Policy Paper:

Financial Integrity for Sustainable Development – Implementation of FACTI Panel Recommendations in Africa[1]

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This policy paper is prepared by Rui Xu, Associate Economic Affairs Officer, UN Office of the Special Adviser on Africa (OSAA).

It has been developed as part of OSAA's mandate to undertake analytical, advisory and advocacy work, in particular its efforts to highlight the challenge of illicit financial flows out of Africa and promote international tax cooperation to increase domestic resource mobilization, in order to advance implementation of the 2030 Agenda for Sustainable Development and Agenda 2063 in Africa.

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I. Introduction

A wide view of the high-level meeting of the General Assembly on International Cooperation to Combat Illicit Financial Flows and Strengthen Good Practices on Assets Return

Financial accountability, transparency and integrity are the key principles at the core of a global financial system which aims to promote stability and inclusive growth. Gaps and loopholes in the financial system allow illicit financial flows (IFFs) to flourish through tax and trade abuse, corruption, money laundering, and terrorism financing.

Cognizant of the challenges presented by IFFs to Africa's sustained development and inclusive growth, the *High Level Panel on Illicit Financial Flows from Africa* was established in 2012, chaired by former president of South Africa Thabo Mbeki, as mandated by the 4th Joint African Union Commission/United Nations Economic Commission for Africa (AUC/ECA) Conference of African Ministers of Finance, Planning and Economic Development. The 2015 report of the Mbeki Panel underlined that Africa was a net creditor to the rest of the world and the continent continues to suffer from insufficient resources for development due to the detrimental impacts of IFFs.

On March 2, 2020, the *High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel)* was convened by the 74th President of United Nations General Assembly and the 75th President of the United Nations Economic and Social Council (ECOSOC). Given the strategic priority of strengthening integrity within the global financial system for achieving the transformative vision of the UN Sustainable Development Goals (SDGs), the FACTI Panel's mandate was to 'review current challenges and trends related to financial accountability, transparency and integrity, and to make evidence-based recommendations to close remaining gaps in the international system'. [2]

The FACTI Panel report was released in February 2021, as the COVID-19 pandemic exacerbated the underlying structural inequalities of the global economic system and laid bare the vulnerabilities of African economies, including large fiscal deficit, lack of budget reserves, and debt sustainability issues, and dependence on exports of volatile commodities. Efforts to rid IFFs are critical for expanding available public resources and enabling more investments in fiscal soundness allowing countries to build a more resilient economy against future shocks. Against this backdrop, the FACTI Panel recognizes that the current approach views different channels and sources of IFFs in a disaggregated way and advocates for 'systemic change to create an entire ecosystem base on values, policies and institutions that have a unified aim'.

At the center of the FACTI Panel's recommendations is a proposal for a "Global Pact for Financial Integrity for Sustainable Development" based on countries' priorities, aiming to improve the well-being of people in developing and developed countries and contribute to enhanced national and multinational governance. Building on the Mbeki Panel report recommendations, the FACTI Panel calls on the world to "Track it. Stop it. Get it. And use it to finance the SDGs". This highlights the importance of not only preventing and tracing IFFs and returning the stolen assets, but also committing to use the recovered proceeds to invest towards achieving the SDGs.

Specifically, the Panel proposes a three-pronged approach to tackling IFFs and strengthening financial integrity on a global scale. 1) A set of values – accountability, transparency, legitimacy, and fairness – should form the foundation of the approach with a view to strengthen financial integrity for sustainable development. 2) Priority policy areas that require actions should include those relating to enablers, non-state actors, international cooperation, dynamic policymaking, and capacity building. 3) The international community will need to create the needed ecosystem to foster and sustain financial integrity through institutional changes related to data collection and publication, implementation review, and national as well as global governance.

IFFs are driven by complex financial and economic systems and therefore tackling this issue will require a global approach. In the meantime, there are actions that can be undertaken at regional and national levels within Africa, given the disproportionate cost of IFFs to Africa's development. While many African countries are still grappling with the adverse impacts of the pandemic, they are now also presented with an opportunity to take bold steps towards increasing domestic resource mobilization, including by curbing IFFs, and restoring public trust in government institutions. In this policy paper, we look into a set of FACTI Panel recommendations most pertinent to the Africa region and discuss the progress made by African countries in recent years, as well as the key challenges in implementing these recommendations from an African perspective. While IFFs are a challenge of global dimension that need coordinated actions by the international community, complementary measures at the national and regional levels in Africa will help reduce IFFs and advance towards achieving the Sustainable Development Agenda.

Although the focus of the analysis in this policy paper is on the implementation at the national and regional levels, global commitment to stem IFFs

2 United Nations (2021). Financial Integrity for Sustainable Development: Report of the High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda.

and international collaboration across different jurisdiction are still paramount. Highlighting the inadequacies of the present global architecture to tackle IFFs, the FACTI Panel calls for 'a legitimate and coherent ecosystem of instruments and institutions invested in delivering financial integrity for sustainable development'. An effective global governance framework will require coordinated actions from national, regional, and global actors. Therefore, the recommended policy actions and institutional changes by African policymakers and regional organizations proposed in this paper should be considered within the global setting, and will need to be complemented and strengthened by efforts from the international community. This is key to stemming IFFs from Africa and reversing their hemorrhaging effects on the region's development.

The methodology used for preparing this policy paper included in-depth review of relevant documents and analysis of data from UNCTAD, UNODC, UNECA, World Bank, IMF, and other institutions and think tanks. Consultations were held with experts on financing for development issues in Africa to provide insights on the challenges faced by countries in the region and policy directions going forward.

The rest of the policy paper is organized as follows: section II provides the broader context of IFFs in Africa and both internal and external drivers of IFFs; section III analyzes the progress in the implementation of a select set of FACTI Panel recommendations in Africa, highlighting key challenges and new opportunities; section IV presents the conclusion and recommendations.

II. The broader context: illicit financial flows in Africa

Illicit Financial flows are defined as "financial flows that are illicit in origin, transfer or use; that reflect an exchange of value instead of purely financial transactions; and that cross country borders". [3] UNCTAD identifies the main categories of IFFs as a) tax and commercial practices; b) illegal markets; c) corruption; and d) theft-type activities and terrorism financing.[4]

The 2015 Mbeki Panel Report identified commercial practices related to trade and tax abuse as the largest driver of IFFs from Africa, accounting for 65 percent, followed by criminal activities (30 percent) and corruption (5 percent)[5]. IFFs from Africa increased rapidly since 2000 mostly due to trade liberalization and increased imports and exports, and the growth of the extractive industry. UNCTAD's Economic Development in Africa Report 2020 estimates that Africa loses USD 88.6 billion annually to IFFs, equivalent to 3.7% of the Africa's GDP. This amount outstrips the annual inflows of ODA (USD 48 billion) and FDI (USD 54 billion), as seen in figure 1 below.[6] Larger economies in the region are affected to

IFFs is a challenge of global dimension

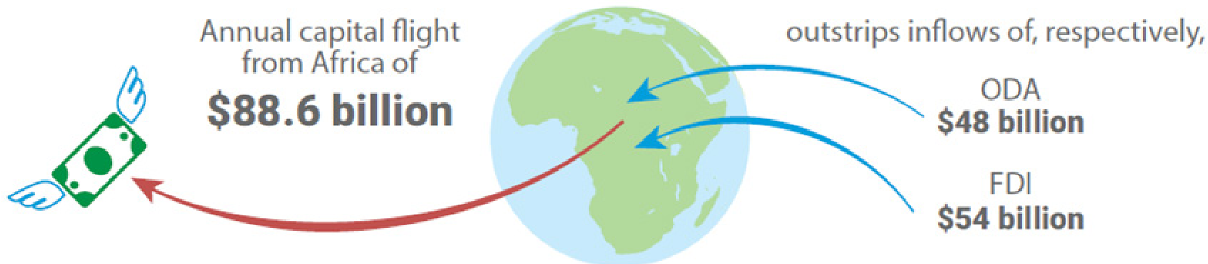
3 UNODC/UNCTAD (2020). Conceptual framework for the statistical measurement of illicit financial flows.
4 UNCTAD. Economic Development for Africa Report 2020: Tackling illicit financial flows for sustainable development in Africa. 2020.

Examples of activities generating IFFs under each category:

a) Tax and commercial practices: include illegal practices such as trade mis-invoicing, tax evasion, market manipulation, acts against trade regulations, etc. Also included are tax avoidance practices including transfer mispricing, debt shifting, tax treaty shopping, tax deferral, base erosion and profit shifting (BEPS).
b) Illegal markets: drugs and firearms trafficking, illegal mining, smuggling of migrants, smuggling of goods, wildlife trafficking.
c) Corruption: bribery, embezzlement, abuse of functions, trade in influence, illicit enrichment, etc.
d) Theft-type activities and terrorism financing: theft, robbery, extortion, kidnapping, slavery and exploitation, sexual exploitation, financing of terrorism.

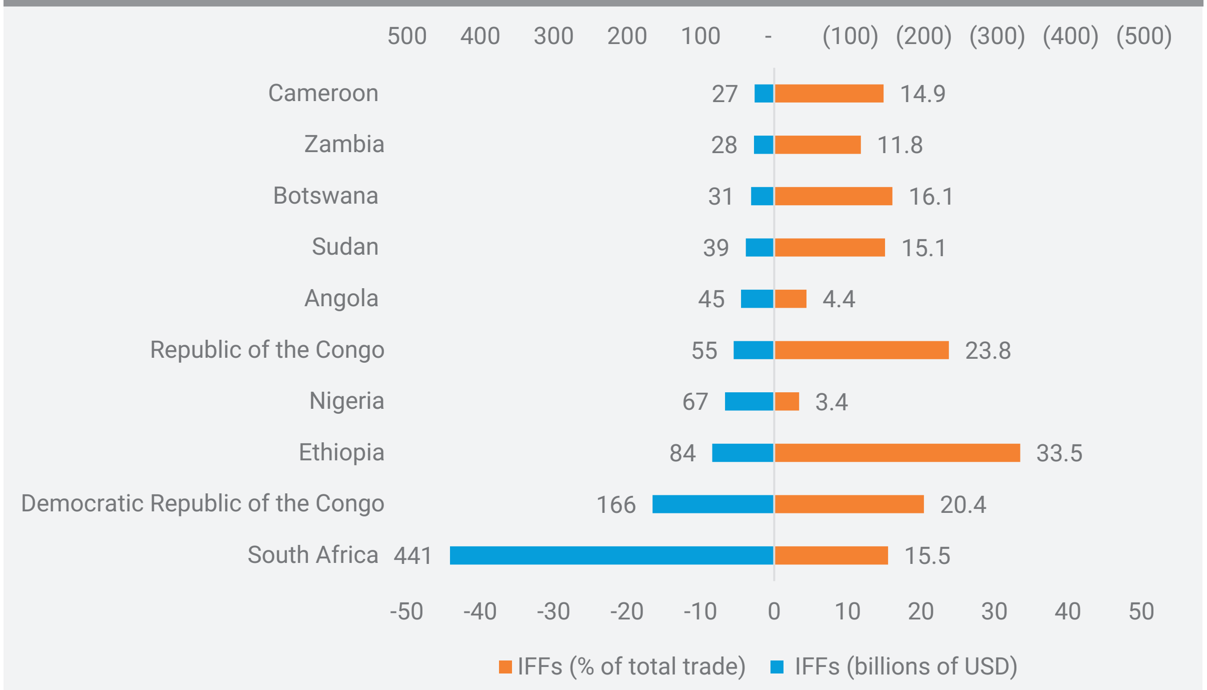
5 AU/ECA. Report of the High Level Panel on Illicit Financial Flows from Africa. 2015.
6 UNCTAD. Economic Development for Africa Report 2020: Tackling illicit financial flows for sustainable development in Africa. 2020.

Figure 1. Illicit financial flows out of Africa compared to annual ODA and FDI



Source: UNCTAD. Economic Development Report in Africa 2020: Tackling Illicit Financial Flows in Africa for Sustainable Development.

Figure 2. Top ten African countries with highest total illicit financial flows, 1980-2018



Source: UNCTAD. Economic Development Report in Africa 2020: Tackling Illicit Financial Flows in Africa for Sustainable Development.

a greater extent by IFFs as there are increased opportunities to channel illicit resources. Estimates of total IFFs during 1980-2018 suggest that the top emitters as seen in Figure 2, South Africa (USD 441.5 billion), Democratic Republic of the Congo (USD 165.6 billion), Ethiopia (USD 84.3 billion) and Nigeria (USD 67.1 billion), together accounted for 50% of the total IFFs from Sub-Saharan Africa.[7]

Countries in Africa are systematically disadvantaged in the current international taxation and trade system. Governments often have to participate in tax competition to attract foreign capital. International tax rules allow multinational enterprises (MNEs) to use aggressive tax planning and profit shifting strategies to avoid paying their fair share of taxes in countries where they operate, which erode the revenue

7 Africa Growth Initiative at Brookings Institute (2020). Illicit financial flows in Africa: Drivers, destinations, and policy options.

income for African countries. In addition, transfer pricing rules in treaties are often too complex for governments to enforce effectively. The prevalence of IFFs lower state tax revenues, limit resources available for key sectors, and impede the provision of basic services. IFFs reduce the governments' policy space and negatively impact their ability to control economic and financial flows.

Governments under financial constraints often resort to borrowing at high interest rates, putting additional pressure on debt sustainability. Country-level analysis based on an IMF model suggests that many African countries lost over 20 percent of their total tax revenue to profit shifting alone.[8] UNCTAD estimates that curbing IFFs across Africa, approximated at USD 78 per capita, could close the SDG financing gap by 33 percent. In Southern and Western Africa, where the per capita capital flight is the highest, the financing gap could be closed by 75 and 40 percent, respectively. [9]

It is important to understand the global nature of the illicit outflows from Africa. IFFs require complicit local and international actors, weak institutions, and an inadequate global taxation and governance system lacking in transparency and accountability. The expansion of the global financial markets facilitates low regulation, secrecy, anonymity, and the use of tax havens. The UNCTAD Trade and Investment Report 2019 underlined the importance of containing public revenue leakages from tax motivated IFFs, which mainly occur when MNEs reduce their corporate income tax liabilities by shifting their profits to affiliates in tax havens, and/or when MNEs exploit tax loopholes in domestic legislation or international tax treaties.[10]

Moreover, the current international instruments and regulations to stop, track and trace IFFs were mostly designed based on the economic and financial frameworks in Western Europe and North America, and their implementation often fail to consider the unique contexts of African countries and therefore do not support national actions undertaken by the governments.

One recent example is the global tax deal reached in October 2021. A total of 141 countries and jurisdictions (including 27 African countries) are members of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS), a global initiative to reform international taxation rules, reduce tax avoidance, and ensure multinational enterprises pay their fair share of taxes, and address new challenges arising from digitalization.[11] As of November 4, 2021, 137 member jurisdictions of the Inclusive Framework have joined the "Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy", which will subject multinational enterprises (MNEs) to a minimum 15% tax rate starting in 2023. Although this represents a major step towards international tax cooperation in the 21st century, many developing countries have expressed concerns that the tax deal would only deepen inequalities between countries, and that the negotiation process was not inclusive and disregarded the reservations expressed by the Global South.[12]

Study by the Tax Justice Network Africa (TJNA) revealed that the global minimum rate of 15% is set too low. Africa's average corporate tax rates are notably higher, which means the signing of the deal will be unlikely to provide any incentives to MNEs to reduce their profit shifting from African countries to low-tax jurisdictions. Some

8 Cobham and Janský (2017). https://taxjustice.net/2017/03/22/estimating-tax-avoidance-questions/.
9 UNCTAD. Tackling illicit financial flows for sustainable development in Africa. 2020.
10 UNCTAD Trade and Investment Report 2019.
11 https://www.oecd.org/tax/beps/.
12 https://www.globaltaxjustice.org/en/latest/oecd-led-tax-deal-will-only-deepen-inequalities-and-between-countries/.

large African economies including Kenya and Nigeria have reservations about the imposed 15% minimum tax rate. Nigeria called for a higher minimum rate and Kenya cited concerns that the deal may cause an end to its new digital services tax of 1.5% of sales which came into effect in January 2021. And both countries raising issues with the deal's dispute resolution requirements.[13] Oxfam estimates that Nigeria stands to receive as little as 0.02% of its GDP in additional money from this deal. Overall, this deal will overwhelmingly benefit rich countries, where most MNEs are headquartered, while the world's poorest countries will recover than less 3% of the new revenue streams.[14]

Tackling IFFs from Africa will require coordinated international efforts by countries both within and outside Africa, focused on shared standards, information transparency, regional coordination, and strong governance. New global actions on curbing IFFs must take into account the unique challenges faced by African countries and not widen the existing inequalities. The African Union (AU) can play a stronger role in mobilizing African member states to take a lead role in strengthening measures against IFFs. The AU can also advocate on international platforms for instruments and regulations that factor in the social, economic, political contexts and development needs of African countries.

13 https://qz.com/africa/2082754/why-kenya-and-nigeria-havent-agreed-to-global-corporate-tax-deal/
14 https://www.oxfam.org/en/press-releases/oecd-tax-deal-track-become-rich-country-stitch-oxfam

III. Implementation of FACTI Panel recommendations in Africa

The following sections of this policy paper will discuss in detail a subset of the 14 FACTI Panel recommendations most pertinent to African countries. The paper will provide analysis on progress made in recent years and actions that can be taken by African policymakers at the regional and national level. For each sub-recommendation, the analysis will cover existing policies and interventions, leading institutions, as well as challenges and opportunities in implementation. The order in which the recommendations are presented do not reflect prioritization but rather outline the scope of key issues to be addressed.

Together, these recommendations provide a blueprint for countries to create a robust and coordinated mechanism to reinforce financial integrity, improve domestic resource mobilization, and enable equitable allocation of development resources in Africa at this critical juncture, contributing to a more sustainable path towards "build forward better" after the pandemic.

RECOMMENDATION 1: ACCOUNTABILITY

1A: All countries should enact legislation providing for the widest possible range of legal tools to pursue cross-border financial crimes.

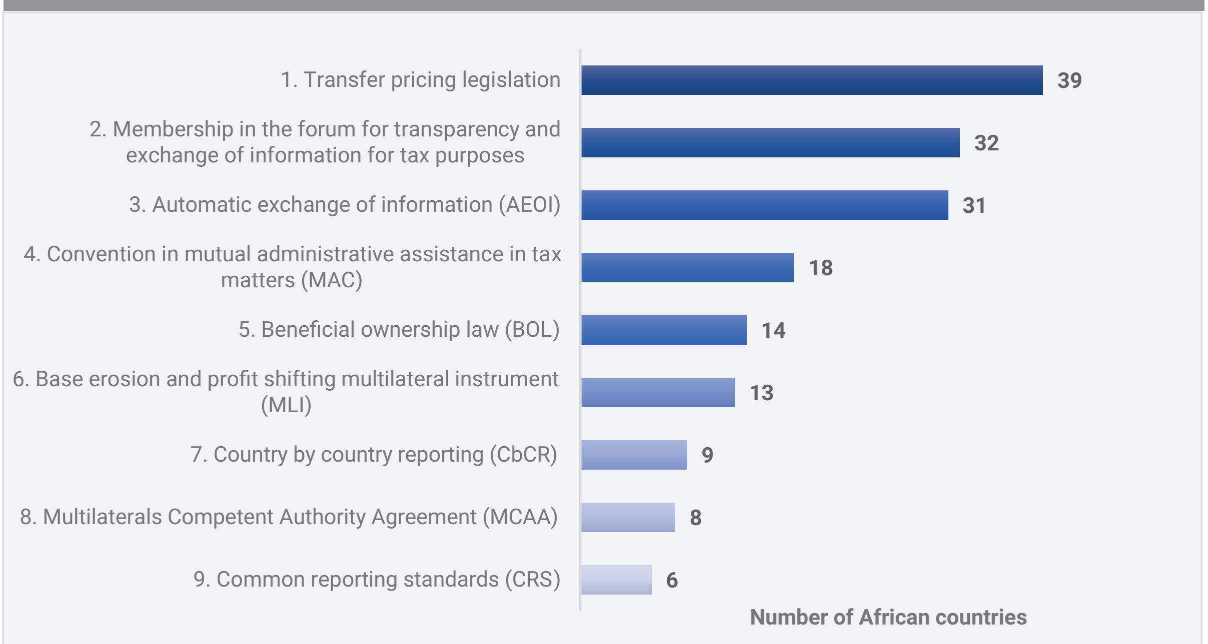
The FACTI Panel recommends that countries should establish the widest range of enforcement tools to prevent financial crimes and hold the perpetrators responsible. The tools may include "illicit enrichment laws, non-conviction-based confiscation systems, reasonable limits on immunity, and having a broad scope of money-laundering offenses" as well as "establishing dedicated units" in charge of the pursuit of cross-border financial crimes. The enactment of adequate laws sets a firm legal foundation to curb practices causing or facilitating IFFs – money laundering, tax evasion and avoidance, corruption, and trade-based IFFs.

All 54 African member states have established anti-money-laundering and counter-terrorism financing (AML/CFT) legislation, according to the Economic Governance Report 2021 published by the UN Economic Commission for Africa (ECA). The report also identifies five key institutions and nine legal framework elements that need to be put in place to address tax-related IFFs. Countries have made significant progress in setting up key institutions. 51 African countries have financial intelligence units (FIUs) – except Eritrea, Guinea and Sao Tome and Principe; and all countries except Comoros have a supreme audit institution. Additionally, 39 countries have one institution dedicated to transfer pricing and 38 countries have set up a unit responsible for large taxpayers such as MNEs.[15] On the other hand, the legal framework to address tax-related IFFs remain largely inadequate, as seen in Figure 3. Nigeria is the only country with all 9 elements, and four countries have 8 elements – Senegal, Seychelles, South Africa and Tunisia. 13 countries

15 UNECA (2021). Economic Governance Report I: Institutional Architecture to Address Illicit Financial.

Gaps and loopholes in the financial system allow illicit financial flows to flourish

Figure 3. Existing legal framework for addressing tax avoidance and tax evasion in Africa



Source: UNECA (2021). Economic Governance Report I: Institutional Architecture to Address Illicit Financial.

have only 1 element, and 9 countries – Central African Republic, Comoros, Equatorial Guinea, Eritrea, Guinea-Bissau, Sierra Leone, Somalia, South Sudan and Sudan – have not established any elements.

To prevent corruption related IFFs, 45 countries have institutionalized national anti-corruption agencies[16] and 43 countries in Africa have ratified the African Union Convention on Preventing and Combating Corruption (AUCPCC)[17] , which was adopted by the AU Assembly in 2003 as a shared framework for African countries to implement anti-corruption.

Transparency International published a review in 2020[18] on the implementation and enforcement of the AUCPCC in ten African countries, with information on the legal measures countries have taken against money laundering, illicit enrichment, and political party funding summarized in Table 1. Money laundering is criminalized in all ten countries. All countries except Rwanda include all crimes as potential predicate offenses, although Ethiopia, Ghana, Morocco and Mozambique take a threshold approach.[19] Côte d'Ivoire, DRC, and Morocco explicitly recognize corruption related crimes listed in Article 4 of the Convention as predicate offenses for money laundering.

TABLE 1. SCOPE OF MONEY LAUNDERING, ILLICIT ENRICHMENT, AND POLITICAL PARTY FUNDING OFFENCES IN AFRICA

COUNTRY	MONEY LAUNDERING		ILLICIT ENRICHMENT		POLITICAL PARTY FUNDING ILLEGAL ACQUIRED	
	CRIMINALIZATION	PREDICATE OFFENCES	CRIMINALIZATION	PERSONS OF INTEREST	CRIMINALIZATION	ADEQUATE SANCTIONS FOR NON-COMPLIANCE
CÔTE D'IVOIRE	✓	ALL CRIMES	✓	PUBLIC OFFICIALS	×	×
DRC	✓	ALL CRIMES	✓	ANY PERSON	✓	×
ETHIOPIA	✓	THRESHOLD APPROACH	✓	ANY PERSON	×	✓
GHANA	✓	THRESHOLD APPROACH	NOT EXPLICITLY	N/A	×	×
MOROCCO	✓	THRESHOLD APPROACH	×	N/A	×	✓
MOZAMBIQUE	✓	THRESHOLD APPROACH	✓	ANY PERSON	×	N/A
NIGERIA	✓	ALL CRIMES	✓	ANY PERSON	×	×
RWANDA	✓	UNCLEAR	✓	ANY PERSON	×	✓
SOUTH AFRICA	✓	ALL CRIMES	NOT EXPLICITLY	N/A	✓	PENDING
TUNISIA	✓	ALL CRIMES	✓	PUBLIC OFFICIALS AND RELATIVES	×	✓

Source: Transparency International 2020. Implementing and enforcing the African Union Convention on Preventing and Combating Corruption: a comparative review.

16 Except Chad, Congo, Egypt, Equatorial Guinea, Eritrea, Gambia, Mali, São Tomé and Príncipe and Somalia.
17 Except Cameroon, Cabo Verde, Central African Republic, Democratic Republic of Congo, Djibouti, Eritrea, Eswatini, Mauritania, Morocco, Somalia and South Sudan.
18 Transparency International 2020. Implementing and enforcing the African Union Convention on Preventing and Combating Corruption: a comparative review.
19 Threshold approach: whereby money laundering is typically conditioned to a particular sanction, i.e. linked to a category of serious offences or to the penalty of imprisonment applicable to the predicate offence (e.g., publishment of a certain duration in prison).

Additionally, the requirement for dual criminality applies in all countries where the predicate offense is committed abroad.

In contrast, the legal frameworks are less consistent across the ten countries on illicit enrichment and the use of illegally acquired funding for political finance. Although most countries have criminalized illicit enrichment (with the exception of Morocco), DRC and South Africa are the only two countries under review that have explicitly banned the use of funds acquired through illegal or corrupt means for political parties. In Ghana and South Africa, illicit enrichment is not explicitly criminalized, however the governments have put in place legal and administrative mechanisms to address the issues. DRC, Ethiopia, Mozambique, Nigeria, and Rwanda apply the offense of illicit enrichment to the broadest range of persons of interest, including not just public officials but any other person, while the scope is limited to public officials in other countries. In addition to the weak regulations around political party funding, sanctions for non-compliance are adequate in only four out of ten countries; and the enforcement of sanctions is often challenging due to limited capacity and independence of oversight bodies.

Although most African countries do not have laws that explicitly address IFFs or trade misinvoicing, increasingly the legal frameworks empower tax authorities, customs, and FIUs to address the issues. For example, the Ghana Revenue Authority (GRA) is mandated to combat tax evasion and tax fraud, and to prevent illicit trade and transnational crime. In Tanzania, the Tanzania Revenue Authority Act (TRA) similarly mandates the TRA to counter fraud and tax evasion, including conducting investigations into suspicious transactions. The Tax Administration Act, 2015 also criminalize false or misleading documents in relation to customs declarations. Namibia enacted the new Namibia Revenue Agency (NRA) Act in 2017, which specifies the NRA is to protect the country form illegal imports and exports.[20]

African countries must outlaw practices causing or facilitating IFFs and establish formal, legal procedures to detect and prosecute such financial crimes. The FACTI report underlines that in the absence of adequate legal tools, non-trial solutions such as bribery settlement gives advantages to large MNEs and take profits away from the government. Customs and tax bodies should be given broader mandates that include actions against trade and tax-related IFFs.

Furthermore, criminalization needs to be combined with effective enforcement. Challenges to the enforcement of anti-IFF laws include lack of investigative resources and technical skills, limited independence of prosecutorial and judicial bodies, influence of politically connected individuals, and the tendency for authorities to pursue predicate offenses which carry greater sentences.[21] Governments should ensure full independence of regulatory, prosecutorial and judicial bodies, and empower organizations responsible for combating IFFs, including revenue authorities, customs, FIUs, courts and prosecutors' offices, anti-money laundering units, anti-corruption agencies.

Besides legislative tools, it is important to recognize and strengthen the role of civil society and the media in preventing IFFs. Watchdogs, civil society and media organizations can play an important role in the fight against corruption and tax abuse by raising awareness and exerting pressure on government, thus holding governments, businesses, and individual perpetrators accountable. The participation of

20 UNECA (2021). Economic Governance Report I: Institutional Architecture to Address Illicit Financial Flows.
21 Transparency International 2020. Implementing and enforcing the African Union Convention on Preventing and Combating Corruption: a comparative review.

ordinary citizens and organized civil societies in policy debates will put pressure on governments to implement policy and institutional changes where political will is lacking. Given the vital importance of their work, civil society activists and media need support and protection for their rights. Governments should establish minimum standards of protection for investigative journalists, whistle-blowers, and human rights defenders, and ensure their active engagement in the policy-making process.

RECOMMENDATION 1: ACCOUNTABILITY

1C: Businesses should hold accountable all executives, staff and board members who foster or tolerate illicit financial flows in the name of their businesses.

Although governments should take the reins on tackling IFFs, businesses have a crucial role to play given that the largest share of IFFs from African countries stem from commercial practices through trade and tax abuse. Regulations of the private sector need to be strengthened to ensure that any liabilities for cross-border financial crimes do not stop at the institution or corporate level, but also hold accountable the responsible individuals, such as accountants, private bankers, legal professionals, and real estate agents (see Recommendation 6B), who can act as intermediaries and use their skills and knowledge to facilitate IFFs.

The ease of starting a business in Africa may encourage formation of companies primarily as a mechanism to launder illicit proceeds. The lack of protective checks and oversight in company formation means that business employees may be exploited and implicated in illicit financial activities due to negligence or complacency. The World Bank's Doing Business Report 2020 gives Sub-Saharan Africa an "ease of doing business" score of 51.8, the lowest of all regions in the world, meaning the region is 48.2 percentage points away from the best regulatory performance observed across all continents since 2005. Despite the overall difficulty of doing business on the continent, 19 African countries rank in the global top 100 in terms of the ease of "starting a business", which measures the number of procedures, time, cost, and paid-in minimum capital required to set up a local limited liability company.[22] Table 2 lists the ten African countries where a company can be established with the greatest ease, in contrast with their low rankings on their overall regulatory environment (with the exception of Morocco).

The FACTI Panel report emphasizes that self-regulation does not work. Applying punitive sanctions against not only the institutions responsible but also the professional service providers, is an important deterrent. For countries with underdeveloped private sector, rather than relying on businesses to self-regulate, governments can provide guidance to company boards and management on how to train employees, monitor employee conduct, and identify potential wrongdoings. At the corporate level, business leadership should enact higher ethics standards and exercise oversight to ensure tax compliance, customer due diligence, and anti-corruption practices are met by individual employees.

The lack of background checks on individuals incorporating companies within Africa heightens vulnerability to IFFs. Governments can establish a legal requirement for identity verification to confirm the individual has no previous criminal records, is tax compliant, has an authentic taxpayer's identification number, and has not been flagged for suspicious transactions in the past. Recent advancement in technology and

22 World Bank. Doing Business 2020. https://www.doingbusiness.org/en/methodology/starting-a-business.

TABLE 2. EASE OF STARTING A BUSINESS IN AFRICAN COUNTRIES				
COUNTRY	OVERALL GLOBAL RANK	STARTING A BUSINESS	REGISTERING PROPERTY	TRADING ACROSS BORDERS
MAURITIUS	97	15	56	131
RWANDA	78	19	94	90
MOROCCO	13	20	23	72
KENYA	110	29	112	163
TUNISIA	38	35	3	88
SOUTH AFRICA	53	43	81	58
ZAMBIA	166	44	100	169
BOTSWANA	152	49	103	144
TOGO	183	54	159	187
SEYCHELLES	132	56	115	126

Source: World Bank, Doing Business 2020. https://www.doingbusiness.org/en/rankings.
Note: This list captures the top ten African countries that ranked highest in the "starting a business" category.

digital business models create new loopholes that can be abused by criminals as a result of the lack of an international regulatory framework for the digital economy. However, technological tools such as big data and machine learning can also help to speed up the verification process and improve the ease of doing business while safeguarding the economy against the risk of forming companies for illicit purposes. [23]

RECOMMENDATION 3: TRANSPARENCY

3A: International anti-money-laundering standards should require that all countries create a centralised registry for holding beneficial ownership information on all legal vehicles. The standards should encourage countries to make the information public.

FATF defines beneficial owners as "natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement".[24] Given the large number of business entities in Africa that are headquartered outside the continent, information transparency is key as well as technical assistance to help member states meet the standards and carry out appropriate verification. In fact, the 31st AU Summit meeting in July 2018, which instituted an agenda for Africa on tax transparency and exchange of information to be led by the AU Commission, also called for establishing beneficial ownership registers, country-by-country reporting of financial information, and automatic exchange of information. [25]

23 Latif, Lyla (2021). "Intensifying the fight against corruption and money laundering." IFF study commissioned by UN Office of the Special Adviser on Africa (OSAA).
24 FATA (2012). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation.
25 UNECA (2021). Economic Governance Report I: Institutional Architecture to Address Illicit Financial Flows.
AU (2018). Assembly of the Union Thirty-First Ordinary Session 1 - 2 July 2018, Decisions, Declarations and Resolution. "DECIDE to combat illicit financial flows through measures such as the establishment of effective ownership registers, country-by-country reporting of financial information, participation in automatic exchange of tax information agreements, and support in strengthening tax authorities through the work of the African Tax Administration Forum".

The 2021 Financing for Sustainable Development Report highlighted that secrecy in ownership information can be exploited by perpetrators of IFFs and underlined that it is essential for authorities to know the beneficial owners of financial assets and legal vehicles operating in their jurisdictions, not just the legal owners.[26]

Beyond creating an online registry, it is beneficial to have such information available to the public to incentivize ethical business and legal conduct. By making the information public, governments will promote an inclusive, participatory decision-making process, and encourage non-state actors such as CSOs to play a monitoring role and bring to public attention financial crimes and tax abuse cases. The FACTI Panel claims that "beneficial ownership transparency can reveal that apparently legitimate and unrelated companies and trusts are in fact implicated in a global financial crime or tax-abuse scheme".[27] The OECD/G20 BEPS Project also identifies beneficial ownership registry as a key area of work. The FATF recommends that countries follow a multipronged approach to improve availability of ownership information combining the company approach, the registry approach, and the existing information approach.[28]

As of 2021, however, only 14 African countries have clear legal codes on beneficial ownership – Benin, Botswana, Burkina Faso, Cameroon, Cabo Verde, Chad, Egypt, Nigeria, São Tomé and Príncipe, Senegal, Seychelles, Tanzania, Tunisia and Uganda (Figure 3). ECA's Economic Governance Report 2021 concludes that Ghana is leading in the transparency of beneficial ownership information and is the only country that has reported effective steps towards a beneficial ownership registry by 2020.[29] The challenges in establishing beneficial ownership information include, according to the FACTI Panel, varying thresholds of application, lack of information, inadequate information collection and verification process, lack of sanctions, built-in loopholes in the secrecy structure.

The FATF and its nine FATF-style Regional Bodies (FTRBs) publish mutual assessments on how effective their respective members' AML/CFT measures work in practice.[30] Results from the 4th round of FATF mutual evaluations on African countries, conducted by FTRBs including the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG), the Central Africa Anti-Money Laundering Group (GABAC), the West Africa Money Laundering Group (GIABA), and the Middle East and North Africa Financial Action Task Force (MENAFATF) reveal that no country in Africa obtained a high level of effectiveness on availability of beneficial ownership information (Table 3). As for the two technical compliance requirements on beneficial ownership transparency, the majority of countries are partially-compliant or non-compliant based on report data from the last three years. Cabo Verde, Tunisia, and Zimbabwe are the only countries largely compliant on both requirements.

Countries in Africa have made progress towards enhanced transparency of beneficial ownership information. For example, the government of Mauritius has taken key steps towards the development of a centralized know your customer system to improve customer due diligence and beneficial ownership information.

26 United Nations. Financing for Sustainable Development Report 2021.
27 United Nations (2021). Financial Integrity for Sustainable Development: Report of the High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda, p.18.
28 (i) the company approach (the entity collects information on itself and authorities can access it upon request); (ii) the registry approach (usually accomplished by establishing a centralized database/register to hold beneficial ownership information); (iii) or the existing information approach (relying on information already held by, for example, financial institutions or other authorities).
29 UNECA (2021). Economic Governance Report I: Institutional Architecture to Address Illicit Financial Flows.
30 FATF Mutual Evaluations. https://www.fatf-gafi.org/publications/mutualevaluations/documents/assessment-ratings.html.

TABLE 3. BENEFICIAL OWNERSHIP INFORMATION IN AFRICA				
		EFFECTIVENESS	TECHNICAL COMPLIANCE	
COUNTRY	REPORT DATE	IO5: LEGAL PERSONS AND ARRANGEMENTS ARE PREVENTED FROM MISUSE FOR MONEY LAUNDERING OR TERRORIST FINANCING, AND INFORMATION ON THEIR BENEFICIAL OWNERSHIP IS AVAILABLE TO COMPETENT AUTHORITIES WITHOUT IMPEDIMENTS.	R.24: TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS	R.25: TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL ARRANGEMENTS
BENIN	SEP/21	LE	NC	NC
BOTSWANA	AUG/21	LE	PC	PC
BURKINA FASO	MAY/19	LE	PC	PC
CABO VERDE	MAY/19	LE	LC	LC
DRC	APR/21	LE	NC	NC
EGYPT	AUG/21	ME	PC	LC
ETHIOPIA	AUG/21	ME	PC	N/A
GHANA	JUN/18	LE	LC	PC
MADAGASCAR	DEC/20	LE	PC	NC
MALAWI	SEP/19	LE	PC	PC
MALI	MAR/20	LE	PC	PC
MAURITANIA	DEC/20	LE	NC	NC
MAURITIUS	DEC/20	LE	PC	LC
MOROCCO	DEC/20	LE	PC	NC
MOZAMBIQUE	JUN/21	LE	NC	NC
NIGER	NOV/21	LE	PC	PC
NIGERIA	NOV/21	LE	PC	PC
SENEGAL	MAY/18	LE	PC	NC
SEYCHELLES	DEC/20	LE	LC	PC
SIERRA LEONE	JAN/21	LE	PC	PC
SOUTH AFRICA	OCT/21	LE	PC	PC
TANZANIA	JUN/21	LE	PC	NC
TUNISIA	JAN/20	LE	LC	LC
UGANDA	DEC/20	LE	NC	NC
ZAMBIA	JUN/19	LE	PC	PC
ZIMBABWE	SEP/19	LE	LC	LC

Source: FATF 4th round mutual evaluations, updated on November 30, 2021.
Note: Effectiveness – Ratings that reflect the extent to which a country's measures are effective. The assessment is conducted on the basis of 11 immediate outcomes, which represent key goals that an effective AML/CFT system should achieve. Technical compliance – Ratings which reflect the extent to which a country has implemented the technical requirements of the FATF Recommendations. ME – moderate level of effectiveness. LE – low level of effectiveness. LC – largely compliant, only minor shortcomings. PC – partially compliant, moderate shortcomings. NC – non-compliant, major shortcomings. N/A - Not applicable, due to the structural, legal or institutional features of the country.

In addition, 27 countries are working towards improving beneficial ownership transparency in the extractives industry through participation in the Extractive Industries Transparency Initiative (EITI).[31] Ghana passed the Companies Act in 2016 which provided a firm legal basis for collecting and maintaining a national database on beneficial owners. Similarly, Tanzania enacted an EITI law in 2015 that requires all extractive companies in the country to disclose their beneficial owners.[32]

A study by the Tanzania Extractive Industry Transparency Initiative (TEITI) in 2017 found the legal requirements for disclosure of beneficial ownership inadequate. A survey of 54 companies revealed that many companies were subsidiaries of publicly owned companies and thus were not required to disclose beneficial ownership. TEITI plans to review the current legal and institutional framework and build a central register for beneficial ownership disclosure.[33]

RECOMMENDATION 3: TRANSPARENCY

3C: Building on existing voluntary efforts, all countries should strengthen public procurement and contracting transparency, including transparency of emergency measures taken to respond to COVID-19.

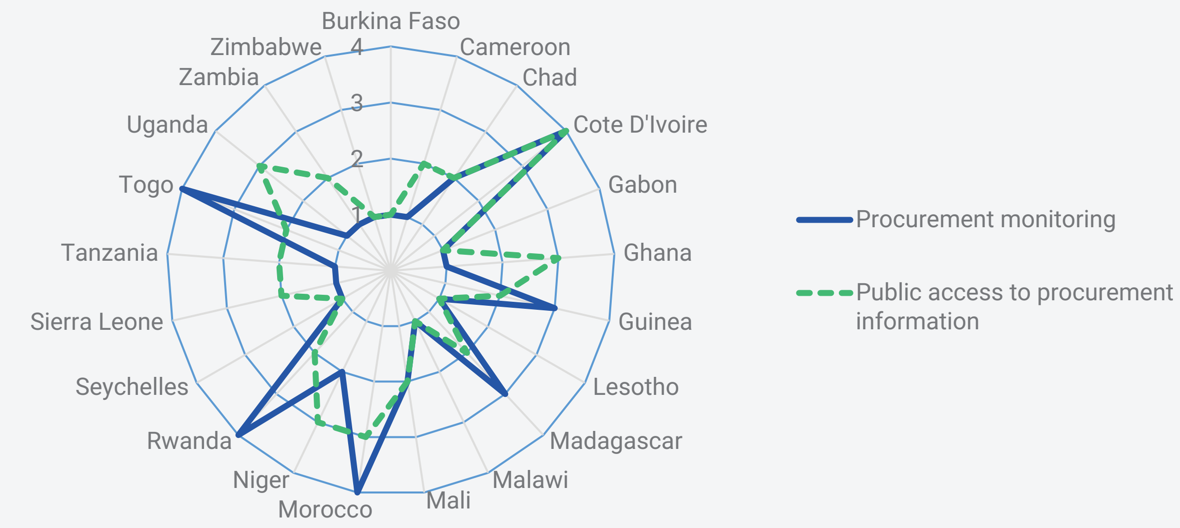
Many African countries suffer from weak procurement laws and inadequate implementation, leaving room for fraud and abuse. The COVID-19 pandemic has created additional opportunities for corruption and misuse of public funds, due to more relaxed accountability tools and administrative procedures to allow for, for example, emergency purchase of medical supplies, income support to affected individuals and households, and financial support to the private sector.

Public procurement and contracting transparency remain a challenge for many African countries as evidenced by the lack of key procurement records available to the public eye. *The Public Expenditure and Financial Accountability (PEFA)* partnership published its 2020 global report [34] with analysis on the key trends in public financial management across 31 indicators throughout the budget cycle, based on the 2016 PEFA Framework. Indicator 24 is focused on a country's procurement management, with four distinctive dimensions on procurement monitoring, procurement method, public access to procurement information, and complaint management. Figure 4 below demonstrates how 21 African countries performed on 1) procurement monitoring, which measures the completeness and accuracy of procurement databases or records on what has been procured, the value of procurement, and who has been awarded contracts; 2) public access to key procurement information, such as bidding opportunities, contract awards, annual procurement statistics. When measured on a numerical scale from 1 to 4, with 4 being the highest level of performance, most countries performed poorly or moderately on the two dimensions (with the exception of Côte D'Ivoire and Morocco), which suggests that African countries have a long way to go towards achieving procurement and contracting transparency.

An increasing number of African national and local governments have joined voluntary international initiatives aimed at strengthening transparency. Table 4 showcases Africa's participation in three major initiative as of December 2021. There

31 Countries that participate in the EITI: Burkina Faso, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Ethiopia, Gabon, Ghana, Guinea, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Nigeria, Republic of the Congo, Senegal, Seychelles, Sierra Leone, Sao Tome and Principe, Tanzania, Togo, Uganda, and Zambia. https://eiti.org/countries.
32 UNECA (2021). Economic Governance Report I: Institutional Architecture to Address Illicit Financial Flows.
33 EITI (2019). Tanzania 2016-2017 Report.
34 PEFA. 2020 Global Report on Public Financial Management.

Figure 4. Procurement transparency in Africa



Source: OSAA staff analysis based on PEFA 2020 Global Report on Public Financial Management.
Note: Data based on PEFA assessments conducted at the national level during 2016-2020.

are 14 African countries and 14 local jurisdictions who are members of the *Open Government Partnership (OGP)*[35], established in 2011 by leaders of governments and civil societies to promote "transparent, participatory, inclusive and accountable governance."

A growing number of African countries are publishing their contracting information according to the Open Contracting Data Standard (OCDS) created by the Open Contracting Partnership (OCP). The OCDS enables disclosure of data and documents throughout all stages of the contracting process – from planning, to tender and awards and onto contract management – in order to build transparent and efficient modern procurement systems and improve the quality of public spending. Since 2016, several African government agencies have used the OCDS to publish contracting data through their national e-procurement systems, including the Bureau of Public Procurement, Nigeria; Public Procurement and Disposal of Public Assets Authority, Uganda; Zambia Public Procurement Authority; Makuene County, Kenya.[36] OCP supports government agencies to improve the coverage, quality, and use of data as part of broader public financial management reforms.

In the wake of the COVID-19 pandemic, African countries have been presented with an opportunity to enhance transparency and accountability in their procurement system with emergency financing support. The IMF has encouraged countries to commit to improved reporting and publishing of crisis-related spending and emergency procurement information as part of its support to countries from its Rapid Credit Facility. Commitments have been made by Chad, Comoros, Djibouti, DR Congo, Eswatini, Ethiopia, Egypt, Gabon, Guinea, Lesotho, Liberia, Madagascar, Mali, Mauritania, Mozambique, São Tomé and Príncipe, Sierra Leone, South Africa, South Sudan, and Uganda.[37]

35 https://www.opengovpartnership.org/.
36 Open Contracting Partnership. https://www.open-contracting.org/worldwide/?lang=es#/table.
37 IMF (2021). How the IMF is Promoting Transparent and Accountable Use of COVID-19 Financial Assistance.

TABLE 4. AFRICA'S PARTICIPATION IN GLOBAL INITIATIVES ON PROCUREMENT AND CONTRACTING TRANSPARENCY		
INITIATIVE	**MEMBERSHIP**	**AFRICAN MEMBERS**
OPEN GOVERNMENT PARTNERSHIP	78 COUNTRIES AND 76 LOCAL JURISDICTIONS ARE MEMBERS OF THE PARTNERSHIP	**NATIONAL GOVERNMENTS (14):** BURKINA FASO, CABO VERDE, CÔTE D'IVOIRE, GHANA, KENYA, LIBERIA, MALAWI, MOROCCO, NIGERIA, SENEGAL, SEYCHELLES, SIERRA LEONE, SOUTH AFRICA, TUNISIA **LOCAL GOVERNMENTS (14):** ABUJA, NIGERIA; EL KEF, TUNISIA; ELGEYO MARAKWET, KENYA; KADUNA STATE, NIGERIA; KIGOMA-UJIJI, TANZANIA; MAKHANDA, SOUTH AFRICA; MAKUENI, KENYA; NAIROBI, KENYA; NANDI, KENYA; PLATEAU, NIGERIA; REGUEB, TUNISIA; SEKONDI-TAKORADI, GHANA; SHAMA, GHANA; TANGIER – TETOUAN – AL HOCEIMA, MOROCCO
OPEN CONTRACTING PARTNERSHIP	57 COUNTRIES ARE COMMITTED TO OPEN CONTRACTING	**NATIONAL AND LOCAL GOVERNMENTS (20):** CAMEROON; COMOROS; DJIBOUTI; DR CONGO; EGYPT; ETHIOPIA; GABON; GUINEA; LESOTHO; LIBERIA; MADAGASCAR; MAKUENI COUNTY, KENYA; MALAWI; MALI; MAURITANIA; MOZAMBIQUE; SÃO TOMÉ AND PRÍNCIPE; SIERRA LEONE; SOUTH AFRICA; SOUTH SUDAN
EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE	55 MEMBERS ARE IMPLEMENTING THE EITI STANDARDS	**NATIONAL GOVERNMENTS (27):** BURKINA FASO, CAMEROON, CENTRAL AFRICAN REPUBLIC, CHAD, CÔTE D'IVOIRE, DEMOCRATIC REPUBLIC OF CONGO, ETHIOPIA, GABON, GHANA, GUINEA, LIBERIA, MADAGASCAR, MALAWI, MALI, MAURITANIA, MOZAMBIQUE, NIGER, NIGERIA, REPUBLIC OF THE CONGO, SENEGAL, SEYCHELLES, SIERRA LEONE, SÃO TOMÉ AND PRÍNCIPE, TANZANIA, TOGO, UGANDA, ZAMBIA

In Nigeria, for example, the Bureau of Public Procurement has begun to publish COVID-19 procurement information on the Nigeria Open Contracting Portal as part of their commitment to the IMF.[38]

The government has also committed to publishing an independent audit within 3-6 months of the fiscal year end into the emergency response spending and related procurement process to be carried out by the Auditor General of the Federation.[39] The Government of Malawi has committed to publishing pandemic related procurement information as well as beneficial ownership of the awarded companies on the website of the Public Procurement and Disposal of Assets.[40]

As many African countries rely on the extractives industry as a main source of revenue, transparency in this sector is crucial for promoting financial integrity and effective resource mobilization. 27 African countries are implementing the Extractive Industries Transparency Initiative (EITI) standards, representing half of EITI's global membership. The standards promote transparent and accountable natural resource management, by requiring disclosure of information along the extractive industry value chain from contracts, licensing and beneficial ownership to production and export, on to revenue allocation and social benefits from mining activities.[41] Nigeria, one of the largest oil producers in Africa, joined EITI in 2007. The latest 2018 validation found that Nigeria has achieved "meaningful progress" in meeting the EITI standards, with implementation focused on oil and gas which contribute about 65 percent of government revenues. Through the EITI process, Nigeria has identified USD 9.8 billion owed to the federal government, of which USD 2.4 billion has been recovered. This includes outstanding debts by the national oil company, recovered uncollected taxes, unpaid royalties, crude oil and refined products theft, among others.[42]

In Cameroon, the oil and gas sector accounts for 99% of the government's extractive revenues. The country joined EITI in 2007, and the Mining Code made it mandatory for companies to comply with transparency requirements as per the EITI. Improvements made since include efforts led by the National Hydrocarbons Company in online systematic disclosure of company payments and government revenue; as well as the improved transparency of subnational transfers in policy and practice with the creation of an inter-ministerial committee on this issue.[43]

The increased spending needs during the pandemic has highlighted the need for more effective, streamlined and transparent procurement procedures. Building a transparent, fair, and competitive public procurement and contracting system remains a challenge in many African countries as a result of weak law enforcement, corruption and nepotism in the tendering process, illegal embezzlement of public funds, lack of data and information, and inadequate expenditure monitoring mechanism. However, technology and digital tools have afforded governments new opportunities to strengthen their technical capacity and improve data management. There is an opportunity for the United Nations system to support capacity building in member states and promote consistent procurement rules across countries.

38 Open Contracting Partnership Annual Report 2020.
39 IMF (2021). How the IMF is Promoting Transparent and Accountable Use of COVID-19 Financial Assistance.
40 Ibid.
41 EITI Fact Sheet. https://eiti.org/files/documents/en_eiti_factsheet_2020.pdf.
42 EITI Countries. https://eiti.org/nigeria.
43 EITI (2020). Second Validation of Cameroon: Draft assessment by the EITI International Secretariat. https://eiti.org/document/cameroon-validation-2020.

RECOMMENDATION 6: ENABLERS

6B: Governments should adapt global standards for professionals into appropriate national regulation and supervision frameworks.

The actors who originate IFF activities often need to rely on other individuals and organizations to facilitate their crimes. Professionals such as lawyers, bankers, accountants, financial service providers, and real estate agencies play an important part in facilitating money laundering and tax-related crimes, as discussed above under recommendation 3C. There are professional money launderers who participate in illicit activities for a fee or a commission, although many others are vulnerable to criminals misusing their services as a result of negligence or complacency.

Such enablers are found in a broad spectrum of jurisdictions, from small developing countries to countries hosting offshore financial centers. All jurisdictions must be held accountable for wrongdoings in their territory. The FACTI Panel report underlines that the greatest responsibility lies with traditional financial centers in developed countries, which host the biggest markets and the most sophisticated professional services firms.

Sub-recommendation 6B of the FACTI Panel Report discusses specifically the standards for professionals and the inclusion of such standards in national frameworks. Therefore, the analysis here has a narrower lens and does not intend to provide a comprehensive review of all enabling factors.

The FATF Recommendations specify requirements for banks and non-bank financial institutions to undertake so as to prevent money laundering, terrorism financing and other financial crimes. These requirements range from Customer Due Diligence (CDD), and sometimes Enhanced Due Diligence (EDD), suspicious transactions reporting (STRs), to comprehensive record keeping and reporting and extra checks for politically exposed persons (PEPs).[44] The requirements are summarized in Box 1. Countries need to adopt these global standards and guidelines for professionals and incorporate into their IFF-related regulation and supervision frameworks and codes of conduct for bankers,

Offshore accounts are used to transfer money and hide illicit profits

44 FATF (2012). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation.

BOX 1. FATF RECOMMENDATIONS ON PREVENTATIVE MEASURES FOR KEY PROFESSIONS

R.10 Customer Due Diligence (CDD): Financial institutions should undertake CDD measures - verify the customer identification, identify the beneficial owner, obtain information on the nature and purpose of the business relationship, and conduct ongoing due diligence on transactions throughout the course of that relationship.

R.11 Record keeping and reporting: Financial institutions should be required to maintain high quality and systematic record keeping for all necessary records on domestic and international transactions, for a minimum for five years. They should keep records on transactions and information obtained through the CDD measures. Such information should be sufficient to permit reconstruction of transactions to provide, if necessary, evidence for prosecution of criminal activity.

R.12 Politically exposed persons (PEPs): The framework must provide for handling the transactions and assets of PEPs and related social and business parties. Financial institutions should be required to conduct enhanced due diligence and risk management. The framework must specify clear formal legal obligations for banks, non-banking institutions and all businesses involved in finance and transactions to determine whether a client is a PEP or working on behalf of a PEP. Both domestic and foreign PEPs must be covered.

R.20 Reporting of suspicious transactions (RST): If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity or are related to terrorist financing, they should be required to report suspicious transactions to the FIU. The framework must include specific guidelines for coordination and collaboration between all the regulatory, legal and law enforcement bodies concerned.

R.22 &23 Designated Non-Financial Businesses and Professions (DNFBPS): In addition to banks and non-bank financial institutions, the FATF Recommendations also set out requirements for DNFBPS, including real estate agents, casinos, lawyers, notaries, and other independent legal professionals, trust and company service providers.

R.24 & R25. Beneficial ownership information: The framework should include measures to facilitate access to beneficial ownership and control information by financial institutions and designated non-financial businesses and professions (DNFBPS) undertaking the requirements set out in FATF Recommendations 10 and 22.

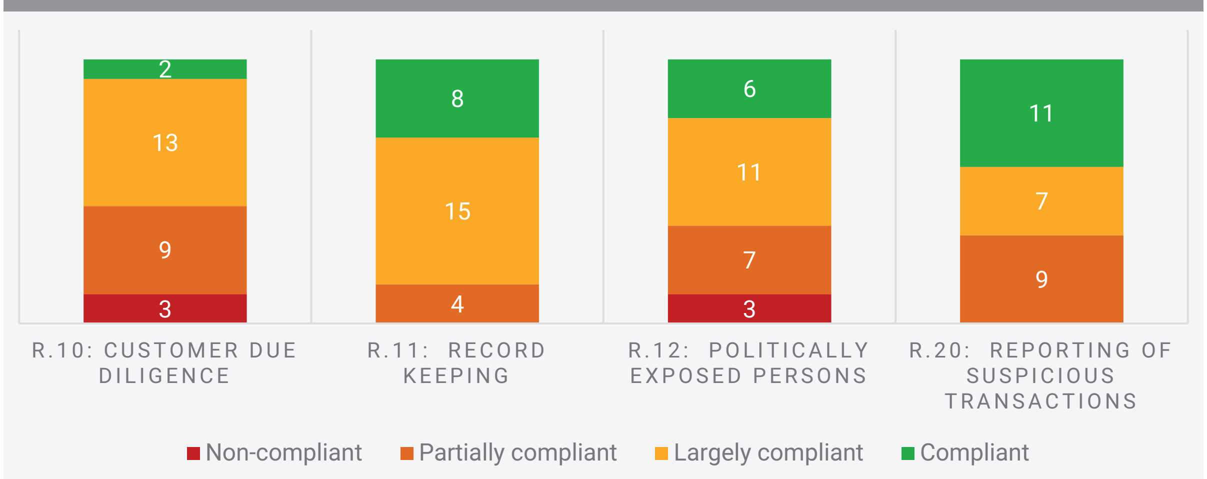
Source: FATF (2012). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, p.14-21. UNECA (2021). Economic Governance Report I: Institutional Architecture to Address Illicit Financial Flows.

lawyers, accountants and other professionals who may be implicated in financial crimes. In addition, appropriate sanctions should be put in place to incentivize compliance, such as losing a license to operate or being included on a public list. As of 2021, 52 African member states, except Burundi and Central African Republic, have both customs due diligence (CDD) and suspicious transactions reporting (STRs) systems in place. It is however unclear how comprehensive these systems are and whether they are adequately applied.

Results from the 4th round of FATF mutual evaluations conducted in 27 African countries provide an overview on the status of compliance with the aforementioned FATF Recommendations. Zimbabwe is the only country which is fully compliant in four areas. 3 countries (Ethiopia, Ghana and Mauritius) are compliant in three areas, and 5 countries (Malawi, Seychelles, Sierra Leone, Tunisia and Uganda) achieved full compliance in two areas. As illustrated in Figure 5, most countries have achieved at least partial compliance on record keeping and RST requirements, but many countries face challenges in meeting FATF Recommendations on CDD and PEPs.

To effectively reduce IFFs from Africa, it is also critical to improve compliance with FATF recommendations among professionals in more advanced economies that are on the receiving end of such illicit flows, because they often play a crucial role as external enablers, abusing the financial, trade and legal systems to channel illegally obtained funds to other countries. Table 5 summarizes the mutual evaluation results for several top destination countries of IFFs from Africa, based on volumes of IFFs over the period of 1980-2018.[45] While all countries met the compliance requirements to some extent for CDD, record keeping, and RSTs, the PEPs check presents the greatest challenge. This shows that professionals and institutions in destination countries are not diligent enough to perform additional checks when dealing with politically exposed persons. As the political context varies from country to country, legislators and policymakers in these more advanced

Figure 5. African countries' technical compliance with FATF Recommendations



Source: OSAA staff analysis based on FATF 4th round mutual evaluations, updated on November 30, 2021. Evaluation results are available for 26 African countries with report dates from 2018 to 2021.

45 Africa Growth Initiative at Brookings Institute (2020). Illicit financial flows in Africa: Drivers, destinations, and policy options.

TABLE 5. TECHNICAL COMPLIANCE WITH FATF RECOMMENDATIONS IN TOP DESTINATIONS OF IFFS FROM AFRICA					
COUNTRY	REPORT DATE	TECHNICAL COMPLIANCE			
		R.10: CUSTOMER DUE DILIGENCE	R.11: RECORD KEEPING	R.12: POLITICALLY EXPOSED PERSONS	R.20: REPORTING OF SUSPICIOUS TRANSACTIONS
CHINA	OCT/21	LC	C	PC	LC
UNITED STATES	MAR/20	LC	LC	PC	PC
JAPAN	AUG/21	LC	LC	PC	LC
UNITED KINGDOM	DEC/18	LC	C	C	C
UNITED ARAB EMIRATES	APR/20	LC	LC	LC	C
SPAIN	DEC/19	LC	C	C	C
BELGIUM	SEP/18	C	C	C	C
KOREA	APR/20	LC	C	PC	C

Source: FATF 4th round mutual evaluations, updated on November 30, 2021.

economies must take additional measures to ensure that professionals and institutions are held accountable in their business relationships with politically sensitive clients, and that they are not afforded the political shroud that obscures their involvement in any illicit transactions and dealings.

In addition, 51 countries in Africa (except Eritrea, Guinea, and Sao Tome and Principe) have established FIUs, of which 29 countries have signed up to the EGMONT GROUP[46], which was created to provide FIUs a forum to exchange information confidentially and stimulate cooperation to combat money laundering, financing for terrorism, and other financial crimes. Governments through their FIUs should bolster cooperation on information transparency and exchange and learn from other countries' experience in setting up regulatory and supervisory frameworks. Finance service regulators need to cooperate with FIUs to promote financial integrity and monitor the implementation of global standards.

RECOMMENDATION 8: INTERNATIONAL COOPERATION

8B: Enable free exchange of information at the national level as standard practice to combat all varieties of illicit flows.

Given the complex and global nature of preventing, tracking, and returning illicit funds, open information exchange is crucial at all levels of government. At the global level, the OECD established the Global Forum on Transparency and Exchange of Information for Tax Purposes in 2000, with the dual mandate to implement two internationally agreed standards for information exchange for tax purposes: exchange of information on request (EOIR) and automatic

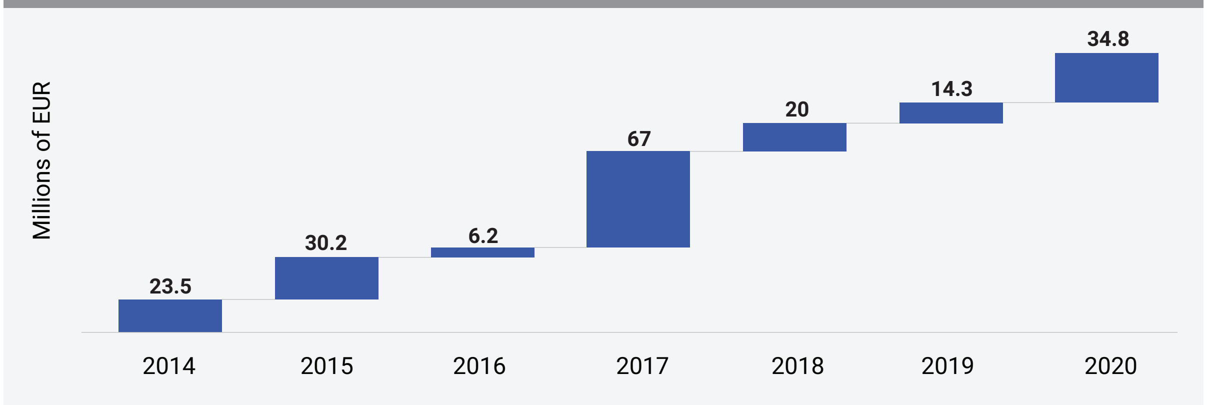
46 Algeria, Angola, Benin, Burkina Faso, Cameroon, Cabo Verde, Chad, Congo, Côte d'Ivoire, Egypt, Ethiopia, Gabon, Ghana, Malawi, Mali, Mauritius, Morocco, Namibia, Niger, Nigeria, Senegal, Seychelles, South Africa, Sudan, Tanzania, Togo, Tunisia, Uganda and Zambia.

exchange of financial account information (AEOI). Members' implementation of the standards is monitored through an in-depth peer review process.[47] The AEOI requires jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions annually. It is supplemented by the Common Reporting Standard (CRS)[48].

To date 32 African countries are members of the Global Forum, constituting 20 percent of the global membership, but only 7 countries have committed to undertake first information exchange, according to the Tax Transparency in Africa 2021 Report published by the Global Forum. These are Seychelles and South Africa (by 2017), Mauritius (by 2018), Ghana (by 2019), Nigeria (by 2020), Kenya and Morocco (by 2022). Senegal and Tunisia are considering for a date of first exchanges. The report highlights the important role of the EOIR on revenue generation. Since 2009, EOIR has enabled African countries to identify in additional revenue (tax, interest and penalties) more than EUR 1.2 billion. In the year 2020 alone, African countries sent 460 EOI requests and received 439 requests, and countries identified over EUR 34.8 million in additional taxes due to EOIR (Figure 6).[49] In addition, Nigeria recovered USD 82.6 million between July 2017 and September 2018 through the voluntary assets and income disclosure scheme. South Africa recovered USD 225 million in tax revenues from October 2016 to March 2017 through the special voluntary disclosure program.[50]

There are additional efforts to enhance information transparency and cooperation in tax matters in the region driven by ECOWAS, EAC, the Agadir Agreement.[51] However, there is no standardized framework on how to boost information exchange at the country level across agencies responsible for preventing IFFs. Under the CRS, the use of information shared between jurisdictions are limited to tax-related purposes only and cannot be freely shared with investigative and prosecutorial authority, thus delaying the process to detect and

Figure 6. African countries identified additional revenues through EOIR



Source: Global Forum Secretariat (2021). Tax Transparency in Africa 2021: Africa Initiative Progress Report

47 https://www.oecd.org/tax/transparency/what-we-do/.
48 The CRS requires financial institutions to report to signatory country tax administrations financial account information that is then exchanged with other signatory country tax administrations to clamp down on tax evaders hiding or withholding information about undeclared offshore funds. The move towards public and centralized registers of ultimate beneficial owners, which reveal the ultimate owners of trusts, foundations and other opaque vehicles, is expected to improve transparency, particularly in the natural resources sector.
49 Global Forum Secretariat (2021). Tax Transparency in Africa 2021: Africa Initiative Progress Report.
50 UNECA (2021). Economic Governance Report I: Institutional Architecture to Address Illicit Financial Flows.
51 UNECA (2021). Economic Governance Report I: Institutional Architecture to Address Illicit Financial Flows, P.60-61.

prevent IFFs. At the state level, there needs to be a more interconnected approach that will require removing any obstacles on information sharing across government entities.

A more integrated framework needs to be developed which requires tax and financial information to be availed to law enforcement and other relevant entities, while adhering to relevant privacy and data confidentiality controls. This framework shall include clear rules and guidelines on information exchange between organizations responsible for tackling IFFs, such as ministries of finance/trade, customs, revenue authorities, large taxpayer units, transfer pricing units, FIUs, anti-corruption agencies and other law enforcement agencies, supreme audit institutions. The lack of information sharing encourages corruption, fraud and duplicative efforts.

The advancement in digital platforms and big data provides an opportunity for better data quality and faster, more efficient information exchange across different agencies. African governments should allow information exchanged to be used by any domestic agency for the purpose of tackling IFFs, and designate one entity (e.g., FIUs) to facilitate and monitor information exchange on IFF-related matters across different levels of government. Moreover, the Global Forum can provide capacity building and technical assistance to member states and recommend good strategies on rapid deployment of information exchange standards at the national level. Funding may be sought from development partners to improve African countries' ICT infrastructure and operationalize advanced database systems, as well as organizing regional forums for knowledge sharing and peer learning.

RECOMMENDATION 11: DATA COLLECTION AND PUBLICATION

11A: Establish a Center for Monitoring Taxing Rights to collect and disseminate national aggregate and detailed data about taxation and tax cooperation on a global basis.

11B: Designate an entity to collect and disseminate data about mutual legal assistance and asset recovery efforts.

11C: Designate an entity to collect and disseminate data on enforcement of money-laundering standards, including beneficial ownership information.

While the Global Forum on Exchange of Information for Tax Purposes implements the EOIR and AEOI standards and monitors members' implementation, it does not collect or disseminate data on taxation or tax cooperation. And the majority of African countries have yet to commit to a date for a first information exchange (see recommendation 8B).

The WBG-UNODC Stolen Asset Recovery Initiative (StAR) supports international efforts to end safe havens for corrupt funds and secure the return of stolen assets. Its Asset Recovery Watch (ARW) database provides information on completed and ongoing recovery efforts of proceeds of corruption at the international level. Of the 11 countries that received legislative assistance from StAR in 2020 on amendments and new drafts of bills, 4 are in Africa.[52] In addition, public officials in Zimbabwe and Ethiopia received online capacity

52 In Ethiopia, StAR assisted in drafting legislation on Non-Conviction based (NCB) asset forfeiture and the Whistleblower Award Act. In Guinea, StAR supplied in-depth advice on the asset declaration form which was adopted and launched by the Cour des Comptes. In Sudan, StAR reviewed and provided comments on several drafts of Sudan' law on fighting corruption and the recovery of public funds, especially sections on confiscations and competencies for asset recovery. In Uganda, StAR consulted with the Inspectorate of Government (IG) staff on the Online Asset Declaration System (ODS), electronic verification of asset declarations, and amendments to the legislative framework to strengthen disclosure systems.
Source: World Bank and UNODC. StAR Annual Report 2020.

Multinational corporations reduce their income tax liabilities by shifting their profits to affiliates in tax havens

building support during the pandemic. However, StAR does not host a comprehensive database on asset recovery cases worldwide.

FATF and the FSRBs through the mutual evaluation mechanism assess countries' effectiveness and technical compliance in implementing FATF Recommendations on AML/CFT (see Table 3 and Figure 5). Nevertheless it is not within their mandate to collect or disseminate detailed information on enforcement of money-laundering standards by countries.

The FACTI Panel notes that the absence of neutral, authoritative bodies tasked with collating, analyzing and publishing data is a severe impediment to the global efforts to improve financial integrity and fight IFFs. It is critical to have reliable data across the fields of tax, money-laundering, corruption, and asset return.

As coordinated global action will take time, African countries can seize the opportunities afforded by new data technologies to greatly improve data availability and exchange at the regional level as a starting point. This can be done through establishing a regional center on tax cooperation, asset recovery, and anti-money laundering efforts to be placed within the AU or the Regional Economic Communities (RECs). The entity will be tasked to develop templates for reliable data reporting by individual countries; collect and harmonize national level data on taxation, suspicious transaction reports, mutual legal assistance and asset recovery efforts; periodically disseminate integrated data while maintaining confidentiality controls; and publish annual reports for the region. The AU will play an important coordination role and engage member states to participate in this ambitious undertaking.

RECOMMENDATION 13:
NATIONAL GOVERNANCE

Governments should create robust and coordinated national governance mechanisms that efficiently reinforce financial integrity for sustainable development and publish national reviews evaluating their own performance.

The FACTI Panel highlights the need for a whole-of-government approach towards improving governance for financial integrity and acknowledges that the presence of separate specialized organizations increases the operation costs and creates opportunities for corruption and abuse.

As African economies are vulnerable to IFFs, it is imperative to develop an infrastructure for combating IFFs, starting with national strategies on IFFs, to be integrated into the medium-term financing strategy and revenue plan to ensure sufficient resource allocation. There needs to be a strong political will underpinning this effort, in order to create an enabling environment that is conducive to reducing IFFs.

Rules, laws and regulations described under Recommendation 1A that penalize activities originating or aiding IFFs should be enacted, and law enforcement agencies should be legally empowered. International standards and instruments should be mainstreamed at the national level, such as the uptake of AEOI and implementation of FATF Recommendations on CDD, EDD, STRs, and PEPs (see recommendation 6B).

Institutions charged with combating IFFs should not work in silos. Instead, governments should bring together various agencies and establish a framework for free exchange of information to facilitate the prevention and detection of IFFs (see recommendation 8B). Duplicative and competing mandates need to be removed to improve efficiency and effectiveness of the system. Demand-driven capacity building and training for officials should be made available to countries from international bodies with the relevant expertise, e.g., OECD, Global Forum, UNODC, UNCTAD, ECA.

Furthermore, governments should improve the monitoring and evaluation of implementation of global and national policies and standards, and strengthen the oversight role of parliamentarians and financial sector regulators. Civil societies should be engaged as part of the governance system. African member states should be encouraged to submit disaggregated data on taxation, asset recovery, and anti-money laundering measures to the African regional data center (see recommendation 11).

To foster regional collaboration, an African center for knowledge exchange and information sharing on IFFs could be set up to provide capacity update on governance reforms, develop templates for national reviews to ensure consistency, and add value through more effective knowledge sharing based on common regional characteristics.

IV. Conclusion

The large scale of illicit financial flows from Africa hinders the continent's sustainable development agenda. IFFs across the region are estimated at USD 78 per capita[53], close to the per capita health expenditure of USD 79.4.[54] Curbing IFFs across Africa could close the SDG financing gap by 33 percent[55] and provide much needed financing for key development areas. Inherent inequality and opacity in the current international taxation and trade infrastructure render Africa countries vulnerable to IFFs through tax and trade abuse, money laundering, corruption, and terrorism financing. COVID-19 has exacerbated the situation, with growing corruption around relief funds and procurement, further undermining governments' ability to provide much-needed relief.

The quest of African countries to curb IFFs will thus require coordinated international efforts given the global nature of the problem. The FACTI Panel Report published in February 2021 provided a blueprint for the fight against IFFs centered around a "Global Pact for Financial Integrity for Sustainable Development", which calls for the revamping of the global financial structure as an important step to not only prevent and trace IFFs, but also channel the recovered proceeds towards SDG financing. There is a huge opportunity for the global community to intensify efforts against IFFs and harness additional financing for progress towards the 2030 Sustainable Development Agenda and Agenda 2063.

This policy paper provides in-depth analysis on a set of FACTI Panel recommendations from the report which are most pertinent for African policymakers at the regional and national levels, highlighting progress and achievements made by African countries in recent years, as well as challenges and opportunities for implementation in the African context.

African countries must outlaw practices causing or facilitating IFFs and establish formal and effective legal procedures to detect and prosecute financial crimes including money laundering, tax avoidance and tax evasion, corruption, and trade related IFFs (Recommendation 1A). To date, the majority of African countries have put in place AML/CFT legislation, institutionalized anti-corruption agencies, and set up FIUs and supreme audit institutions. On the other hand, their legal frameworks remain largely inadequate to address tax-related IFFs, illicit enrichment, and trade mis-invoicing. A stronger legal framework must also be combined with empowered regulatory and law enforcement agencies.

The largest share of IFFs from Africa stem from commercial practices and tax abuse, therefore regulations of the private sector need to be strengthened (Recommendation 1C). Rather than relying on businesses to self-regulate, governments should apply punitive sanctions against not only the institutions responsible but also the professional service providers as an important deterrent. Company boards and management

53 UNCTAD. Tackling illicit financial flows for sustainable development in Africa. 2020.
54 World Health Organization Global Health Expenditure database. 2019 average for Sub-Saharan Africa.
55 UNCTAD. Tackling illicit financial flows for sustainable development in Africa. 2020.

need to be sensitized on IFF issues in order to better monitor employee conduct and identify potential wrongdoings.

Both the FATF and the OECD/G20 BEPS Project have underlined the importance of having a comprehensive and transparent beneficial ownership information registry as a key requirement to combat money laundering and tax and trade related IFFs (Recommendation 3A). Less than a third of African countries have clear legal codes on beneficial ownership as of 2021. No countries in Africa have obtained a high level of effectiveness on the availability of beneficial ownership transparency according to the latest around of FATF mutual evaluations.

In addition to improving the availability of beneficial ownership information, countries should mainstream international standards and instruments, such as the uptake of AEOI and implementation of global standards for professionals on CDD, EDD, STRs, and PEPs (recommendation 6B). Individuals in key professions such as law, accounting, financial services may be exploited by criminals for their skills and expertise and become enablers of IFFs. Results from the 4th round of FATF mutual evaluations suggest that African countries have made significant progress towards implementing these standards, and most countries are at least partially compliant with FATF Recommendations. More advanced economies which are the destination countries of IFFs from Africa should also adopt stricter standards for professionals and institutions with relevant expertise and ensure that they are not afforded the political shroud that obscures their involvement in illicit trades and dealings to the detriment of African economies.

African countries have long suffered from weak procurement systems and lack of transparency in procurement information (Recommendation 3C). The increased spending needs during the pandemic has highlighted the need for more effective and streamlined procurement procedures. An increasing number of them have joined voluntary international initiatives for better government transparency. Technology and digital tools have afforded governments new opportunities to strengthen their technical capacity and improve data management. The UN system should support the capacity building in member states and promote consistent procurement rules across countries.

Institutions charged with combating IFFs should not work in silos. Instead, governments should bring together various agencies and establish a framework for free exchange of information at the national level to facilitate the prevention and detection of IFFs (Recommendation 8B). Ministries of finance/trade, customs, revenue authorities, large taxpayer units, transfer pricing units, FIUs, law enforcement agencies, supreme audit institutions, and other relevant agencies should be given clear rules and guidelines and capacity development support. Funding and technical assistance from regional organizations such as the AU, ECA, and AfDB can help improve member countries' infrastructure and data systems, and facilitate regional knowledge sharing and peer learning.

Furthermore, African countries should seize the opportunities afforded by new data technologies and digitalization tools to greatly improve data availability and exchange at the regional level, in the absence of a designated global body for information collection and dissemination (Recommendation 11). A regional data center could be established within a regional institution (e.g., ECA) to collate and disseminate data on taxation, suspicious transaction reports, anti-money laundering, mutual legal assistance and asset recovery measures.

All of the above-mentioned elements will form a robust national governance infrastructure for addressing IFFs from Africa (Recommendation

13). A whole-of-government approach combined with strong political will and an enabling environment will be integral for curbing IFFs and reinforcing financial integrity for sustainable development in the region. Policies and instruments on IFFs should be integrated into medium-term financing plans to ensure adequate resource allocation. In addition, states must remain flexible through participation in international forums and conventions and adapt their governance frameworks nimbly to changing global and local contexts.

While the progress made by African countries is commendable, tackling IFFs in Africa will require steadfast regional cooperation and coordinated international action to promote shared standards, information transparency, global governance, and a fair playing field for vulnerable developing countries. The current international instruments and regulations to stop, track and trace IFFs were mostly designed based on the economic and financial frameworks in wealthy economies, and their implementation often fail to consider the unique contexts of African countries and therefore do not support national actions undertaken by the governments.

New global actions on curbing IFFs must take into account the unique challenges faced by African countries and not widen the existing inequalities. Technical support and guidance should be made available to African governments where possible. International dialogues on IFF matters need to be more inclusive and participatory and take into account Africa's perspective. The United Nations should play a stronger role in mobilizing member countries to strengthen measures against IFFs and advocate on international platforms for a stronger international financial ecosystem and governance framework that factor in the unique challenges and development needs of African countries.

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