

# Combatting Tax Crimes More Effectively in APEC Economies



Asia-Pacific  
Economic Cooperation





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## Background

Tax crimes, corruption, terrorist financing, money laundering, and other financial crimes threaten the strategic, political, and economic interests of all countries. The sums lost to illicit financial flows (IFFs), including those that derive from these crimes are vast. For example, a 2011 UNODC report estimates that from 2000 to 2009, total proceeds from transnational organised crime was the equivalent of 1.5% of global GDP, or USD 870bn in 2009.<sup>1</sup> These illegal activities and ensuing lost revenues complicate efforts to reach the Sustainable Development Goals (SDGs) and meet the objectives of the 2015 Cebu Action Plan<sup>2</sup> such as good governance, sound fiscal policies, and infrastructure financing. These crimes are all closely related and thrive in a climate of secrecy, inadequate legal frameworks, lax regulation, poor enforcement, and weak inter-agency co-operation. By exploiting these weaknesses and advances in technology, criminals can covertly move substantial sums between multiple jurisdictions with relative ease and great speed. Consequently, criminal activity and the illicit financial flows that follow are becoming ever more sophisticated. Meanwhile, law enforcement structures have, in many cases, not evolved at the same speed and the international community has struggled to keep up with this threat.

In recognition of the importance of this topic, APEC Finance Ministers included in their Cebu Action Plan a roadmap for a more sustainable financial future for the Asia-Pacific region. Specifically, Action item 2.E calls on APEC Economies to:

*“build capacity to address financial crimes, which threatens everyone’s economic and social well-being. Illicit financial activities such as tax evasion, corruption, terrorist financing, computer fraud, money laundering and other financial crimes are a global problem requiring coordinated responses within governments and between APEC Economies.”*

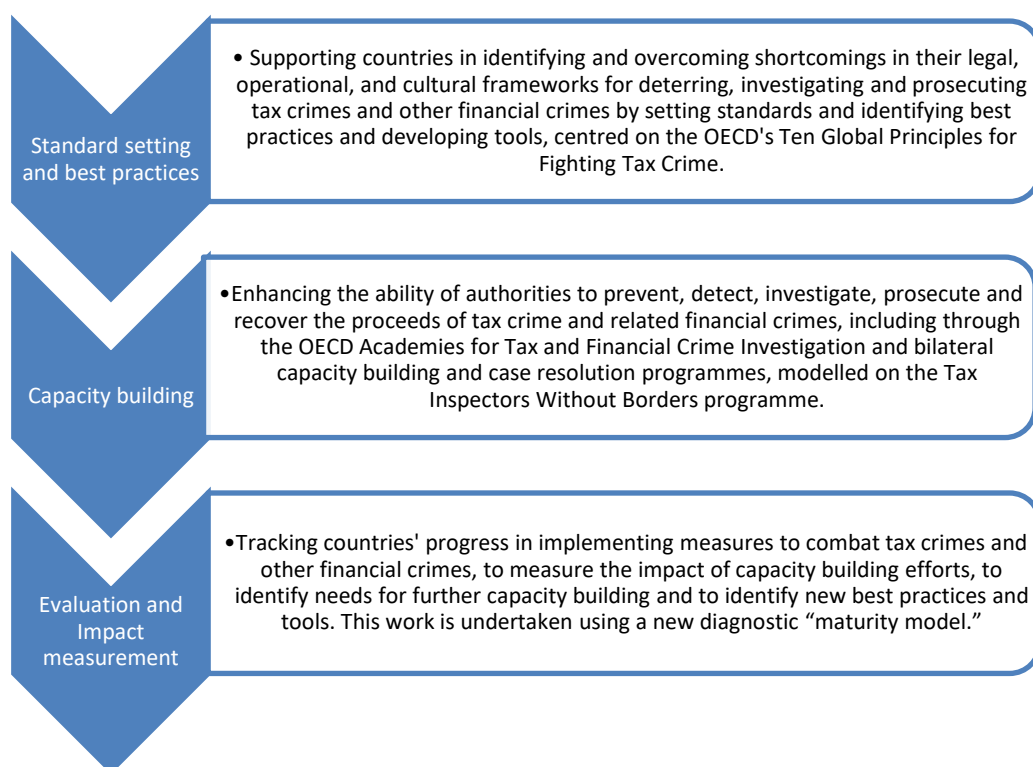
The Cebu Action Plan also called for the OECD to prepare, within two to four years, “a report exploring ways to strengthen capacity in tackling tax crimes and other related crimes in APEC Economies.” This report responds to that mandate by bringing together the legal instruments, policy tools, and capacity building initiatives available to enhance the fight against tax crimes, drawing on examples and successful practices in APEC Economies.



## The OECD Oslo Dialogue: A whole of government approach to combatting tax crimes and other financial crimes

The OECD brings together country experts, law enforcement officials, and policy makers in the field of tax crimes and financial crimes through its Task Force on Tax Crimes and Other Crimes (TFTC). The TFTC draws on the expertise of a wide range of countries, including many APEC Economies, to develop international best practices with respect to the legal, institutional and operational frameworks required to fight effectively against tax crimes and other financial crimes.

The TFTC's work centres on the "Oslo Dialogue", a policy initiative launched in 2013 to promote a whole-of-government approach to fighting tax crimes and other financial crimes. Its work focusses on three key pillars: (i) standard setting and best practices; (ii) capacity building; and (iii) evaluation and impact measurement.





## Standard setting and best practices

The OECD's standards and best practices on combatting tax crime focus on the following:

- Ten Global Principles for Fighting Tax Crime
- Enhancing domestic-inter-agency co-operation to combat tax crime
- Exchange of information between tax authorities and enhancing international co-operation to combat tax crime
- Prohibiting tax deductions for bribe payments

Together, these standards equip countries to identify and implement the international best practices in the area of combatting tax crimes and other financial crimes.

**Table 1. APEC Economies participating in OECD standard setting and best practices work on tax crimes**

Australia	Canada	Chile
Indonesia	Japan	Korea
Malaysia	Mexico	New Zealand
People's Republic of China	Peru	Philippines
Russian Federation	Singapore	Thailand
United States	Viet Nam	

### Ten global principles for fighting tax crime

The OECD's *Ten Global Principles for Fighting Tax Crime*<sup>3</sup> set out the ten essential legal, institutional, and operational mechanisms necessary to effectively combat tax crimes and other financial crimes. That is - the ten globally applicable core requirements countries need to have in place to effectively tackle tax crimes. It includes experiences and practices from 31 countries, including nine APEC Economies.<sup>4</sup>

The OECD is now working on a second edition of the Ten Global Principles guide (for publication in 2020) which will include inputs from a broader range of APEC Economies and, for the first time, individual chapters assessing jurisdictions' implementation of the ten principles. This will serve as a global reference document for how countries are tackling tax crimes, and will be a live document, updated over time to reflect new developments.

#### OECD's Ten Global Principles for Fighting Tax Crime

1. *Ensure Tax Offences Are Criminalised*
2. *Devise An Effective Strategy For Addressing Tax Crimes*
3. *Have Adequate Investigative Powers*
4. *Have Effective Powers To Freeze, Seize And Confiscate Assets*
5. *Put In Place An Organisational Structure With Defined Responsibilities*
6. *Provide Adequate Resources For Tax Crime Investigation*
7. *Make Tax Crimes A Predicate Offence For Money Laundering*
8. *Have An Effective Framework For Inter-Agency Co-Operation*
9. *Ensure International Co-Operation Mechanisms Are Available*
10. *Protect Suspects' Rights*

**All APEC Economies are invited to contribute to this global reference report.** Expanding the work of the TFTC to capture more APEC Economies will not only increase the usefulness of this report by providing a wider range of experiences, but also benefit individual authorities by:

- Supporting benchmarking of their legal, institutional, and operational frameworks for combatting tax crimes by identifying shortcomings and measures to overcome these;
- Ensuring technical assistance needs are met by identifying specific areas for multilateral and bilateral capacity building interventions (e.g. through the OECD Tax Crime Academy and Tax Inspector Without Borders - Criminal Investigation (TIWB-CI)) programmes (see Part 4 below);
- Tracking progress in the implementation of measures to help the fight against tax crime and other financial crimes from year to year by using individual assessments as a basis for inputs into the forthcoming OECD Tax Crime Maturity Model (see Part 5 below).

### Enhancing domestic-inter-agency co-operation to combat tax crime

The intrinsic links between tax crimes and other financial crimes are well documented. The nature of financial crimes such as tax evasion, money laundering, bribery, and other forms of corruption means that the same activity may violate several laws. For example, criminals may fail to report income derived from corrupt activities for tax purposes, or over-report in an attempt to launder the proceeds of corruption. A World Bank study of 25,000 firms in 57 countries found that firms that pay more bribes also evade more taxes.<sup>5</sup> More broadly, where corruption is prevalent in society, this can foster tax evasion. A recent World Bank Group Enterprise Survey found that 13.3% of businesses globally report that “firms are expected to give gifts in meetings with tax officials”, with the frequency of this ranging across countries from nil to 62.6%.<sup>6</sup>

This means that an agency-by-agency approach is not sufficient. Financial crimes will often cross multiple agencies’ mandates, and governments must therefore adopt integrated models for co-operation. For example, tax authorities hold a wealth of personal and company information such as income, assets, financial transactions, and banking information, that can be a valuable source of intelligence to anti-corruption investigators. Similarly, anti-corruption authorities can provide tax administrations with important information about ongoing and completed corruption investigations that could assist a decision to reopen a tax assessment, initiate a tax crime investigation, or more generally promote integrity among tax officials.

Tax authorities, customs, police, prosecutors, anti-money laundering authorities, and regulators are all key allies in the fight against corruption and other financial crimes and each authority must ensure that their individual priorities align with a broader common goal towards combating financial crime through collective efforts.

Recognising these important links, in 2009<sup>7</sup> and 2010<sup>8</sup>, the OECD issued two Council Recommendations calling for greater co-operation and better information sharing between different government agencies involved in combating financial crimes. These are supported by the *Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors*<sup>9</sup> and the recently published *Money Laundering and Terrorist Financing Awareness Handbook for Tax Examiners and Tax Auditors*.<sup>10</sup> Both Handbooks provide practical guidance to help tax officials identify indicators of possible criminal activity in the course of their work and report these to the appropriate law enforcement authority.

In addition to these tools, two key reference documents underpin the TFTC's work on domestic-interagency co-operation. *Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes*<sup>11</sup>, now in its third edition, is a global reference guide on the implementation of a whole of government approach to fighting financial crime. It is the first comprehensive analysis as to the law and practice for domestic-inter-agency co-operation in fighting financial crime between authorities working in tax, customs, anti-corruption, anti-money laundering, as well as police, prosecutors, and regulators. It maps the practices in 51 countries, including 11 APEC Economies.<sup>12</sup>

Building on the policy recommendations contained in the Rome Report, in 2018, the OECD and World Bank published a joint report on *Improving Co-operation between Tax Authorities and Anti-Corruption Authorities in Combating Tax Crime and Corruption*<sup>13</sup> which analyses the ability of tax and anti-corruption authorities to co-operate and share information in 67 jurisdictions.<sup>14</sup> This targeted report sets out specific actions that jurisdictions should take to enhance their fight against tax evasion and corruption. The report is strengthened, in particular, by the inclusion of successful practices and lessons learned in 13 APEC Economies.<sup>15</sup>

### **Box 1. Examples of successful domestic inter-agency co-operation in APEC Economies**

#### **Joint inter-agency enforcement: Malaysia**

The Malaysian National Revenue Recovery Enforcement Team (NRRET), led by the Attorney General Chambers, works to combat tax crimes and other financial crimes. NRRET members include the Inland Revenue Board of Malaysia, Company Commission Malaysia, Central Bank of Malaysia, Malaysian Anti-Corruption Commission, and Royal Customs Department. NRRET's role is to improve co-operation among law enforcement authorities to ensure a holistic approach on development, good governance, and anti-corruption, as well as to assist authorities in combating financial crimes, and in particular tax evasion and money laundering. NRRET also monitors the sharing of information and the planning of joint operations between authorities.

#### **Multi-agency task force: Australia**

The Serious Financial Crime Taskforce (SFCT) is a multi-agency taskforce targeting serious financial crime in Australia. The SFCT's objective is to maintain integrity and community confidence in the tax and superannuation systems. The SFCT aims to align the priorities and resources of Commonwealth law enforcement and regulatory agencies to target the highest risk priorities, through an intelligence-led approach. The significant return on investment comes from the agencies' ability to work together over the longer term to deploy deterrent and preventative strategies and share information. Agencies also make use of their combined capabilities to remove wealth from criminal offenders and prosecute facilitators and promoters of illegal fraud based serious financial crime.

Members of the SFCT include Australian Federal Police, Australian Taxation Office, Australian Criminal Intelligence Commission, Australian Transaction Reports and Analysis Centre, Australian Securities and Investments Commission, Attorney-General's Department, Australian Border Force, Department of Home Affairs, and Commonwealth Director of Public Prosecutions.

The SFCT commenced on 1 July 2015 and is progressing 23 criminal, civil, and intelligence matters, and has finalised 17 joint operations. The following is a snapshot of results to 31 December 2018:

- 137 search warrants executed
- 1043 audits and reviews completed
- 8 people received custodial sentences
- AUD 738 million in tax liabilities raised
- AUD 288 million recouped

**Enhancing co-operation between tax authorities and financial intelligence authorities:  
Korea**

In Korea, in July 2013, the Financial Transaction Report Act was revised to enable the tax administration to gain wider access to Financial Intelligence Unit (FIU) information. Previously, the FIU disseminated intelligence to the tax administration only where it was required for conducting tax criminal investigations. Under the revised law, the FIU can also disseminate information for the purposes of selecting and conducting tax audits and collecting tax debts. To control the privacy of information, an “Information Analysis Review Committee” was introduced to monitor FIU’s disseminations to law enforcement agencies. A requirement was also introduced that, whenever the FIU refers a Currency Transaction Report to a law enforcement agency, the person filing the report must be notified. In most cases, this notification must take place within ten days of the Currency Transaction Report being referred to law enforcement, though in certain circumstances this notification may be suspended for a period.

Both reports showed that the vast majority of countries, including the majority of APEC Economies surveyed, have a legal basis for co-operation between tax authorities and other financial crime authorities. However, most jurisdictions place restrictions on the extent to which they can report and share information with each other and anecdotal evidence suggests that in most jurisdictions, actual levels of co-operation remain low. Even jurisdictions with well-developed legal frameworks and successful case outcomes report that inter-agency co-operation occurs on an ad-hoc basis rather than systematically. This in turn affects jurisdictions’ ability to provide and make use of mutual legal assistance in transnational matters.

These findings are supported by the OECD’s 2018 report on the *Detection of Foreign Bribery*,<sup>16</sup> which reveals that only 2% of concluded foreign bribery cases between 1999 and 2017 were detected by tax authorities. This is despite the fact that 95% of countries surveyed for the recent World Bank/OECD report either require or permit the tax authority to report suspicions of corruption. While this figure is not representative of all corruption offences, the access that tax administrations have to detailed financial information suggests significant scope remains for improvement in how tax administrations identify, capture, and report suspicions of corruption that arise during the course their work.

The OECD's work on enhancing inter-agency co-operation proposes steps that economies could take to improve their ability to combat tax crimes and other financial crimes:

- develop robust and clearly defined institutional frameworks for co-operation;
- establish a solid legal basis for reporting and information sharing between tax authorities and anti-corruption authorities;
- adopt a cross-agency approach to policy development;
- institute streamlined and efficient procedures and training for making and receiving reports and seeking and providing information related to suspicions of tax crime and corruption;
- make available a range of enhanced co-operation mechanisms, such as joint operations and taskforces, parallel investigations, staff secondments, co-ordination fora, and joint intelligence centres;
- take measures to develop a culture of co-operation.

### Enhancing international co-operation to combat tax crime

In a borderless world, criminals will have an advantage over law enforcement by quickly moving beyond national borders, unless jurisdictions work together to level the playing field. Individual jurisdictions cannot combat financial crimes alone and need mechanisms for effective international co-operation in cross-border cases. International co-operation can take a number of forms including exchange of information and information sharing, service of documents, obtaining evidence, facilitating the taking of testimony from witnesses, transferring persons for questioning, executing freezing and seizing orders, and joint investigations. For such co-operation to take place, there should be a legal agreement setting out the terms and procedural requirements. The OECD has published a catalogue of the main legal agreements available for international co-operation.<sup>17</sup> This includes global instruments such as the United Nations Convention Against Corruption (UNCAC)<sup>18</sup> and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC)<sup>19</sup>. APEC Economies can also utilise relevant regional instruments, such as the Inter-American Convention on Mutual Assistance in Criminal Matters<sup>20</sup>, the Inter-American Convention against Corruption<sup>21</sup>, and the ASEAN Treaty on Mutual Legal Assistance in Criminal Matters.<sup>22</sup>

#### **Box 2. Effective international co-operation in APEC Economies: FIFA corruption scandal**

The Federation Internationale de Football Association (FIFA) corruption investigation is an example of successful domestic and international co-operation between tax authorities and other financial crime authorities. What started as an investigation for failure to file tax returns, turned into a joint investigation by the United States' Internal Revenue Service, Department of Justice, and Federal Bureau of Investigation. Their co-ordinated effort revealed a 24-year long scheme in which high-ranking FIFA officials and corporate executives received bribes and kickbacks from all over the world in exchange for votes to determine the world cup hosts and lucrative contracts for media and marketing rights to international soccer tournaments. Federal prosecutors have pursued charges against a range of U.S and non-U.S citizens, including leading South-American football officials. Both the investigation (including tracing of assets) and prosecutions were made possible due to the strong international cooperation between the United States and foreign jurisdictions, including efforts to co-ordinate respective investigations, share intelligence, and execute search and arrest warrants.



<i>APEC Economies participating in the MAC</i>	<i>APEC Economies that are Parties to the UNCAC</i>
Australia, Canada, Chile, People's Republic of China, Hong Kong (China), Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Peru, the Philippines, Russian Federation, Singapore and the United States	Australia, Brunei Darussalam, Canada, Chile, People's Republic of China, Hong Kong (China), Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, the Philippines, Russian Federation, Singapore, Thailand, the United States, and Viet Nam.

### Spotlight on exchange of information in tax matters

In tax matters, special mention must be made of the MAC, which is the most comprehensive multilateral instrument available for all forms of tax co-operation and tackling tax evasion and avoidance. To date, 129 jurisdictions, including over three-quarters of APEC Economies, have ratified the Convention, making it a powerful tool in the fight against tax crime in the Asia-Pacific region and beyond. The Convention provides for all possible forms of administrative co-operation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion. This co-operation allows exchange of information in a range of forms, and the recovery of foreign tax claims and assistance with service of documents. Importantly, jurisdictions can also use this Convention to prevent and investigate related financial crimes, such as corruption and money laundering, by allowing tax authorities to on-share information received from an international counterpart with domestic law enforcement authorities, provided the laws of both Parties allow such sharing and both Parties agree.

The power of international co-operation in tax matters is enhanced through the [Global Forum on Transparency and Exchange of Information for Tax Purposes](#). Working with more than 150 Member countries, including almost all APEC Economies, the Global Forum ensures the effectiveness of international exchange of information through its robust peer review process.

The peer reviews cover the implementation of the exchange of information on request standard, which requires tax authorities to provide, on the request of their international counterparts, any “foreseeably relevant information” (e.g. beneficial ownership information) for the administration or enforcement of the domestic tax laws. In addition, work is ongoing to ensure the effective implementation of the standard for Automatic Exchange of Financial Account Information (AEOI), which requires financial institutions to report annually on financial account information of non-residents to their tax authorities, who in turn exchange this information with the tax authorities of the account holder’s country of residence. Taking these standards together, countries are able to identify financial assets held abroad, which may be the proceeds of tax evasion and tax crime, and are able to work together to identify the owners of such assets.

<i>APEC Economies Reviewed as Compliant or Largely Compliant by the Global Forum for Exchange of Information on Request</i>	<i>APEC Economies undertaking Automatic Exchange of Information on Financial Accounts<sup>23</sup></i>
Australia, Brunei Darussalam, Canada, Chile, People's Republic of China, Hong Kong (China), Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, the Philippines, Russian Federation, Singapore and the United States	Australia, Brunei Darussalam, Canada, Chile, People's Republic of China, Hong Kong (China), Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Russian Federation, Singapore, and the United States <sup>24</sup>

### Prohibiting tax deductions for bribe payments

Both the UNCAC and the OECD 2009 Council Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions are explicit that jurisdictions should prohibit tax deductions for bribe payments. Moreover, the joint OECD and World Bank report on Improving Co-operation between Tax Authorities and Anti-Corruption Authorities in Combating Tax Crime and Corruption calls on tax authorities to review the tax affairs of persons sanctioned for corruption to ensure that the financial benefits derived from corruption are stripped from offenders. This promotes the integrity of the tax system and is also a cost effective measure, as the person in question has already been found to have committed an offence and questions should be asked as to whether their historical tax assessments are accurate in light of that finding.

While the majority of countries, including almost all APEC Economies included in the 2018 joint OECD/World Bank study on improving co-operation between tax and anti-corruption authorities (noted above) do not prevent the tax administration from examining the tax affairs of persons convicted of corruption, most countries appear to lack the operational frameworks to ensure that this occurs in practice. The report therefore recommends that, in addition to prohibiting tax deductions for bribes, jurisdictions should consider establishing a simple operational mechanism whereby the relevant anti-corruption or prosecution authority routinely refers corruption cases that result in conviction to the tax authority for reassessment.

## Capacity building initiatives

While IFFs are a global concern, they are particularly damaging to developing countries, which struggle to mobilise domestic resources to finance their own development in a sustainable manner. Combatting IFFs requires serious efforts to crack down on financial crimes like tax evasion and corruption that undermine economies' domestic resource mobilisation and act as an impediment to the United Nations' Sustainable Development Goals (SDG). In particular, SDG 16.4, which aims to "significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime."<sup>25</sup> Helping governments to tackle this issue more effectively will not only bolster domestic resource mobilisation but will also help build trust and confidence in the fairness of the tax system and in government as a whole.

Therefore, the second pillar of the OECD Oslo Dialogue focuses on ensuring that developing countries have the tools they need to implement the above outlined international standards and best practices.

The OECD offers multilateral capacity building through its International Academy for Tax Crime Investigation ("the Academy"); and is now expanding that by offering bespoke bilateral technical assistance through its new Tax Inspectors Without Borders (Criminal Investigation) programme ("TIWB-CI"). More details on each of these programmes is set out below. In addition, since 2017, the OECD has collaborated in the framework of the Finance Ministers' Process with successive APEC Host Year Economies to offer workshops to Economies on current challenges and opportunities in international tax co-operation.

### OECD International Academy for Tax Crime Investigation

The Academy is central to the OECD's capacity building efforts with respect to the enforcement of tax crimes. The OECD launched its first Academy in 2013, hosted by Italy's *Guardia di Finanza*, to enhance the ability of law enforcement authorities to detect and investigate tax crimes and other financial crimes and to recover the proceeds of those crimes.

Since its inception, there has been a steady increase in the demand for participation in the Academy, and a corresponding rise in political support for such capacity building efforts, including in the G20 and G7.<sup>26</sup> As of June 2019, the Academy has trained over 700 officials from over 90 countries with demand from participants far outpacing the number of spaces available in each course. As such, the OECD has in recent years moved to expand the Academy programme, by establishing three regional Academy Centres which can better respond to the specific training needs of countries in different parts of the world. This includes a pilot Africa programme, launched in Nairobi, Kenya, in 2017; the *OECD Latin-America Academy for Tax and Financial Crime Investigation* established in Buenos Aires, Argentina, in 2018, and the *OECD Asia-Pacific Academy for Tax and Financial Crime Investigation* officially launched in Tokyo, Japan (with the support of Japan's National Tax Agency) in June 2019. Similar to the other regional Academy centres, the Asia-Pacific Academy will evolve to provide demand-driven training addressing the specific needs of countries in Asia-Pacific and building on regional experiences and best practices in tackling illicit financial flows.

The overarching objective of the Academy is to support countries, in particular developing countries, in their efforts to combat tax crimes and other financial crimes, thus stemming IFFs, increasing domestic resource mobilisation, and building greater trust and confidence in the fairness of the tax system and the government as a whole. It implements these objectives by:

- Developing the capacity of tax and financial crime investigators, through training on the key skills and techniques required to effectively prevent, detect, investigate, prosecute, and recover the proceeds of financial crimes;
- Raising jurisdictions' awareness of the ways in which financial crimes like corruption and money laundering erode trust in governments, business, and markets and undermine the rule of law;
- Enhancing jurisdictions' understanding of the importance of developing whole-of-government approaches to combatting financial crime that support effective domestic inter-agency co-operation;
- Leveraging participation in Academy programmes to connect different agencies and jurisdictions involved in the fight against cross-border financial crimes, at the domestic, regional, and international level;
- Providing support and capacity building for participating jurisdictions to translate international best practices into their domestic laws and operations;
- Integrating feedback from developing countries on domestic and regional priorities into the Academy curriculum and the OECD's ongoing standard setting work (including the second edition of the Ten Global Principles Guide).

APEC Economies are already actively involved in the Academy programme, with over 80 participants from nine APEC Economies having participated in a training course to date. APEC Economies are also valued supporters of the initiative, with Australia, Canada, New Zealand, the Philippines, and the United States providing in-kind support through the provision of expert trainers to teach the classes.

**Table 2. APEC Economies Participating in the OECD International Academy for Tax Crime Investigation**

Australia	Canada	Chile
Hong Kong (China)	Indonesia	Japan
Korea	Malaysia	Mexico
Papua New Guinea	People's Republic of China	Peru
Philippines	Singapore	

With the recent launch of the Asia-Pacific Academy, the programme is now more accessible than ever to officials from APEC Economies. More information about the Academy, including the schedules for upcoming courses and how to apply can be found at: [www.oecd.org/ctp/crime/tax-crime-academy.htm](http://www.oecd.org/ctp/crime/tax-crime-academy.htm). Economies interested in providing support for the initiative are encouraged to contact the OECD Secretariat at [OECD.TaxandCrime@oecd.org](mailto:OECD.TaxandCrime@oecd.org).



*In June 2019, OECD Secretary-General Angel Gurría, Japan's Minister of Finance Taro Aso and Commissioner of Japan's National Tax Agency Takeshi Fujii joined in a signing ceremony to establish a new centre of the OECD International Academy for Tax Crime Investigation in Wako, Japan.*

### **Tax Inspectors Without Borders Programme – Criminal Investigation**

Recognising that innovative approaches are required to face the challenges posed by IFFs, the OECD is currently piloting a Tax Inspectors Without Borders – Criminal Investigation (TIWB-CI) programme that will provide developing countries with real-time in-country assistance in tax and other financial crime investigations. This pilot builds on the success of the existing joint OECD/UNDP TIWB initiative which enhances developing countries' *civil* tax audit capacity.<sup>27</sup>

Under the new TIWB-CI initiative, an international team of experts, including OECD staff and financial crime investigators from partner administrations, will be deployed to a developing country host administration to work directly with local tax and other government officials on complex investigations involving tax crimes and related financial crimes. The programme had its first pilot in Namibia in June 2018, with four additional pilot projects underway with Colombia, Pakistan, Armenia, and Uganda.

Where the Academy programme provides fundamental training and skills of general application in a multinational setting, the TIWB-CI pilot is a bespoke initiative, aimed at addressing the specific investigative needs of individual jurisdictions by:

- **Supporting case resolution:** Criminal investigations experts will work in real-time with local tax and other government officials involved in financial crime investigations both in-country and via video-conference, phone, and email to provide advice and guidance to expedite the resolution of complex tax crime cases. Specific information on persons involved in such cases will be anonymised to maintain the integrity of the investigation process.



- **Enhancing investigative capability:** The programme will facilitate the transfer of technical knowledge and skills from the team of international experts to local investigators.
- **Addressing systemic challenges:** In addition to case specific assistance, the OECD will use this programme to identify other, more systemic issues, that may need to be addressed within the government (e.g. insufficient investigative tools, inadequate training and development, legislative shortcomings, challenges related to use of EOI instruments, etc.).
- **Enhancing the “whole-of-government” approach:** All in-country assistance will have a strong emphasis on the implementation of the Oslo Dialogue’s “whole-of-government approach” to combatting financial crime. Existing standards set out in the Rome Report and joint OECD/World Bank report will be used to benchmark agencies’ ability to collaborate in the enforcement of tax crime.
- **Providing a global assessment of enforcement capabilities:** All participating countries will complete the OECD’s new “maturity model” to assess their overall capacity to combat financial crime against international best practice, and identify areas for improvement.
- **Increasing participation of developing countries in OECD standard-setting work:** The OECD will leverage participation in the TIWB-CI programme to increase the participation of developing countries in the OECD’s ongoing standard setting work (including the second edition of the Ten Global Principles guide).
- **Collaborating with other international agencies:** During the pilot, the OECD Secretariat will identify other programmes currently under implementation through various international agencies and regional bodies for countering tax evasion, to avoid duplication and ensure a unified approach.

APEC Economies interested in participating in this programme – either as a donor or a recipient are invited to contact: [OECD.TaxandCrime@oecd.org](mailto:OECD.TaxandCrime@oecd.org).

### Capacity building on exchange of information

More than a half of the existing Global Forum members, and practically all new members, are developing countries. This creates a constant demand for technical assistance in implementing, and benefiting from, the international standards on exchange of information. This work is funded by voluntary contributions, including contributions from APEC Economies Australia and Japan.

The Global Forum conducts a range of capacity building and technical assistance efforts, focussed on:

- **Skills support activities,** which build the skills of member jurisdictions focussing on the needs of one jurisdiction at a time, often in connection with their upcoming peer review.
- **Peer-to-peer learning** between member jurisdictions, which takes the form of regional training seminars and competent authority meetings, focussing on issues such as awareness, auditor sensitisation, building exchange of information systems and procedures and training assessors for conducting peer reviews.
- **Development of tools,** which support members’ implementation of the international standards, such as practical guidelines, work manuals, and tracking systems. For example, to help governments implement the Global Forum’s standards on ensuring

that law enforcement officials have access to reliable information on who the ultimate beneficial owners are behind a company or other legal entity, the Global Forum – in partnership with the Inter-American Development Bank – recently released A Beneficial Ownership Toolkit.<sup>28</sup>

In addition, as more and more developing countries implement the exchange of information standards, technical assistance in this area is expanding. To date, more than 50 developing countries receive tailored support as part of a structured induction programme, workshops and seminars and through ad hoc assistance offered on request. For example, technical assistance has been provided to APEC Economies, namely China, Indonesia, Papua New Guinea, Peru, Thailand and Viet Nam.

These efforts assist a range of developing countries in their use of the critical tool of international exchange of information to combat tax evasion at home, and in ensuring countries around the globe can effectively co-operate in combatting tax evasion and financial crimes wherever they take place.



## Evaluation and impact measurement

The third pillar of the OECD Oslo Dialogue focusses on evaluating the stage of countries' implementation of international best practices and measuring the impact that the OECD's work on standard setting and capacity building has on developing countries. This is key to ensuring that OECD standard setting and capacity-building initiatives like the Academy and TIWB-CI programme are effective in practice.

The OECD is therefore in the process of developing an easy-to-use diagnostic impact assessment tool based on the OECD's Ten Global Principles for Fighting Crime. This "maturity model" will break down the fundamental elements needed under each principle to effectively combat tax crimes and other financial crimes and assess countries' maturity across different evolutionary stages.

The maturity model aims to:

- Provide countries with an easy-to-use tool to assess their level of maturity across a range of investigative capabilities based on the Ten Global Principles for Fighting Tax Crime;
- Identify areas where the target country could benefit from bilateral technical assistance from development partners (either through TIWB-CI or other programmes);
- Identify cross-cutting international and/or regional priorities for inclusion in the Academy curriculum;
- Identify potential areas for future OECD policy and standard setting work;
- Assist in tracking countries' progress across each measure over time with the goal of measuring the impact that OECD policy and capacity building initiatives on developing countries' capacity to combat tax crime and other financial crimes.

Any APEC Economies interested in trialling the model are invited to contact: [OECD.TaxandCrime@oecd.org](mailto:OECD.TaxandCrime@oecd.org).





## Call to action: Practical measures to enhance the capacity of APEC Economies to combat tax crime

With annual revenue losses from tax evasion and corruption estimated to be in the billions, all Economies need to strengthen their efforts to combat tax evasion and related financial crimes. While this document is by no means a comprehensive list of the tools available to assist APEC Economies in their fight against tax crime, the above-outlined initiatives do provide a starting point for any jurisdiction looking to benchmark and strengthen its legal, institutional, operational, and cultural frameworks for combatting tax evasion and related financial crimes.

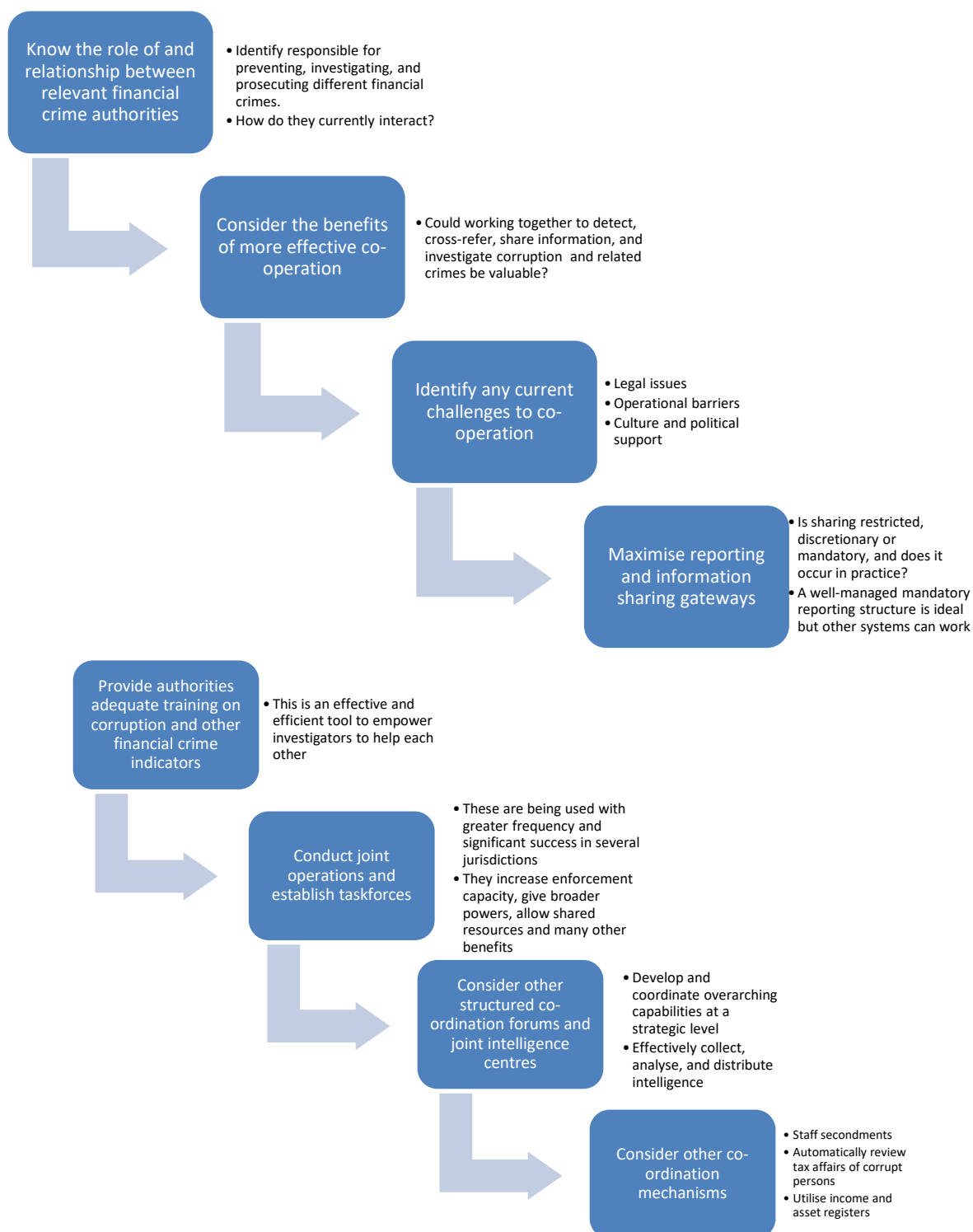
Political leadership is key to strengthening efforts in this regard, making co-operation a priority, focusing the attention of the law enforcement community, and overcoming barriers. The following list illustrates some of the steps governments can take to advance this agenda:

- **Champion change:** identify and empower a government champion to advance domestic inter-agency co-operation and international co-operation in the fight against financial crime.
- **Convene stakeholders:** bring criminal tax investigation units, anti-corruption agencies, police, prosecutors, financial intelligence units, and other relevant stakeholders together to identify steps to improve co-operation.
- **Build political support and engagement:** create sufficient understanding across government, the private sector, and civil society, of the benefits of co-operation in the fight against tax crime to ensure it is viewed as necessary and beneficial.
- **Sponsor legislative changes:** sponsor a review of the current legal framework for prohibiting tax deductions for bribes, and domestic and international co-operation and pursue amendments where constraints are identified.
- **Finance interagency co-operation:** provide a dedicated training budget to ensure that law enforcement officials are equipped to detect and report financial crimes that fall outside their agencies' mandate; and co-operate with the relevant authorities in pursuing cases of mutual interest (e.g. through parallel investigations, joint operations etc.).
- **Where needed, request development assistance:** request that development partners assist financially or technically in developing the institutional framework and capacity needed to pursue co-operation in multi-agency and cross-jurisdictional cases.
- **Hold agencies accountable for results:** maintain a continuous engagement with law enforcement agencies and hold them accountable for taking practical and meaningful steps to improve co-operation.
- **Commit publicly:** make specific and time bound public commitments to galvanize collective action in the fight against illicit financial flows.
- **Strengthen international efforts:** participate and shape the international response to tax crimes and other financial crimes, including by participating in the OECD's work and

capacity building efforts, as well as relevant work of other international bodies including the United Nations and the Financial Action Task Force (FATF).

- Strengthen regional efforts: support regional efforts to combat tax crime and other financial crimes, including by engaging with the policy and capacity building efforts of relevant regional bodies such as the Organisation of American States, Association of Southeast Asian Nations, FATF-Style Regional Bodies, and of course APEC and strengthening regional relationships between law enforcement agencies.

## Annex A. Key steps to implementing a whole-of-government approach to combatting tax crime and related financial crime





## Annex B. OECD resources for combatting tax crimes

1. OECD (2019), Money Laundering and Terrorist Financing Awareness Handbook for Tax Examiners and Tax Auditors, OECD, Paris, France, <https://www.oecd.org/tax/crime/money-laundering-and-terrorist-financing-awareness-handbook-for-tax-examiners-and-tax-auditors.pdf>
2. OECD/World Bank (2018), Improving Co-operation between Tax Authorities and Anti-Corruption Authorities in Combating Tax Crime and Corruption, OECD and The World Bank, Paris, France, <http://www.oecd.org/tax/crime/improving-co-operation-between-tax-authorities-and-anti-corruption-authorities-in-combating-tax-crime-and-corruption.pdf>
3. OECD (2017), Model Tax Convention on Income and on Capital, OECD, Paris, France, [https://read.oecd-ilibrary.org/taxation/model-tax-convention-on-income-and-on-capital-condensed-version-2017\\_mtc\\_cond-2017-en#page1](https://read.oecd-ilibrary.org/taxation/model-tax-convention-on-income-and-on-capital-condensed-version-2017_mtc_cond-2017-en#page1)
4. OECD (2017), Effective Inter-Agency Co-Operation in Fighting Tax Crimes and Other Financial Crimes, OECD, Paris, France, <https://www.oecd.org/tax/crime/effective-inter-agency-co-operation-in-fighting-tax-crimes-and-other-financial-crimes-third-edition.pdf>
5. OECD (2017), The Detection of Foreign Bribery, OECD, Paris, France, [www.oecd.org/corruption/anti-bribery/The-Detection-of-Foreign-Bribery-ENG.pdf](http://www.oecd.org/corruption/anti-bribery/The-Detection-of-Foreign-Bribery-ENG.pdf)
6. OECD (2013), Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors, OECD, Paris, France, [https://read.oecd-ilibrary.org/taxation/bribery-and-corruption-awareness-handbook-for-tax-examiners-and-tax-auditors\\_9789264205376-en#page1](https://read.oecd-ilibrary.org/taxation/bribery-and-corruption-awareness-handbook-for-tax-examiners-and-tax-auditors_9789264205376-en#page1)
7. OECD (2012), International Co-operation against Tax Crimes and Other Financial Crimes: A Catalogue of the Main Instruments, OECD, Paris, France, [www.oecd.org/ctp/exchange-of-tax-information/international-co-operation-against-tax-crimes-and-other-financial-crimes-a-catalogue-of-the-main-instruments.pdf](http://www.oecd.org/ctp/exchange-of-tax-information/international-co-operation-against-tax-crimes-and-other-financial-crimes-a-catalogue-of-the-main-instruments.pdf)
8. OECD (2010), OECD Council Recommendation to Facilitate Co-operation between Tax Authorities and Other Law Enforcement Authorities to Combat Serious Crimes, OECD, Paris, France, <https://legalinstruments.oecd.org/public/doc/266/266.en.pdf>
9. OECD (2009), OECD Council Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions, OECD, Paris, France, [www.oecd.org/corruption/anti-bribery/OECD-Anti-Bribery-Recommendation-ENG.pdf](http://www.oecd.org/corruption/anti-bribery/OECD-Anti-Bribery-Recommendation-ENG.pdf)
10. ABD/OECD (2009), Independent Review of the ADB/OECD Initiative Final report, [www.oecd.org/site/adboecdanti\\_corruptioninitiative/meetingsandconferences/44084819.pdf](http://www.oecd.org/site/adboecdanti_corruptioninitiative/meetingsandconferences/44084819.pdf)
11. OECD (1988, amended by the 2010 Protocol), Convention on Mutual Administrative Assistance in Tax Matters, OECD, Paris, France, [https://read.oecd-ilibrary.org/taxation/the-multilateral-convention-on-mutual-administrative-assistance-in-tax-matters\\_9789264115606-en#page1](https://read.oecd-ilibrary.org/taxation/the-multilateral-convention-on-mutual-administrative-assistance-in-tax-matters_9789264115606-en#page1)



## Notes

- <sup>1</sup> United Nations Office on Drugs and Crime, *Estimating Illicit Financial Flows from Drug Trafficking and Other Transnational Organised Crimes* (October 2011).
- <sup>2</sup> Annex A - APEC Finance Ministers' Process (FMP) Roadmap/Cebu Action Plan; available online here: [www.apec.org/Press/News-Releases/2015/0911\\_FM.aspx](http://www.apec.org/Press/News-Releases/2015/0911_FM.aspx).
- <sup>3</sup> OECD (2017), *Fighting Tax Crime: The Ten Global Principles*, OECD Publishing, Paris. [www.oecd.org/tax/crime/fighting-tax-crime-the-ten-global-principles.htm](http://www.oecd.org/tax/crime/fighting-tax-crime-the-ten-global-principles.htm).
- <sup>4</sup> Australia, Canada, Chile, Indonesia, Japan, Malaysia, New Zealand, Singapore, and the United States.
- <sup>5</sup> World Bank Policy Research Working Paper 5389, Demircuc-Kunt, A., Ayyagari, M., & Maksimovic, V., 2010, *Are innovating firms victims or perpetrators? Tax evasion, bribe payments, and the role of external finance in developing countries*, available at <https://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-5389>.
- <sup>6</sup> World Bank Group, *Enterprise Surveys*, available at [www.enterprisesurveys.org/data/exploretopics/corruption](http://www.enterprisesurveys.org/data/exploretopics/corruption), based on data 2007 – 2019.
- <sup>7</sup> OECD Council Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions, 25 May 2009, [C\(2009\)64](#).
- <sup>8</sup> OECD Council Recommendation to Facilitate Co-operation between Tax Authorities and Other Law Enforcement Authorities to Combat Serious Crimes, 14 October 2010, [C\(2010\)119](#).
- <sup>9</sup> OECD (2013), *Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264205376-en>.
- <sup>10</sup> OECD (2019), *Money Laundering and Terrorist Financing Awareness Handbook for Tax Examiners and Tax Auditors*, OECD, Paris, [www.oecd.org/tax/crime/money-laundering-and-terrorist-financing-awareness-handbook-for-tax-examiners-and-tax-auditors.pdf](http://www.oecd.org/tax/crime/money-laundering-and-terrorist-financing-awareness-handbook-for-tax-examiners-and-tax-auditors.pdf).
- <sup>11</sup> OECD (2017), *Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes - Third Edition*, OECD Publishing, Paris, <http://www.oecd.org/tax/crime/effective-inter-agency-co-operation-in-fighting-tax-crimes-and-other-financial-crimes.htm>.
- <sup>12</sup> Australia, Canada, Chile, Japan, Korea, Malaysia, Mexico, New Zealand, Peru, Singapore, and United States of America.
- <sup>13</sup> *Improving Co-operation between Tax Authorities and Anti-Corruption Authorities in Combating Tax Crime and Corruption*, Paris: Organisation for Economic Co-operation and Development, and The World Bank; 2018. Licence: CC BY-NC-SA 3.0 IGO, <https://www.oecd.org/tax/crime/improving-co-operation-between-tax-authorities-and-anti-corruption-authorities-in-combating-tax-crime-and-corruption.htm>.
- <sup>14</sup> [www.oecd.org/tax/crime/improving-co-operation-between-tax-authorities-and-anti-corruption-authorities-in-combating-tax-crime-and-corruption.htm](http://www.oecd.org/tax/crime/improving-co-operation-between-tax-authorities-and-anti-corruption-authorities-in-combating-tax-crime-and-corruption.htm).



<sup>15</sup> Australia, Canada, Chile, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, and the United States.

<sup>16</sup> OECD (2017), *The detection of foreign bribery*, OECD, 2017, OECD Publishing, available at [www.oecd.org/corruption/the-detection-of-foreign-bribery.htm](http://www.oecd.org/corruption/the-detection-of-foreign-bribery.htm).

<sup>17</sup> OECD (2012), *International Co-operation against Tax Crimes And Other Financial Crimes; A Catalogue of the Main Instruments*, OECD Publication, available at [www.oecd.org/ctp/crime/international-co-operation-against-tax-crimes-and-other-financial-crimes-a-catalogue-of-the-main-instruments.htm](http://www.oecd.org/ctp/crime/international-co-operation-against-tax-crimes-and-other-financial-crimes-a-catalogue-of-the-main-instruments.htm).

<sup>18</sup> [www.unodc.org/unodc/en/treaties/CAC/](http://www.unodc.org/unodc/en/treaties/CAC/).

<sup>19</sup> OECD and Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing. <http://dx.doi.org/10.1787/9789264115606-en>.

<sup>20</sup> <http://www.oas.org/juridico/english/sigs/Convenco.html>.

<sup>21</sup> <http://www.oas.org/juridico/english/sigs/Convenco.html>.

<sup>22</sup> <http://agreement.asean.org/media/download/20160901074559.pdf>.

<sup>23</sup> Other APEC Economies, which are members of the Global Forum, are working towards undertaking AEOI, but developing countries were not asked to do so by a specific timeline. This includes Peru (which intends to conduct exchanges by 2020), Papua New Guinea, the Philippines, and Thailand.

<sup>24</sup> The United States has undertaken automatic information exchanges pursuant to FATCA from 2015 and entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.

<sup>25</sup> <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>.

<sup>26</sup> See G7 finance ministers and central bank governors' 2017 Bari Declaration on Fighting Tax Crimes and Other IFFs. Available at: <http://www.g7italy.it/sites/default/files/documents/Bari%20Common%20Declaration%20On%20Fighting%20Tax%20Crimes.pdf>.

<sup>27</sup> More information on the existing TIWB Programmes can be found at: [www.tiwb.org](http://www.tiwb.org).

<sup>28</sup> [www.oecd.org/tax/transparency/beneficial-ownership-toolkit.pdf](http://www.oecd.org/tax/transparency/beneficial-ownership-toolkit.pdf).

# Combatting Tax Crimes More Effectively in APEC Economies

Tax evasion and related financial crime threaten the strategic, political, and economic interests of all countries. Recognising the threat that such illicit financial flows pose to the Asia-Pacific region, APEC Finance Ministers developed the Cebu Action Plan, a road map for a more sustainable financial future, calling on all APEC Economies to build their capacity to address financial crimes. To support these efforts, the OECD has developed this report which describes the range of OECD legal instruments, policy tools, and capacity building initiatives available to enhance the fight against tax crime in the Asia-Pacific region, drawing on examples and successful practices in APEC Economies.

