

PAN-AFRICAN CONFERENCE ON FIGHTING IFFs IN AFRICA

“From Words to Actions”

15-17 March 2023 (Tunis, Tunisia)

CONCEPT NOTE

1. Background

The attainment of the goals and aspirations of Agenda 2063 and the United Nations Sustainable Development Goals (SDGs) is premised on inclusive growth and sustainable development of Africa through implementation of structural transformation reforms and optimal utilization of its natural resource endowments. For the continent to achieve its development goals, substantial domestic resources mobilization is necessary. The much needed resources have continuously been flowing from the continent in favor of developed countries through multinational companies, resulting in the continent continuing to lag behind in achieving the Agenda 2063 and SDG targets, with only eight years remaining to hit SDG's timeline. Consequently, curbing illicit financial flows is critical to ensure that adequate domestic resources are available for financing Africa's development.

According to the Report of the High-Level Panel on Illicit Financial Flows (IFFs) from Africa¹, the value of total aggregated illicit outflows surged from approximately USD 4 billion in 1990 to USD 50 billion in 2015. UNCTAD (2020)² estimates trade mis invoicing at between USD 30 billion and USD 52 billion per annum, while capital flight is valued at USD 88,6 billion per annum.

It is also estimated that IFFs are concentrated in sectors with high value added such as oil, gas and precious minerals. It is therefore a fact, that export-oriented countries are more exposed to the IFFs outflows.

Although Africa has been relying on external funding (i.e. concessional loans, aids and grants) to fund most of the development projects needed to uplift the continent and lives of its citizens, several recent studies conclude that IFFs represent twice the amount of official development assistance (ODA) that Africa receives.

Some of the negative effects of IFFs are the depletion of foreign exchange reserves, reduced tax collection, cancellation of investment flows and increased poverty. In fact, Domestic Resource Mobilization (DRM) and IFFs are closely interlinked, as tax evasion – the practice of illegally hiding income from tax authorities and transfer it abroad (most of the cases through legal channels) hampers government efforts to mobilize domestic resources.

These outflows, which also undermine the rule of law, stifle trade and worsen macroeconomic conditions that are facilitated by some sixty (60) tax heavens and secretive jurisdictions around the world that allow establishment and operation of millions of disguised companies, shell companies, anonymous trust accounts and fictitious charitable foundations. Other techniques used include money laundering and price shifting.

Preliminary findings indicate that curbing IFFs will require strong international cooperation and concerted and articulated actions by developed and African countries in partnership with the private sector and civil society.

A strong and effective domestic resource mobilization, through the fight against IFF, is therefore key for Africa to finance the realization of the aspirations of Agenda 2063 and the attainment of the 2030 SDGs. Under these two comprehensive agendas, Africa has set many strategic objectives and goals that cannot be achieved without investing adequate resources. A wide-mobilizing resources strategy would be able to address efficiently the funding gaps owing to the fact that Africa is one of the resource-richest continents. However, the continent continues to be ranked as the poorest due to, mainly, poor political and economic

¹ AU/ECA Conference of Ministers of Finance, Planning and Economic Development, 'Report on High-Level Panel on Illicit Financial Flows from Africa', 2015,

² "Tackling Illicit Financial Flows for Sustainable Development in Africa", Economic Development In Africa Report 2020 UNCTAD (2020).

governance, political instability and conflicts that constitute the key driving factors behind this failure. As a result, much needed resources have continuously been flowing from the continent in favor of developed countries through well-structured multinational company's modus-operandi.

From the above, it is evident that Africa has been suffering for several years from the capital illicitly flowing out of the continent. It is only until recently, with the High-Level Panel on IFFs, that the continent has been able to point and name the evil that has been, and continues, to severely affect Africa's development.

2. Challenges posed by a proper definition of IFFs

While the discussion, empirical depiction and analysis of IFFs advanced significantly in the last decade, no unanimous definition of IFFs exists as of now. A broad typology consisting of four parameters – namely; tax abuse, criminality, abuse of power and market abuse, was identified by several stakeholders, amongst them the High-Level Panel on IFFs from Africa. Typically, market abuse and tax abuse refer to activities with legally obtained capital in illicit transactions, while the remaining two parameters (abuse of power and criminality) refer to activities concerning illegally obtained capital. The discussion of illegal versus illicit elements in the conceptualization of IFFs presents the most controversial definitional issue. Various institutions use different specifications, varying from a narrower definition only covering illegal actions to a broader understanding including commercial activities that are not necessarily lawbreaking¹. This becomes particularly relevant in the area of taxation, since due to different legal standards and rules across countries, methods of tax avoidance are often operated in grey areas between illegality and legality. However, as recent state-of-the art synthesizing research suggests, the definitional discussion leans decidedly towards including formalistically legal, but illicit elements, such as aggressive tax avoidance by multinational corporations within the description of IFFs. Illicit thus can be defined as activities deemed socially forbidden, even if not legally. This is further supported by the 2015 Report of the High-Level Panel on IFFs from Africa, which explicitly proposes a comprehensive scope in terminology stating that *the term 'illicit' is a fair description of activities that, while not strictly illegal in all cases, go against established rules and norms, including avoiding legal obligations to pay tax*. Tax avoidance, base erosion and profit shifting are key drivers for constrained mobilization of revenues across African countries.

3. Common Africa and Strategic Partners positions on IFFs

The African Union Commission embarked on looking at different measures to put in place to combat IFFs. The HLP has set root by revealing that Africa suffers an extensive loss of finances estimated up to US\$50 billion annually through Illicit Financial Flows (IFF) or "Illicit Capital Flight".

Five main challenges have been identified which threaten the ability of developing countries to raise tax revenues¹: i) IFFs, including tax evasion and avoidance, ii) the complexity of the international tax architecture, iii) tax incentives, iv) international tax competition, v) complexity of taxing natural resources along the value chain. Moreover, tax administrations, which lack necessary capacity to collect and administer revenue, as well as societal tax morale represent crucial factors which might limit the ability of governments to increase revenue collection.

The Assembly of the Heads of State and Government of the African Union, at their the 24th Ordinary Session held in Addis Ababa, Ethiopia, 30-31 January 2015 endorsed the conclusions and recommendations of the High-Level Panel report on IFFs. The Assembly agreed that it was the time for Africa's Renaissance, and that the continent was to take control over its natural resources. Whose derivable benefits should be maximized by adopting sound, prudent management and good governance.

Furthermore, in order to respond to the urgent need to resolve IFFs on the continent as per Goal 20 of AU Agenda 2063 which states that *“Africa should take full responsibility for her development”*, African Union is therefore working to strengthen the regional framework for combating illicit financial flows through the two key strategic instruments for the continent. These are: IFFs and Tax strategy which have an implementation framework of five years.

It is to be recalled that the *“Good Financial Governance in Africa Partner Networks”* including The African Tax Administration Forum (ATAF), The Collaborative Africa Budget Reform Initiative (CABRI), The African Organization of Supreme Audit Institutions, the *African Organization of English-speaking Supreme Audit Institutions* (AFROSAI and AFROSAI-E), The African Organization of Public Accounts Committees (AFROPAC) committed their selves to curb IFFs, through their declaration from the international conference held from May 24 to 26, 2017 on curbing illicit financial flows through good financial governance *“united against illicit financial flows”*.

Other strategic partners, such European Union, have embarked on the implementation of new initiatives and regulatory policies that will curb IFFs. Amongst them is the new European Consensus on Development 2017, Resolution on the Impact of IFFs on Development Finance adopted by the ACP-EU Joint Parliamentary Assembly in Kenya in 2017, EU-Africa Summit 2017 Declaration in Abidjan, where the Member States from Africa and EU have committed to join efforts to combat corruption in the private and public sectors in our two continents and promote international cooperation in line with the current internationally agreed standards to combat illicit financial flows and tax avoidance and evasion, and strengthen asset recovery, in order to foster sustainable development.”

4. Rationale of the Pan-African Conference on fighting IFFs in Africa

Concerned by the negative impact that IFFs have on the development of the African continent, African leaders and key public and private stakeholders manifested the ambition to organize a Pan-African Conference on fighting IFFs in Africa.

The overall objective of the Pan African High-Level conference would be to take stock of the implementation of previous commitments in relation to the President Thabo Mbeki Report. Time has come to ensure synergized efforts towards shared responsibility between African and developed countries to design collaborative framework that will ensure preventing inflows of illicit money while addressing legal and regulatory regimes weaknesses.

It is therefore necessary for African governments, with the facilitation of the AUC, to engage with these non-African actors to ensure that their practices are not facilitating IFFs and therefore affect Africa’s economy.

It is against this background that, almost 7 years after the Thabo Mbeki report was issued, that the Pan-African Conference on fighting IFFs in Africa is being organized under the theme *“From Words to Actions”* is scheduled to take place in Tunis, Tunisia, from March 15-17, 2023.

The international conference aims at providing a platform to African governments and various key stakeholders engaged in the fight against IFFs to review tangible results so far achieved since the endorsement of the Thabo Mbeki report in 2015. This conference will build on previous conferences organized on the continent on the same topic, although aiming to go beyond past declarations and commitments.

This conference will be led by the African Union Commission (AUC) in collaboration with AFROPAC, AFROSAI, AFROSAI-E, ATAF and CABRI with the support of key development partners such as GIZ, BADEA, Global Forum (OECD) and other networks such as and the FATAF Style Regional Bodies (FSRBs), Financial Intelligence Units and Asset Recovery Inter-Agency Network (ARINs).

The International Conference will, among other strategic frameworks, take advantage of the established Multi donor Action Project on Combatting IFFs in Africa. This multi-stakeholder project was set up in 2020 and aims to support the coordination of continental anti-IFF activities and to foster collaboration of Pan-African Institutions on the issue. It is commissioned by the Federal Ministry of Economic Cooperation and Development (BMZ), and co-funded by the European Union Commission and the Finnish Government and implemented by GIZ through the Good Financial Governance Program.

The conference will provide an opportunity to take stock of the implementation of measures, strategies and anti IFF policies at the international, regional and national levels, analyze the overall coherence of all these initiatives, while sharing experiences and challenges in this fight.

The Conference will feature panel discussions on specific themes falling under the main concept of IFFs. International well-known Panelists with diverse background and experiences will give their views and perspectives on IFFs from country, sub regional, regional and global level. The Conference will also feature several side meetings, interviews, exhibitions and will provide networking opportunities to participants.

Alongside the event, it is envisaged that an exhibition stand will showcase researchers' findings from different organizations and countries while providing concrete and implementable recommendations and best practices in the field of curbing/fighting IFFs.

5. Overall objectives of the conference

The overall objectives of the conference are to:

- (i) Take stock of the best practices and relevant continental-wide initiatives undertaken by the African Union Commission and other IFFs stakeholders and partners in response to the Thabo Mbeki report findings and recommendations in combating IFFs in Africa;
- (ii) Design an inclusive IFFs continent-wide platform aligned with Agenda 2063 and SDGs 2030;
- (iii) Discuss the appropriate IFFs mutli-stakeholders follow-up mechanism that will ensure monitoring and follow-up of agreed recommendations and policies.

6. Format of the conference

The IFFs conference was designed to bring together key relevant actors engaged in the fight against IFFs. In order to achieve the objectives of the 3 days conference, the methodology of the conference is going to be centered around the learning theory of "Constructive alignment". As such the preparation of the conference starts with the notion that the participants will construct their learning through relevant learning activities. The facilitators will create a learning environment that supports the learning activities appropriate to achieving the desired conference outcomes and outputs as articulated by the objectives set out above. All components in the workshop system i.e. the program agenda and its intended outcomes, the facilitation methods used, the assessment tasks are aligned to one another.

The conference will be articulated alternately around plenary sessions, panel discussions, round table conversations and break away sessions to stimulate debate and deliberations towards achieving the conference goals. On the last day of the conference, we will have a session to finalize and adopt the

conference recommendations that will allow us to grab the concrete proposals of the participants on the follow-up to the fight against illicit financial flows at the international, regional and national levels.

6. Targeted Audience for the Conference

The conference on IFFs will bring together Experts and Officials from the Ministries of Finance, Tax Administrations, Government Specialised Agencies, Central Banks of the AU Member States, representatives from the Regional Economic Communities (RECs) and AU Organs, Regional Offices and Specialised Agencies. Also expected to participate are UN Agencies, African Development Bank, AfreximBank, BADEA, the the Good Financial Governance networks (CABRI, AFROSAI, ATAF and AFROPAC). The EU is expected to be represented and to contribute through experience sharing and availing a panelist.

Participants are expected to be diverse and will include high senior officials in key public government ministries, department and agencies directly dealing with or affected from IFFs such as Supreme Audit Institutions, Central banks, Financial Intelligence Unit, Tax Administrations, Ministry of Finance, Ministry of Mining and Commerce, Parliaments, Ombudsman etc. Key Anti-Corruption Agencies (ACAs), Civil Society Organizations (Media, Transparency International, Tax Justice network, International as well as Local NGOs among others) and the Private Sector Federations are also expected to attend the conference. The Conference will bring together up to 250 delegates.

7. Expected Outcomes

- i. A path toward the development of an inclusive continent-wide platform to discuss, develop, and adopt for implementation at organizational level common resolutions with all the relevant stakeholders in fighting IFFs in Africa; and
- ii. A strategy for the implementation of the adopted resolutions by aligning both the political and technical aspects whose combination is key to an effective response to the fight against IFFs in Africa.

8. FOR MORE INFORMATION

For further information, please contact:

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