFTA) to include government procurement provisions and establish relevant rules within the ACU common customs code.
- Action 10:* Conflicts of interest may not be readily identifiable in income and asset declarations of public officials, unless the beneficial owners of the entities are known. Adding such disclosure requirements in asset declarations can help identify where potential conflicts may arise in an individual's political work.
- Action 11:* Establish government/independent measurement mechanisms for extracted natural resources. Governments should independently determine or verify the volume of natural resources extracted by mining and oil companies, rather than rely on their reports. Governments may wish to make use of the United Nations Handbook on Selected Issues for Taxation of Extractive Industries by Developing Countries.<sup>5</sup> Without independent verification, it is impossible to determine if companies have paid the correct royalties under their contracts or abided by agreed export volumes.
- Action 12:* Require public country-by-country reporting by multinationals. Public country-by-country reporting helps focus transfer pricing investigations. By requiring companies to provide basic financial information for corporate groups, disaggregated by country, tax administrators are better able to identify the risk of potential abuse and jurisdictions of concern, aiding the establishment of more sensitive risk management frameworks within tax administrations. Foreign multinational

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<sup>5</sup> [https://www.un.org/esa/ffd/wp-content/uploads/2018/05/Extractives-Handbook\\_2017.pdf](https://www.un.org/esa/ffd/wp-content/uploads/2018/05/Extractives-Handbook_2017.pdf).

corporations operating within an Arab country should be required to provide country-by-country reports with their local tax returns, with information made publicly available. This would inevitably require broadening the scope of international and regional collaboration to create open databases that include agreed thresholds of multinationals' turnover. These dimensions ought to be considered whilst revising the Arab Common Investment Agreement.

#### E. TAX EVASION AND AVOIDANCE

*Action 13:* Accede to tax information sharing configurations, forums and networks. Several Arab countries<sup>6</sup> have signed the OECD-led Common Reporting Standard for the international exchange of information on bank accounts held abroad by citizens. Access to information is critical in identifying and pursuing cases of individual tax evasion; without the information provided by foreign countries, the home country has no way of knowing which citizens/companies hold taxable accounts abroad and must instead rely upon self-reporting. At the same time, many non-OECD members that are signatories to the Common Reporting Standard still do not receive information from other signatories. A united demand from signatory Arab countries could ensure greater cooperation from others. In addition, countries should commit to annual publication of aggregate, bilateral data (the total held by a country's tax residents in financial accounts in other countries; and the proportion of that total which is declared in residents' tax returns by country). This will provide citizens with important information on closing the gap of undeclared offshore assets.

*Action 14:* Establish transfer pricing units within tax authorities. Transfer pricing refers to the rules and methods for pricing transactions within and between enterprises under common ownership or control. Financial arrangements within corporate groups or among related entities are almost impossible to observe from the outside, and consequently are at high risk of manipulation. Transactions among these parties, referred to as transfer pricing, warrant special attention. Tax authorities in many countries can adjust intragroup transfer prices that differ from what would have been charged by unrelated enterprises dealing at arm's length (this also applies to neutralizing the effects of hybrid mismatching financial arrangements and the limitation of deductible interest for the purpose of avoiding double non-taxation). Given the complexity of arrangements and transactions, it has been found that forming units with trained officials to monitor transaction yields provide the most consistent and effective results for tax administrations - tax havens and multinational profit-shifting practices tend to erode public revenues.

Artificial arrangements used by permanent establishments or transnational corporations, and/or financial centres hosting them, which circumvent taxation systems, remain central to the IFF agenda. Abusive tax practices should be considered part of IFFs, and there are several synergies that can be exploited by addressing base erosion and profit shifting (BEPS) and other IFFs together, including improving customs administration and tax policy administration. There may be economies of scale if efforts are coordinated through a single process. Currently, there is no such mechanism at the global level. Lastly, treating BEPS as separate to other IFFs perpetuates the view that BEPS are not illicit, reducing political pressure on those responsible for them.

*Action 15:* Adapt international tax rules to minimize revenue losses in the region. The OECD has embarked on potentially radical reforms, which will go beyond the widely criticized 'arm's length' principle for transfer pricing, and may instead apportion profit between countries according to the location of real economic activity (a formula reflecting the location of multinationals' employment and final sales). Countries may wish to join the Group of 24 and other non-OECD countries in advocating a formulary approach that ensures a fairer international distribution of taxing rights. They may also wish to introduce a formulary alternative minimum tax, in advance of any progress at the OECD, to limit losses owing to profit shifting under the current flawed system. Lastly, countries may wish

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<sup>6</sup> Bahrain, Kuwait, Lebanon, Qatar, Saudi Arabia and the United Arab Emirates.

to engage with efforts to establish a United Nations forum for a transparent and globally representative setting of international tax rules in the future.

#### F. FINANCIAL CRIME

*Action 16:* Mandate rigorous customer due diligence and programmes for reporting suspicious activity within banks. The Financial Action Task Force has set the bar for customer due diligence and suspicious transactions, reporting on them in its 2012 recommendations document on international standards (recommendations 10 and 20).<sup>7</sup>

*Action 17:* Empower or create strong and effective financial intelligence units. FIUs are bodies that collect and coordinate intelligence on financial crimes that result in IFFs. Creating financial intelligence units where none exist and giving them power to collate information from different arms of Government (possibly in a lead role in a multi-agency IFF unit, see action 1) is critical to organizing and putting counter-IFF measures into operation. Acceding to the international Egmont Group of Financial Intelligence Units (13 Arab countries are already members) can facilitate cooperation between financial intelligence units in different countries.

#### G. REGIONAL TRADE AGREEMENTS AND A CUSTOMS UNION

*Action 18:* The significant implications of IFFs and trade misinvoicing can have on regional trade agreements and on pursuing deeper forms of regional integration are among the main findings of ESCWA study on IFFs. Should current trends continue, several countries initially subscribing to the establishment of ACU are likely to pursue membership of other customs or trade agreements, creating legal and operational uncertainties that may exacerbate trade misinvoicing in the region, or at the very least erode the lines between intentional illicit misinvoicing and unintentional misdeclaration of goods and services. If this is added to the probability of continued misinvoicing within and outside preferential trade arrangements, any potential benefits of the union or other deep form of regional integration would be eroded.

*Action 19:* There is an urgent need to attend to IFFs and trade misinvoicing in ongoing negotiations on the establishment of ACU. Revenue collection and clearance mechanisms within customs unions may be influenced (and distorted) by leakages associated with trade misinvoicing and trade-based money laundering. This, along with other considerations involving skewed or biased setting of a customs union's common external tariffs, trans-shipment, re-exports from free zones, and asymmetries in derogations and variations in the real effective rate of protection provided for by the common external tariff, create frictions causing the viability of a customs union to be compromised.

#### H. TRADE WITH ILLEGAL ENTITIES AND SETTLEMENTS

*Action 20:* The United Nations is developing a database of companies doing business with illegal Israeli settlements in the occupied Palestinian territory, in defiance of international law. A broader database was operated to administer the Arab boycott on Israel. Although the United Nations database is considered a normative moral and legal framework, its operation or influence on curbing IFFs and trade misinvoicing in Israeli settlements remains ambiguous.

*Action 21:* Within the ambit of institutional coherence between the United Nations and WTO, a similar approach be taken within WTO by issuing a ministerial declaration to combat IFFs and trade misinvoicing, particularly in a situation where the cause, source and direction is known. In 2014, ESCWA proposed that a prohibition be maintained, along the lines of European Union guidelines,

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<sup>7</sup> <http://www.fatf-gafi.org/media/fatf/documents/FATF%20Standards%20-%2040%20Recommendations%20rc.pdf>.

on the circulation and/or importation of Israeli settlement products from the occupied Palestinian territory and the Golan Heights, especially if they were not accompanied by verifiable proofs of origin. In tandem, products originating in Israeli settlements need to be labelled as products from the State of Palestine, in line with the Oslo Accords and the 1994 Paris Protocol.

*Action 22:* Other preferential trade arrangements may be invoked to counter IFFs, including the EU-Israel Association Agreement and the action plan of the European Neighbourhood and Partnership Instrument. In addition, a number of United Nations Security Council and General Assembly resolutions must be operationalized, as they introduce measures/elements to counter illicit financial flows, in particular by establishing targeted financial sanctions, including General Assembly resolution [66/225](#) that affirms the right of the Palestinian people and of the population of the occupied Golan Heights over their natural resources, demanding Israel to cease exploitation, damage, loss or depletion, and endangerment of those natural resources, and recognizes the right of the Palestinian people to claim restitution as a result of Israeli violations of their rights.

#### I. SUSTAINABLE DEVELOPMENT CONSIDERATIONS IN THE MULTILATERAL TRADE RULE BOOK

*Action 23:* Sustainable development is not prioritized in the WTO rule book. It is dealt with obliquely and does not appear to pose a binding legal rule. It is captured as a broad principle in the Marrakech Agreement establishing the WTO.<sup>8</sup> The WTO agreements themselves are not a concrete legal premise to invoke sustainable development considerations or curb illicit trade,<sup>9</sup> which continues to distort multilateral, international and regional trading systems, and tends to erode preferential and non-preferential trade arrangements. Efforts to address this multitiered problem are partial and insufficient and remain outside the sphere of the WTO negotiating agenda.

*Action 24:* Contraband and trade-based money-laundering require a comprehensive review of multilateral regulations. At WTO, illicit trade should be explicitly addressed; its scope and concept require a workable multilateral definition beyond the measures covered by the General Agreement on Tariffs and Trade (article XX on security exceptions), which have not always been successful in curbing such trade. Measures by countries to combat illicit trade have proved unsuccessful, considered as impeding trade liberalization and violating existing WTO-obligations and norms.

*Action 25:* WTO members are calling to end the Doha Development Round, but this should only be pursued within a reinvigorated mandate to embed sustainable development considerations in the WTO-rule book in favour of developed and least developed countries, and to safeguard that developing countries secure a share of the growth in international trade commensurate with their sustainable development needs, as prescribed by the Marrakesh Agreement that established the multilateral trading system, including by operationalizing, strengthening, and re-asserting special and differential treatment.

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<sup>8</sup> [https://www.wto.org/english/thewto\\_e/coher\\_e/mdg\\_e/summing\\_up\\_e.htm](https://www.wto.org/english/thewto_e/coher_e/mdg_e/summing_up_e.htm).

<sup>9</sup> Francesco Sindico. Unraveling the trade and environment debate through sustainable development law principles. Available at [http://www.esil-sedi.eu/sites/default/files/Sindico\\_0.PDF](http://www.esil-sedi.eu/sites/default/files/Sindico_0.PDF).