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The Politics of Global Financial Reregulation: Lessons from the Fight against Money Laundering

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THE POLITICS OF GLOBAL FINANCIAL REREGULATION:

LESSONS FROM THE FIGHT AGAINST MONEY LAUNDERING

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Reform of the global financial system has emerged as one of the central issues on public policy agendas around the world. In normal times, the public rarely shows much interest in global financial issues. Seemingly arcane and technically complex, the subject is left to specially trained economists, practitioners in the markets, and financial journalists to debate. But these are hardly normal times. Developments during the last few years have highlighted to all some of the costs associated with the dramatic globalization of financial markets: diminished national policy autonomy, volatile exchange rates and a new vulnerability to systemic financial crises. Indeed, it was the desire to avoid these costs that led the architects of the Bretton Woods system over fifty years ago to endorse the use of capital controls and a much more regulated international financial system than we now live in.

Particularly prominent in the new debate on global financial reform is the widespread interest in the reregulation of global financial markets. Gone is the rhetoric of a few years ago that governments are powerless in global finance and that the financial globalization trend is inevitable and irreversible. The new conventional wisdom asserts that global financial markets will survive and flourish only if public authorities are actively involved in promoting this outcome through various regulatory activities. Some analysts call for the strengthening international prudential supervision and regulatory standards for banking and securities markets. Others propose greater international information-sharing, the harmonization of accounting and auditing practices, and mechanisms to encourage private financiers to assume greater portion of the risk in international lending. Still others suggest restrictions on short-term speculative flows of money either by individual countries or cooperatively through proposals such as the Tobin tax.[1]

Many of these proposals will require a high degree of international cooperation and coordination between national regulators and perhaps even a strengthening of public international financial institutions. Economists are usually the authors of these proposals and, despite their reputation as dismal scientists, they are usually optimistic about the prospects for cooperation and coordination. By contrast, their political science colleagues often have the more dismal perspective. They recall that political barriers inhibited international cooperation during the interwar years, bringing down the global financial system of the 1920s. In the contemporary period, they highlight that successful international cooperation and coordination in the regulatory arena has been rare, with the 1988 Basle Accord being the main exception.[2]

There are many reasons why political scientists think cooperation and coordination are difficult in the financial regulatory sector, but two arguments are particularly common. First, "realists" highlight that international regulatory initiatives may serve global economic welfare, but are often scuttled as states see them in a more political light as serving one country's national interests over others. Second, even if each state shares the same goal, cooperation and coordination may still fail because of collective action problems. For example, all states may see new international regulatory standards as desirable, but some may be tempted not to follow them as a way of attracting

[1] For a recent overview of these proposals, see Eichengreen (1999).

[2] For two prominent "pessimistic" arguments from political scientists, see for example Strange (1998) and Cerny (1993, 1994).

footloose financial capital and business to their less-regulated financial markets. Their "free riding" behavior - one thinks especially of the numerous offshore financial centers – undermines the effectiveness of regime as a whole. Indeed, more generally, many political scientists argue that the heightened mobility of financial capital has unleashed powerful competitive deregulation pressures that inhibit not just collective reregulatory initiatives at the international level but even unilateral ones in each country's own markets. Any reregulatory initiative is likely to be opposed – particularly by the domestic financial sector – on the grounds that it will render the national financial system uncompetitive.

These arguments highlighting the political difficulties of international regulatory cooperation and coordination in the financial sphere are important ones. In this paper, however, I question the pessimism of many political scientists by examining a case where international regulatory cooperation and coordination have developed quite substantially: the international fight against money laundering. Over the last decade, states around the world have begun to construct an elaborate "global prohibition regime" that seeks to curtail money laundering.[3] The creation of this international anti-money laundering regulatory regime has been neglected almost entirely in the literature on the politics of international financial regulation. This neglect is unfortunate because, as I argue in this paper, the case is important in two ways.

First, it provides us with a second example - alongside the Basle Accord – with which we can examine how political barriers to regulatory cooperation and coordination might be overcome. I do not want to overstate the success of the anti-money laundering regime – it is still very much a regime in formation – but I will show how many of the political circumstances that enabled cooperation and coordination to develop in this case were similar to those that existed with respect to the Basle Accord. The two cases together may help us to identify important political conditions that can foster collective regulatory initiatives in the international financial area.

Second, I argue that the anti-money laundering regime may be useful more directly in pursuing some other regulatory goals. Specifically, the kinds of international cooperation and coordination that have been introduced to combat money laundering may help to strengthen international regulatory initiatives aimed at curbing tax evasion and capital flight. Indeed, as I will demonstrate, this potential is already beginning to be recognized by the leading financial powers in ways that the original Bretton Woods architects in fact originally intended. Before turning to these two points, however, let me begin by providing a brief description of the emergence of the anti-money laundering regime.

The Emerging International Anti-Money Laundering Regime

It is widely recognized that economic globalization has encouraged the growth of a wide variety of illicit international economic transactions.[4] Hardly surprising is the fact that money laundering activities – that is, activities which hide the origins and ownership

[3] For the term "global prohibition regimes" see Nadelmann (1990).
[4] Friman and Andreas (1999).

of money earned through criminal means - should be a particularly prominent aspect of this phenomenon. Money has always been one of the commodities that is most mobile and easiest to hide from state authorities. The financial sector is also where globalization has been most dramatic in recent years. As technological developments and financial liberalization have made money more mobile, the opportunities for money laundering have grown dramatically. Criminals have taken particular advantage of the proliferation of offshore secrecy havens as places to hide their origins of their illegal earnings.[5]

As money laundering activity has grown dramatically (to as much as $500b per year[6]), states have responded with an increasingly strong set of initiatives designed to curtail it. These initiatives began in a serious way in the late 1980s and have been pursued in a variety of forums including the United Nations (especially the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, or "Vienna Convention"), the Bank for International Settlements (its 1988 recommendations to banks on the issue), IOSCO, various regional bodies (e.g. the EU, the Council of Europe, the OAS, the Commonwealth) as well as many bilateral legal assistance treaties. Playing the leadership role during the last decade, however, has been the Financial Action Task Force (FATF), a free-standing body set up by the G-7 in 1989 to address the money laundering issue. In 1990, it issued 40 recommendations which incorporated many of the other initiatives of the time and subsequently became a kind of standard promoted in other multilateral, regional and bilateral settings. Because the various initiatives within the FATF and elsewhere have complemented each other closely, analysts refer to them collectively as an increasingly cohesive anti-money laundering "regime" at the international level.[7]

What are the key features of this regime?[8] To begin with, it does not focus on controlling illicit financial movements at the border. Indeed, its regulatory initiatives are often designed explicitly to prevent governments from being tempted to use capital controls to control money laundering.[9] This does not mean that borders have been neglected entirely as "intervention" points to curtail money laundering, however. Some countries - namely the US and Australia - have begun to monitor cross-border capital flows as a way of gathering information about money laundering activities.[10] The FATF

[5] See especially Blum et al (1998)

[6] Tanzi (1997)

[7] See for example MacDonald (1992). Many of the procedures developed in Interpol for handling the issue, for example, were adopted in the UN's 1988 Vienna Convention and supported by FATF. Compliance with the UN Vienna Convention is also advocated or required in most of the other agreements. In addition, many of the regional initiatives attempt to persuade governments to adopt the FATF recommendations. Both the Vienna
Convention and the FATF also encourage the various kinds of regional and bilateral initiatives.

[8] For a more detailed overview, see the FATF's Annual Reports and also Savona (1997).

[9] See for example the EU's 1991 anti-money laundering directive (Gilmore (1992: 244).

[10] Australia has done this since 1988 and the US since 1970. Initial US efforts to monitor cross-border money movements were very limited, focusing only on the requirement that people fill out reports if they were bringing in or out of the country currency or monetary instruments over $5000. A 1992 US law, however, requires the US government to develop ways of monitoring cross-border financial movements taking place via wire transfers as well. This requirement has finally been implemented in 1996 (Sultzer, 1995: 223-31).

recommendations also ask countries to consider implementing this kind of monitoring systems, although "without impeding in any way the freedom of capital movements."[11]

Instead of controlling flows at the border, the anti-money laundering regime seeks to bolster the ability of each government to crack down on money laundering activity within its borders. It does this in two ways. First, it actively promotes the international harmonization of domestic laws and practices that are designed to combat money laundering. The FATF recommendations call on governments to criminalize money laundering (as required under the Vienna Convention), to require financial institutions in their territory to report all "suspicious" transactions to domestic authorities[12], and to refuse to engage in transactions where the identity of the customers involved is unknown by the institutions. By pushing governments around the world to introduce these measures, the regime aims not only to reduce money laundering directly in each country but also to lessen the likelihood of all countries being vulnerable to the growth in money laundering activities in a less regulated financial center.

Second, the regime encourages extensive international information sharing and legal cooperation between governments with respect to investigation, prosecution, confiscation and extradition in money laundering cases. A key pillar of this approach has been a commitment that participating governments have made (since the Vienna Convention) *not* to allow bank secrecy provisions to interfere with these forms of international cooperation. This important provision eliminates a key barrier to international cooperation that has existed in other areas such as the fight against tax evasion. Another interesting feature of international information-sharing – to which I will return later - has been the FATF recommendation that countries consider providing information *proactively* to foreign governments regarding suspicious flows to and from those foreign countries that take place under its jurisdiction.[13]

[11] The quotation comes from FATF recommendation #22 (FATF 1990: 20). Quirk (1997: 7) reports that some governments have told the FATF that implementing this recommendation "would require adopting regulations contrary to the IMF's advice for liberalizing financial markets". Member governments have also been asked by FATF to "consider recording in at least the aggregate, international flows of cash in whatever currency, so that estimates can be made of cash flows and reflows from various sources abroad, when this is combined with central bank information. Such information should be made available to the IMF and BIS to facilitate international studies."(FATF, 1990 The quotation comes from FATF recommendation #22 (FATF 1990: 20). Quirk (1997: 7) reports that some governments have told the FATF that implementing this recommendation "would require adopting regulations contrary to the IMF's advice for liberalizing financial markets". Member governments have also been asked by FATF to "consider recording in at least the aggregate, international flows of cash in whatever currency, so that estimates can be made of cash flows and reflows from various sources abroad, when this is combined with central bank information. Such information should be made available to the IMF and BIS to facilitate international studies."(FATF, 1990).

[12] Within the FATF, there is some disagreement about how best to operationalize this notion of "suspicious reporting". The US and Australia have pressed for financial institutions to be required to report all currency transactions above a certain threshold. Other countries have preferred to allow financial institutions to report only those transactions that the institutions have thought to be of a suspicious nature. See FATF (1990: 21; 1991: 42).

[13] As the FATF's recommendations put it, "If a country discovers an unusual international shipment of currency, monetary instruments, precious metals, or gems, etc., it should consider notifying, as appropriate, the Customs Service or other competent authorities of the countries from which the shipment originated and/or to which it is destined, and should co-operate with a view toward establishing the source, destination, and purpose of such shipment and toward the taking of appropriate action." Interpretative Notes on Recommendation #22.

The construction of these key features of the anti-money laundering regime is still very much in progress. Although levels of compliance with the FATF's forty recommendations among member countries has been quite impressive (especially given that the recommendations have no binding force on governments), some states are still in the process of implementing them. Regulators have also been forced to adopt a dynamic approach to regulation as their initial initiatives have often encouraged diversion of illicit financial activity away from financial sectors that were initially targeted (e.g. banks) towards others (e.g. securities markets).

FATF members are also still in the process of extending the geographical coverage of the regime. The FATF itself has 26 member governments (as well as the European Commission and Gulf Cooperation Council) including most of the major financial centers of the world.[14] FATF members have also been quite successful in encouraging many non-member states to adopt the forty recommendations through various missions, seminars and the fostering of regional groupings with an associative relationship to the FATF. For example, the 1988 Vienna Convention has been ratified by over 75 countries. Similarly, the FATF's forty recommendations have been endorsed by countries that belong to the Caribbean Financial Action Task Force which includes all the key offshore financial centers in that region. FATF countries are now working hard to extend the regime further (as discussed below) to include Eastern Europe and countries such as the Seychelles and Russia where money laundering has grown in recent years.

Because this anti-money laundering regime is still in formation, it is difficult to evaluate its effectiveness at this point. In this paper, I make no effort to undertake such an evaluation. Instead, I am more interested in analysing the political process that has enabled states to begin to work together in such extensive ways to construct a new international regulatory regime in the financial sector. Given the skepticism of many political scientists about the possibilities of this kind of regulatory cooperation and coordination taking place, we need to ask how this regime has begun to be able to be built. How were the different political interests of states overcome? And why haven't collective action problems and competitive deregulation pressures scuttled the initiative to a greater degree? Answering these questions should prove useful to current policy debates because the kinds of international regulatory initiatives being promoted in the anti-money laundering regime are broadly similar to that being proposed by advocates of a "new international financial architecture" today. In both cases, two kinds of international activity are prominent: 1) the push for harmonization of domestic standards across the world and 2) the fostering of extensive information sharing between national regulatory authorities.

The Political Conditions For International Reregulation

The politics of cooperation and coordination in the anti-money laundering regime are especially interesting because of their similarity to those that accompanied the construction of the Basle Accord. Among political scientists who are skeptical of the

[14] This includes the G-7, the rest of EU, Australia, New Zealand, Norway, Switzerland, Iceland, Singapore, Hong Kong, China, and Turkey.

prospects for international regulatory initiatives in global finance, the Basle Accord is often portrayed as an exceptional agreement, unlikely to be duplicated. In fact, however, the political difficulties associated regulatory cooperation and coordination have been overcome in quite similar ways in both cases, suggesting some broader lessons about how international regulation can take place.

To begin with, in both instances, the US used its dominant position in the international financial system to push states to work together to regulate international finance. In the case of the Basle Accord, Ethan Kapstein shows how the US pressured foreign governments by threatening to cut off their access to the US financial system unless they complied with the new standards. Because of the centrality of US financial markets in the global financial system, this threat was very effective in encouraging foreign governments to comply.[15]

A similar threat was made - and even more explicitly - by the US in its efforts to encourage foreign states to begin to crack down on money laundering. The Kerry Amendment to 1988 Anti-Drug Abuse Act empowered the US government to cut foreigners off from access to the US financial system, including its clearing systems, if their governments refused to reach specific anti-money laundering agreements with the US Treasury. Foreigners had to take this threat seriously, especially since the US-based clearing systems CHIPS and Fedwire handle the vast portion of all wire transfers sent and received in the world.[16] In Mario Possamai's words, the threat was thus "a hefty club, since those systems are the underpinning of world trade and finance. A haven that was not plugged in would not survive long."[17] In fact, no country has yet had its access to the US financial system cut off under this provision and the Treasury has only negotiated a few agreements of the precise kind that the Amendment requires.[18] Still, the threat has been effective - as it was in the Basle Accord negotiations - in focusing foreign governments' attention on the seriousness with which the US viewed the issue.[19]

[15] Kapstein (1994). The US was also assisted by Britain in this instance who made a similar threat with respect to access to its markets. Porter (1993: 68-71), however, takes a more skeptical view than Kapstein of the importance of the US role in this case

[16] Wyrsch (1992: 518).

[17] Possamai (1992: 136).

[18] These agreements were supposed to require foreign governments to get their own banks to record all US dollar transactions above $10,000 and make them available to the US on request. Several agreements of this kind have been negotiated with Latin American countries, but even they allow foreign governments to withhold information with minimal justifications. See Sultzer (1995: 209fn.404), Possamai (1992:136-7). Beaty and Hornik (1989: 50) note that the US government has been reluctant to enforce the Kerry Amendment "for fear of hampering the US Banking industry".

[19] See, for example, Friman (1994: 258) on its role in encouraging Japan to adopt anti-money laundering legislation. Discussing the power of US threats of retaliation against non-complying states, Senator John Kerry (1997: 153) notes: “Administration officials tell me that the very hint of such an approach by the United States has already pushed several countries in the Caribbean and Western Europe to begin imposing real regulations to combat the launderers”. The US has also used other forms of power in pushing foreign governments to cooperate in combating money laundering. In the early 1980s, the US flirted briefly with the use of extra-territorial application of its laws, particularly with respect to the Caribbean offshore havens. As part of a drug investigation in 1983, US government demanded access to financial information from branches of the Bank of Nova Scotia in the Bahamas and the Cayman Islands. When the bank refused, a US court assigned it heavy contempt of court charges (that reached $1.8 billion) and threatened to seize its US assets. International protests made the US more wary of pursuing this tactic again, but it did have the effect of encouraging not only the bank to give up the information requested, but also the Cayman Islands (and the Bahamas) to sign a mutual legal assistance treaty with the US to combat money laundering. More

US leadership, thus, has been crucial in fostering regulatory cooperation and coordination in global finance. But political scientists have often questioned the prospects of such leadership being forthcoming in the future, particularly given the fragmented nature of the US state.[20] In both of these instances, however, US policymakers have been able to act decisively and with a strong unity of purpose, suggesting that skepticism of US leadership potential in finance is easily overstated. In the case of the Basle Accord, the Federal Reserve took the lead, responding to a perception of systemic risk in global financial markets that had been highlighted by the international debt crisis of the early 1980s. In the money-laundering case, decisive US action to regulate global finance stemmed in large part from the way the issue was linked to a cause that had been declared a “national security” issue: the war on drugs.

In both instances, US leadership can also be attributed to one further factor that also challenges some political scientists’ assumptions. Although competitive deregulation pressures are often said to inhibit reregulatory international initiatives, they have played the opposite role with respect to US policy towards capital adequacy standards and the anti-money laundering regime. In the capital adequacy standards case, once the US Congress made clear its intention to impose such standards on domestic banks, those same banks and various US state officials were encouraged by competitive concerns to press for these standards to be imposed on foreign banks through an international agreement. Without a “level playing field” internationally, they feared the new domestic standards would drive financial business and capital away from US markets and institutions. The same dynamic has encouraged the US to play a lead role in pushing for international regulation of money laundering. In other words, the very competitive pressures that are said to work against reregulation internationally have actively encouraged the US to promote it once the tide turned against deregulation domestically.

A further way in which competitive dynamics can encourage reregulation instead of deregulation is outlined by Kapstein in his analysis of the Basle Accord.[21] He notes that international financial markets themselves have played an important role in encouraging compliance with the standards. Financial institutions and financial centers that are not abiding by the new standards have been perceived within the markets to be less stable and secure than those that have adopted the standards. This, in turn, has encouraged the exact opposite of the competitive deregulation dynamic: financial institutions and governments have been keen to adopt the new regulations in order to maintain their reputation within the financial markets. This "competitive *re*-regulation" dynamic has also encouraged financial institutions and governments to comply with the new anti-money laundering regulations. A growing number of financial scandals and crises involving money laundering have drawn the attention of "clean" market actors to the risks of doing business with financial institutions and jurisdictions that have not complied fully with the standards and regulations outlined in the new anti-money laundering regime. Once again, "reputational effects" have driven an kind of upward

recently, the US made its aid and tariff concessions under the Caribbean Basin Initiative conditional on their cooperation in helping to trace money laundering (Naylor 1994: 299-304). Foreign bankers who have not been fully cooperative with US government authorities in this area have also had their visas revoked (Andelmann 1994: 97).

[20] See Strange (1998) and Cerny (1993, 1994).

[21] Kapstein (1994)

harmonization process that has encouraged the adoption of money-laundering regulations.[22]

Of course, there remain offshore financial centers (as well as specific institutions) that still anticipate benefits from a “regulation-free” reputation in both the capital-adequacy standards and money laundering cases. Their compliance with international standards can only be obtained through more coercive means. But the difficulties involved in forcing these “free riders” to introduce internationally agreed standards should not be overstated. I have already outlined how the US has threatened to use access to its markets and clearing systems as a bargaining card in these situations. Increasingly, however, there is talk of the leading financial powers as a group pursing a similar strategy of denying access to the Western-controlled international financial system for states that are outside of the “international consensus”.

Some limited action along these lines has, in fact, already been taken in the money laundering case. As part of its effort to encourage financial institutions to know the identity of their customers, the FATF pressed the electronic messaging system SWIFT to broadcast a message on July 30, 1992 to all its users asking them to include the names and addresses of all senders and receivers of electronic messages who were not financial institutions. This was an important move since SWIFT is a central body in the “plumbing” of the international financial system, transmitting instructions for a very large portion of the financial transactions that move through clearing houses such as Fedwire and CHIPS.[23] Initiatives of this kind may signal the first step along a potential route of transforming CHIPS, Fedwire and SWIFT into "closed-circuit systems" that can be used only by those willing to adopt certain responsibilities vis-a-vis the regulation of money laundering. Such a move would be very effective in controlling money laundering around the world. In Stephen Zamora's words: "If the world community adopts a closed-circuit system, it will be essential to enter that system in order to take part in the Western financial system."[24]

Members of the FATF have also raised the prospect that financial movements between them and non-FATF members might be treated in a special way. One of the FATF’s forty recommendation states: “Financial institutions should give special attention to business relations and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply these recommendations.”[25] This kind of special monitoring would not only help to detect money laundering activities deriving from these non-complying jurisdictions but also, in FATF's words, "increase the cost of transactions with them and thus compensate for the competitive advantage of the financial institutions located in the non-cooperative country or territory."[26]

FATF countries appear increasingly willing to consider the implementation of this recommendation. Back in 1994, David Andelman reported that: "FATF officials believe

[22] Quote from Kapstein (1994: 190 fn.40). See also Kapstein (1994: 13, 126), Porter (1993: 78, 157), and Eatwell and Taylor (1999: ch.4 p.2) for the Basle Accord, and Helleiner (1999) for the anti-money laundering regime.

[23] SWIFT's two operating centers are in the Netherlands and near Washington, DC. Close to 140 countries are linked by the SWIFT network

[24] Zamora (1992: 203-4).

[25] Recommendation #21 quoted in FATF (1990: 20).

[26] FATF (1991: 49).

that they will have in place by 1998 or 1999 the core of a global regulatory and enforcement mechanism considerably more rigid than any now in place. After a critical mass of countries has adopted and implemented laws consistent with the FATF's 40 points, the governments that have taken these steps will be in a position to recommend actions against those governments that have not."[27] Sure enough, in September 1998, the FATF created an Ad Hoc Group on Non-Cooperative Countries or Territories whose objective was to identify jurisdictions that were not cooperating with the FATF recommendations and to recommend steps to be taken to encourage such cooperation.[28] In February 2000, the FATF published criteria that defined "non-cooperating" countries or territories, and it advocated the consideration of various courses of action against them including: 1) customer identification requirements for financial institutions dealing with people or legal entitites which have accounts in "non-cooperative" jurisdictions, 2) requirements that financial institutions pay special attention to, or report, financial transactions conducted with people or legal entities having accounts at financial institutions established in non-cooperative jurisdictions, 3) "conditioning, restricting, targeting or even prohibiting financial transactions with non-cooperative jurisdictions".[29]

The last recommendation is particularly interesting since it raises the prospect of financial movements involving non-FATF members being not just monitored but also controlled. This raises the prospect of Western financial powers forming a kind of "zone of exclusion" within which capital movements take place freely but which is open only to those states which have agreed to police money laundering. As the head of the IMF's fiscal affairs division, Vito Tanzi puts it, the international financial market "should become an exclusive club with benefits and obligations for those who wish to belong to it". Indeed, he has suggested that a "kind of quarantine" be created in which such flows were taxed or international legal recognition was denied to financial operations conducted in such locations.[30] These sorts of moves would likely be very effective in encouraging compliance with the FATF standards since the various financial centers outside of FATF would find it difficult to attract significant financial business to their territories in these circumstances. These moves are also similar to the threats that the BIS central bankers have made with respect to those countries that do not supervise their financial systems according to BIS standards.[31]

[27] Andelman (1994: 107).

[28] In its 1991 report, FATF noted that a special meeting had been held to consider whether a "black list" of non-complying countries should be drawn up. At that time, this idea was rejected in favor of continued public and peer pressure, although individual states were allowed to do more as long as FATF was kept informed of their activities (FATF, 1991: 41, 48). The G-7 Finance Ministers (1999) has been very supportive of the new approach: "The Financial Action Task Force should take concrete steps to bring OFCs [Offshore Financial Centers], and under regulated and non-cooperating jurisdictions, into compliance with the 40 recommendations against money laundering and to protect the international financial community from the adverse impact of those that do not comply."

[29] FATF (2000: 8).

[30] Tanzi (1997: 101).

[31] There is, however, one important difference. BIS members have threatened to prevent financial institutions from entering their markets if the institution's home government does not follow BIS supervisory practices (Porter, 1993: 61, 72). FATF members are threatening instead to monitor or curtail financial transactions from jurisdictions that do not adopt the FATF recommendations. The latter strategy has also been raised as a possible way of implementing the Tobin tax. For example, Stanley Fischer of the IMF has recently suggested, in the words of IMF Survey (January 22, 1996, p.32), "that the Tobin tax could be implemented if the major money

Some might argue that moves of this kind will ultimately be ineffective because market actors will always find places to move and store money that are beyond Western regulators. But as Saskia Sassen has noted, it is important to recognize the extent to which global financial markets depend on complex legal, informational and technical infrastructures which are concentrated in the leading financial centers of the world. Indeed, contrary to the popular image of the "end of geography" in global finance and "stateless money", she and others have highlighted how the degree of geographical concentration of these infrastructures in leading "world cities" has actually increased with globalization and the information technology revolution.[32] As long as the markets are reliant on these concentrated locations, they are subject to regulation by the Western financial powers that regulate those sites.[33]

The growing discussions about how Western financial powers as a group might collectively enforce and uphold international regulatory standards raise one final point about the basis of political support for international financial regulation. Consensus among financial policymakers in the leading financial powers has been easier to reach than "realist" political scientists predict with their models of governments being driven only by political perceptions of national self-interest. What these realists neglect is the extent to which policymakers in these countries find themselves working in increasingly tight transnational networks of officials who share similar worldviews. Kapstein, for example, explains how international support for the Basle Accord was bolstered by the common cognitive frameworks which central bankers working within the BIS share in analysing problems of international finance.[34]

In the case of money laundering, the transnational networks of officials involved in policymaking are wider, including not just central bankers but also other financial and law enforcement officials. Like central bankers, however, these latter two groups are also involved in quite cohesive transnational policy networks which are associated with the kinds of bodies that were involved in the construction of the anti-money laundering regime such the G-7, IOSCO, the UN, Interpol and various regional forums.[35] It was within these transnational policy networks that various officials – especially from the US - began to promote the idea that money laundering was a problem requiring regulation. And the rapid manner in which an international consensus emerged on the issue can be attributed at least in part to the shared values and worldviews that are held by officials within these transnational networks. The high degree of compliance with such voluntary

center countries favored it and found a way of penalizing transactions in offshore markets - perhaps as part of the trend towards uniform regulatory requirements for financial institutions".

[32] Sassen (1998). See also Thrift (1994).

[33] Indeed, the FATF's February 2000 report explicitly seeks to use this fact to its advantage. In discussing its third recommended course of action against non-cooperative jurisdictions, itsuggests that: "FATF members should also examine ways to prevent financial institutions located in identified non-cooperating countries or territories from using facilities (for example, information technology facilities) located in the FATF members' territory." (FATF 2000: 8).

[34] Kapstein (1992).

[35] For this phenomenon with respect to law enforcement officials, see Anderson (1989: 13).

rules such as the FATF recommendations and the BIS code of conduct can also be attributed partly to the same factor.[36]

To summarize, the politics associated with the construction of the anti-money laundering regime should be scrutinized closely by those who seek to strengthen regulatory cooperation and coordination as part of building a "new international financial architecture". Alongside the Basle Accord, the anti-money laundering regime represents a second example of how extensive international action of this kind is in fact politically realistic. As suggested above, the two cases together highlight four specific reasons why regulation cooperation and coordination may be less politically difficult than it is sometimes portrayed. First, because of its dominant position in global finance, the US can play a key leadership role in helping to overcome collective action problems as well as political opposition abroad. Second, leading financial powers as a group have important tools at their disposal for forcing non-cooperative offshore financial centers to join international regulatory regimes. Third, competitive considerations need not always scuttle international reregulatory initiatives but in fact may sometimes strengthen them by 1) encouraging domestic interests for press for new international regulations as a way of offsetting the impact of new domestic regulation and 2) encouraging compliance for "reputational" reasons. Finally, the increasingly important role of transnational policymaking communities in finance helps to foster collective action in the regulatory arena.

These four factors help to explain not only why regulatory cooperation and coordination have been possible but also an interesting feature of it: the fact that it has not been accompanied by the creation of strong international institutions or many binding treaties to ensure compliance or enforcement. The international institutions at the center of both regimes - the Bank for International Settlements in the case of the Basle Accord and the Financial Action Task Force (FATF) in the case of money laundering - have little power over member states (and the FATF is not even intended to be a permanent body). In both cases, regulatory initiatives have been pursued instead through intensive interaction between sovereign states. And even in that respect, this cooperation and coordination have been characterised by voluntary agreements and few binding rules. The lack of formal enforcement mechanisms may seem unusual, but is more easily understood in the context of the role of the US and other Western financial powers, the way competitive pressures have worked in favour of reregulation, and the consensual pattern of policymaking among leading financial powers.

Whether this pattern of cooperation and coordination will remain in the coming years is an open question. In the area of prudential supervision and regulation, there is growing sentiment that the effectiveness of this approach may have reached its limits. John Eatwell and Lance Taylor, in particular, argue that the severity of global financial problems today require a more powerful international institution to be created. They suggest the creation of a new "World Financial Authority" that could act as both a policy making body to develop common international regulatory standards and an institution capable of ensuring that states actually comply with these standards.[37] In a more limited

[36] Moreover, the influence of the norms may have been enhanced by the consensual way in which they have been enforced through practices such as the mutual evaluation procedure used in the FATF since 1991.

[37] Eatwell and Taylor (1999)

way, the recent creation of the Financial Stability Forum also reflects the growing sentiment that existing institutions and procedures need to be reformed and strengthened.

A similar sentiment seems to be emerging in the fight against money laundering. The recent decision of the G-7 to extend the FATF's life a further five years reflects a recognition of the need for a more permanent international institution in this area. Although it has no enforcement powers, the FATF is valued as a forum for discussing policy development and coordinating peer review exercises. With respect to enforcement, FATF members seem increasingly willing to use a more formal coercive mechanisms to target non-cooperating "outsiders" of the FATF regime. Within the IMF, Vito Tanzi has gone further to argue strongly that the next step in the fight against against money laundering must involve the setting of *binding* minimum worldwide standards for anti-money laundering laws.[38] Eatwell and Taylor also suggest that their proposed WFA could be used in the fight against money laundering.[39]

Using the Money Laundering Framework For Other Regulatory Purposes

In highlighting the politics that have helped to construct the anti-money laundering regime, I am not suggesting that this case *proves* that regulatory cooperation and coordination will be possible in other areas. My objective is a more limited one of drawing on the money-laundering case – and that of the Basle Accord - to argue that international reregulatory initiatives may be less difficult than is sometimes suggested. Skeptics might dismiss this analysis, stating that many unique political circumstances enabled cooperation and coordination to take place in these cases which will be difficult to replicate in other areas. Even if this were true, it would still be wrong to dismiss the significance of the money laundering case for current debates about the prospects for global financial regulation. For even if *new* international regulatory arrangements will prove difficult to construct in other areas, the *existing* anti-money laundering regulatory regime may turn out to be useful for broader regulatory purposes than the fight against money-laundering.

Indeed, this potential has already being recognized by the G-7 finance ministers in new initiatives announced in 1998 to counter international tax evasion. Alongside money laundering, international tax evasion has grown in recent years as global financial markets have provided new opportunities to hide money from state authorities. In the past, efforts to curb this phenomenon have been hindered greatly by difficulties in devising cooperative ways to collect and share financial information internationally between different national authorities. In 1998, however, the G-7 recognized the potential of the anti-money laundering regime – where cooperation on information-gathering and sharing is much better developed - to help address this weakness. They stated that domestic agencies involved in the fight against money laundering should now be permitted to share financial information with both domestic and foreign tax authorities.

[38] Tanzi (1997)

[39] Eatwell and Taylor (1999).

They also agreed that suspicious reporting requirements should include money laundering activities associated with the crime of tax evasion.[40]

One can understand why this initiative has been undertaken. As part of the fight against money laundering, many states have begun to develop very sophisticated information gathering procedures that draw on the latest information technologies. In the US, for example, a body called FinCEN (Financial Crimes Enforcement Network) was created in 1990 within the US Treasury to collect and analyze information that might be relevant primarily to drug money laundering. With the help of an artificial intelligence (AI) computer programme, it analyses an enormous amount of data relating to domestic and cross-border financial transactions as well as other kinds of data in government, private and foreign databases. In Bercu's words, it is a kind of "hybrid between a data base and a focused surveillance tool".[41] Already, FinCEN has been used to collect information for criminal activity relating to tax evasion.[42] And significantly, FinCEN is also empowered to share information with foreign governments. Indeed, former US Treasury Secretary Nicholas Brady initially described Fincen as "a system that will be used to consolidate, analyze and disseminate data concerning financial crimes throughout the world".[43]

As a side note, it is interesting that the activities of FinCEN and other countries' recent initiatives to curtail money laundering can call into question the common view that information technology weakens the regulatory power of the state in the financial sector.[44] As I have argued elsewhere, the experience of money laundering regulation suggests that information technology may in fact strengthen this power in three ways. First, as just mentioned, artificial intelligence programmes can help authorities analyze enormous amounts of information collected relating to financial transactions in new sophisticated ways. Second, in contrast to old fashioned forms of money, electronic money flows usually leave some kind of electronic record that can be tracked by state authorities. And finally, electronic money tends to flow through centralized payments systems – such as Fedwire or CHIPS - that can also be monitored.[45]

In addition to fighting tax evasion, the anti-money laundering regime might also be useful in the dealing with the problem of capital flight. "Capital flight" is a notoriously difficult term to define precisely, but it refers generally to an outflow of capital from a country where capital is relatively scarce that is not part of normal commercial transactions. Like tax evasion and money laundering, capital flight has grown alongside

[40] An interpretative note was also added to the FATF's Recommendation 15 concerning suspicious reporting in 1999 which required financial institutions to report suspicious transactions associated with money laundering even if the client claimed the transactions related only to tax evasion.

[41] Bercu (1994: 397).

[42] Bercu (1994: 391 fn.37). Similarly, in Australia, the government efforts to track money laundering led it to introduce an AI system which analyzes financial data relating to cash transactions and wire transfers in and out of the country within 24 hours of those transactions having taken place. The computer system is a very sophisticated one that had been initially developed by a US defense contractor to track incoming missiles. As in the US, Australian procedures set up to track money laundering have already been used to monitor for tax evasion. Indeed, in the Australian case, the majority of suspicious transactions that have been identified in recent years have in fact related to tax evasion (Jensen 1993).

[43] Quoted in Bercu (1994: 397). Kimery (1993: 5).

[44] For this common view, see for example Eichengreen (1999: 2).

[45] Helleiner (1998),

the financial globalization trend as citizens from many poorer countries have found increasingly easy to send their money abroad.

This flight of capital has been an important contributor to international financial crises over the last two decades. During the international debt crisis of the 1980s, the private assets of citizens of many Latin American and African countries held abroad were often equal to, or even greater than, the size of the country's external official debt. These countries were, in other words, creditors to the world economy at the very moment they were experiencing "debt crises". If the foreign private assets of their citizens could have been mobilized somehow to help pay off the public liabilities of the country, there would have been no debt crisis.[46] More recently during the 1994 Mexican crisis and the 1997 Asian crisis, it was often domestic citizens pulling their money out of their countries first that triggered the crises, despite all the attention on the volatile role of foreign investors. And massive capital flight from post-Soviet Russia has been a major cause of that country's ongoing financial difficulties. Like many Latin American and African countries during the 1980s, the size of flight capital held abroad by Russian citizens today is estimated to be roughly the size of the country's external debt and the annual outflows in recent years have been more than four times the country's annual external debt servicing costs.[47]

Many economists argue that capital flight can only be stopped by changing the afflicted countries' economic policies that are said to have caused the exodus of "hot money" such as overvalued exchange rates or inflationary monetary policies. This view, however, ignores the extent to which capital flight – especially in a context such as contemporary Russia - is also related to factors more difficult to correct by economic reforms, such as political instability or corruption. Furthermore, deflationary stabilization programs may encourage further flight of money which is escaping the low returns on capital in the country's depressed economy.[48] Finally, some analysts critique the focus on economic stabilization on more political grounds that it does not call into question whether domestic elites should have the right to take their money abroad in the face of domestic difficulties. In Manuel Pastor's words, "What is essentially being said is that wealthy individuals…be allowed veto power over the direction of national policy."[49]

For some or all of these reasons, many analysts argue that capital controls have a role to play – usually alongside various economic stabilization measures – in stemming capital flight.[50] This is also the conclusion that many governments have come to during the last few years of international financial upheavals. The Malaysian government was

[46] See for example, Lissakers (1991), Felix (1985), Naylor (1994), Helleiner (1995), Lessard and Williamson (1997).

[47] Abalkin and Whalley (1999). See also Baker (1999)

[48] See for example Felix (1985: 50), Lissakers (1991: 159), Baker (1999).

[49] Pastor's (1990: 14). This was also a point made by the chief US negotiator at Bretton Woods, Harry Dexter White, in his defense of the need for controls on capital flight in an early draft of the Bretton Woods agreement. He argued that capital flows should not be permitted to "operate against what the government deemed to be the interests of any country" even if this involved restricting "the property rights of the 5 to 10 percent of persons in foreign countries who have enough wealth or income to keep or invest some of its abroad" (Horsefield, 1969: 67).

[50] See for example Eatwell and Taylor (1999). Eichengreen (1999: 56) is generally more skeptical of the role of controls on capital outflows, but he accepts the case for them if investors seem to involved in an irrational panic and he also acknowledges that his preferred form of controls – Chilean-style controls only on inflows – "will make no difference when it is residents who are fleeing the currency" (p.90).

one prominent example, introducting capital controls in 1997. Another was Russia when it dramatically tightening its capital controls after the August 1998 crisis.[51] Even many Western governments, which had been supporting financial liberalization abroad over the last decade, have become more sympathetic to the role that capital controls might play in stemming capital flight during the recent financial upheavals. In February 1999, for example, US President Clinton expressed his concern about the difficulties Russia was having to "control the flow of its money…across its borders".[52] At their report to the G-8 Summit meeting in Cologne in June 1999, the G-7 Finance Ministers also noted that controls on capital outflows "may be necessary in certain exceptional circumstances". As they explained: "In exceptional circumstances, countries may impose capital or exchange controls as part of payments suspensions or standstills, in conjunction with IMF support for their policies and programmes, to provide time for an orderly debt restructuring."[53] One of the key supporters of such internationally-legitimated standstill arrangement has been Canada's Finance Minister Paul Martin, who recently argued: "The point is that we need to stop condoning capital flight - by either international or domestic investors".[54]

Interestingly, the principal Bretton Woods architects, John Maynard Keynes from Britain and Harry Dexter White from the US, also endorsed the idea that capital controls had a major role to play in curtailing capital flight.[55] At that time, their fear was of large-scale capital flight from war-devastated Europe to the US and Switzerland in the postwar period. This fear was a key reason for their insistence that all countries have the right to introduce capital controls under Article 6 of the IMF's Articles of Agreement. Without such controls, they worried that European countries' policy autonomy would be undermined, stable exchange rates and international trading patterns would be disrupted, and that the meagre resources of the IMF would be exhausted trying to finance payments imbalances caused by the flight capital.

But Keynes and White also recognized the difficulties that countries would have in making their controls on capital outflows fully effective because of the fungibility and mobility of money. Indeed, it is these very difficulties that have lead some analysts today to be skeptical of the role that controls on capital outflows could play in the new international financial architecture.[56] What is often forgotten, however, is that Keynes and White addressed this issue directly with a further proposal. They argued that controls on capital flight would be much more effective if the countries *receiving* that flight capital assisted in their enforcement.

In White's early drafts of the Bretton Woods agreements, he argued that receiving countries should refuse to accept capital flight altogether without the endorsement of the sending country's government. Strong opposition from the US banking community, however, watered down this proposal and the final IMF Articles of Agreement simply *permitted*, rather than required, cooperation between countries to control capital movements (Article 8-2b). The only requirement was a more limited one that IMF members had to ensure that all exchange contracts which contravened other members'

[51] See for example Whitehouse (1999).
[52] Clinton (1999).
[53] G-7 Finance Ministers (1999).
[54] Martin (1999: 6). UNCTAD (1998) also endorsed the idea of capital controls and standstill clauses in crisis situations as do Eatwell and Taylor (1999).
[55] For a more detailed discussion, see Helleiner (1994: Ch.2).
[56] See for example Eichengreen (1999: 55)

exchange control were “unenforceable” in their territory (Article 8-2b).[57] In their initial drafts, both Keynes and White also sought to require receiving countries of capital flight to share information with countries using capital controls about foreign holdings of the latter’s citizens. Again, this proposal was weakened by US bank opposition and the final IMF Articles of Agreement state that countries are *required* to provide information on capital movements and holdings only to the IMF on request (except to the extent that such information would disclose the affairs of individuals or companies) (Article 8-5a).[58]

Keynes and White’s proposal to use international cooperation to strengthen national efforts to control capital flight may be worth revisiting today, especially in light of the creation of the new anti-money laundering regime. A number of analysts have noted that the information-collecting and sharing procedures developed to fight money laundering could be used not just to counter tax evasion but also capital flight. Among the first to make this point prominently was Karin Lissakers, now US Executive Director to the IMF, in her important 1991 book Banks, Borrowers and the Establishment. After lamenting the fact that the US did nothing during the 1980s to discourage inflows of flight capital from Latin America (and indeed actually encouraged them with some regulatory changes), she suggested briefly that the new anti-money laundering regulations might help to enable future US governments to take a different approach: “The potential of the new record-keeping and client-identification requirements as a tool for tracking flight capital is obvious”.[59]

It is perhaps in the current Russian context that this potential is most likely to be realized in the near future.[60] One reason is that a considerable portion of Russian capital flight (as much as 25% according to one estimate[61]) is reported to be linked to criminal groups. There may thus be natural overlap between the fight against capital flight and that against money laundering in this context. A second reason is that Western governments have already indicated their support for Russia’s efforts to curtail flight capital. In early 1992, the G-7 and IMF applauded the decision of the Russian government to hire the US private investigations bureau Kroll Associates to track down flight capital. (I have been

[57] Helleiner (1994: ch.2). A 1942 draft of White’s stated: “It would seem to be an important step in the direction of world stability if a member government could obtain the full cooperation of other member governments in the control of capital flows. For example, after the war a number of countries could request the US not to permit increases in the deposits or holdings of their nationals, or to do so only with a license granted by the government making the request. Or, some governments greatly in need of capital might request the US to supplement their efforts to attract capital back to the native country by providing information or imposing special regulations or even special taxes on the holdings of the nationals of the foreign countries” (Horsefield, 1969: 66). In one 1942 draft of White’s, governments were required: “a) not to accept or permit deposits or investment from any member country except with the permission of the government of that country, and b) to make available to the government of any member country at its request all property in the form of deposits, investments, securities of the nationals of that member country” (Horsefield, 1969: 44).

[58] Helleiner (1994: Ch.2).

[59] Lissakers (1991: 158). For another early recognition of this point, see Zamora (1992:202).

[60] Abalkin and Whalley’s (1999: 438) important study on Russian capital flight also recently recommended that a key priority for the international community should be the initiation was “international cooperation on information exchange and other devices to better track Russian assets abroad”. Although they suggest that the negotiation of new international tax treaties may be the forum to pursue this, more immediately useful is likely to be the information collecting and sharing mechanisms of the existing anti-money laundering regime

[61] Galeotti (1998). See also Tikhomirov (1997: 595).

unable to discover whether Western governments at that time provided concrete support for this investigation, which was abandoned a year later in the face of what Kroll Associates said was a lack of support from key Russian authorities. But one press report notes that President Yeltsin did request the help of FinCEN in tracking stolen Communist Party funds abroad.[62]) More recently, as I noted above, Clinton signaled his concern in February 1999 about the difficulties Russia was encountering in making its capital controls effective. And most importantly, at its June 1999 summit in Cologne, the G-8 made an important commitment in speaking of its support Russia's reform: "We agreed to deepen our cooperation on law enforcement, fighting organized crime and money laundering, *including as they relate to capital flight*" [emphasis added].[63]

This last statement seems to indicate that the G-7 governments have now formally agreed to cooperate with the Russia government in curtailing capital flight and that they may also be prepared to draw on the anti-money laundering regime as part of this initiative. If so, it may be interesting for contemporary policymakers to know that there is a precedent for this kind of cooperation during the period of the Marshall Plan. As Keynes and White had predicted at Bretton Woods, there was enormous capital flight from European countries to the US immediately after World War Two, and it contributed greatly to the region's economic crisis in 1947-8. When the prospect of a large US aid package was raised to address this crisis, some members of the US Congress wondered whether the cost to the US taxpayer might be reduced by helping European governments to track down the flight capital of their citizens. Many European governments were in fact requesting exactly this kind of assistance, with the French government going so far as to ask the US government to force US financial institutions to hold assets of French citizens subject to instructions from the French government. In the end, the US government chose not to collect information on the flight capital that had entered the US since the end of the war – this was seen as too burdensome a task and was also opposed by the US banking community. But it did agree to share information with European governments about European private assets that the government had been seized during wartime (which represented flight capital from the 1930s and early war years) which had not yet been claimed by European citizens.[64]

Although the initiative fell short of what many were calling for, it represented an interesting example of the kind of idea that Keynes and White had floated, and that may be pursued today in the context of the Russian crisis. Indeed, some might argue that the case for international assistance for tracking Russian flight capital is greater than in late 1940s Europe. Eatwell and Taylor suggest that the Russian state's capacity to control capital flight on its own is probably more limited than was that of Western European governments in the late 1940s because of problems associated with corruption and the eroding authority of the state.[65] Moreover, there seems to be no appetite among Western aid donors at the moment to provide enormous aid packages of the Marshall Plan kind,

[62] For this initiative, see Tikhomirov (1997) and Burns and Tett (1994). For Yeltsin's request, see Kimery (1993).

[63] G-8 (1999).

[64] The Congressional Act authorizing the Marshall Plan also included a clause requiring any government receiving Marshall aid to "locate and identify and put into appropirate use" the foreign assets of its citizens. The was some debate immediately after the Act's passage as to whether this clause implied that the US was obligated to help European efforts to mobilize flight capital. (Helleiner 1995: 91).

[65] Eatwell and Taylor (1999: ch.5 p.23)

especially after they saw a huge capital outflow immediately after the IMF loan in 1998.[66] Much cheaper to Western governments than providing more IMF money or US aid might be to help Russia in its fight against capital flight at this point by mobilizing the information available through the anti-money laundering regime.

The possibility of using the money laundering regime to curtail flight capital has also begun to appear in a different context: the growing US interest in cracking down on government corruption in developing countries. In September 1999, bills were introduced into both the US Senate and House of Representatives that aim to widen the definition of unlawful money laundering activities to include fraud committed against a foreign government and misuse of funds of international institutions such as the IMF. The early Congressional committee hearings on the bill made clear that this initially was being driven by allegations of improper use of IMF loans to Russia as well as dramatic cases of corruption-related capital flight among Third World leaders such as General Abacha of Nigeria. [67]Although the bill addresses only these specific elements of the phenomenon of "capital flight", its provisions are interesting because they go beyond simply sharing information as a way of curtailing capital flight. If these bills pass (and they reportedly have the support of the Clinton administration), they would prevent US banks from handling money involved in these activities altogether.

With these developments taking place, now may also be an interesting moment to consider more generally whether some kind of international cooperation relating to capital flight could be embedded within the new international financial architecture, as Keynes and White initially intended. The most ambitious initiative would be to widen the definition of money laundering activities used by the FATF to include capital flight. Some FATF members have in fact seemed quite open to this idea in the past. In 1993, for example, then president of the FATF, Tom Sherman, wrote that he thought it necessary to recognize that "money laundering" could be associated not just with drug money but also with "in the case of developing countries, offenses relating to capital flight".[68] This kind of initiative might also receive support in a more limited way from those concerned about capital flight related to governmental corruption. Indeed, in October 1999, a G-8 ministerial conference on combatting transnational organized crime agreed "on the importance of extending predicate offenses of money laundering beyond drug-related offenses to other serious crimes, such as bribery or corruption".[69]

A less ambitious initiative might involve only the use of information-sharing from the money-laundering regime to pursue flight capital. Here, I am not thinking of the kind of wide-sweeping proposal that Keynes and White had in mind in which countries be required to share all information about foreign private holdings with any foreign government that requested it as part of its effort to enforce capital controls. Instead, what may be more politically palatable today is a more limited and targeted proposal in which information-sharing could be provided only in instances where countries were introducing capital controls as way of coping with a severe financial crisis, such as the current Russian situation (or that experienced in 1947-48 by European countries).

[66] See for example Sanger (1999).
[67] See also Baker (1999).
[68] Sherman (1993: 13).
[69] G-8 (1999).

Like the proposals for the activation of standstill clauses on cross-border contracts, the IMF could be empowered to declare when such a crisis moment existed. And when the declaration was made, the information-collecting and sharing mechanisms developed to fight money laundering could be mobilized to track capital flight from the crisis-struck country and to share the relevant information with that country's government. The information about capital flight might be provided only in response to a request from the country experiencing the crisis, or alternatively all countries might be required to provide information to that country independent of such a request during the crisis moment. (With respect to the latter, recall the FATF recommendation that countries consider providing information *proactively* to foreign governments regarding suspicious flows to and from those foreign countries that take place under its jurisdiction). Whatever the specifics, my point is that the information-collecting and sharing obligations would not be considered part of the normal functioning of the global financial system (as Keynes and White had imagined) but rather simply part of its crisis-management procedures.

This proposal might have several advantages in helping the resolution of financial crises. First, as noted already in the Russian context, it might help to reduce the costs of financial bailouts to Western taxpayers and international organizations. This is not just because capital flight might be slowed. It is also because existing flight capital abroad might be mobilized either by the country experiencing the crisis or by the international community. For example, during the discussions in the late 1940s, a number of interesting proposals of this kind were considered by the US government, including one IBRD proposal that would have seen a portion of the European flight capital invested in either US or IBRD bonds with the proceeds used for aid or loans to European governments.[70] Similar proposals were made by some analysts during the Latin American debt crisis of the 1980s for flight capital to be mobilized either to help service the external debt or as collateral for further borrowing.[71]

Second, this proposal might help spread the distribution of the adjustment burden within the country experiencing a financial crisis in a more equitable fashion. During the international debt crisis of the 1980s and more recent crises, there has been pressure from international creditors for debtor governments to assume the private foreign debt of their citizens as part of crisis-management procedures. There are important reasons why this has been seen as necessary, but it has had the side effect of shifting the burden of adjustment for private borrowing behavior – usually that of more wealthy citizens - onto the nation as a whole. By mobilizing flight capital in crisis moments to help service the external debt of the country, the international community would ensure that it was not just the foreign debts of wealthier citizens in these countries that were socialized but also their foreign assets.

Third, the existence of this kind of procedure at the international level might discourage flight capital in the future. At the moment, the prospect of financial crisis creates a strong incentive for wealthy domestic asset holders in poorer countries to

[70] Helleiner (1995).

[71] See for example Felix (1985). In an interesting although less ambitious proposal, Carlos Diaz-Alejandro (1984) proposed that the US government impose a tax on the interest earned from Latin American deposits in the US and donate the proceeds to the InterAmerican Development Bank. See also discussion in Lessard and Williamson (1987).

engage in capital flight. Not only do they protect their money from a prospective devaluation or imposition of capital controls this way, but they also have the prospect of "round-tripping" the money after a devaluation and stabilization programme to buy up domestic assets at bargain prices.[72] If domestic asset holders were aware that their foreign assets might be controlled or even mobilized for public purposes as part of a financial rescue plan, they might be less inclined to flee at the first sign of a possible crisis. In this way, the existence of this kind of procedure might help to discourage speculative flows and contribute to a more stable international financial order.

What are the prospects for these kinds of reforms to bolster international cooperation in curtailing capital flight? In a legal sense, they would require little change to IMF rules, since several parts of its Articles of Agreement – the legacies of Keynes and White's original proposal – allow international cooperation of this kind.[73] And with respect to money laundering regulations and procedures, it might be necessary simply to expand the definition of "money laundering" to include capital flight, as discussed already.

In a more political sense, opposition may come in Northern countries from the financial community and those who oppose capital controls more generally – what Jagdish Bhagwati has called the "Wall Street-Treasury complex" in the US context[74] - if the experiences of the Bretton Woods negotiations, the Marshall Plan, and the 1980s debt crisis are any guide.[75] Opposition can also be expected from groups in poorer countries whose involvement in capital flight is the target of the initiative. In the 1980s debt crisis, for example, David Felix suggests that elite opposition was a key explanation for the fact that Latin American governments did little to request foreign assistance in tracking down capital flight.[76] Vladmimir Tikhomirov also suggests that this kind of opposition seems to have played a role in dampening the initial enthusiasm of the Russian government in the early 1990s to track down flight capital.[77]

On the other hand, the proposal may attract support from some important quarters. In many poorer countries, the issue of capital flight is a highly politicized one and the governments of these countries may see this reform as an important one for them to promote for this reason. In Russia, for example, Tikhomirov notes that the issue is "socially explosive"and "one of the most hotly debated in Russian politics", with capital flight being "seen by the majority of the Russian people as a gross economic crime being

[72] See especially Naylor (1994).

[73] Tanzi (1997) points out more generally that Article 8 empowers the organization to require members to furnish information necessary for the discharge of its mandate. As Tanzi points out with respect to the control of money laundering, the IMF could monitor capital movements more as part its surveillance function in order to support a formal international agreement to combat money laundering.

[74] Bhagwati (1998).

[75] See Helleiner (1995) for these experiences. An interesting example of the importance with which the principle of free capital movements is defended even in crisis situations such as Russia was provided in March 1999 by then US Treasury Secretary Robert Rubin. After telling a Congressional panel that he suspected much of the $4.8b IMF loan to Russia last year "may have been siphoned off improperly", he later qualified his testimony saying "it may have been careless to use the word 'improper'" because "there is nothing improper about moving money out of Russia or any other country". Quoted in Sanger (1999).

[76] Felix (1990: 761)

[77] Tikhomirov (1997: 592). Interestingly, during the late 1940s, this kind of opposition among European elites was quite limited, perhaps given the extent to which they had been discredited by the wartime experience in many of the key countries (e.g. France) pursuing capital flight.

committed in the process of redistribution of the national property inherited by all of the population from the Soviet era." [78]

Equally important may be Western politicians who are wary of providing more funds for international aid and financial rescue packages but who are concerned about political and economic stability in poorer countries experiencing severe financial crises. Some of these may be politicians on the political left who are attracted more generally to the idea of capital controls and also to the way the proposal promotes greater equity of burden-sharing in the debtor countries. But support is also likely to come from more conservative, even isolationist, quarters. In 1947-48, for example, the greatest support for the proposal to help European governments track down flight capital in the US came from Republican congressmen. As the powerful and traditionally isolationist Republican Senator Henry Cabot Lodge argued at the time: "It seems to me that you cannot defend either before an American audience or a foreign audience, for that matter, a proposition whereby the people of moderate means in this country are being taxed to support a foreign aid program which the well-to-do people abroad are not helping to support." He continued: "In a lot of these countries it is a well-known fact that there is small, bloated, selfish class of people whose assets have been spread all over the place and that that is a very bad thing for the morale of those countries and it is a bad thing for the morale over here". Former US president Herbert Hoover also defended the proposal to mobilize European flight capital saying "If there is protest that taking over these privately held resources is a hardship to the owners, it may pointed out that the alternative is a far greater hardship for the American taxpayer".[79] The regulation of capital flight may thus be one of the few causes in which US isolationist sentiments can be mobilized to support stronger international regulatory cooperation.

Conclusion

I have argued in this paper that studying the experience of the international fight against money laundering over the last decade provides two important lessons for current debates about the prospects for international reregulatory initiatives in the financial sector. First, the case suggests that these initiatives may be easier to achieve politically than skeptics argue. Indeed, the case may help us to begin to understand political conditions that help to enable and encourage regulatory cooperation and coordination in global finance. Specifically, I have suggested that the construction of the anti-money laundering regime was made possible by many similar conditions to those that fostered the 1998 Basle Accord: 1) strong US leadership has helped overcome collective action problems and political opposition abroad, 2) Western financial powers as a group have been increasingly willing to identify tools at their disposal for forcing non-cooperative offshore financial centers to join international regulatory regimes, 3) competitive pressures have sometimes strengthened, rather than weakened, the move for international reregulation, and 4) regulatory cooperation and coordination has been helped by the increasingly important role of transnational policymaking communities. Whether these

[78] Tikhomirov (1997: 595, 599, 595).
[79] All quotes taken from Helleiner (1995: 87, 90).

same conditions may help to encourage international reregulatory initiatives in other parts of the financial sector is a question that needs further study.

An examination of the international anti-money laundering regime also provides a second, more direct lesson for debates about the prospects for international reregulatory initiatives. Even if the politics encouraging reregulation in the money-laundering case are not replicable in other financial areas, policymakers are recognizing that this existing anti-money laundering regime has created cooperative structures at the international level which can be useful for other regulatory purposes. The G-7 have already made clear their intention to take advantage of these mechanisms with respect to the regulation of tax evasion. And they show signs of recognizing that it may also be relevant for the project of regulating capital flight in specific situations.

If policymakers were to use this kind of international cooperation to regulate capital flight, I have noted that they would in fact be returning to an idea that the principal negotiators of Bretton Woods endorsed. Keynes and White both argued that this kind of international cooperation could play a major role in making controls on capital outflows more effective, and the Bretton Woods agreement endorse this kind of practice in a limited way.[80] But such international cooperation was rarely forthcoming in the postwar period – the experience of the Marshall aid period was the one exception. With the creation of the anti-money laundering regime, however, the international community is putting in place an important set of structures that could finally allow this idea to be operationalized. Coincidently, these structures are being built at the very time when there is growing interest in many quarters in the control of capital flight. It thus seems an important moment to give serious consideration to the idea of reviving Keynes and White's proposal, although probably in the more limited ways that I have discussed. In this way, the fight against money laundering may play an unintended role of enabling the "new international financial achitecture" to be built more closely on foundations laid by the architects of Bretton Woods.

[80] Among those supportive of capital controls playing a larger role in the new international financial architecture today , it is interesting to see this idea beginning to be revived. In their proposal for a new World Financial Authority (WFA), Eatwell and Taylor (1998: 18) support the idea of country's using capital controls and they add: "Once particular conditions for the management of capital movement have been agreed then member states of the WFA should be required to provide assistance to fellow members in their operation."

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