

# The Robin Hood Tax

Concrete proposals for fighting global poverty and promoting sustainable development by harnessing the proceeds from a currency transactions tax



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# Foreword

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Two great problems face the international community. One is the stability and sustainability of the global economy. The other is the yawning gap between rich and poor and the hundreds of millions of people whose basic needs for food, clean water, shelter and education are not met.

A single initiative could help solve both. The time for a tax on international currency transactions has finally arrived. It is an elegant solution to such ingrained problems. A tide-turn in the attitude of key governments coupled with developments in information and communication technology have turned the once distant dream of a concerned few into a politically feasible and technologically possible project. The academic case has been made. The major obstacle is how to overcome remaining political inertia. But the international climate is changing quickly and here a global 'Robin Hood' tax has its own unique attractions.

First, the effort in setting up the tax is a small price to pay to fend off the huge economic and human costs of global financial meltdown. The payback in terms of greater market confidence and avoiding a repeat, probably worse, of the Asian crashes that left millions in long-term unemployment, is clear.

Second, it is the simplest solution to how the world can pay for sustainable development and a long list of unmet pledges to eradicate poverty. A decade of international conferences that set new targets for human development and protecting the environment have clashed directly with a failure to find the additional resources to pay for them. Regardless of who is to blame, over the same decade that expectations of progress were raised, aid resources stagnated and, on past trends, declined. Other potential sources of income for the poorest countries like trade and investment proved equally unpredictable, low, unreliable, volatile and hard to target.

The world set itself the challenge of meeting most basic human needs by the year 2015, but omitted to work out how to pay for them. At the same time climate change is presenting a huge and incalculable bill to the people least able to pay. The year 2002 also sees the tenth anniversary of the unfulfilled promise of environmental agreements made at the Earth Summit. By coincidence a tax on international currency transactions set within the range most commonly discussed would raise just about the right amount of money to pick up these bills. At a stroke, years of potential political wrangling on who should pay, how and why, can be avoided.

All the time that politicians sit wringing their hands at international meetings claiming that the world's problems are beyond their control, there has been an elephant in the room that no one dared mention.

Here are concrete proposals on how to implement and harness the benefits of an international tax on currency transactions. We believe it is both necessary and possible. It is the only single initiative that can solve two of the greatest challenges of the coming decades.

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Reuters/Popperfoto



# Summary

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## **The right tax at the right time in the right way**

This paper sets out the principles and framework for implementing a Currency Transactions, or 'Tobin' tax. Such a tax needs to be collected and distributed in a democratic, open and efficient way. In order to get the benefits of the tax the basics need to be right – that means achieving the appropriate principles, standards and organisational style.

The tax is needed, not only in order to stabilise financial markets, which is its central reason for being, but also to raise money for development particularly in order to meet the 2015 development targets. The rapidly growing political support for such a measure means that further debate of the details of its implementation is appropriate and timely. The UN Financing for Development Conference in Mexico is a reminder that such issues are high on the international agenda.

## **Key features, principles and objectives**

The introduction of the tax would initially involve the negotiation of an international agreement. A tax code would contain rules relating to the introduction of the tax at a national level. The negotiation of the agreement could take place:

- within an existing international organisation with universal membership
- at a conference attended by government representatives of all states outside the context of any existing international organisation

This report considers the status of the projected tax under international law, and weighs up the relative merits of establishing a new international body to administer it, as opposed to assigning responsibility to existing institutions. The paper argues that it is particularly important for an international body to decide how the funds levied are to be disbursed in order to override the self-interest of individual states, and to ensure that the funds are made available for international development.

A global negotiation will be needed in order to agree on a tax code and on systems of monitoring and enforcing compliance. Political discussion must address the question of how to distribute the revenue. It may be that, as the tasks involved in implementation involve different kinds of expertise, more than one body could be used.

The body administering the tax would need to enshrine transparency, accountability and democratic participation as key operating principles. All of the states affected by the tax must be involved in discussions concerning its workings, civil society also needs to play a part so that the process is open to more than just elites in government and international institutions.

## **Can existing institutions do the job?**

Three key tasks need to be carried out by the implementation body of the proposed tax. They are:

- the hosting of the consultation and negotiating process
- technical implementation of the tax
- decision-making regarding distribution of the tax revenue

The paper assesses the suitability of existing international bodies for the task of administering the tax. It argues that Bretton Woods institutions lack the necessary expertise and democratic ethos, and the Bank for International Settlements is inappropriate as its links are merely with G-10 countries. An international tax regime would fall within the function of the international co-operation that the UN aims to foster.

## **Imagining a new body and a better world**

This discussion concludes, however, that it would probably be necessary to establish a new body under the aegis of the UN to formulate policy on the tax, to oversee compliance and to decide how to spend the revenue. The body could be called the *Global Development Commission* and it would necessarily involve a body to distribute the revenue, made up of independent but elected advisors, a *Council of Ministers* (or governing body) and a compliance body to ensure that countries comply with their obligations under the treaty. The new body would need the support of all corners of the international community, in order to be a sustainable and effective institution.

The implementation of the CTT proposal is a necessary and achievable aim. It is also the only single initiative that can simultaneously manage a volatile and unsustainable global economy, and raise the resources to pay for environmentally friendly human development. That may be an ambitious aim but it is one well worth pursuing.

# Introduction

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## a) Getting the basics right

The issue of how to distribute the money from a Currency Transactions Tax is upon us. This question increasingly raises its head as people recognise the growing possibility that the tax might become a reality. More and more people are saying: What should happen to the money? Who would collect it? Who will distribute it? What should it be spent on?

It would be wrong to be overly prescriptive about what the proceeds from such a tax should be spent on. Times change and so do priorities. However, what is clear is that if the revenue were frittered away on poorly planned projects or if it disappeared into a bureaucratic or fraudulent black hole, the tax would not work. Also, through the process of an international agreement, the tax revenue will need to have a degree of hypothecation. In other words, western governments or international institutions must not 'steal' the revenue for spurious purposes. The bottom line is that it must be spent on fighting poverty in an environmentally sustainable way.

In order to ensure the above, this paper has attempted to set out the principles and framework for implementing the tax in a democratic, open and efficient fashion. Sometimes this has lent the paper a rather technical flavour but, in order to get the benefits of the tax, it is necessary to get the basics right – and that means realising the appropriate principles, standards and organisational style.

## b) Why is an international tax needed?

The foreign exchange market is the world's largest financial market. According to the Bank for International Settlements (BIS), \$1.5 trillion changes hands on the global currency markets each day<sup>1</sup>. Surveys have shown a consistent increase in the volume of foreign exchange transacted. As much as 80% of these transactions, says the BIS, have a round-trip maturity of seven days or less, and can therefore be said to be of a speculative nature.

Although currency speculation enables banks and investors to make multi-million dollar profits, it serves no real long-term economic purpose and can have devastating effects on the economies of developing countries. The financial crises of the 1990s were triggered, and their effects intensified, by currency speculation – localised shocks to the market led to large outflows in capital, the effects of which spread to other markets through a process of contagion. The lives of millions have been destabilised by financial crises, which have increased poverty and insecurity.

The 2001 BIS annual report notes: "In many emerging markets, financial cycles have been particularly pronounced, typically being reinforced by large swings in the flow of international capital. The cost of these cycles has been high, with the direct cost of resolving bank crises often exceeding 10 per cent of gross domestic product and the indirect costs in terms of lost output higher still".<sup>2</sup>

The increased frequency of financial crises raises questions about the desirability of policies of liberalisation and deregulation of the financial markets and emphasises the need to introduce measures aimed at stabilising currency volatility. In the words of the *Financial Times* economics editor, Martin Wolf, "severe financial crises have punctuated the progress of the last two decades. Without greater stability, many may conclude that toleration of a liberal internationally integrated financial system is a risk they can no longer afford"<sup>3</sup>.

One way in which it has been suggested that foreign currency speculation could be curbed is by the introduction of a small, but universal, tax on such transactions.

## c) The need for finance for development

The OECD's special committee that reports on the aid performance of its members came to a stark conclusion in a recent review: "*It might well be argued that if more donors had met the ODA target (0.7 per cent of GNP), the mass poverty and humanitarian emergencies which persist in many parts of the developing world today might have been largely avoided*".<sup>4</sup> It was the clearest statement yet of the consequences of rich industrialised countries persistently failing to meet their international development obligations. It also came at the end of a decade of heightened awareness of resource requirements for development, increasingly ambitious promises and deeper backsliding.<sup>5</sup>

Early in the 1990s the Earth Summit set a course for sustainable development in low income countries and put a price on it. The Summit's secretariat said implementing Agenda 21 in low income countries would need an extra \$125 billion per year from rich countries in the form of aid or other concessions.

The UN Development Programme has separately estimated the additional annual resources needed to pay for human development goals.<sup>6</sup> Their annual 'Human Development Report' calls for additional annual spending of: \$6 billion on basic education, \$13 billion on basic health and nutrition, \$9 billion on water and sanitation, and \$12 billion on reproductive health care for women. The estimated total bill has stood at around \$40 billion for some years.

One more recent estimate from UNICEF argued that "effective care for children between birth and the age of eight is the crucible of sustainable human development". It priced achieving that goal at "a modest additional global expenditure of US \$70 billion to \$80 billion each year".<sup>7</sup> A similar estimate of \$82 billion was made for the development needs of sub-Saharan Africa in 1998 but "given current trends" was considered out of reach.<sup>8</sup>

Meanwhile the outstanding unpayable debts of the poorest countries stand at around \$300 billion and continue to drain their resources even after several years of the international debt relief initiative, HIPC. The position of the indebted poor countries has also worsened. One estimate made in July 2000 suggests that all 23 countries qualifying for the HIPC initiative are in danger of their debts becoming 'unsustainable' even after relief.<sup>9</sup>

#### **d) How would it work?**

A proposal for an international tax on foreign currency transactions was first put forward by the Nobel-prize winning economist James Tobin in the 1970s.<sup>10</sup> He suggested it as a means of decreasing exchange rate volatility by putting "sand in the wheels of international finance".<sup>11</sup> The proposal, known the Tobin tax, or Currency Transactions Tax (CTT), involves the levying of a small tax on foreign currency exchange transactions that would act as a major disincentive to short-term transactions.

To make the proposed tax more effective against speculation, another economist, Paul Bernd Spahn, has suggested that the tax could have two-tiers.<sup>12</sup> This system would involve a target rate for currency levels and an admissible band for each currency. When the currency value changes within the admissible band, a low-level underlying currency transaction tax is charged. However, an additional level of tax (an exchange surcharge) would be applied automatically whenever the currency value breached the limits of the band.

War on Want, among many others, has argued that such a tax would act to deter short-term transactions by making the rapid movement of large sums of money between countries more expensive. This would lead to a decrease in the volume of destabilising short-term capital flows, which would provide greater exchange rate stability. In this way the tax would make exchange rates more reflective of long-run fundamentals rather than of short-range expectations and risk.<sup>13</sup>

The imposition of such a tax would give governments greater control over their own macroeconomic policies and encourage longer-term investment in the production of "real goods".<sup>14</sup>

Evaluation of the CTT proposal depends to a large extent on how the funds are actually spent. In light of the long-term decline in ODA (which fell to US \$48.3 billion in 1997 compared to US \$52.9 billion in 1990), the funds raised by implementation of the tax must be used for global development.

#### **How much would the tax raise?**

Even if the tax is set at a very low percentage level, it is generally accepted that it would raise a great deal of revenue. Estimates range from between \$100 and \$300 billion for a 0.1% tax, though there has been debate about the actual affect that the tax would have on market behaviour.

There have been attempts to more accurately predict the level of revenue that might be raised. Frankel<sup>15</sup> says a tax of 0.1% would raise \$166 billion a year based on smaller than current foreign exchange turnover figures from 1992. He also assumes a significant fall in the level of trading activity.

More detailed work based on the more recent 1995 forex market carried out by Felix and Sau<sup>16</sup> shows that 0.25% rate tax could raise \$393 billion, a 0.1% rate could raise \$179 billion and a 0.05% rate could raise \$97 billion. They too, assume a significantly reduced forex market and also transactions costs.

#### **e) Is it feasible?**

There have been various studies of the effectiveness and feasibility of the introduction of a CTT. For example, one IMF study on financial transactions taxes was sceptical of the ability of a CTT to reduce volatility but was optimistic about the ease with which a framework for administering the tax could be created.<sup>17</sup>

Equally, a study carried out by Spahn<sup>18</sup> concludes that: "generally speaking, there do not seem to be major administrative problems associated with the operation of a CTT" and that the "main riddle relates to international cooperation".

Rodney Schmidt's paper "A Feasible Foreign Exchange Transactions Tax"<sup>19</sup> examined whether the imposition of such a tax was feasible, bearing in mind the increasingly formal, centralised and regulated settlement infrastructure of foreign exchange trades, and concluded that it was.

#### **f) Does the proposal have political support?**

Increased support for an international tax on currency transactions has followed chronic social and economic problems caused by ever more frequent financial crises. The potential benefits of the tax have been widely recognised but policy makers have been reluctant to take steps to implement it.

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In the UK a House of Commons Early Day Motion on the Tobin tax attracted five-party support and 147 signatories. The level of support in the Commons reflects the popularity of the tax amongst the public and shows that the proposal has become politically significant. Several trade unions, political parties and other civil society groups in the UK are also pushing the idea.

In January 2000, the European Parliament very narrowly missed marking out a majority in favour of the proposed tax, while in August 2001, in an historic and high profile announcement, the French Prime Minister, Lionel Jospin, said that he supported the idea. He also said he would push for a common EU position, following the lead of the Belgians who raised it as an issue for their 2001 Presidency of the EU. Then in September 2001 France and Germany together announced a move to explore ways of controlling international currency markets that would include serious assessment of the tax's potential. It is unclear whether other EU member states will lend their support but individual ministers at various levels in Finland, Sweden and the UK have expressed support.

Other support has come from G8 member Canada, whose parliament passed a motion in favour with government backing. The G77 have supported the proposal, and individual government leaders from Brazil, India and Cuba have voiced encouragement recently.

The possibility of the introduction of the tax has also been discussed at an international level within the United Nations but progress has generally been prevented by US aversion to the idea of an international tax. During the 1990s the proposal was considered by the UNDP as a way of raising funds for the UN, but US opposition meant that the UNDP was pressurised to announce that it does not endorse any form of global tax.

The tax was also discussed behind the scenes within the context of the World Summit for Social Development<sup>20</sup> held by the UN in June 2000 in Geneva and, although it was not expressly referred to in the outcome document published after the Summit,<sup>21</sup> a study was promised. It seems, however, that the matter was delayed and then diverted into the UN High-Level Panel on Financing for Development. The panel, headed by Ernesto Zedillo, the former President of Mexico, fudged the issue, but left the door open for further studies.

Outside the UK various other civil society groups advocate the proposed international tax. These include the huge French social movement ATTAC, the Halifax Initiative in Canada, CIDSE (an international coalition of Catholic agencies) and the ICFTU (international trade union movement). The global social movement has been working to make governments undertake promotion of the tax and to place it on the agenda of parliaments.

#### **g) How could an international tax system be achieved?**

The proposed tax would ideally be applied on a near-universal basis.

Therefore international agreement is crucial with national governments charging the tax on relevant transactions carried out within their jurisdiction. Stephany Griffith-Jones<sup>22</sup> has looked at the way that the tax could be implemented at the international level. She suggests two alternatives. First, a form of convention or treaty could be agreed and ratified by all participating countries. The convention could be approved for either an indefinite or a limited period and would begin to operate once a certain number of countries had ratified it.

The international agreement would only have its intended effect if it were made part of the domestic law of the states involved. A fundamental principle of the law of treaties is that every international agreement in force is binding upon the parties to it and must be performed in good faith.<sup>23</sup> A state is not permitted under international law to invoke the provisions of its internal law as justification for its failure to perform its treaty obligations.

The alternative route is that the tax rules could be implemented by inclusion in the charter, or founding agreement, of an international organisation. By way of example, Stephany Griffith-Jones suggests that the IMF Acts of Agreement could be amended to provide for an obligation on all member states to implement the CTT.

One consideration in relation to the second option is the fact that it may not be easy to change the founding rules of an existing organisation, since such amendments are normally only possible with either unanimous or high majority approval of the members. This may mean that the level of agreement needed to incorporate the tax system within an existing international organisation's rules may not be significantly different to that required for the establishment of a new international agreement.

In considering these methods of implementation it is clear that, even if the international convention route were used, it would be necessary for an international organisation to play a major role in the project. There would need to be a body to carry out the vital role of supervising the implementation of and compliance with the convention. Also, since the tax would raise a great deal of revenue, the organisation would play a crucial role in the allocation of those funds.

We also need to consider whether there is an existing international organisation that could carry out the wide range of possible functions, or whether a new organisation should be established. This raises questions about the expertise and experience of existing organisations within the fields of taxation, international trade and development. Various existing international institutions have been suggested, none of which have a specific tax mandate. Although there are some international bodies that could be given an extended mandate, there are doubts about whether their structures and procedures are such as to enable them to maintain widespread support.







# 1. Role of the international body

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## a) Why is an international organisation needed?

In guiding ourselves towards a mechanism that would really set about checking the global crises discussed earlier, it seems apparent that some sort of body would need to be found, or created, that could adequately deal with the potentially fraught issue of collection and distribution. Basically, if we want to get the distribution and implementation right, we need to get the body that deals with these issues right.

The introduction of the tax would initially involve the negotiation of an international agreement. A tax code would contain rules relating to the imposition of the tax at a national level. The negotiation of the agreement could take place either:

- within an existing international organisation with universal membership (e.g. the UN General Assembly)
- at a conference attended by government representatives of all states outside the context of any existing international organisation

The advantage of carrying out these negotiations within the arena of an existing international organisation is the fact that decision-making procedures and rules would already be in place.

Negotiating new international rules needs a degree of supervision and control. More effective and independent means of checking compliance are likely to be required than standard diplomatic channels. This suggests that an international organisation will have to be involved in the implementation of the tax.

Because we believe that the tax revenue should be spent on development, it should not be left to individual states to allocate it, as decision-making will inevitably reflect self-interest. Such a role must be given to an international organisation, established by the same international agreement that contains the tax code. The next section of this paper considers in more detail the various tasks that should be included within the mandate of the organisation.

There is, of course, a parallel but entirely separate debate on the need to establish an international tax authority that would help prevent the problem of international tax evasion and the destructive downward global competition of national tax regimes. What is clear, however, is that these new tendencies have strong implications for the ability of governments to raise finance for development.

## b) What tasks need to be carried out?

There are two overarching issues in relation to the international implementation of the proposed CTT. These are:

- technical considerations involved in the implementation of the tax rules
- political considerations involved in distribution of the tax revenue

The various tasks that will need to be carried out by the implementing body will cover both of these issues and the different types of concerns that they raise will need to be dealt with.

## c) Preparing the draft tax code

An international CTT would require a tax code agreed between all countries, or at least between the countries hosting the major foreign exchange markets. It could either be incorporated as part of an international agreement, setting out all the details of the tax regime and its implementation, or it could be introduced into the constitutional rules of an existing organisation.

The tax code would contain rules on the imposition and collection of the tax at a national level, and could also provide a framework for agreeing the way to distribute the funds raised. The formula for allocation of the revenue could be changed when necessary to meet changing funding needs. The distribution of the tax will be very controversial and therefore demands especially clear policies on allocation.

## d) Assisting and monitoring compliance

Studies into the technical feasibility of the CTT indicate that the practical way to implement the tax is to collect it on a national basis where the transaction occurs,<sup>24</sup> rather than collecting it directly at the international level. However, an international system will be needed to help states to implement the tax rules, to monitor the way states comply with the agreement, and to deal with enforcing the terms of the agreement.

### • Supervision of compliance

The body that implements and looks after the proposed tax system will need to be empowered with surveillance capabilities. Traditionally there are two methods for international organisations to obtain information about rule compliance:<sup>25</sup>

- periodic reports from states about their own conduct
- complaints by states about alleged non-compliance by other states

Although the method of reporting by states has advantages, the basic flaw is that states will rarely be willing to criticise themselves. However, this method of supervision is widely used, particularly in the context of monitoring states' compliance with international human rights instruments.

The method of inter-state complaints also has a fundamental flaw. States are very hesitant of criticising others states, especially where significant economic relations will be affected; much more use is made of bilateral diplomatic consultations to settle disputes.

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Apart from these two traditional methods of supervision, two other methods have recently been applied more frequently:<sup>26</sup>

- powers vested in organisations to start their own supervision procedures
- individuals may be involved as guardians of rule compliance

In practice, the method of direct supervision by an organisation has proved to be useful. It enables organisations to supervise rule compliance more effectively and is the strongest contender for supervision of the proposed tax. It seems less likely that the method of supervision initiated by individuals will be appropriate, since individuals will not suffer directly from the failure of a member state to comply with the international tax rules.

#### • Enforcement and sanctions

A mechanism will be needed to enforce the international agreement. If states fail to impose rules at a national level in accordance with the tax agreement, they will be in breach of their international obligations. The possible consequences of non-compliance could involve the following:

- Incentives to encourage compliance
- Measures involving publication of details of breaches ie: political embarrassment
- Cautioning member states in breach
- Suspension of international rights or privileges
- Imposition of financial penalties and compensation requirements

#### e) Interpretation and amendment of the code

It is unlikely that all the details of the tax regime can be decided before the tax is in place. Therefore the code and its institutional arrangements should be sufficiently flexible and revisable to deal with unplanned loopholes. This task could be given to the international implementation body.

The necessity of the ability to revise the code is evident from looking at past experiences of taxing financial transactions. For example, the UK successfully taxes financial transactions through "stamp duty" although, since its introduction, loopholes in the system of taxation have arisen which have had to be closed by changes in the law<sup>27</sup>. The body used to implement the tax will need the power to update the rules in order to avoid erosion of the tax through financial 'innovation'.<sup>28</sup>

#### f) Collection and spending procedures

Most commentators have suggested that the revenue should be collected at a national level and then transferred to an international body for distribution. The international body will of course need to have an established system for auditing the tax revenue. If there is any suggestion that the collected revenue is being distributed inappropriately it will seriously undermine the credibility of the system.

Allocation of the tax revenue will raise controversial political questions. The view of international civil society generally is that the revenue raised should be used to fund anti-poverty and environmental strategies. In particular, the funds could be used to deal with the urgent need to achieve the 2015 international development targets, fund the delayed implementation of the Earth Summit agreements and deal with the potentially enormous cost of climate change.

The rules on allocation to sustainable development projects would need to be clearly established within the international agreement.

Three alternative allocation methods have been suggested. These are:

- In order to minimise the loss of national sovereignty, governments could allocate the portion of funds raised within their jurisdiction in much the same way as they today allocate ODA resources - they could set their own expenditure priorities, bearing in mind established global objectives.
- An "international co-operation fund"<sup>29</sup> could function as a kind of "international treasury" to which all multilateral organisations, including the Bretton Woods institutions, would submit their budget proposals for consideration and approval. However, this proposal does raise questions about the acceptability and legitimacy of those existing organisations.
- An existing international organisation or body, or a new one specially established for the role, could be entrusted with responsibility for allocating the revenue to development projects.

#### g) Should the tasks be divided between a number of bodies?

The various tasks to do with implementation of the proposed tax will need different types of expertise. As such, more than one body may need to be used.

For example, it has been suggested that the IMF should take the lead in implementing the tax, with a new, small, autonomous, intergovernmental, global tax commission which could be affiliated with the IMF but stand as an independent entity.<sup>30</sup> The revenue would accrue to this new institution after being collected at a national level and the institution would be responsible for its redistribution. The problem here is that the IMF itself is repeatedly criticised for its own lack of transparency and accountability, as well as its strong ideological bias on economic policy.

Another illustrative example is the way different tasks relating to the compliance mechanism under the Kyoto Protocol have been divided up.<sup>31</sup> The emerging consensus regarding the overall structure of the compliance system is that it should involve the operation of various branches.

These are possible technical fixes. However, it is perhaps more instructive at this stage to look at what underlying principles could be used as a guide in choosing (or setting up) a body (or bodies). It is important, therefore, to describe the organisation in terms of values and fundamentals.

# 2. Characteristics of the body

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In recent years civil society has rightly demanded that government be more accountable, transparent, democratic, efficient and responsive. These concerns have also focused on international organisations like the World Bank, the IMF, the United Nations, the WTO and the European Commission.

It will be necessary either to establish an international organisation, or to use an existing organisation to carry out the tasks involved in implementing the international tax. This body will need to be structured and to operate in a way that will provide the tax system with the necessary legitimacy within the international community and ensure that the tax rules are being implemented and adhered to at a national level. The credibility and authority of the international tax regime will be enormously enhanced if it meets these challenges.

## a) Key principles

Three vital principles must be adhered to in order to establish and safeguard its legitimacy and credibility: transparency, accountability and democratic participation. The meaning and precise content of these principles are subjects of debate, however. In the context of the assessment of a suitable organisation to implement the CTT, they can be summarised as follows:

### • Transparency

- information regarding the procedures, decisions and activities of the international organisation - including, in particular, the way that the collected tax is spent - must be made publicly available and easily accessible
- the consequences of non-compliance with the tax rules must be clear and predictable

### • Accountability

- the international organisation must be answerable to all its member states
- it must also be answerable to the citizens of its member states and, therefore, the participation of civil society should be guaranteed
- the powers of the organisation should be subject to agreed rules and compliance with those rules must be enforced

### • Democratic participation

- the system must be based on the fair and equitable participation and treatment of all member states
- the organisation must incorporate appropriate and sufficient involvement of civil society
- the organisation must recognise the importance of capacity-building for democratic participation

The focus on the role of civil society within these concepts is based on the view that international organisations must take some account of a range of civil society members. This suggests a progressive, co-operative

form of international organisation that falls between the state-based and society-based models of global governance, and has been referred to as "complex multilateralism".<sup>32</sup>

## b) Focus on characteristics

Set out below are a number of characteristics that could perhaps be used as criteria for examining the suitability of existing or new international organisations as the supervisory, enforcement and distribution bodies for the tax.

### • Membership

International implementation would involve states signing and ratifying an agreement or becoming a party to the founding agreement of the relevant international organisation, as referred to in section 1. Not only should states sign such an agreement but they should also be involved in the process of agreeing the tax code, the choice of organisation used to implement the tax, and the way the revenue is spent. If the rules are the product of a genuine multilateral process, which is democratic and inclusive, they are more likely to enjoy general respect.

### • Representation of members and allocation of voting power

Some international organisations attempt to represent conflicting interests other than merely geographical interests. For example, in several UN organs a balance of interests is found between developing and developed states. This formula is becoming more common.

Clearly, in the relation to the CTT, the interests of the developed states are likely to be most closely involved in collecting the tax. Japan, UK, USA, Germany, Hong Kong, Singapore and Switzerland account for 78% of all foreign exchange trading.<sup>33</sup> Given the dominance of these industrialised countries in the global economy, it would be particularly important that developing countries have a central role in deciding how proceeds from the tax are distributed.

The issue of representation cannot be considered in isolation – the process by which decisions are made by the body will also have an impact on the distribution of power amongst the member states. It is clear that there are many ways that the interests of states could be manipulated to achieve an equitable or inequitable balance of power. For example, extra votes can be attributed to certain members or some members can be given the right to send more than one delegate to meetings of the organisation's decision-making body.

### • Government representatives or advisors?

Another issue that should be considered is the question of whether the supervisory body should comprise government representatives or advisors. In principle, the most appropriate choice will depend on the tasks carried out. For example, supervisory, legal and technical organs can be made up of individual advisors, whilst organs with a governmental function could be made up of government representatives.<sup>34</sup>

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The advantages of using advisors include the following:<sup>35</sup>

- they are not bound by the general policy of their government and are in a position to base their decisions entirely on the interests of the organisation
- they may have more prestige which will help in highly technical tasks for which expert knowledge and experience is needed
- the organ as a whole may be stronger if members are selected individually so that a homogeneous group of people can be appointed

On the other hand:

- decisions of government representatives may be more effective and compromises taken would be more likely to be supported later by their governments
- it is also important to be aware that some individually elected advisors may not really be independent from their governments

These points should be taken into account when assessing the suitability of existing organisations. One possibility is that a number of separate bodies should be used to carry out the distinct tasks involved in the implementation of the tax. In that case, the separate bodies could be differently composed depending on their roles.

#### • Ensuring effective representation

It is possible that the costs of involvement in decision-making may prevent full participation by developing countries. This is a barrier to genuine universal participation that must be resolved by richer countries investing in the capacity of smaller and weaker countries to participate - even if this seems to go against their short-term interests.

One way to ensure that sufficient resources are available to enable full participation by all member states would be to allocate a small part of the budget of the international organisation to this concern.

#### c) Decision-making

##### • Legal nature of decisions

As regards the decisions taken by the organs of international organisations, there are two extremes:

- binding judgments or decisions (e.g. the judgments of the International Court of Justice dealing with contentious cases or binding decisions of the Security Council)
- non-binding rulings (e.g. the majority of the decisions of the UN General Assembly which are purely recommendations)

##### • Formal voting or consensus?

Consensus, in the context of decision-making in international organisations, often seems flawed. Taking decisions by consensus usually involves protracted negotiations to achieve the desired concurrence of views and to avoid express objections. Wide varieties of interests may have to converge to form an acceptable compromise and the

chairpersons of the meeting often, therefore, have a decisive role in guiding this process. However, the use of the consensus process, rather than formal voting, has become increasingly popular within international organisations, and is generally preferred if the majority wants to secure the cooperation of the minority in the implementation of a decision.

##### • Transparency of decision-making

The credibility of the decisions and activities of the organ or organs involved will be greatly enhanced if the process for decision-making is clear and simply stated, if information about the decisions is made available to the public and if the way in which each country voted is published.

The meetings of many modern international organisations are held in public but sometimes the real decision-making takes place within informal smaller groups (for example within the G7). It is important that such smaller, private, consultative processes are not used as a substitute for formal, open decision-making.

Another benefit of transparency of decision-making is that dissemination of information about the development activities of international organisations helps to increase local participation and strengthen the quality of the projects.

#### d) The role of civil society

The term "global civil society" has been used relatively recently to describe the activity of non-state actors (such as NGOs, churches and trade unions) operating across inter-state borders. The increase in this type of activity has led to debate over the significance of civil society and to a realisation that the state's claim to be the sole legitimate representative of the public interest is under question.

Most powerful international organisations are formally responsible only to their member states, although a broad spectrum of interests is affected by what they do. This would clearly be the case in relation to the CTT. It would affect both investors whose currency transactions would be subject to the tax **and** the interests of the people who would benefit from the revenue. The international organisation used to implement the tax should, therefore, be accountable to a wider range of stakeholders.

The issue was recognised in the "Agenda for Development", issued by the UN in 1994,<sup>36</sup> which says that "a strong partnership between government and civil society" is an "important prerequisite for sustainable development" and calls for the strengthening of "non-state actors including grassroots peoples' movements and non-governmental organisations".

Many major public international organisations make provision for a variety of consultative relationships with NGOs – these often include the right to attend meetings and to circulate documents. However, these



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arrangements vary greatly between different organisations. An interesting model for the participation of civil society in a systematic fashion within international organisations is the International Labour Organisation (ILO). Representatives from business and trade unions form part of the governing body of the ILO. It has a unique tripartite system in which the two civil society groups share equal standing with governments.

### **Responding to the NGO/civil society legitimacy issue**

Recently there have been challenges to NGOs' claims of legitimacy, including suggestions that some NGOs lack genuine accountability and the authority to represent people for whom they are speaking and campaigning. Also the problem of North-South inequalities between NGOs needs to be confronted in order to avoid charges of "Western imperialism".<sup>38</sup>

While some Northern NGOs are guilty of this type of behaviour, most are very aware of these problems. Most have developed more effective partnerships with each other and with the peoples that they claim to represent and some (like War on Want) are membership organisations and have their own democratic structures.

Furthermore NGO support programs, such as the International Forum on Southern NGO Capacity Building, could be designed to erode the differences in power between Northern and Southern NGOs. More equal access to information and influence is critical, and Northern NGOs should be encouraged to share information and influential contacts with grassroots groups in the South.

It is also important to distinguish between NGO's and wider notions of civil society. It is widely accepted that civil society has a crucial role to play in democratic society. Many sections of civil society are genuinely close to those that are otherwise poorly represented by governments, or not at all. Other elements of civil society such as trade unions and landless movements can legitimately claim to represent parts of society with some authority. It is civil society rather than just NGOs that we are suggesting has a central role to play in the distribution of the tax revenue.

Kofi Annan, Secretary General of the United Nations has spoken of, 'the pioneering role of NGOs on a range of vital issues, from human rights to the environment, from development to disarmament,' in particular he said, 'We in the United Nations know that it was (them) who set the pace on many issues.'

### **e) Accountability and supervision**

Within democratic national political systems, several mechanisms can help to secure accountability and supervision. These mechanisms range from elections to the appointment of ombudsmen and the use of judicial review.<sup>39</sup> The transfer of some of this machinery to international organisations is possible. It is a key issue, particularly in light of the fact that their operations affect people everywhere. There are a number of ways in which the issue of accountability of international organisations could be established generally as set out below.

#### **• Financial management and auditing systems**

A sound financial basis is a condition for the effective functioning of any organisation. Sufficient mechanisms for financial control are needed to prevent the squandering of money and, in the worst case scenario, to prevent corruption. The types of mechanisms that should be put in place include financial reporting requirements, control by external accountants and systems to ensure that the financial rules of the organisation are unambiguous.

#### **• Reasoned decisions**

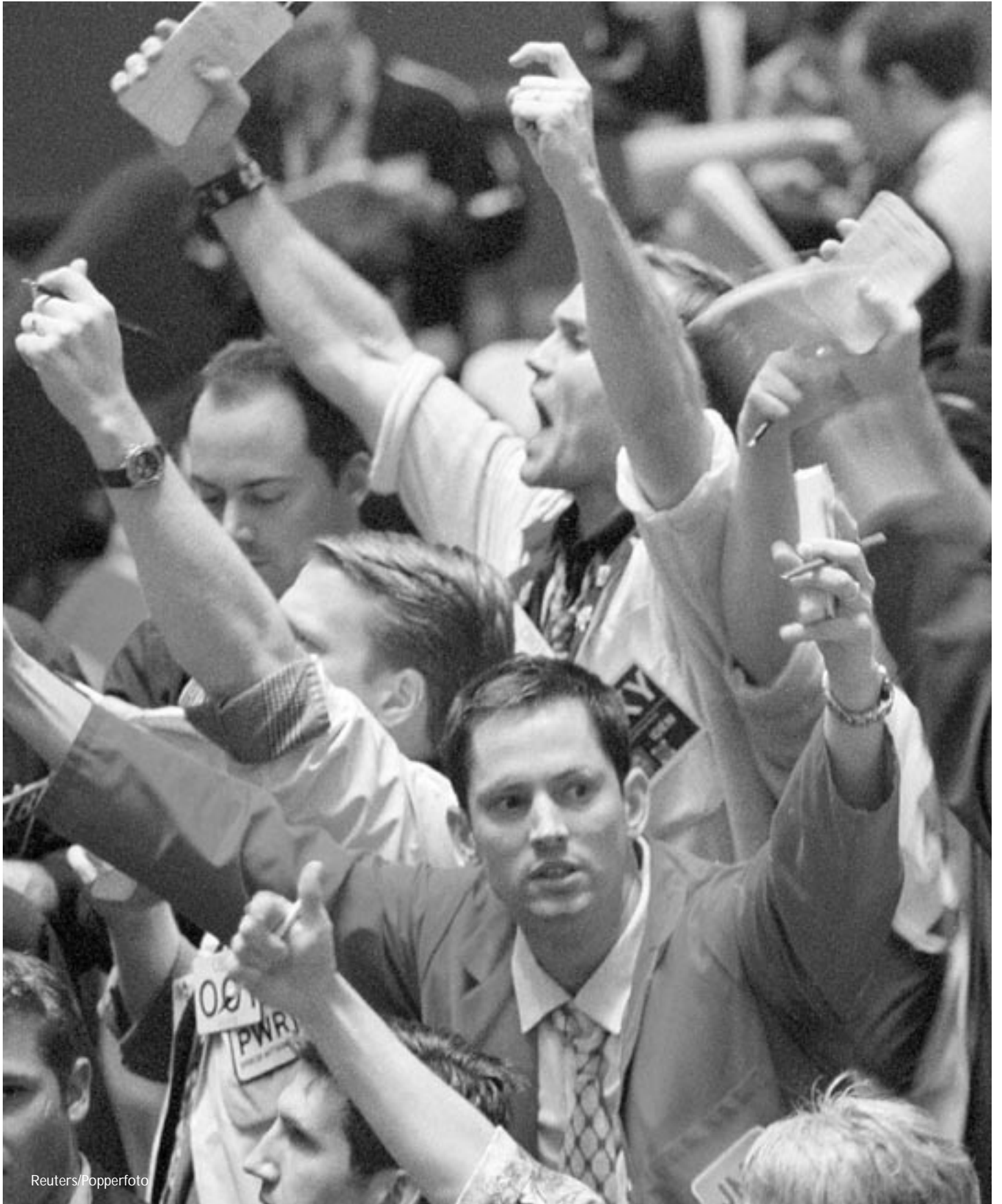
The obligation to provide reasoned decisions is a key to good governance – without reasons, decisions can be significantly more difficult to challenge. When reasons are stated a review body or ombudsman is able to judge the legality of the decision. The process also forces the decision-maker to think about what would count as a good reason for others involved in the decision-making process and, therefore, enhances its democratic nature.

#### **• Horizontal accountability**

"Horizontal accountability" helps to ensure that power is exercised in ways that are predictable, non-arbitrary and not open to abuse. If this happens, the quality and effectiveness of the work of the international organisation will be greatly enhanced. This type of supervision of governmental decision-making is taken for granted at the national level, for example with ombudsmen, review boards and judicial reviews acting as agencies of restraint. The establishment of some sort of "watch dog" should be considered in the context of the implementation of the proposed tax particularly as the body will be charged with the controversial task of distributing the revenue.

#### **• Reporting obligations at a national level**

Lack of transparency erodes the accountability of government representatives and, therefore, the accountability of the international institution itself to civil society. Sometimes civil society groups will carry out "detective work" to find out how governments have voted in order to establish the origin of the policies of the particular international institution. This could be dealt with at the national level, by ensuring that government representatives of member states are under an obligation to report to the society that they represent regarding the way in which they are proposing to vote.



Reuters/Popperfoto

# 3. Assessing existing bodies

## a) The United Nations institutions

With its near-universal membership of 189 states, the United Nations (UN) is well placed to act as a facilitator of global standard setting and as a global meeting place. It does have some credibility as representative of the "international community" but it is currently at a critical juncture and there is a fear that it is being undermined and losing its relevance.

There are a number of UN organs and agencies that are involved in trade, economics and development. The mandates, composition and procedures of these bodies vary, but one or more of them may be suitable for use in relation to implementation of the CTT. Below we discuss the various UN organs, concentrating on determining whether or not they are suitable in terms of their functions, structures, and policies, bearing in mind issues of accountability, transparency and democratic participation.

### • General Assembly

The General Assembly was established under the United Nations Charter as the main UN deliberative organ. It provides a forum for multilateral discussion regarding the full range of issues covered by the UN Charter and includes representatives of all 189 member states of the United Nations.

Votes taken on certain important recommendations (e.g. regarding peace and security and the election of Security Council members) require the vote of a two-thirds majority of member states present and voting. Other questions are decided by simple majority vote. However, in recent years, a special effort has been made to achieve consensus, supposedly strengthening support for the General Assembly's decisions.

Resolutions of the General Assembly are not generally legally binding. However, the universal nature of the General Assembly does lend weight to its resolutions, which can arguably be seen as representative of world opinion and have an critical influence on the development of international law.

### Comments on past record and suitability

As General Assembly resolutions are not legally binding, it could not impose an obligation to introduce the tax on UN member states. However, this body's universality and its role of initiating studies and making recommendations to promote international cooperation and to develop international law clearly make it an ideal forum for the negotiation and conclusion of an international agreement relating to the proposed tax.

### • ECOSOC

The Economic and Social Council (ECOSOC) was established by the UN Charter as the main organ for decisions in the economic and social field. It was created to promote:

- higher standards of living, full employment, and conditions of economic and social progress and development
- solutions of international economic, social, health, and related problems; and international, cultural and educational cooperation
- universal respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion<sup>40</sup>

ECOSOC is permitted by the UN Charter to consult NGOs, international organisations and national organisations in relation to matters that are within its competence.<sup>41</sup> There are currently 2012 NGOs in "consultative status" with ECOSOC, which enables them to make a contribution to the work and goals of the UN by serving as technical experts, advisers and consultants.

### Comments on past record and suitability

Unlike the position in most international bodies, many of ECOSOC's members are from developing countries. This is a potential strength in terms of ensuring adherence to the principle of democratic participation. However, it has been suggested that the size of ECOSOC's membership and the fact that it allows other UN members to attend its meetings contribute to a lack of focus and momentum in its work.<sup>42</sup>

In many ways ECOSOC's mandate, composition and status within the UN system make it a good body to oversee the international implementation of a CTT. However, it has in the past been criticised for failing to become closely involved in international discussions and decisions on issues like financial market regulation and tax policy and administration.<sup>43</sup> Also, despite the central position given to it in the UN Charter, the policy-making role of ECOSOC in economic affairs has never been realised.

### • The UN Conference on Trade and Development (UNCTAD)

The General Assembly established UNCTAD in 1964, partly as a response to developing countries' demands for action on international trade and other economic reforms. It is the main subsidiary organ of the General Assembly in the field of trade and development and is composed of all member states.

UNCTAD is the focal point in the UN for the integrated treatment of development and issues of trade, finance, technology, investment and sustainable development. Its main goals are therefore generally in line with what could be achieved through the introduction of the CTT:

- to maximise trade, investment and development opportunities of developing countries
- to help developing countries face challenges arising from globalisation and ensure that any integration into the world economy happens on an equitable and beneficial basis

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It pursues its goals through research and policy analysis; consensus building and negotiation; implementation and follow-up; and technical cooperation. Many intergovernmental organisations and NGOs participate in its work as observers. Academic and business experts are invited to participate as panellists in sessions of UNCTAD's commissions.

Officially UNCTAD decisions are taken on a two-thirds majority but a formal consultation phase means that, in reality, decisions are taken by consensus.

#### **Comments on past record and suitability**

UNCTAD has earned a reputation as the principal forum for the study and discussion of international economic issues of importance to developing countries. The main success of UNCTAD lies in its influence on the creation and amendment of international agreements dealing with economic law.

Inter-governmental negotiations held under UNCTAD's auspices have resulted in many international agreements, for example:

- 1989 Agreement on a Global System of Trade Preferences among developing countries
- International commodity agreements
- 1980 Guidelines for international action in the area of debt rescheduling

In the area of international trade law, UNCTAD has been instrumental in forcing changes in the GATT to recognise that the GATT rules should reflect the needs of developing countries. But similar to bodies like UNESCO, whenever it raised the voice of developing countries to a point where they challenged the interests of industrialised countries, UNCTAD was undermined.

As a result, some consider that UNCTAD is mainly a "talking shop" and has had little impact on practical development work. For example, its efforts to implement international commodity agreements (ICAs) foundered because of traditional disagreements between poor producer countries and rich consumers. Most Northern governments oppose ICAs as inefficient and helpful only to a few developing countries. As a result, despite UNCTAD's best efforts, few ICAs have been negotiated.

#### **• UN Development Programme UNDP**

The UNDP was formed in 1964 and is made up of various funds and programmes, and an executive board which has 36 members, elected on the basis of a broad geographic spread. Since 1994, decisions of the Executive Board have always been adopted by consensus where possible.<sup>44</sup>

UNDP programmes lead UN development work and are primarily involved in giving technical and policy assistance to developing countries

on issues relating to economic development. It maintains a presence on the ground in virtually every developing country, with a network of more than 130 field offices. Its overriding goals are sustainable human development and poverty eradication.

UNDP's work includes:

- helping governments in developing countries to improve policies and build a greater institutional capacity for delivering basic services and reducing poverty
- UNDP country representatives act to co-ordinate development services for the whole UN system to ensure the most effective use of international aid
- advocacy work on poverty issues – e.g. the Human Development Report
- helping developing countries to produce their own National Human Development Reports, which set out a basis for discussion about policies and priorities

In recent years the work of UNDP has moved towards more country-specific policy advice and institution building. For example, in Zimbabwe, UNDP is assisting the government in formulating policies and programmes designed to strengthen the management of development resources by ensuring greater transparency and accountability, and by encouraging broader participation.<sup>45</sup>

UNDP considers that partnership with civil society organisations is vital, as this is one way to address peoples' real needs. Over the years, UNDP has developed various strategies for working with civil society organisations, and specifically with NGOs. Today this collaboration is based on the UNDP Policy Statement on Collaboration with Civil Society (1997).

The UNDP also has a Public Information Disclosure Policy (1997), which is intended to ensure that information concerning UNDP operational activities is made available to the public in the absence of a compelling reason for confidentiality.

#### **Comments on past record and suitability**

The work of the UNDP programmes suggests that they could be involved in some way in the allocation of the collected tax revenue. UNDP has not played any significant role in the generation of rules concerning international economic law and would clearly not be suitable as a body to carry out technical implementation tasks in relation to the proposed tax.

#### **• Security Council**

The Security Council was established by the UN Charter as a principal organ of the UN and has the key role of the maintenance of international peace and security.<sup>46</sup> It does not have a mandate to act in the context of purely economic matters but suggestions have been made



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that its mandate be extended to cover a role in global economic issues, such as stability of international exchange rates and international capital flows.

The 15 members of the Security Council are made up of five permanent members (US, UK, France, China and Russia) and 10 non-permanent members. Each member state is allocated one vote but decisions are taken by a positive vote of nine of the 15 members.<sup>47</sup> This rule, known as the "veto" rule, allows any one of the permanent members to prevent a decision being taken. It is one of the most controversial aspects of the Security Council's structure. Civil society does not play any role in Security Council discussions.

In recent years there has been criticism of how transparency has been eroded by the use of informal meetings by groups of members. The vote within the subsequent Security Council meeting has become a formality. The only formal source of accountability of the Security Council is the annual report of the UN Secretary-General to the General Assembly.

There have been numerous proposals for radical reform of the Security Council from civil society groups and developing countries. Regardless of those there is disagreement even among G7 countries on what to do. Italy, for example, proposed removal of the veto, greater democracy and wider membership. Whereas the US and others suggested adding Germany and Japan to the permanent members holding the veto and introducing new 'regional champions'.

#### **Comments on past record and suitability**

There have been widespread criticisms of the structure of the Security Council, including suggestions that its permanent membership are extended to include Germany and Japan and that the veto rule be abolished.

The lack of equitable representation of the interests of all UN member states within the Security Council and the lack of accountability and transparency in its decision-making, shows that it does not embody the characteristics referred to earlier in this report.

#### **• Suitability of existing UN bodies**

The establishment of an international tax regime would clearly fall within the function of international economic and social cooperation of the UN, but the fragmentation of rules of international economic law has been severely criticised by some observers. The UN General Assembly, through ECOSOC, is supposed to co-ordinate the economic policies of UN agencies, including the specialised agencies, but such co-ordination has not really happened. As a result, global economic problems have been feebly dealt with by UN agencies.<sup>48</sup>

Most of the UN programmes and funds in the field of economic and social development obtain core funding from an annual "pledging" conference, which allows governments to decide which programmes to

support. A feature of such fundraising is a dependence on contributions from just a few donors. According to the Overseas Development Institute,<sup>49</sup> in 1994 the ten largest donors contributed over 73% of all donations to the economic and social programmes.<sup>50</sup> The US in particular has used the withholding of funds to exert influence over the UN. The problems of declining funds for development could be, at least partially, resolved by the proposed CTT.

The UN provides, at least in theory, a representative forum for discussions and governance and has certain in-built democratic principles, as well as a general commitment to universal human rights. UNCTAD has an integrated approach to the fields of trade, finance, investment and development and might form part of a suitable forum for an international agreement establishing the tax regime. It would clearly not be an appropriate choice of body either to distribute the tax revenue or to carry out technical implementation, since it does not have the necessary expertise and systems in place.

In view of its universal membership, the General Assembly would be more suited to negotiating an international tax agreement. However, it would not be suitable to carry out the other implementation roles, partly because it does not have the power to make legally binding decisions. It would also probably be impracticable to try to use such a large body to make the day-to-day decisions involved in interpreting the tax code and supervising compliance.

The UNDP has expertise in the field of UN development work and already has a network of field offices in place in most developing countries through its numerous programmes. It could perhaps be involved in some way in the role of distributing the tax revenue.

#### **b) The Bretton Woods institutions**

The Bretton Woods institutions are named after the site of the 1944 conference establishing the World Bank and the International Monetary Fund (IMF). They are specialised agencies of the UN but throughout their history have operated quite independently. Both were founded on the belief that free trade, monetary stability and capital mobility would best promote international economic welfare. They haven't generally concentrated on social aspects of development. Both are often criticised as being secretive, unaccountable and too often ineffective. Increasingly, NGOs and others are demanding that they be reformed or even scrapped.<sup>51</sup>

#### **• The International Monetary Fund**

The International Monetary Fund (IMF) was established to perform a number of monetary functions for the international system, including to:

- oversee exchange rate practices of members
- provide funds to governments encountering balance of payments difficulties
- promote a liberal regime of international payments

- provide information and financial statistics
- provide a forum for consultation on international monetary relations

It has 182 member countries and, therefore, purely at the level of membership, can be seen as a universal organisation. However, a major deficiency in the accountability of the IMF is that only 24 executive directors represent the member states on the IMF's executive board. Only the 8 largest member states (USA, Germany, France, Japan, UK, Saudi Arabia, Russia and China) are directly represented. All the other member states are batched together.

Each group of from 4 to 23 countries has just one representative. The groups are generally organised along regional lines and tend to be represented by the most economically powerful country in the group. Therefore many national governments have a very weak link to the decision-making processes of the IMF. In addition, the head of the IMF is usually appointed according to the wishes of Western Europe.

A member state's voting power within the IMF depends on its quota, which is determined by a formula that is tied to the subscriptions that it pays to the IMF. These are calculated according to a formula based on a country's relative economic and political strength. As a result, the G7 plus the rest of the EU, which accounts for just 14% of the world's population, hold 56 % of the votes in the executive board.

Decisions are usually made by consensus. This means that the constituencies effectively vote as a block and there is no opportunity for the splitting of votes held by individual countries within a constituency. This has been criticised because it limits accountability to citizens in the countries represented. Another problem is that many decisions of the executive board are actually made before the relevant board meeting is held.

As a result of widespread criticism regarding the lack of transparency of its operations after the 1997 South East Asian crisis, the IMF has taken steps to make information about its work more widely available. For example, it has started to publish a work programme on its website and releases public information notices.

Furthermore the IMF is only required to consult with finance ministers and central bank governors. Although in recent years the IMF has begun to recognise non-state actors, such as NGOs, and to consult grassroots organisations, trade unions etc, NGOs have still not acquired a formal participatory role. The IMF has established relations with civil society on an *ad hoc* basis and some non-governmental groups (such as business groups) are consulted much more than others.<sup>52</sup>

With the aim of improving accountability, the IMF is in the process of creating an independent evaluation office (EVO). The EVO will be independent of IMF management and staff, will operate at arm's-length from the IMF's executive board and will be free to consult with the

necessary groups, both within and outside the IMF.<sup>53</sup> It remains to be seen whether this innovation will be effective.

### Comments on past record and suitability

The executive board of the IMF is clearly unrepresentative. In particular, the board does not fully represent the countries that have the most intense relationships with the IMF. The executive directors are also too distant from the governments that they represent and the stakeholders most affected by the IMF's work. It is clearly unacceptable that people in Africa, who are possibly most affected by IMF programmes, only hold about 2% of voting rights.

The IMF's past record also has been heavily criticised. In exchange for loans, countries have often been forced to commit themselves to macroeconomic adjustment - by opening up their economies to international trade and reducing domestic deficits by introducing fiscal austerity - and the IMF has ignored the price that this imposes on the poor.

The serious criticisms regarding its lack of procedural and structural transparency, accountability and democratic participation, and regarding its policies in relation to developing countries, strongly point to the IMF not being a suitable international organisation for the implementation of the proposed tax.

### • The World Bank

The International Bank for Reconstruction and Development (IBRD) is the central inter-governmental organisation in the area of development work. The International Development Association (IDA), created in 1960 by a group of World Bank members, makes concessional loans to developing countries. The term "World Bank" normally refers to both the IBRD and IDA. They share the same staff and facilities and have three related functions:

- to lend funds
- to provide economic advice
- to serve as a catalyst to investment by others

Although the World Bank's mandate initially was to provide reconstruction capital after World War II to the shattered economies of Europe and Japan, the focus shifted to making loans to developing countries. From the early 1970s the bank's policy on the reduction of poverty began to concentrate on specifically targeted programs, rather than on the widespread promotion of investment and infrastructure.

In the 1980s the World Bank tried to deal with the effects of increasing external debt burdens and falling commodity prices on poor countries. It began to impose conditions like the adoption of fiscal and monetary reforms in return for loans. It also provided loans for debt and debt service reduction.

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The World Bank has 182 member states, each appointing a governor to the board, which makes key decisions. However, most of the governors' powers are delegated to a board of 24 executive directors. Of these 24 executive directors, France, Germany, Japan, the UK and the USA appoint one each. Just 19 executive directors are elected by groups of countries representing the other 177 member states.

Voting shares within the World Bank also depend on a member country's subscription payments. This means that 21 African countries, plus the Seychelles, are represented by just one executive director and have a voting share of only 4.07%. Also, like the IMF, the World Bank's president is not chosen by an open process.

The Bank therefore clearly suffers from similar problems as the IMF as regards lack of democratic participation and accountability. Civil society movements have exerted considerable pressure to reform the World Bank's tradition of withholding information about its projects from the public. As a result, in 1994 a new information disclosure policy<sup>54</sup> was implemented by the bank, which now publishes a large amount of its research and explanations of its work on its website.

External accountability is, however, improved by the fact that an independent unit, called the Operations Evaluation Department (OED), now rates the development impact and performance of all the World Bank's lending operations, policies and processes. Some, but not all, of the OED's work is made publicly available.

#### **Comments on past record and suitability**

The main criticism generally made of the World Bank is that rich Western donors dominate it. Another criticism that has been made is that "to the extent that the Bank sees people involved in decision-making, it is primarily in order to cut the costs of providing services and of managing local projects".<sup>55</sup> Although the bank has emphasised a need for greater participation in decision-making in order to bring government closer to the people, it expressly rules a number of key policies, including macroeconomic policy, off-limits to public participation.

The World Bank would clearly not be suitable as the technical implementation body in relation to the proposed tax, since it has no experience of that type of function. It does have experience in allocating funds to development projects but its past policy record and structural deficiencies mean that it would not be suitable as the international organisation involved in distributing the tax revenue.

#### **• Conclusions regarding the Bretton Woods institutions**

Some have suggested that there are strong advantages in the IMF carrying out a supervisory and co-ordinating role in respect of the CTT because of its universal membership and wide-ranging powers. Furthermore, the IMF has considerable expertise in international financial matters.

However, the IMF does not really have expertise in the area of international taxation and has often been sceptical about the idea of the CTT and its practicalities. The IMF also seems to lack the necessary legitimacy factor. There is a clear "democratic deficit" in the structures and procedures of the IMF and World Bank.<sup>56</sup> The New Economics Foundation paper, "It's Democracy, Stupid", points out that voting rights at the two institutions are still overwhelmingly determined by the size of the country's financial stake.

It is right to be suspicious of claims by the World Bank and the IMF that they are now more accountable and responsive to civil society groups. Although their transparency and accountability may have slightly improved recently, it is clear that they are unlikely to abandon their 'one size fits all' neo-liberal economic approach.

#### **c) The Bank for International Settlements**

The Bank for International Settlements (BIS) is the world's oldest international financial institution and remains the principal centre for international central bank co-operation. It is a company limited by shares and its statutory organs are the general meeting and the board of directors. Its shareholders are central banks and forty-nine central banks currently hold rights of representation and voting in the general meeting.

The BIS members meet in secret on a monthly basis to discuss matters of relevance to economic and banking policy. Since 1962 most of the work in the area of international monetary and financial cooperation has originated from the Group of Ten countries (G10).

#### **Comments on past record and suitability**

The BIS has considerable expertise in international finance but it has a major disadvantage, which is the fact that its formal links are really only with the G-10 countries. This means that several major financial centres, like Singapore and Hong Kong are excluded, and so are developing and transitional economies. Moreover G-10 countries are only represented through their central banks, not through their treasuries. These problems show that the BIS is ill-equipped to play a major supervisory role in respect of the proposed tax.

# 4. Reform or new body?

Three key tasks need to be carried out by the implementation body of the proposed tax. They are:

- the hosting of the consultation and negotiating process
- technical implementation of the tax
- decision-making regarding distribution of the tax revenue

## a) Hosting of consultations/negotiations

In view of its mandate, experience and near universal membership, the UN General Assembly would be suitable for the first of the tasks involved in implementing the tax - to provide a forum for consultations and negotiations to take place. An international agreement would need to contain the details of the proposed tax code and the obligations on states to implement the code at national level. It would have to establish the body or bodies with the tasks of monitoring implementation, ensuring compliance, collecting the tax revenue from national authorities and distributing the tax funds.

The other two tasks referred to above involve very different functions and powers, and could be divided between separate organs within one international organisation to ensure that each role is carried out effectively. As explained earlier in more detail, the implementation system must also satisfy key criteria of transparency, accountability and democratic participation.

Various supporters of the proposed tax suggest that an existing institution could be used to take on these roles. For example, James Tobin has suggested that the IMF could be assigned the administrative role on the CTT - each IMF member could be required, as a condition of membership and of borrowing privileges, to levy a tax in compliance with IMF specifications. He has also proposed that the IMF or the Bank for International Settlements, or the two together, would be the logical administrators of the tax. However, their poor track record on the key criteria above suggests that neither the IMF nor the BIS are suitable.

The structures, procedures and policies of the bodies within the UN system are much more suitable and satisfy more of the requirements regarding accountability, democracy and transparency. Using the UN system would also have the incidental effect of helping to shift the balance of global power back to the UN from the World Bank and the IMF. Even if the existing UN bodies are not used to implement the tax, a new body could be created under the umbrella of the UN and the lessons learned from the way that existing UN bodies are structured and function, and have failed in the past, will be invaluable in establishing a new, more effective and acceptable body.

## b) Technical implementation

Although UNCTAD and the UNDP appear to be the bodies that might be appropriate to carry out some of the tasks involved in the international implementation of the proposed tax, neither is entirely

appropriate. They have also both been tarnished by criticisms made of their policies and effectiveness in the past.

A new UN body or bodies could be established, either as a subsidiary organ or organs of the UN General Assembly or, more likely, as a separate treaty-based body under the terms of the international agreement, to carry out the implementation role. Under the agreement, all the signatories to the international agreement would automatically be members of this body. There are two main parts of the implementation role:

- the on-going task of formulating policy guidelines in relation to the tax
- assessing whether the member states are complying with their international obligations to implement the tax agreement at national level

These two functions are distinct and should involve different types of structural and procedural arrangements, as well as the allocation of different powers. In view of this, two separate technical implementation organs should be created along the following lines:

### • A council of ministers (governing body)

This will carry out the task of formulating policy guidelines once the international tax agreement has been agreed within the forum of the UN General Assembly. It could also decide, on the basis of recommendations from a compliance body, whether 'sanctioning' measures should be taken against a state violating its obligations in the agreement.

The council could comprise government representatives, in order to enhance the credibility of policy-making decisions; and it could be non-plenary in order to improve efficiency and effectiveness in decision-making activities. But it would then have representatives allocated according to a formula ensuring equitable representation of geographical and other interests, the representatives being elected by the General Assembly.

The procedural rules for the council should provide for the participation of states not directly represented in the council in any discussion where their interests are affected. Decisions of the council should be made on a consensual basis.

To be decided is the extent to which the international agreement itself will set out all the details of the rules, or will leave it to the council of ministers to make decisions. Even if the international agreement sets out all the initial rules, they will need to be flexible and open to revision to allow for unexpected problems and loopholes. Points to consider here are:

- the need for flexibility, which suggests that a certain power to formulate and change rules should be attributed to the council of ministers



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- where major changes in the rules are needed, the legitimacy of the changes and, consequently, compliance, will be greatly enhanced if all the state parties to the international agreement are involved in the amendment process

- **A compliance body**

This will assess whether or not the signatories to the international agreement are complying with their obligations. It could be established as a quasi-judicial body or judicial body made up of independent tax experts. It could comprise two branches:

- a "facilitative branch" with the role of providing advice and assistance to member states regarding their obligations as regards implementation of the international tax agreement at the national level
- an "enforcement branch" to check whether member states are complying with their international obligations and perhaps to recommend to the council of ministers whether some sort of measure should be taken against a state in breach of its obligations

The surveillance role of the enforcement branch could involve the international agreement requiring that the states provide periodic reports to the compliance body on the way in which they have implemented the agreement. The body could also receive complaints from other states regarding the non-implementation or breach of obligations by states. If the body can receive state complaints, ad hoc panels of advisors could be established to consider the allegations of breach of obligations, and make recommendations to the compliance body if it considers that measures should be taken against violators.

The International Court of Justice could have jurisdiction over disputes between states, particularly if the agreement provides for an obligation on all parties to accept such jurisdiction. However, the ICJ could only make decisions regarding disputes between states. It would not, for example, be able to become involved in deciding whether a state was actually in breach of its international obligations on the basis of a complaint by the implementation body, except on the basis of its advisory jurisdiction which is not a binding decision-making process.

- c) **Decision-making on distribution**

The most controversial and difficult part of establishing the system for international implementation of the tax will be deciding how the tax revenue should be collected at the international level and then distributed.

The UNDP is the existing UN structure that seems to be most appropriate to carry out this role in terms of its technical experience. However, there are worries about its recent direction and about the lack of accountability in the use of funds by its programmes. A "clean slate" approach is therefore suggested. A new, untainted separate organ forming

part of the proposed implementation body within the UN system should be established to carry out this role. The new body would be created along the following lines:

- **A commission of independent advisors**

This body will carry out the task of collecting the tax from the national authorities and make decisions regarding the use of the tax revenue within parameters set by processes such as the decade of UN conferences on human and sustainable development.

As regards allocation of the tax revenue, the commission could receive proposals from development bodies such as WHO and UNDP, as well as poor country governments and established NGOs. It would then assess the suitability of those proposals and decide, in accordance with agreed policies and guidelines set out in the international agreement.

However, it will be vital to prevent "institutional capture" at an élite level, and to provide avenues for grassroots and civil society organisations. The application procedure should be open to smaller organisations. Resources will have to be made available to help build local capacity, allowing genuine grassroots organisations to make good quality project applications and take advantage of the new funds for development. Lessons from the experience of bilateral aid programmes and at the EU level show that this is crucial for the effective targeting and good performance of development funds.

The commission could consist of independent members, not acting for any particular member state, who are experts within the fields of tax, finance and development, and who act in accordance with the policies and interests of the implementation body and not the interests of any one member state.

The commission could be elected by the member states - within either the governing body or the UN General Assembly - and would be obliged to follow strict rules in assessing development proposals, and to publish reasoned reports regarding spending decisions, in order to enhance the accountability and transparency of its activities.

It is suggested that the three organs – the council of ministers, the commission and the compliance body – could be established under the umbrella of one international body. It could be called the "**Global Development Commission**". A chart is set out below mapping what this might look like.

The issue of whether this body should be created as a subsidiary organ of the UN General Assembly or a separate treaty-based body established as a specialised agency of the UN is a matter that will need to be considered in more detail by others.

# Conclusions

This paper argues that international implementation of the proposed Currency Transactions Tax is pivotal issue for our times. The tax is both necessary, in order to deal with the risks of currency crises, and entirely possible, on a practical and political level. It would also make considerable sums available for global aid for sustainable development, which continues from chronic underfunding.

The tax would, we argue, be a relatively painless way of resolving the problem of how to raise the resources needed to fund, for example, the 2015 international development targets, and also to meet environmental challenges in developing countries.

Questions about the way that the relevant institutions should be set up and operated are difficult ones, and this paper has tried to set out fundamental principles. In other words, we have suggested how these institutions should look and how they should behave. It is obvious that appropriate and rigorous standard setting at an early stage is all-important.

The paper has argued strongly that a largely new set of institutions will need to be founded but that they must have a basis in international law and form part of the UN family. They must also have strong support from global civil society, as well as nation states, and must be accountable, democratic and transparent.

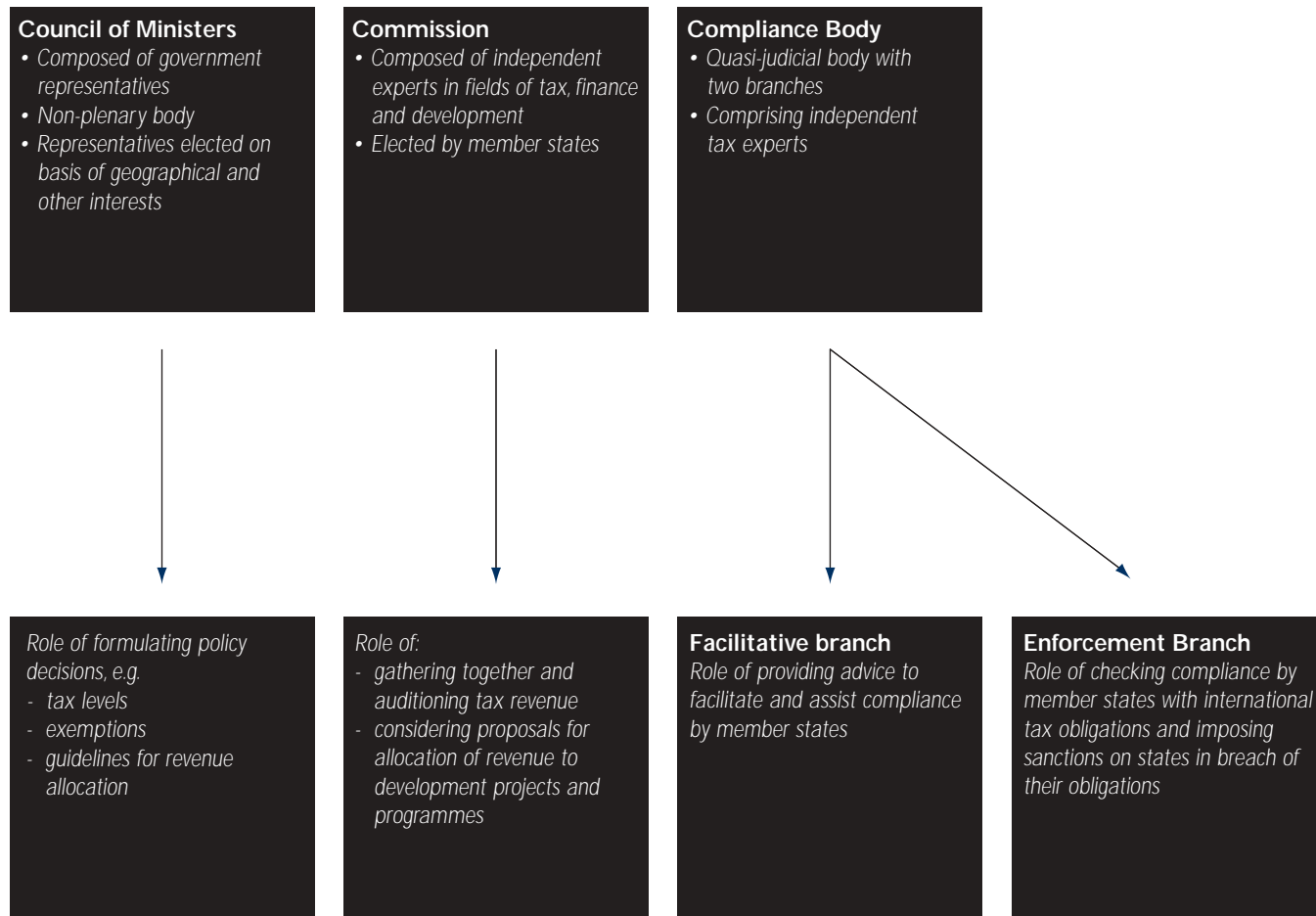
All this points to one final conclusion: that implementation of the CTT proposal is a necessary, urgent and achievable aim. It is also the only single initiative that can simultaneously manage a volatile and unsustainable global economy, and raise the resources to pay for environmentally sustainable human development. That may be an ambitious aim but it is one well worth pursuing.



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# Structure of proposed international body

## Global Development Commission



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Thanks to Helen Hayward, John Grieve Smith.



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ISBN 1 899407 42 1

