Challenges and Opportunities for the G8 Tackling Illicit Finance at Lough Erne

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Since 1989, the Group of Eight has played a leading role in global efforts to prevent and detect illicit finance. The G8 has done so by setting the international agenda, achieving consensus amongst its members and re-focusing the world's attention as new threats emerge. Since money laundering first gained the leader's attention in 1989, the G8 has developed and worked with mechanisms of global governance, such as the Financial Action Task Force (FATF), to develop international standards to tackle drug trafficking, terrorist financing, proliferation finance, corruption, trade in blood diamonds, and tax crimes. This year's G8 summit at Lough Erne will look to build on illicit finance initiatives through the three Ts agenda set by British prime minister David Cameron: trade, tax and transparency.

This article provides a high level overview of what the G8 will look to achieve at this year's summit, key challenges in implementing G8 initiatives in this policy space and provides recommendations on how G8 initiatives can be further developed in the area of illicit finance.

The United Kingdom government has indicated that it will use the G8 presidency to spur international action on tax evasion. It has invited countries from offshore tax jurisdictions to engage in a pre-summit conference to develop common approaches that will look to benefit both developed and developing countries. Prime Minister Cameron has indicated that the G8 will work to ensure that anti-money laundering and counter-terrorist financing regimes are effective in both G8 and high-growth countries. The G8 will also look to improve transparency of company ownership and promote disclosure of financial accounts by corporations. With regards to supporting developing countries, the G8 will explore what can be done to collect tax and other revenues owed to them through asset tracing and asset recovery initiatives.

Challenges

Although the G8 has made progress in stemming illicit finance, it faces many challenges in pushing forward initiatives. Effectively, while leaders might agree to high-level principles at G8 Summits, the devil is in the detail. In the area of tax evasion, consensus exists on the need to fight tax evasion and share tax information. However, data protection rules continue to act as a barrier to sharing information and a complex web of bilateral and multilateral tax information exchange agreements (TIEAs) have mushroomed to address this. Between 2000 and 2009, 194 b-lateral tax agreements were signed based on the Organisation for Economic Co-operation and Development (OECD) model. Today, 41 intergovernmental agreements are being negotiated to meet the US's Foreign Account Tax Compliance Act (FATCA) to prevent tax abuses by US persons or entities with a US nexus and 7 have been signed. In the area of asset tracing and recovery, exchange of information can be particularly challenging where mutual legal agreements (MLAs) are not in place or, as in the case of the Arab Spring, where the previous administrators of the MLAs are no longer in power. Negotiating legal instrument takes time and technical expertise, and capacity remains a key concern. This further highlights the challenges of moving forward a global agenda in the face of inadequate governance or supervisory structures.

Poor governance is often cited as barrier to the full implementation of financial transparency initiatives such as the Extractive Industries Transparency Initiative (EITI), where of the 20 African countries that have signed up, only 12 are now compliant, five have been suspended and three are not yet compliant because their governments do not have the structures in place to properly gather financial data. In the area of anti-money laundering (AML), a recent study carried out by the OECD concluded that there are "significant weaknesses" in the domestic AML regimes of OECD member countries (of which all G8 countries hold membership bar Russia). With regards to supervision and enforcement, there is a great variation in the manner, style and level of supervision and enforcement across G8 countries. For example, in the US, both state and federal regulators have enforcement powers and in the UK separate regulators exist for financial institutions (FIs) and different types of non-financial businesses and professions (NFBPs). In the US, the largest fine issued for serious systemic AML failures was against HSBC, which agreed to settle for $1.9 billion in 2012 and in the UK, the largest AML-related fine was issued against the RBS group for £8.75 million in 2011.

Opportunities

Given these challenges, the question remains: what can be done to stem illicit finance flows? Governments need to garner political will to enhance their domestic laws. In the area of transparency of ultimate beneficial ownership (UBO) information, G8 countries should adopt a three-prong approach. First, they must commit to establishing laws for companies to provide full details of ownership structures in order to incorporate in their jurisdictions. Second, they should require businesses looking to access G8 financial systems to provide UBO information to an agreed standard. Lastly, the G8 should look to undertaking more coordinated enforcement action against FIs that do not capture and maintain records of UBOs for customers located in higher risk countries where there are no mandatory disclosure requirements. In the area of supervision, the G8 should consider tasking the FATF with identifying what additional powers should be given to supervisors for effective enforcement and develop a standard set of legislative tools to promote credible deterrence on a more level playing field.

With regards to capacity, G8 countries should explore how to use existing public-private partnerships to support the development of domestic laws to fully implement the FATF 40 Recommendations (FATF40), to produce ideas to minimize the resource and cost burden for both sectors, or generate financing for reinvestment in the area of illicit finance. With regards to the latter, this could include the development of tax incentives for FIs who leverage off their current financial crime prevention and detection programmes in order to provide technical assistance, support and training to their partner banks and correspondent relationships in high-growth countries. Another alternative is to create a global fund and centre of excellence to: (1) provide best practice templates of tools developed to fight financial crime; (2) maintain up-to-date global registers such as Banker's Almanac with useful information; (3) develop a global politically exposed persons (PEPs) repository; and (4) generate industry specific training materials.

In the area of financial transparency, the G8 could look to make it a pre-condition for companies to have financial crime prevention programmes, including a requirement to report all government payments made locally or overseas, in order to access public procurement. The G8 could also explore tying ODA funding to conditionality agreements that include allocating a percentage to invest in developing adequate AML regimes, financial reporting structures, and domestic measures that discourage bribery and corruption at the lower levels (ie. develop fair wage structures for government employees). With regards to tax, the G8 must agree to build on the work of the World Bank Global Tax Simplification Programme (GTSP) to simplify both tax regimes and TIEAs and build automatic exchange of information platforms. Today, multinational corporations spend upwards of six figure sums annually for specialists to manage their tax liability given the complexity of tax regimes world-wide and governments spend years negotiating bi-lateral agreements. That time and money could be re-invested in efforts to confiscate proceeds of crime.

The G8's three Ts agenda presents a great opportunity to move forward initiative that will tackle illicit finance at the Lough Erne Summit. The level of success, however, is dependent on the G8's ability to work together to set the ball rolling on innovative global initiatives. These initiatives must focus on enhancing financial transparency, good governance, sharing of information, and accountability, all of which will go a long way to cut off criminals from accessing the international financial system.

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