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Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

Misión a las Bahamas

Informe de la Experta Independiente sobre las consecuencias de la deuda externa y las obligaciones financieras internacionales conexas de los Estados para el pleno goce de todos los derechos humanos, sobre todo los derechos económicos, sociales y culturales, Attiya Waris* **

Resumen

La Experta Independiente sobre las consecuencias de la deuda externa y las obligaciones financieras internacionales conexas de los Estados para el pleno goce de todos los derechos humanos, sobre todo los derechos económicos, sociales y culturales, Attiya Waris, visitó las Bahamas del 21 al 31 de agosto de 2023. En el presente informe figuran sus conclusiones y sus recomendaciones al Gobierno de las Bahamas.

* Se acordó publicar este documento tras la fecha prevista debido a circunstancias que escapan al control de quien lo presenta.

** El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que fue presentado.



Anexo

Informe de la Experta Independiente sobre las consecuencias de la deuda externa y las obligaciones financieras internacionales conexas de los Estados para el pleno goce de todos los derechos humanos, sobre todo los derechos económicos, sociales y culturales, Attiya Waris, acerca de su visita a las Bahamas

I. Introduction

1. Pursuant to Human Rights Council resolution 52/17, the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris, conducted a visit to the Bahamas from 21 to 31 August 2023, at the invitation of the Government.
2. This was the Independent Expert's first visit to the Bahamas. The aim of the visit was to collect and assess first-hand information related to issues falling under the scope of the mandate and to offer constructive recommendations to the Government and other stakeholders.
3. The Independent Expert expresses her sincere gratitude to the Government for its invitation and the level of cooperation and openness from all State authorities. She is grateful for the constructive discussions that she held with the Prime Minister, the Minister of Foreign Affairs, the Attorney General, the Special Advisor on Climate Change and Environmental Matters and representatives from, among other State authorities, the Ministry of Finance, the Ministry of Economic Affairs, the Ministry of Social Services and Urban Development, the Ministry of Labour and Immigration, the Supreme Court, the Central Bank, the Financial Intelligence Unit and the Abaco office of administration.
4. The Independent Expert is also very grateful for the valuable exchanges with representatives of civil society, members of the private sector, academics and journalists, who generously offered their time and precious insights, contributing to the success of the visit. Finally, she would like to thank the people of the Bahamas, for sharing their stories and observations throughout her visit.

II. Background

5. The Bahamas is an archipelago of over 700 islands and 2,400 cays, stretching from about 80 km off the coast of Florida almost to Haiti. Only about 30 of the islands are inhabited. The country achieved independence from the United Kingdom of Great Britain and Northern Ireland on 10 July 1973, and is headed by a Governor General appointed in liaison with the United Kingdom. The Bahamas is a fully self-governing member of the Commonwealth and a member of the United Nations, the Caribbean Community and the Organization of American States. The population is highly urbanized (more than 80 per cent of people in the Bahamas live in cities) and concentrated on the islands of New Providence, Grand Bahama and Abaco. An estimated 15 per cent of the national population are immigrants, with most migrants originating from other Caribbean countries, and an estimated additional 30,000 to 60,000 undocumented migrants.¹

¹ International Labour Organization (ILO), *Decent Work Country Programme for the Bahamas: 2021–2026* (2021).

6. The 2022 census indicated that the population of the Bahamas was 399,314 (192,544 men and 206,770 women), of which 22 per cent were under the age of 15 and 7.5 per cent over the age of 65. According to the census, life expectancy was around 74 years.

III. Human rights obligations and international commitments

7. The Bahamas is party to seven core international human rights instruments, namely the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

8. Pursuant to article 2 of the International Covenant on Economic, Social and Cultural Rights, States parties have the obligation to take steps, to the maximum of their available resources, with a view to achieving progressively the full realization of economic, social and cultural rights. The ability to devote the maximum resources to fulfil this obligation is, in practice, directly linked to current economic, debt, tax, monetary, financial, environmental and social policies; this normative perspective defines the scope of the present report. Therefore, and in line with principle 9 of the guiding principles on human rights impact assessments of economic reforms, the Bahamas is required to design and implement fiscal, tax, debt, trade, aid, monetary and environmental policies in conjunction with other measures so that they are deliberately directed towards the realization of human rights. Every effort must be made to mobilize all available resources, even in times of economic crisis.

9. In this regard, despite the challenges associated with climate change and natural disasters, the Independent Expert notes the Government's efforts to ensure that the Bahamian people enjoy their human rights and fundamental freedoms. The Government signed the United Nations Multi-Country Sustainable Development Cooperation Framework on 11 February 2022. The Framework supports the achievement of the Sustainable Development Goals and the implementation of the international development plans of the individual countries in the English-speaking and Dutch-speaking Caribbean, and also serves as the instrument for the planning and implementation of the United Nations development activities towards the fulfilment of the 2030 Agenda for Sustainable Development. The Bahamas is committed to the realization of the 2030 Agenda and recognizes the importance of advancing human rights as a pillar of such efforts. The localization of the 2030 Agenda for Sustainable Development has been prioritized through its strategic integration in the country's national development framework – Vision 2040, launched in 2014 – which was reviewed and updated in December 2019. Various government ministries and agencies have systematically incorporated the Sustainable Development Goals into their organizational strategies and used them to guide institutional plans and programmes. The Sustainable Development Goals Unit in the Office of the Prime Minister was established in 2019 as the lead agency for promoting, coordinating, monitoring and reporting on the country's progress towards achieving the Sustainable Development Goals.²

10. The Independent Expert notes that in March 2020, only six months after Hurricane Dorian, the coronavirus disease (COVID-19) pandemic struck the country, resulting in an estimated loss of \$9.5 billion. Nationwide health and safety protocols were adopted to mitigate the effects of the pandemic, including the inclusion of sanitation and mask protocols, and the response had also included the provision of unemployment assistance, emergency food assistance and funds and assistance for rebuilding, including the implementation of tax-free zones.³

11. As a small island State, the Bahamas experiences the effects of climate change and its negative impact on the promotion and protection of human rights, the effects of which are experienced most significantly by the most vulnerable in society. The Independent Expert

² A/HRC/WG.6/43/BHS/1, para. 20.

³ Ibid.

notes that the Bahamas is a member of the core group of countries that initiated the creation by the Human Rights Council of the mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change. The Bahamas has been a staunch advocate in the fight against climate change, with a focus on mitigation and adaptation. The climate crisis is an issue that concerns human rights and the Bahamas has called for its continued recognition as such.⁴

12. The Bahamas has not ratified the American Convention on Human Rights but is a party to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. The Bahamas is not a member of the World Trade Organization and is not a participant in the Kimberley Process.

13. The Bahamas does not have a national human rights institution in compliance with the principles relating to the status of national human rights institutions for the promotion and protection of human rights (the Paris Principles). An ombudsman bill was redrafted to include the Paris Principles and resubmitted to Parliament in 2023. The Government has promised to move it forward; however, the original draft of the bill has been pending since 2017.

14. The Government is implementing programmes for the poor and vulnerable segments of the population. These programmes include food and rent assistance; other financial assistance to help pay for, among other things, school uniforms, water, electricity, cooking gas, clothing and furniture; and temporary shelter and disability allowances. In 2021, the Government implemented the Social Protection Management Information System (ProMIS) system to enable more effective and efficient service delivery. The ProMis system is an automated system that clients can access online within the framework of the social safety net reform and emergency programmes.⁵

IV. Human rights issues and progressive realization of economic, social and cultural rights

A. Right to an adequate standard of living

15. The Independent Expert notes concerns about rising food costs, and that many people are facing acute food insecurity. As of 2021, 17.2 per cent of the population were struggling with moderate to severe food insecurity, which largely stemmed from the country's **heavy reliance on food imports**. Unpredictable climate conditions, such as droughts and hurricanes, present challenges to agricultural success and thus to the reliance on imports. Only 10 per cent of the food that people consume in the Bahamas is **produced domestically**. This leaves the food supply vulnerable to international factors outside of the country's immediate control. The structure of the food system often leads to inconsistent availability, prices and distribution of nutrient-dense foods, with residents of remote areas more susceptible to such shortages.⁶ The Independent Expert suggests that the Government take further measures to provide micro-, small and medium-size enterprises with resources to enter and develop the agriculture and food production sector, with a focus on existing Indigenous knowledge. The Independent Expert notes positively that the National Food Distribution Task Force and the Small Business Development Centre were established to mitigate food poverty through an emergency food assistance initiative and stimulate business activity and development.⁷

⁴ Ibid., para. 2.

⁵ Ibid., paras. 55 and 56. See also <https://promis.gov.bs/>.

⁶ See Reagan McDaniel, "Addressing poverty in the Bahamas", The Borgen Project, 12 August 2023. See also Bahamas Information Services, "MOAMRFIA to create national food policy", 23 January 2023, available at <https://www.bahamas.gov.bs/wps/portal/public/gov/government/notices/national%20food%20policy>.

⁷ A/HRC/WG.6/43/BHS/1, para. 57.

B. Right to health

16. The Independent Expert notes that the National Health Insurance Authority was established under the National Health Insurance Act in 2017, and also notes the Government's information that the Authority delivers accessible, affordable and quality health care, with a view to benefiting the entire population. Over 100,000 persons are enrolled in the programme and the number continues to grow. The Government has reported that, through the system, it provides primary care benefits, and has implemented a modern electronic health-record system with telehealth capabilities. As of early 2023, more than 140,000 persons had access to essential primary health-care services across the country, delivered through a network of 140 providers across 70 facilities. Digitization and transformation will remain a major focus of the National Health Insurance Authority, which plans to expand the technological capabilities of the programme through the implementation of a national electronic record system.⁸

C. Right to education

17. The Independent Expert notes that the Ministry of Education has recognized the challenges for students resulting from the COVID-19 pandemic and that it has launched a programme to provide support where students had their education disproportionately and negatively affected by the pandemic, with the aim of closing the learning gap that resulted from challenges arising from the pandemic. The Independent Expert notes the Government's reports that flexibility in teaching methods utilizing technology has strengthened the delivery of educational services and that the educational management and instructional system used in the public education system is heavily relied on for statistical information and for delivery of instruction.⁹

18. The Independent Expert notes that, as the Bahamas is a small island State, the population faces additional difficulties in the fulfilment of certain economic and social rights. Access to education requires additional resources in less populated islands, where children need to travel by boat to attend school on another island. The Independent Expert welcomes the information that in such cases the State provides free ferry transport, but notes that the time spent commuting reduces study time.

D. Right to work and to just and favourable conditions of work

19. As of 2017, the Bahamas had an estimated total labour force of just over 222,000 people, of whom almost half were under the age of 35 and at least 70 per cent were concentrated in New Providence. The labour force participation rate has demonstrated steady growth, increasing from 72 per cent in 2012 to 80 per cent in 2017.¹⁰ However, the Independent Expert notes that job losses resulting from COVID-19 have affected individuals across all social and economic strata, in particular vulnerable groups such as low-income households and informal workers. This erased some of the progress made in previous years in terms of human development and resulted in increased poverty and inequality.¹¹

20. The Independent Expert notes that although the female labour force participation rate is relatively high (75 per cent, as of 2017),¹² women continue to face particular challenges. Women's average income has been estimated to amount to only 66 per cent of men's average income, a gender pay gap of 33 per cent. Women are significantly underrepresented in senior management positions in the private sector, while women's employment overall is concentrated in specific economic activities that may often be lower paid and with lower levels of employment security, including disproportionate rates of employment in the

⁸ Ibid., paras. 72–74.

⁹ Ibid., para. 76.

¹⁰ See ILO, *Decent Work Country Programme*.

¹¹ See <https://pubdocs.worldbank.org/en/505961602705115630/mpo-bhs.pdf>.

¹² See ILO, *Decent Work Country Programme*.

informal economy, indicative of barriers to women's access to specific sectors and occupations.¹³

E. Climate change, the environment and financing human rights

21. The Independent Expert takes note of information that the impact of natural disasters was exacerbated by inadequate support for the reconstruction of housing, schools and infrastructure, especially in vulnerable areas. She welcomes the support that was provided in the form of free building materials and tax-free construction materials immediately after the hurricane, but would like to see this extended further. She notes that many people were still living in the temporary hurricane shelters years after Hurricane Dorian. The increase in natural disasters, such as hurricanes and floods, and the rising sea levels pose a serious threat to economic stability and exacerbate social issues in the country.¹⁴ There is an increasing need to view the climate crisis as a human rights issue inclusive of climate action and disaster relief plans and the establishment of early warning mechanisms and preparedness activities. The Independent Expert also notes suggestions for more coordination among institutions and organizations dealing with climate change and for international organizations to be included. Action to adapt to climate change impacts and to coordinate with States in a similar situation is needed in order to obtain compensation for losses and damage sustained as a result of climate change.¹⁵

V. Foreign debt issues in the specific economic and environmental context of the Bahamas

A. Country classification, socioeconomic reality and access to financing for development

22. With a gross national income per capita in 2022 of \$31,520, the Bahamas is considered to be a high-income country.¹⁶ It is one of the highest-income countries in the Caribbean, and has the highest per capita income of any Black-majority independent State in the world. Of the larger States in the Caribbean, it is the only one to have managed, since its independence, to avert a bailout from the International Monetary Fund (IMF).¹⁷ According to 2021 data, the country's human development index value was 0.812, the country's human development classification was "very high" and the country ranked fifty-fifth out of 191 countries and territories.¹⁸

23. Because it is designated as a high-income country, the Bahamas does not generally qualify for development assistance and has very limited access to concessional funding by international financial institutions, such as the World Bank. Despite its high gross national income per capita, the cost of living is extremely high in the Bahamas. It has been estimated that the gross annual living wage required to maintain a basic but decent standard of living is \$52,800 on New Providence, and higher on other islands of the country, for example as high as \$69,000 on Grand Bahama. At the same time, the minimum wage is \$260 per week, which is equivalent to \$13,520 per year. As a consequence, despite having the highest gross national

¹³ Ibid. See also [CEDAW/C/BHS/CO/6](#).

¹⁴ [A/HRC/WG.6/43/BHS/3](#), para. 34.

¹⁵ Ibid., para. 35.

¹⁶ See World Development Indicators, the Bahamas, 2022, "GNI per capita, Atlas method (current US\$)", available at <https://databank.worldbank.org/reports.aspx?source=world-development-indicators>. The World Bank classifies as "high-income economies" those with a gross national income per capita of \$13,846 or more (see <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>).

¹⁷ See Adam Tooze, "The hidden history of the World's top offshore cryptocurrency tax haven", *Foreign Policy*, 15 January 2023.

¹⁸ See <https://hdr.undp.org/data-center/specific-country-data#/countries/BHS>.

income per capita in the region, the country's human development index is lower than that of some other countries with a much lower gross national income per capita.¹⁹

24. Also, economic growth in recent years has been slow compared to that of other countries in the region, even prior to Hurricane Dorian and the COVID-19 pandemic. From 2010 to 2019, gross domestic product (GDP) growth averaged just 0.7 per cent annually, compared to 3.1 percent from 1995 to 2006. Output from traditional sectors such as financial services and hospitality contracted in recent years. During the 2010–2017 period, the fastest growing industries were smaller sectors, such as administration, utilities and information and communications. Construction also performed well over the same period, but the sector is typically subject to more volatile growth patterns due to its reliance on expenditure for large-scale projects.²⁰ In 2019 and 2020, the economy was subject to two major external shocks in short succession – Hurricane Dorian and the pandemic – both of which are likely to have significant long-term economic and social consequences.

25. As a small island State, the Bahamas is facing challenges similar to those of least developed countries, including vulnerabilities to external shocks and the economic disruptions caused by climate change, exposure to natural and environmental disasters, increasingly high debt levels and difficulties in gaining access to debt relief and, more generally, concessional financing for development. The vulnerabilities emanate also from a wide range of structural factors, including a limited resource base; lack of economic diversification; heavy dependence on export earnings; and a small domestic market.

26. It must be noted that there is very limited availability of essential data on socioeconomic indicators, including on poverty and gender-based and other inequality in the Bahamas – data that are fundamental to ensuring that GDP and gross national income measurements of prosperity and progress are complemented with measures better able to, as stated by the Secretary-General in *Our Common Agenda*, account for human well-being, planetary sustainability and non-market services and care, and consider the distributional dimensions of economic activity.²¹

B. Unfair distribution of the costs of climate change

27. The economy in the Bahamas is service-based, heavily reliant on tourism and related services, including, very importantly, property development, and financial services. Tourism and property development, in particular, attract most foreign direct investment and can, in principle, support large-scale local employment and economic growth. Tourism contributes to around 50 per cent of the country's GDP, making the country highly dependent on that industry.²² The financial services sector is estimated as the second largest contributor to the domestic economy, accounting for approximately 10 to 15 per cent of the country's GDP. The industry, which employs a significant number of highly skilled workers, has direct effects on both employment and spending, while indirectly affecting other sectors, such as construction, real estate and wholesale and retail trade. In terms of the product offerings, the domestic sector is more retail and labour intensive, while the international-sector products are aimed at clients with a higher net worth and labour in the latter sector tends to be specialist and higher paid.²³

C. COVID-19 pandemic

28. As mentioned above, the COVID-19 pandemic hit in March 2020, resulting in loss of life and livelihoods, for which the total estimate cost of impacts and effects on the Bahamas

¹⁹ See <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>.

²⁰ ILO, *Decent Work Country Programme*, p. 11.

²¹ *A/75/982*, para. 38.

²² IMF, *The Bahamas: 2022 Article IV Consultation – Press Release, Staff Report and Statement by the Executive Director for the Bahamas*, IMF Country Report No. 22/131 (Washington, D.C., 2022), p. 49.

²³ Central Bank of The Bahamas, "Gross economic contribution of the financial sector in the Bahamas 2020", March 2021, p. 40.

stand at \$9.5 billion. Nationwide health and safety protocols were adopted, aimed at mitigating the detrimental effects posed by the pandemic, including sanitation and mask protocols, lockdowns, curfews and social distancing strategies. During the most restrictive periods of the pandemic, the response of the Government, local non-governmental organizations and civil society resulted in the provision of unemployment assistance, emergency food assistance, rebuilding funds and other assistance, including the implementation of tax-free zones. The twin disasters of Hurricane Dorian and the COVID-19 pandemic have cost the Bahamas an estimated \$13.1 billion.²⁴

29. As noted, tourism and, by consequence, the economy of the Bahamas are highly vulnerable to external shocks, including, increasingly, climate change. In 2020, the impact of the COVID-19 pandemic on tourism caused a sharp decline – 24 per cent – in the country’s GDP and unemployment reached 25 per cent; as at the end of 2021, unemployment was estimated to be about 18 per cent.²⁵

D. Hurricane Dorian

30. Prior to Hurricane Dorian, the Bahamas had been hit by five major hurricanes in the past decade; in the period 2011–2020, damages related to natural disasters were estimated to have accounted for 3.2 per cent of GDP per year on average, the second highest average in the region.²⁶ Hurricane Dorian struck the Bahamas on 1 September 2019. As the strongest Atlantic hurricane documented to directly impact a landmass, Hurricane Dorian devastated the islands of Abaco and Grand Bahama, resulting in loss of life, livelihoods and internal displacement. It caused \$3.4 billion in damages – equivalent to almost 25 per cent of the country’s GDP. During the aftermath, many national and international organizations worked to reach those most at risk of being left behind. The Government, local non-governmental organizations and members of civil society, along with multilateral organizations, ensured that those affected by the hurricane were provided with the necessities of medical assistance, food, shelter and water, sanitation and hygiene services.²⁷

31. Natural disasters such as floods, droughts and hurricanes are becoming more frequent and severe. These transformations have severely affected the tourism industry, and hurricanes have been proved to also have a detrimental impact on wages, employment and household income and finances.²⁸

32. The fiscal outlook of the Bahamas has clearly been severely affected by these shocks. As reported by IMF, the country’s fiscal deficit reached 13.7 per cent of GDP in the fiscal year 2020/21, due to the recovery and reconstruction efforts required in the aftermath of Hurricane Dorian and, a few months later, the collapse in revenues and the surge in public spending necessary to support people and the economy during the pandemic (among other things, for food assistance, extension of the duration of unemployment benefits, tax deferrals and loans to businesses).²⁹ The Government of the Bahamas is still paying for the reconstruction of three hurricanes and has just completed the repayment of one, with cyclones currently looming. The Independent Expert underscores the need for a long-term solution to this situation.

E. Foreign debt

33. The above-mentioned crises have caused a steep rise in public debt levels, from around 50 per cent of GDP in 2015 to 75 per cent in 2020 and to 103.3 per cent of GDP by the end of 2021.³⁰ In 2023, the general government gross debt of the Bahamas was still at 83.3 per cent of GDP (above the average in the region) and is expected to remain more than

²⁴ [A/HRC/WG.6/43/BHS/1](#), paras. 13 and 14.

²⁵ See IMF, *The Bahamas: 2022 Article IV Consultation*.

²⁶ *Ibid.*, p. 49.

²⁷ [A/HRC/WG.6/43/BHS/1](#), para. 12.

²⁸ IMF, *The Bahamas: 2022 Article IV Consultation*, p. 49.

²⁹ See IMF, *The Bahamas: 2022 Article IV Consultation*.

³⁰ *Ibid.*

15 percentage points above pre-pandemic levels until 2026/27. In May 2022, IMF assessed the consolidated public sector debt of the Bahamas, including the debt of State-owned enterprises, to be sustainable but vulnerable to shocks.³¹ The average credit rating of public debt instruments has progressively decreased and, since 2020, has been classified as non-investment grade. This means that The Bahamas currently has very limited access to international financial markets for financing or refinancing purposes.

34. According to the country's latest budget estimates, another impact of this debt level is that, in 2023/24, 19.9 per cent of the country's recurrent expenditure will be devoted to repaying interest on public debt, while only 7.7 per cent will be allocated to social benefits.³² Of those public debt interest repayments, 52 percent will be in favour of non-residents. Those include institutional creditors, in particular the Inter-American Development Bank, as well as private financial institutions and bondholders.³³

35. The Independent Expert is greatly concerned about the decline in tourism, which has been devastating for both the population and the country's economy. Notwithstanding the heavy dependence on tourism, the Bahamas is still repaying the debt incurred for reconstruction due to the devastating consequences of Hurricane Dorian and the impact of the COVID-19 pandemic, and will continue to do so for many years to come. Yet, Bahamians have shown great resilience, and the levels of public debt have decreased since 2022. The Independent Expert reiterates that the collective responsibility of the international community towards climate change and its consequences should not be forgotten.³⁴

36. Although the country faces problems of internal inequalities, the disparity between the cost of living in the Bahamas and that of most other countries within the region, and the disparity between the country's GDP and its human development index value, its classification as a high-income country limits its access to international financial institutions and international development aid. The country thus has no choice but to acquire loans with higher rates, shorter terms and less favourable conditions in the private international bond market.

F. Maximum available resources and the geographical diversity of the Bahamas

37. As explained above, the cost of living is considerably higher in less populated islands. For instance, the estimated living wage was 30 per cent higher on Grand Bahama compared to that on New Providence. The geographical circumstances of these islands require specific attention with regard to their populations' needs for transportation and supplies and to the impact that the fulfilment of those needs has on all other rights, including the rights to food, to education, to adequate housing, to health care and to culture.

38. Furthermore, the islands of Abaco and Grand Bahama were severely affected by Hurricane Dorian. In Abaco, 6,331 houses were damaged – only 1,871 house were not. The total damage in housing has been estimated to be \$1.3 billion.³⁵ The reconstruction in Abaco is still under way.

39. The Government has undertaken multiple measures to contribute to the reconstruction of the infrastructure on the islands. Some of these measures include temporary relief from the value added tax (VAT), fees for business licences and customs taxes. Currently, the exemption of VAT on construction materials is still applicable but was to end at the end of September 2023.³⁶

³¹ Ibid.

³² The Bahamas, *2023/2024 Draft Estimates of Revenue and Expenditure* (2023), p. 41.

³³ Ibid., pp. 98 ff.

³⁴ See United Nations News, "UN expert urges international support for the Bahamas amid climate crisis", 1 September 2023.

³⁵ Information provided to the Independent Expert during the visit.

³⁶ Information provided orally by authorities.

VI. Illicit financial flows

40. Illicit financial flows, or the movement of money across borders where either the method of movement, the source or the use of the money is not legal,³⁷ represent an area of serious concern with regard to human rights, and affect both developed and developing economies. Illicit financial flows deprive countries of essential resources to finance the protection, promotion and progressive realization of all human rights, and contribute to the build-up of unsustainable debt since, lacking domestic revenue, Governments may resort to external borrowing. As noted by the previous mandate holder, illicit financial flows are not accidental or a by-product of the market; rather they often appear to be the result of State-sanctioned practices and high levels of impunity, insufficient regulations, and the misuse of complex financial vehicles to avoid accountability and traceability.³⁸ International cooperation and assistance remain crucial to combating illicit financial flows between States and to developing multilateral responses and equitable solutions.³⁹

41. The Bahamas is internationally recognized as a tax haven. The country ranked twelfth out of 70 jurisdictions on the 2021 Corporate Tax Haven Index, with a maximum haven score of 100. The country's Corporate Tax Haven Index value indicates that it is responsible for 3.3 per cent of the world's corporate tax abuse risks.⁴⁰ The Bahamas ranked twenty-second on the Financial Secrecy Index 2022 and is responsible for 1.13 per cent of the world's financial secrecy. Its secrecy score is an extremely high 75.⁴¹ The Independent Expert notes the commitment and steps taken by the Government to facilitate international tax cooperation, and its implementation, in 2018, of the common reporting standard and automatic exchange of information in the context of the Convention on Mutual Administrative Assistance in Tax Matters, on a non-reciprocal basis. The Bahamas also participates in an Organisation for Economic Co-operation and Development initiative regarding base erosion and profit shifting, which requires multinational enterprises to report their income, taxes and activities for each country where they operate.⁴²

42. On 4 October 2022, the Council of the European Union added the Bahamas to the European Union list of non-cooperative jurisdictions for tax purposes, due in particular to concerns that having a zero or nominal only rate of corporate income tax, the Bahamas is attracting profits without real economic activity (as assessed against criterion 2.2 of the list),⁴³ solely for the purpose of tax avoidance. The Independent Expert notes that the State enacted the Commercial Entities (Substance Requirements) Act, 2018 to ensure that companies with fiscal residency in the Bahamas are conducting core income-generating activities in the Bahamas, therefore controlling possible cases of tax evasion through fiscal residency in the country.

43. To address the concerns raised, the Bahamas has undertaken a number of initiatives. The Financial Intelligence Unit cooperates with other jurisdictions in the investigation of suspected illicit financial flows. It has experienced a clear increase in the reception of reports of suspicious transactions. In recent years, the Unit has signed several memorandums of understanding with jurisdictions that had requested it to increase its collaboration. The Financial Intelligence Unit does not itself require a memorandum of understanding to engage with other jurisdictions.

³⁷ A/HRC/28/60 and A/HRC/28/60/Corr.1, para. 4.

³⁸ A/HRC/37/54/Add.2, para. 13.

³⁹ A/77/169, para. 3, and A/HRC/37/54/Add.2, paras. 11–14.

⁴⁰ Tax Justice Network, "Corporate Tax Haven Index – 2021 results", available at <https://cthi.taxjustice.net/en/>. The Corporate Tax Haven Index combines an analysis of the legal framework of a country (the haven score) with the scale of multinational activity (the global scale weight) to assess how intensely the jurisdiction enables multinational corporations to abuse corporate tax, and what is the share of global corporate tax abuse risks they are responsible for.

⁴¹ Tax Justice Network, Financial Secrecy Index 2022.

⁴² See also <https://www.oecd-ilibrary.org/sites/66c9e598-en/index.html?itemId=/content/component/66c9e598-en>.

⁴³ See <https://www.consilium.europa.eu/en/press/press-releases/2022/10/04/taxation-anguilla-the-bahamas-and-turks-and-caicos-islands-added-to-eu-list-of-non-cooperative-jurisdictions-for-tax-purposes/>.

44. The Central Bank has undertaken a series of reforms of its Guidelines for Supervised Financial Institutions on the Prevention of Money Laundering, Countering the Financing of Terrorism and Proliferation Financing.⁴⁴ State authorities reported that additional resources had been allocated for supervision to combat money laundering, including for establishing an analytics unit responsible for developing and maintaining the supervisory framework, collecting data and preparing macroanalyses.⁴⁵ In cases of non-respect of the Financial Transactions Reporting Act, 2018, the Central Bank can impose monetary penalties. The Central Bank has also engaged in a business intelligence solution: SWIFT Scope. The use of SWIFT Scope is expected to increase the State's capacity to identify patterns, which could lead to better detection of suspected illicit financial flows. The solution is in the advanced stages of implementation and was expected to be fully realized later in 2023.⁴⁶

45. It was reported that the higher scrutiny given to the banking system had caused difficulties for domestic small businesses and individuals when they engaged with commercial banks for basic services. As a response, the Central Bank adopted the Streamlined Requirements for Account Opening, Provision of Financial Services, and Customer Identification.⁴⁷

46. The Bahamas created a registry of beneficial ownership under the Register of Beneficial Ownership Act, 2018, as amended in 2022. The registry is managed by the Office of the Attorney General. Information is added to the system by registry agents from the companies themselves or by individuals. There are penalties for those who do not register. There are currently about 40,000 active companies in the registry. Access to the registry is provided through the Office of the Attorney General. Other jurisdictions can request information through the international unit of the Office of the Attorney General. The Independent Expert finds it perplexing that the Bahamas continues to be blacklisted despite all of these efforts.

VII. Conclusions and recommendations

47. **The Bahamas is currently faced with great challenges, in particular owing to its ranking as a high-income country, in the current climate change context. These challenges greatly affect its capacity to maintain a stable economy, develop progressively and raise funds to provide for the basic needs of its population, while at the same time adapting to the increasing occurrence of natural disasters and rebuilding repeatedly. Climate change is a phenomenon for which all States are collectively responsible. International cooperation and assistance need to be more tangible and provide granular support for small island developing States and "big ocean States" such as the Bahamas, to facilitate economic recovery.**

48. **The Independent Expert suggests that the authorities of the Bahamas explore taking the following steps:**

(a) **Develop domestic human rights indicators that could replace average income as a domestic measure for wealth, that would take into account the specific socioeconomic and environmental context of the Bahamas and that would measure progress made in fulfilling the obligation to respect, protect and fulfil the human rights, including economic, social and cultural rights, of everyone in the Bahamas;**

(b) **Invest in collecting reliable data and statistics for the purpose of measuring progress against indicators other than GDP;**

(c) **Rebase the country's GDP and ensure that other socioeconomic indicators, such as the human development index, vulnerability and multidimensional**

⁴⁴ Available at <https://www.centralbankbahamas.com/viewPDF/documents/2023-04-06-17-20-05-CBOB-AML-CFT-Guidelines-Revised-6-April-2023.Final.pdf>.

⁴⁵ Information received from State authorities.

⁴⁶ Information provided by the Central Bank.

⁴⁷ Information provided by the Central Bank.

indices and climate-focused indices are considered when determining the country's access to international funding, public foreign debt and development aid;

(d) Assert that indicators other than GDP per capita be taken into account with regard to the country's access to concessional debt and other financial instruments;

(e) Engage in long-term financial and economic planning, considering a possible refocusing of the country's economic model and a diversification of its economy, but above all using innovation to respond to the new reality that the country faces in the current climate-change crises;

(f) Diversify the country's economy and increase innovation and food security, taking into account the instability of current economies and the exposure of tourism to climate change impacts and other phenomena;

(g) Maintain tax exemptions and other support given to the Family Islands that were affected by the hurricanes, in particular support aimed at fulfilling basic human rights, until reconstruction has been realized;

(h) Increase scrutiny of the banking system to prevent any illicit financial flows and increase the country's collaboration with other jurisdictions in the investigation of suspicious transactions and in the recovery of assets of illicit origin, including in connection with money transfer systems;

(i) Create a national human rights institution that complies with the Paris Principles.

49. In addition, the Independent Expert recommends that international financial institutions and States:

(a) Be cognizant of the many socioeconomic and environmental challenges that the Bahamas faces and consider that lower rates should be applied to countries in situations of vulnerability owing to climate change, such as small island States;

(b) Contribute substantially to the loss and damage fund established at the twenty-seventh session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, and adequately identify the value of the loss and damage suffered following natural disasters and other negative effects of climate change, including hurricanes, loss of land surface to the sea and increased sea temperatures;

(c) Join the call for a global tax body;

(d) Give more concessional loans and cancel debt related to hurricanes and other climate-related disasters.

50. The Independent Expert also recommends that the Bahamas be removed from the European Union blacklist of non-cooperative tax jurisdictions, and that the European Union consider developing a clear set of guidelines on a reassessment of the country's compliance as soon as possible.