



বাংলাদেশের উন্নয়নের স্বাধীন পর্যালোচনা

Illicit Financial Flows in the Context of Bangladesh

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CENTRE FOR POLICY DIALOGUE (CPD)

B A N G L A D E S H

a civil society think tank

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- ❑ Evidence suggests that a significant amount of financial resources are being taken out of Bangladesh through various channels
- ❑ Indeed, this concern got reflected in a number of reports and analyses which have been published recently by the CPD
- ❑ Globally also, the issue of illicit financial flows (IFF) has been gaining increasing importance
 - This has been raised as an area of concern in various important fora including the OECD forum and G-20 meetings
- ❑ Government of Bangladesh has also accorded high importance to this issue
- ❑ In this connection, it will be pertinent to recall the statement made by the Hon'ble Finance Minister in his FY2017 Budget speech where he observed: *"Illicit financial flows have now become a much talked about global issue. The National Board of Revenue has already established a Transfer Pricing Cell to combat cross border tax evasion and avoidance. The measure seems not to be sufficient a separate unit will be established in NBR to address the transfer mispricing, taxation of foreign nationals, and combating money laundering"*



To have more clarity on issues related to illicit financial flows

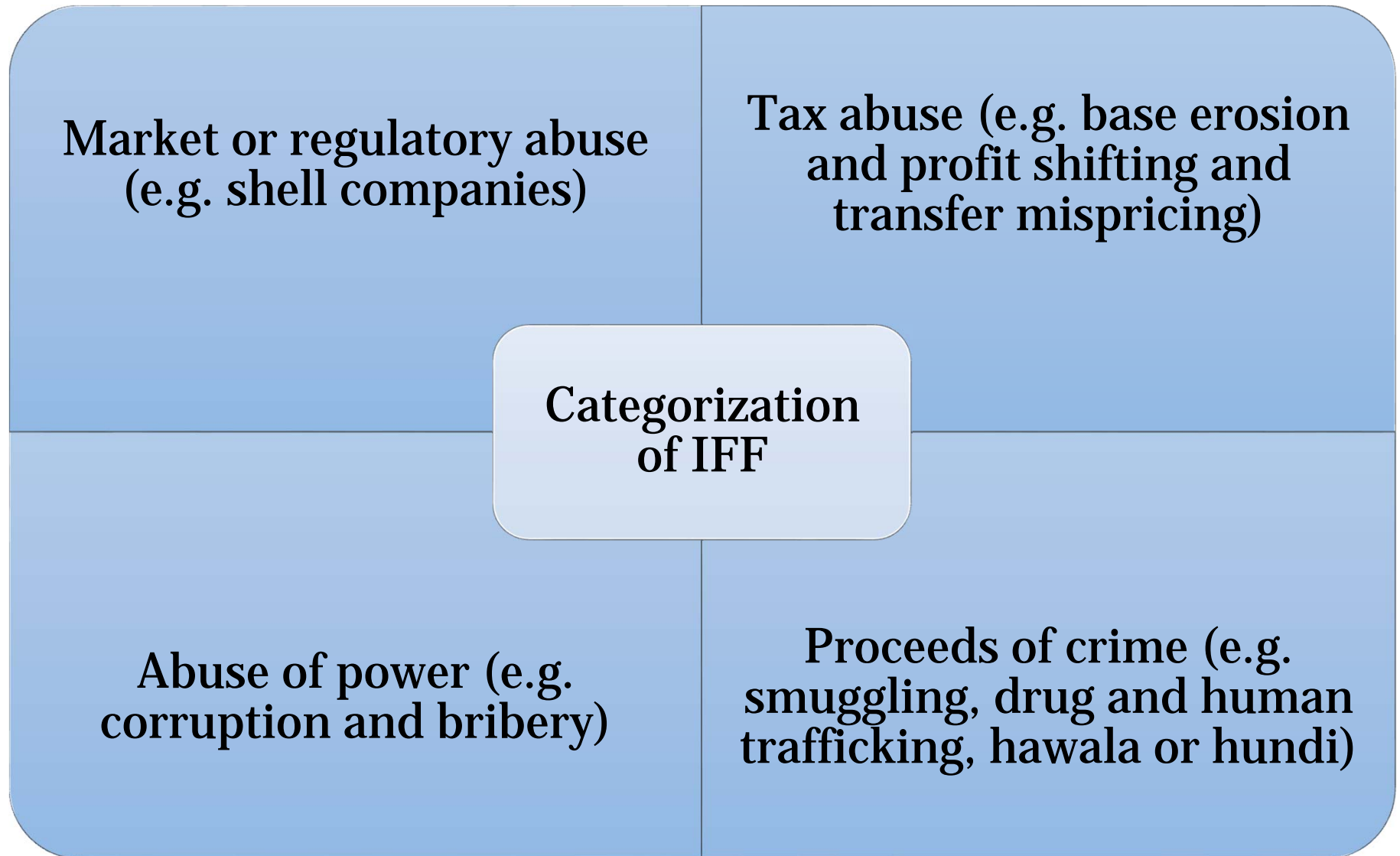
To examine best approaches and tools to discourage flight of money from Bangladesh and tax evasion through this

To come up with the needed institutional and legal frameworks in view of the emerging concerns

- There are two main definitions of IFF
 - One equates 'illicit' with 'illegal', so that IFF are movements of money or capital from one country to another that are illegally earned, transferred, and/or utilized. This would include individual and corporate tax evasion but not avoidance (which is legal), and other criminal activity like bribery or the trafficking of drugs or people
 - The other relies on the dictionary definition of 'illicit' as 'forbidden by law, rules or custom' – encompassing the illegal but also including the socially unpalatable, such as the multinational corporate tax avoidance that is the target of the OECD BEPS (Base Erosion and Profit Shifting) initiative

- In 2015, Jim Yong Kim, the President of the World Bank agreed that – *“Some companies use elaborate strategies to not pay taxes in countries in which they work, a form of corruption that hurts the poor”*

- ❑ Kar (2011) defined IFF as the financial flows which include, but are not limited to, “cross-border transfers of the proceeds of tax evasion, corruption, trade in contraband goods, and criminal activities such as drug trafficking and counterfeiting”
- ❑ United Nations (2013) classified IFF into three main forms -
 - the proceeds of theft, bribery and other forms of corruption by government officials
 - the proceeds of criminal activities including drug trading, racketeering, counterfeiting, contraband, and terrorist financing
 - the proceeds of tax evasion and laundered commercial transactions
- ❑ Curiously, it has been observed that laundered commercial money through multinational companies constitutes the largest component of IFF, followed by proceeds from criminal activities, and lastly corruption (Baker 2005)



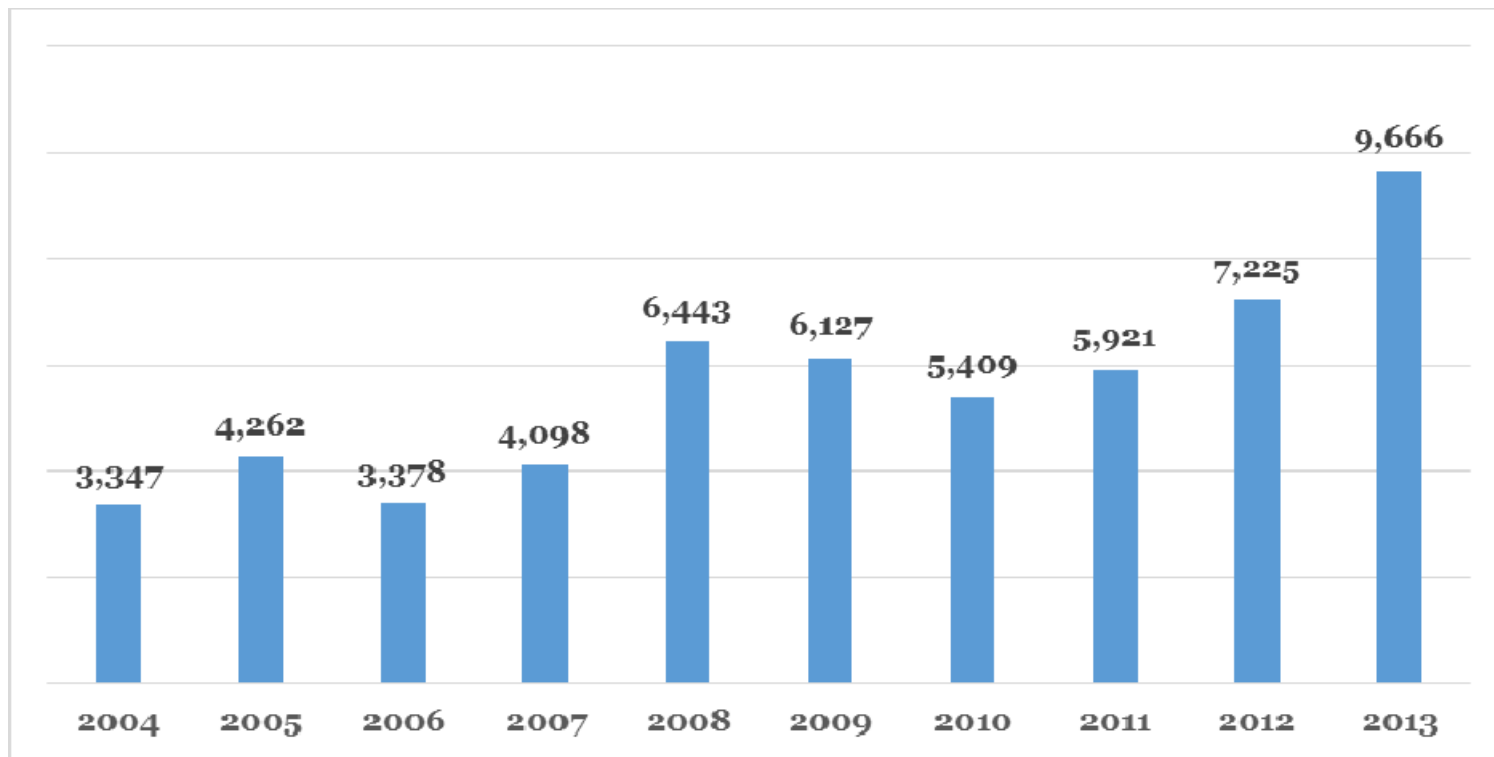
Rationale in the Bangladesh context

- ❑ Evidence of tax loss and capital flight in Bangladesh
- ❑ Increasing volume of international transaction
 - Trade openness is about 45%
- ❑ Increasing presence of multinational enterprises
- ❑ Corporate tax rates being higher than some of the other countries/territories
- ❑ Domestic tax rate variation
- ❑ Ranked high on Corruption Perception Index
- ❑ Undisclosed income is earned through legal activity but not taxed
 - 'Black money' accounted for 40-80% of Bangladesh economy (estimate of Ministry of Finance)

Global Financial Integrity (GFI) estimates of IFF

□ Top country among the LDCs

IFF from Bangladesh (million USD)

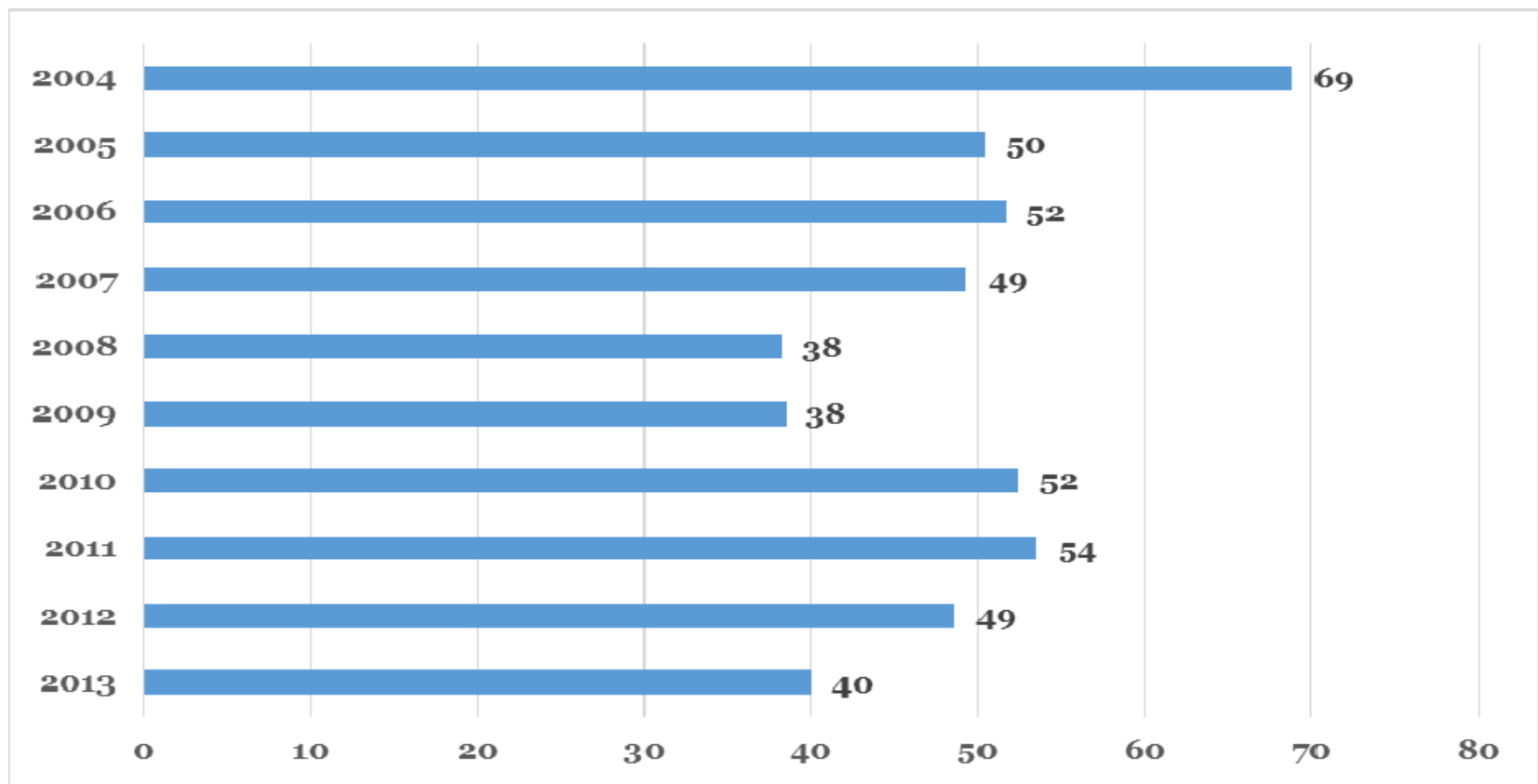


Evidence of IFFs in Bangladesh

Global Financial Integrity (GFI) estimates of IFF

□ Ranking in terms of IFF as % of GDP

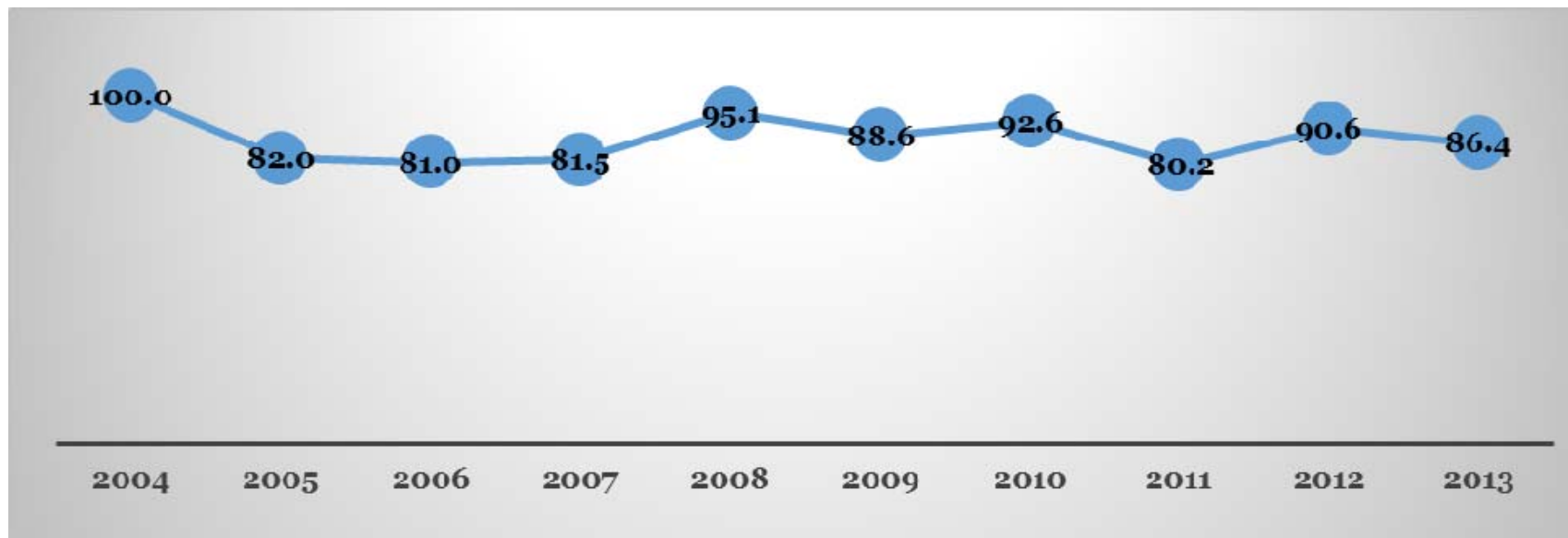
Ranking in 100 Countries



GFI estimates

- Average IFF from Bangladesh stood at about USD 5,588 million in last ten years – 88% of this through trade mispricing
- However, the share of hot money is rising

Trade mispricing as % of IFF



Evidence of IFFs in Bangladesh

- ❑ In 2013, IFF was about 3.6 times of Education budget and 8.2 times of Health budget
- ❑ If 25% of this money can be taxed, health budget could be tripled or education budget could be doubled

Country	IFF as % of ODA	IFF as % of GDP
Bangladesh	340	5.5
Cambodia	221	14.8
China	17301	2.7
India	2526	3.8
Indonesia	1988	3.1
Nepal	83	4.3
Pakistan	9	0.1
Philippines	2928	5.1
Rwanda	42	7.4
Sri Lanka	303	4.4
Tanzania	19	1.8

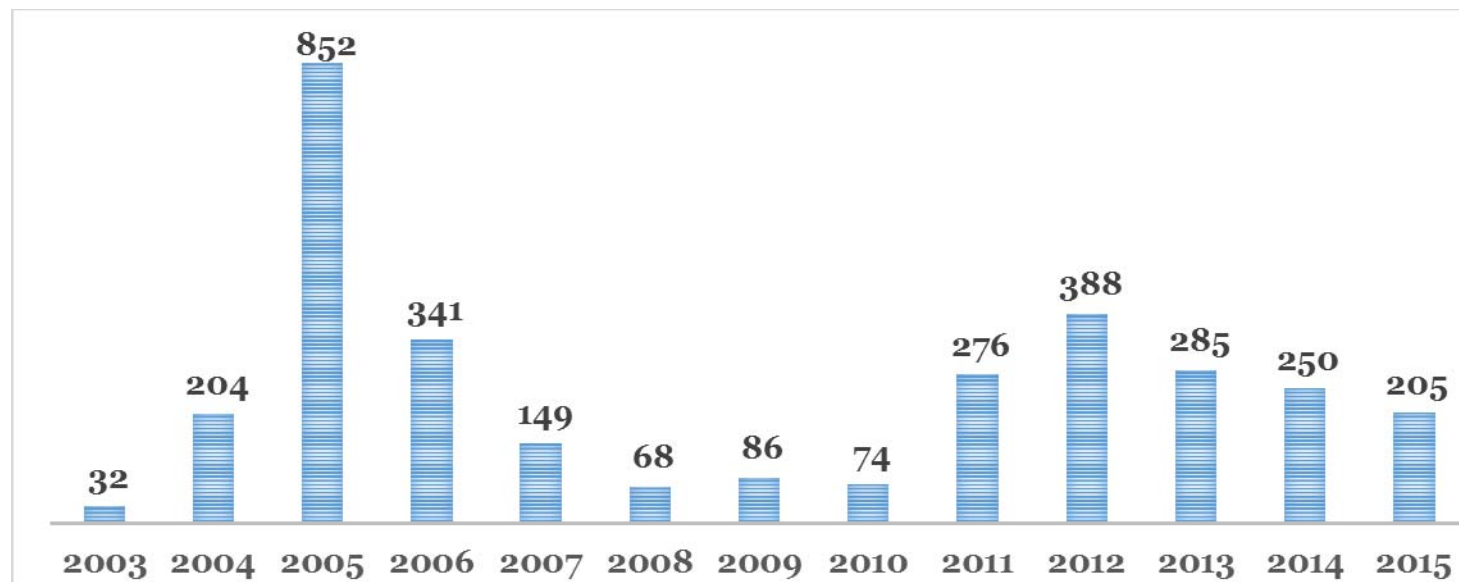
Deposits in 'Swiss Bank Accounts'

- ❑ Doubled in two years – between 2012-2014

Malaysia as My Second Home (MM2H)

- ❑ Bangladeshis (3,061) account for 11.2% of the total MM2H beneficiaries
- ❑ Bangladesh is ranked third after China and Japan
- ❑ Opportunities are available in Australia, Canada and the USA as well

MM2H Program: Number of People from Bangladesh



Trade Mispricing and Misdeclaration

- ❑ In March 2014, the state of affairs changed drastically and import shipment figures recorded a historically high 54.5% growth in a single month!!!
 - Capital machinery import was USD 731 million in March 2014, which was more than five times the amount of import in March 2013
 - Data received from Bangladesh Bank shows that a number of crane items were imported from France in the month of March 2014, amounting to about USD 433 million
 - It is perhaps worth mentioning that customs duty on crane products was only 2.0%
- ❑ In 2015 prices of capital machineries are found to be inflated
- ❑ During the period 2013-2015, average import price of rice was found to be USD 800-1000 per tonne whereas the international market prices were about USD 500 per tonne

Evidence of IFFs in Bangladesh

ICIJ Offshore leaks

disclosed details of 130,000 offshore accounts in April 2013



Country	Number of Accounts
Bangladesh	34
Cambodia	11
India	665
Indonesia	2961
Nepal	13
Pakistan	39
Philippines	572
Sri Lanka	46
Tanzania	7

Evidence of IFFs in Bangladesh



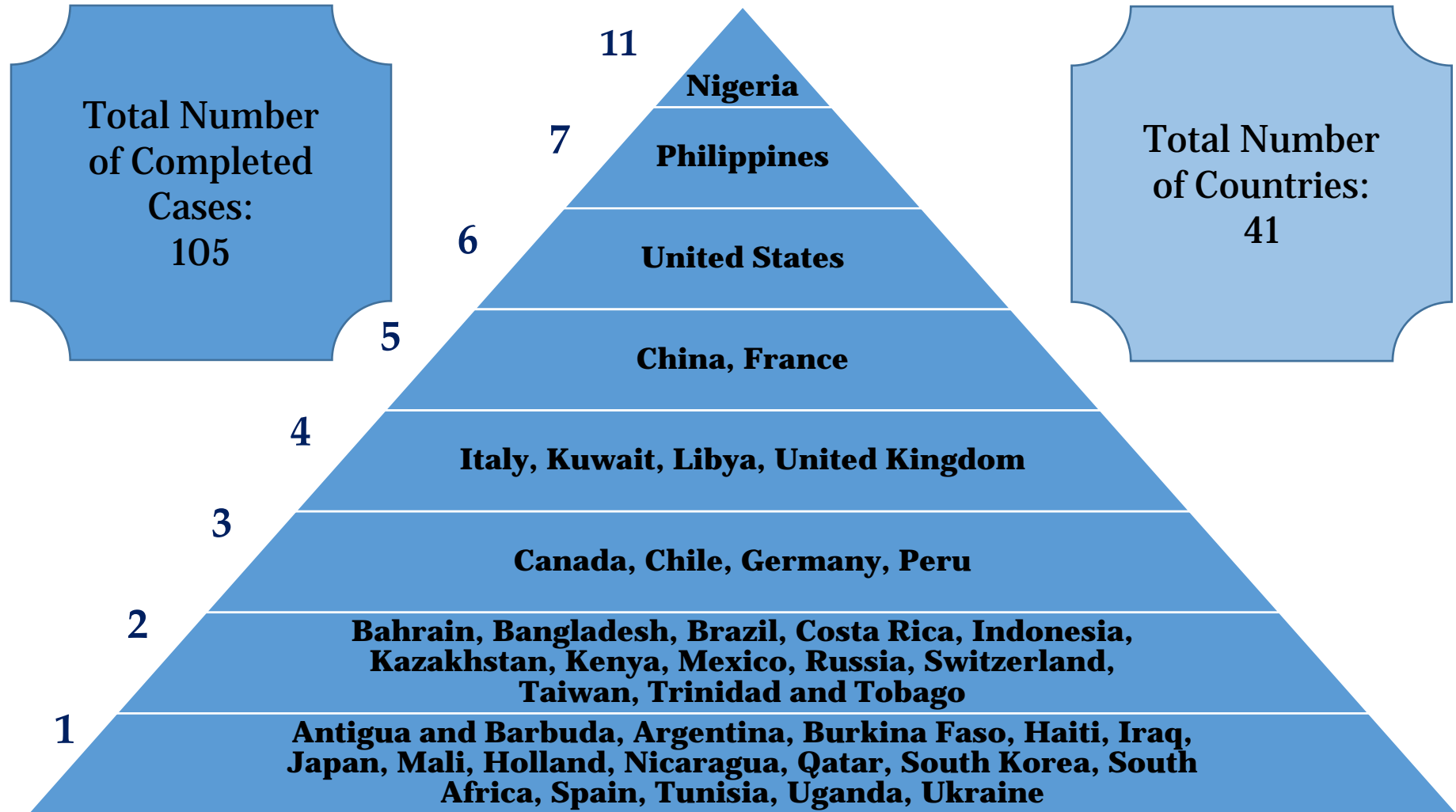
ICIJ Panama Papers leaks

11.5 million leaked documents from 214,488 offshore entities created by Mossack Fonseca in April 2016 (some date back to the 1970s)

Country	Number of accounts
Bangladesh	27
Cambodia	19
China	28,115
India	432
Indonesia	1,080
Nepal	7
Pakistan	226
Philippines	426
Rwanda	3
Sri Lanka	28
Tanzania	52

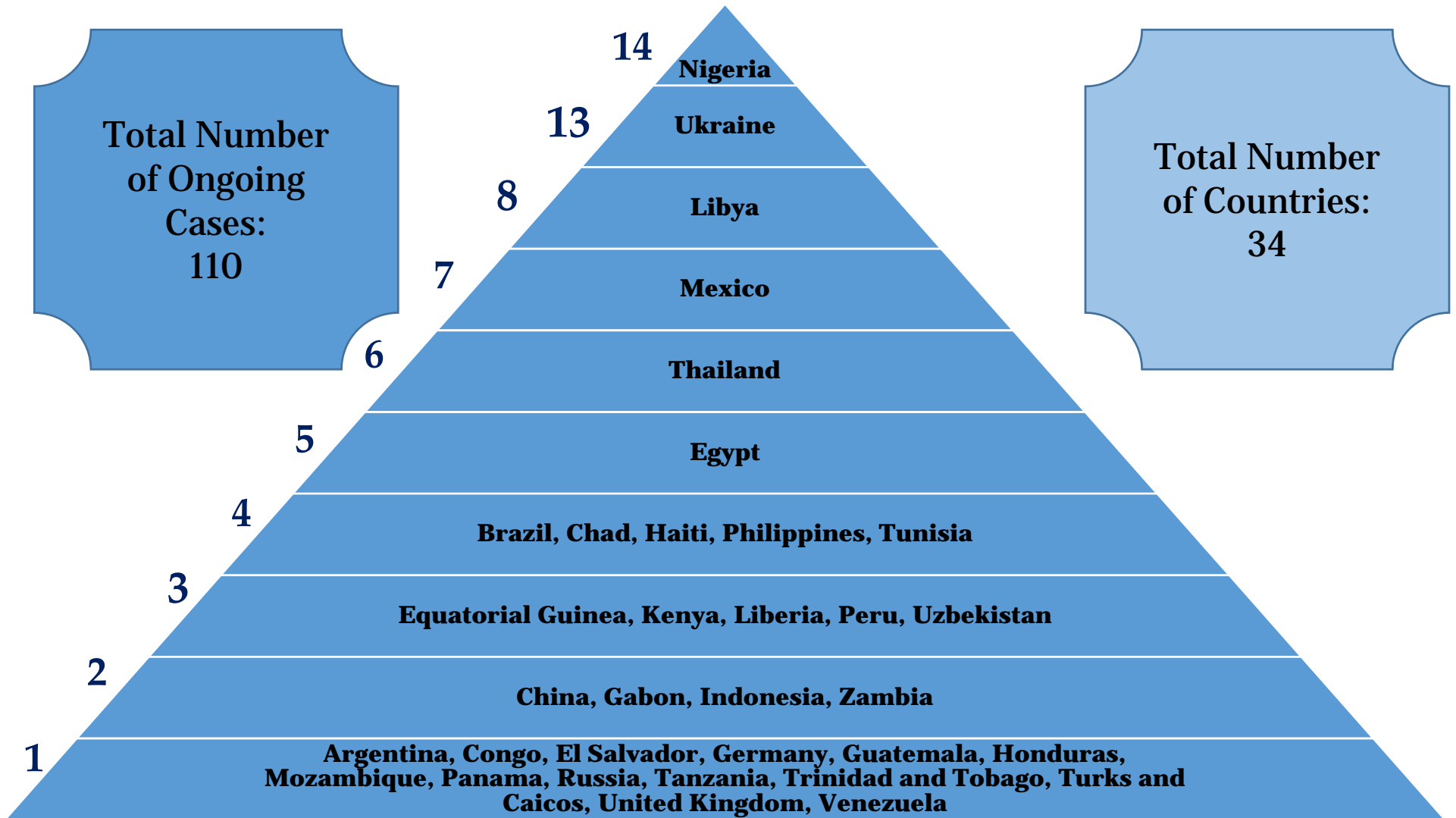
Evidence of IFFs in Bangladesh

Stolen Asset Recovery (StAR): Number of completed cases by countries



Evidence of IFFs in Bangladesh

Stolen Asset Recovery (StAR): Number of ongoing cases by countries



Money Laundering Act

- ❑ The first anti-money laundering legislation introduced in Bangladesh was called the Money Laundering Prevention Act, 2002. Later the Money Laundering Prevention Ordinance 2008 replaced the previous Act. Subsequently, the ordinance was once again repealed by introducing Money Laundering Prevention Act, 2009 and then the Money Laundering Prevention Act 2012
- ❑ Came out of FATF *grey list* in 2014
- ❑ Four FATF recommendations from 2013
 - adequately criminalizing terrorist financing
 - establishing and implementing adequate procedures to identify and freeze terrorist assets
 - ensuring an effectively functioning Financial Intelligence Unit
 - Improving international co-operation
- ❑ The Money Laundering Prevention Act 2012 was amended on 11 October 2015 through an ordinance
- ❑ There have been some key changes in the amendment made

Money Laundering Act

Investigation agencies increased.

- ❑ Only the Anti-corruption commission (ACC) was able to conduct investigations as regards money laundering cases
- ❑ Bangladesh Financial Intelligence Unit (BFIU) has now been given the power to nominate other agencies including ACC, police to investigate money laundering cases
- ❑ According to the new amendment, the police will investigate certain charges, National Board of Revenue (NBR) can probe cases involving customs whilst the Department of Narcotics Control has the authority to deal with the drug-related cases

Change in definition of human trafficking

- ❑ Definition of human trafficking has been extended
- ❑ Money received for fraudulent promises to send abroad will be considered as money laundering under the new amendment

Money Laundering Act

Increase in monetary punishment

- ❑ The punishment under this Act has been raised from the existing Tk. 10 lakh to Tk. 20 lakh
- ❑ However, the jail terms will remain unchanged with a minimum sentence of four years and maximum of twelve years

Structure of BFIU is reorganized

- ❑ BFIU will be under, and supported by, Bangladesh Bank
- ❑ It will be considered as a separate agency with BFIU's own letterhead and seal
- ❑ The appointment of the chief of BFIU will be undertaken through a search committee including the Bangladesh Bank Governor
- ❑ GoB will appoint the chief of the BFIU with the status of a Deputy Governor of Bangladesh Bank

National Strategy for Preventing Money Laundering and Combating Financial Terrorism 2015-17

- ❑ Strategy 01: Updating national MI & TF risk assessment report regularly and introducing risk based approach of monitoring and supervision of all reporting organizations
- ❑ Strategy 02: Deterring corruption-induced money laundering corruption as a high risk
- ❑ Strategy 03: Modernization of Border Control Mechanism and depriving perpetrators from use of proceeds of crime to prevent smuggling of gold and drugs, human trafficking, other transnational organized crimes considering the risk thereon
- ❑ Strategy 04: Tacking illicit financial flows by preventing the creation of proceeds of crime, curbing domestic and cross border tax evasion and addressing trade based money laundering
- ❑ Strategy 05: Discouraging illicit fund transfer by increasing pace of stolen assets recovery initiatives and/or recovering evaded tax

- ❑ Strategy 06: Enhancing the capacity of BFIU in identifying and analyzing emerging ML & TF cases including ML&TF risks arising from the use new technologies
- ❑ Strategy 07: Enhancing compliance of all reporting agencies with special focus on new reporting agencies like NGOs/NPOs and DNFBPs
- ❑ Strategy 08: Expanding investigate capacity and improving the quality of investigation and prosecution of ML&TF cases to deter the criminals
- ❑ Strategy 09: Establishing identification and tracing out mechanisms as regards targeted financial sanctions related to FT&PF effectively
- ❑ Strategy 10: Boosting national and international coordination both at policy and operational levels
- ❑ Strategy 11: Developing a transparent, accountable and inclusive financial system in Bangladesh
- ❑ ***To be implemented by various government agencies***

Transfer Pricing Cell

- ❑ Enacted with an amendment of Income Tax Ordinance in 2012
- ❑ Influenced by OECD model and Indian model
- ❑ Took two years to prepare the rules
- ❑ Will start auditing soon
- ❑ Very small team within the tax office
- ❑ Still lacks adequate resources

(Earlier CPD had prepared a paper for putting in place TPC at NBR)

New cell in NBR

- ❑ National Board of Revenue (NBR) to form a separate cell to gather information on funds siphoned off and scrutinise the income of dual citizens
- ❑ Took on the scheme in view of rising outflow of funds to different countries (e.g. Australia, Canada, Malaysia, UAE and the US) through legal and illegal means
- ❑ The prime objective is 'tax recovery' not 'asset recovery'
- ❑ The Finance Minister has also urged for this

What are the catalysts

- ❑ Cash-based economy
- ❑ Remittance through informal channel
 - 22% of total – i.e. USD 4.3 billion
- ❑ Trade-based money laundering
- ❑ Mis-declaration in foreign trade
- ❑ Lack of investment opportunity
- ❑ Inconvertible capital account
- ❑ Corruption
- ❑ Geographical location
 - e.g. large smuggling of gold through Bangladesh

Will capital account liberalization help?

- ❑ *The countries with liberalized capital accounts are not immuned from IFF*
- ❑ *To start with, will it be allowed to hold USD to a certain level by Bangladeshi citizens?*

What should be the prime objective – tax recovery or asset recovery?

- ❑ *StAR focuses solely on asset recovery*
- ❑ *USD 5 billion has been recovered in the period 1995 to 2010*
- ❑ *Asset recovery is a lengthy legal process that may take up to six years from the launch of investigations to the judgment confiscating and returning the stolen assets – there are cases that last much longer*
- ❑ *Need a balanced approach*

How to be active in the global processes?

- ❑ *Several discussions are ongoing - Automatic Exchange of Information, BEPS, Public Country-by-Country Reporting, International Institutional Architecture*
- ❑ *BEPS is discussed by the OECD*
- ❑ *G-20 has recently been involved in the related global processes*
- ❑ *But the smaller powers in the global economy are largely left behind*
- ❑ *Asia does not have a platform for taxation such as African Tax Administration Forum (ATAF) and Inter-American Center of Tax Administrations (CIAT)*
- ❑ *There is also a call to establish a global tax body*

There is a need to consider the broader concept of IFF

Capacity enhancement

- Legal reforms (e.g. Enactment of Benami Property Act)
- Institutional strengthening including intelligence
- Technological capacity enhancement

Coordination

- Coordination among agencies
- Follow-ups

Cooperation

- Cooperation with other countries
- Remaining active in global and regional forums

Political Economy Dynamics

- Transparency
- Awareness Building
- Political will

How should Bangladesh proceed to address this issue?

- ❑ It is important to start a consultative process to address this issue
- ❑ There may be a need to form a specialized task force to this end
- ❑ The task force may include representatives from the relevant government agencies, independent experts, civil society actors and other stakeholders including private sector leaders
- ❑ Two objectives may be considered –
 - *to prevent future outflows*
 - *to recover (both asset and tax) previous outflows*
- ❑ There is a need to have strong political will in order to make progress on this issue –
 - *push from parliamentary standing committee*
 - *agenda from Ministry of Finance at the Cabinet level*
 - *support to the Head of the Government from the Parliament*



Thank You