

## Chapter 7

# Recommendations

Analytical contributions are provided in this report on tackling IFFs at the multilateral, regional and domestic levels in Africa. Addressing this topic falls within the mandate of UNCTAD and reflects its history as the institution that was first established to promote fairer rules of engagement in international trade for exporters of primary commodities. This is important to underline, setting out on the road to the fifteenth session of the United Nations Conference on Trade and Development in Barbados.

# 10-POINT PLAN FOR TACKLING IFFs IN AFRICA



SOCIAL



ECONOMIC

- Engage on IFFs and ethics
- Protect civil society, whistle-blowers and journalists

- Devote more resources to the recovery of stolen assets
- Strengthen African engagement in international taxation reform
- Intensify the fight against corruption and money-laundering

## 2030 Agenda for Sustainable Development

- Strengthen domestic regulatory frameworks
- Rekindle trust in multilateralism to fight IFFs
- Invest in data infrastructure and transparency

- Engage MNEs on taxation and sustainable development
- Invest in research on IFFs and climate change



INSTITUTIONS



ENVIRONMENT

Analytically, the main focus of the report has been on understanding the breadth of channels and mechanisms through which IFFs are conducted and how they affect sustainable development in Africa. In this chapter, recommendations are made for the multilateral community and for African Governments. The recommendations build on the landmark Mbeki report (UNECA, 2015) and aim at contributing to global efforts to address key issues highlighted in the recent General Assembly resolution, on the promotion of international cooperation to combat IFFs, and strengthening good practices on the return of assets to foster sustainable development and the achievement of the 2030 Agenda for Sustainable Development.

## 7.1 Main findings

Critically, in the report, it is argued that IFFs are a shared responsibility between developed and developing countries, at the core of multilateralism. Illicit financial flows appear to be large, but irrespective of their scale, they need to be tackled as a significant impediment to the economic development of Africa. High levels of illicit financial flows, as shown by the prevalence of misinvoicing and capital flight, indicate that many African Governments do not benefit from a significant portion of their international trade transactions and experience significant losses in capital and foreign exchange. Key stylized facts, resulting from the models developed in this report, include:

- In Africa, IFFs linked to the export of primary extractive resources were estimated as being as high as \$40 billion in 2015 and \$278 billion (cumulative) over the past decade. This is a conservative estimate and should be taken as a lower bound (chapter 2).
- In Africa, on average, extractive export underinvoicing is equivalent to 16 per cent of merchandise exports of the commodities covered in this report (chapter 2).
- Generally, commodities show a similar pattern across countries: at 77 per cent, gold is the largest contributor in total African extractive export underinvoicing, and other precious metals, such as platinum (6 per cent) and diamonds (12 per cent), are also persistent positive contributors (chapter 2).
- Capital flight, which captures trade misinvoicing and other balance-of-payment transactions, was estimated at \$88.6 billion, on average, during 2013–2015 or around 3.7 per cent of African GDP. Capital flight between 2000–2015 was

\$836 billion or 2.6 per cent of GDP. In terms of capital flight, the largest positive absolute outliers are Nigeria (\$41 billion), Egypt (\$17.5 billion) and South Africa (\$14.1 billion), on average, during 2013–2015.

- IFFs are negatively associated with target 8.2, on achieving higher levels of economic productivity. As indicated by the econometric analysis in chapter 5, labour productivity, as an indicator for productive capacity, is inversely related to IFFs. This suggests that an increase in illicit financial flows is decreasing domestic productive capacity. The effect is likely however to be low in Africa due to the continent's relatively low productive growth.
- As IFFs were found to be negatively correlated to poor financial sector regulation, improvement in the latter could stimulate productivity growth. It could also reduce capital outflow through stronger compliance with the Financial Action Task Force and capacity to track financial flows.
- Curbing IFFs is an avenue for improved prospects for environmental, social and economic development in Africa. The impact of IFFs on environmental sustainability has hardly been assessed in the literature, although environmental damage in the extractives sector is a major concern. Countries with high IFFs may be more vulnerable to climate change and appear to have the lowest ability to leverage investments for health, education and climate change mitigation.
- Public expenditure reductions potentially have unequal impacts on gender, especially if cuts affect health and education expenditures. A negative impact of IFFs is prevalent where tax evasion affects the allocation of scarce government funds and reduces fiscal expenditure on public services where women and youth are the majority beneficiaries.

## 7.2 Strengthen African engagement in international taxation reform

### *Aim for an intergovernmental African position on Organization for Economic Cooperation and Development/Group of 20 proposals*

African countries should aim for an intergovernmental position to be reflected given the current momentum for international taxation reforms. The negotiations on the second wave of the OECD secretariat proposals on the BEPS initiative, labelled pillar one and

pillar two, began in early 2019 and are planned to be held through multiple meetings until the end of 2020. In effect, though the consultation process is inclusive, as of March 2020, there were no official statements on an intergovernmental African position on the negotiation of the Inclusive Framework, raising questions about the extent of engagement of the African members in the Inclusive Framework.

The proposal for a unified approach under pillar one primarily focuses on the reallocation of taxing rights to market jurisdictions. On scope, the document explicitly states that “the approach covers highly digital business models but goes wider – broadly focusing on consumer-facing businesses with further work to be carried out on scope and carve-outs. Extractive industries are assumed to be out of the scope” (OECD, 2019d: 5). The proposal further reiterates that sectors “such as commodities and extractives” (labelled as such) would be carved out (OECD, 2019d: 7). While acknowledging the need for an “administrable” simplification of the arm’s length principle, especially for emerging and developing countries, the proposal also stipulates that “it would retain the current rules based on the arm’s length principle in cases where they are widely regarded as working as intended, but would introduce formula-based solutions in situations where tensions have increased – notably because of the digitalization of the economy” (OECD, 2019d: 6). The pillar two proposal, titled Global Anti-Base Erosion Proposal, focuses on tax challenges arising from the digitalization of the economy (OECD, 2019e).

As they stand, with their focus on tax and digitalization, these proposals do not sufficiently address the specific loopholes that limit the taxation rights of African countries. This point is also corroborated by the Independent Commission for the Reform of International Corporate Taxation for developing countries at large.<sup>89</sup> The gaps in the OECD proposals underline the urgency of strong political leadership from Africa on international taxation reforms.

### ***Increase space for other multilateral engagement and alternative views***

Unless the underlying distribution of taxing rights is addressed, African countries will continue to be vulnerable to significant revenue losses. African interests must be defended in spaces where the concerns of countries are fully heard and where alternative and substantiated views on international corporate taxation can be elaborated. As shown in the report, the dichotomy that arises from the location of real economic activity and of permanent establishment status lies at the core of the perceived injustices. At the global level, it could be argued that only the United Nations, with its near universal

<sup>89</sup> See <https://www.icrict.com/press-release/2020/2/13/the-oecd-proposed-reform-will-fail-to-generate-meaningful-additional-tax-revenue-especially-for-developing-countries>.

membership and democratic structure, can provide a truly global tax body (Independent Commission for the Reform of International Corporate Taxation, 2018). Reflecting these concerns, as of March 2020, OECD proposals did not fully address the priorities of African countries. Other spaces where taxation issues are discussed include the Platform for Collaboration on Tax, a joint effort of the IMF, World Bank, OECD and the United Nations, and in academic research undertaken by entities supporting the interests of developing countries.

Africa's voice in these spaces is carried by ATAF. From 25 members at the time of its creation in 2009 to 38 members in November 2019, ATAF has increasingly gained legitimacy and capacity in defending African interests on taxation issues. Building on the expertise of ATAF representatives, political leadership at the highest level is needed to take Africa's multilateral engagement on proposals for international reforms to the next level. African academic institutions should receive greater support in developing Africa-based taxation expertise and data-sharing initiatives, such as that initiated by the multi-disciplinary team of the Committee on Fiscal Studies.<sup>90</sup> Ezenagu (2019), for instance, puts forward proposals for taxation reforms that would be more appropriate to the administrative capacity of African countries.

Finally, concerns that parallel negotiations on trade in digital services at WTO, where African countries are more united, may constrain their taxing rights (James, 2019) warrant further research and feature on a new agenda on international trade and taxation issues.

### ***Review tax treaties and aim for more taxing rights***

Countries should avoid signing tax treaties that impinge greatly on taxing rights. Tax treaties that include anti-abuse clauses make tax avoidance through treaty shopping harder. For example, withholding taxes is a strong frontline protection against profit-shifting for countries with limited administrative capacity (see chapter 3 and Hearson, forthcoming). In this regard, countries should not accept having them lowered to a very large degree by tax treaties. Similarly, tax treaties often exempt some types of income earned in the source State from taxation in that State altogether (see, for example, chapter 4, box 4, on tax dispute on capital gains). Countries should assess the costs of removing these taxing rights against the expected benefits in FDI attraction. Current evidence does not support the argument on expected benefits in FDI attraction (chapter 4). In this regard, it is recommended that African countries keep and expand their taxing rights.

<sup>90</sup> See <https://cfs.uonbi.ac.ke/>.

Countries are best protected by a combination of specific anti-abuse rules, applying to individual treaty clauses, and a general anti-abuse rule, covering the whole treaty, along with an anti-avoidance rule in domestic law. Such clauses are becoming increasingly common and are now found in the main model treaties used for negotiations (chapter 4).

Considering the continent's revenue losses to tax havens and secrecy-based jurisdictions (chapter 3), African countries should be among those leading the charge to pressure tax havens to sign treaties with all countries. Progress on this is critical, taking account of the evidence that tax havens complied with the minimum number of tax treaties by signing many treaties among themselves (Zucman, 2014). Zucman's findings further suggest that the signing of bilateral treaties providing for exchange of bank information led to a relocation of bank deposits between tax havens rather than to significant repatriations of funds, concluding that "the least compliant havens have attracted new clients, while the most compliant ones have lost some, leaving roughly unchanged the total amount of wealth managed offshore".

***Make tax competition consistent with protocols of the African Continental Free Trade Area***

In addition to such engagement, African countries need to incorporate international taxation matters in relevant regional and continental initiatives. Without a harmonized taxation system at the continental level, African countries should aim at defining ways to curtail tax competition. Related efforts should include context-based analytical assessments of the welfare effects of falling headline tax rates and the proliferation of tax incentives across the continent and leverage the AfCFTA as a platform to avoid a race to the bottom. UNCTAD continues provision of technical assistance, in the context of ongoing and forthcoming negotiations on phase 2 of the AfCFTA on investment, competition and intellectual property rights.

More critically, African countries should build on the formidable negotiations forum that the continent has established in the context of AfCFTA. For now, the governance mechanisms of negotiations include senior officials of trade ministries and ministers of trade. There should be mechanisms to bridge the gap between these trade-focused groups, ministers of finance and the High-Level Panel on Illicit Financial Flows, while considering negotiations on phase 2. These include the protocols on investment, competition and intellectual property rights. There are also proposals either to give ATAF an intergovernmental dimension or, as argued by other authors, for the creation of an African tax body (Ezenagu, 2019).

## 7.3 Intensify the fight against corruption and money-laundering

### *Support and scale up African anti-money-laundering initiatives*

In addition to being party to global level initiatives and subject to third-party legislation on corruption and money-laundering, African countries should collectively intensify initiatives to fight these problems on the continent. In this regard, good practices, such as those of the Intergovernmental Action Group against Money-Laundering in West Africa, should be supported and further developed. Initially created by the Economic Community of West African States in 2000 to combat the financing of terrorist groups, over the years, the Intergovernmental Action Group has provided assessment and capacity-building on anti-money-laundering and counter-financing of terrorism of countries located in the region. The initiative has improved countries' capacity to identify suspicious transactions related to anti-money-laundering. However, performance varies greatly across countries, with some countries showing worse results than in previous years. In addition, assessment reports show that successful records of financial intelligence units of tracking suspicious transactions are poorly matched by adequate action of investigative authorities (Intergovernmental Action Group against Money-Laundering in West Africa, 2014; *ibid.*, 2018). This highlights the need for all African countries to strengthen their capacity to track suspicious transactions and ensure that the latter are properly investigated.

In the same vein, the African Peer Review Mechanism – a voluntary self-monitoring mechanism for African Union member states – should be given a clear mandate to devise binding legislative tools to address matters related to corruption and money-laundering. In addition to cross border movements of funding, the increase in the prevalence of real-estate transactions in money-laundering methods in West Africa (Intergovernmental Action Group against Money-Laundering in West Africa, 2018), for instance, warrants greater capacity in identifying and regulating specific characteristics of anti-money-laundering at the continental level.

## 7.4 Invest in data infrastructure and transparency (including gendered data)

Good data play a critical role in allowing an effective fight against IFFs. The vast literature on profit-shifting by MNEs of the United States, for example, is due to United States



data being particularly good (Zucman, 2019). As custodian agencies of Sustainable Development Goal indicator 16.4.1 (total value of inward and outward IFFs, in current United States dollars), UNODC and UNCTAD are leading the work to develop a statistical methodology and a measurement standard to estimate IFFs. This will be critical to developing a set of methodological guidelines that can be used at the national and international levels to estimate the total value specified by the indicator. In the context of analysing the impact of IFFs on African communities and the Sustainable Development Goals, more and better data on gender in financial services, trade, employment and taxation are required to generate new insights to inform policy interventions on the economic, social and environmental pillars of sustainable development.

### *Collect better and greater trade data*

Alleviation of trade misinvoicing in African countries will require better trade data, including where appropriate at the gender-disaggregated level, for risk-exposure analysis and enhanced regional cooperation on common reporting standards for firm-level tax and commercial information. Critically, there needs to be a greater exchange of information on trade data with trade partners to identify anomalies and discrepancies that warrant further investigation. The analysis in chapter 2 aimed at the detection of systemic customs fraud linked to the export of primary extractive resources shows that, while the analysis of macro trade data can be a useful indicator, it has its limitations. Such limitations can be addressed with better access to and use of transaction-level trade data. This could be done through several platforms, including the UNCTAD Mineral Output Statistical Evaluation System.<sup>91</sup> This platform has already shown its beneficial results at the domestic level. In the case of Zambia, for example, the System allows for mineral value chain monitoring of the country's mineral exports. It includes a mineral production reporting and export permit tool, which allows companies to submit their mandatory monthly production export and request export permits online. This replaces the manual process which required companies to travel to Lusaka. Since its implementation in 2017, the Mineral Output Statistical Evaluation System delivered the following for the Government of Zambia:

- Revenue recuperation due to the System audits reached around \$910,000 (since 2018).
- Grading of minerals is more accurate.
- Zambia started collecting non-mineral-related royalties.

<sup>91</sup> See <https://asycuda.org/wp-content/uploads/ASYCUDA-Value-Chain-Monitoring-Case-Study-Zambia.pdf>.

- Penalties collected have reached more than \$50,000 (since 2018).
- Export permits increased 66 per cent after implementation of the System.

Governments with access to transaction-level trade data can also implement a price-filter analysis. The price-filter analysis relies on a single country's transaction-level data by product and compares the value/price on a customs invoice to past prices or the free market price, to distinguish between normal and abnormal pricing (Carbonnier and Mehrotra, 2019). Though both the partner-country trade gap and price filter methods have their flaws, they can be useful and intuitive tools for customs fraud detection. Global Financial Integrity has also developed its "GFTrade" tool based on the interquartile range price filter method, which provides direct feedback to customs officials. Prototype software based on blockchain technology is also being developed to provide transparency of global trade logistics and global value chains (McDaniel and Norberg, 2019) from which Africa may usefully benefit in tackling trade misinvoicing. African countries should also look to leverage the provisions of article 12 of the WTO Agreement on Trade Facilitation<sup>92</sup> to improve the exchange of trade data to better monitor IFFs.

### *Accelerate progress on tax reporting*

African Governments should explore innovative means of utilizing voluntary tax reporting, for revenue mobilization purposes, and strengthen related initiatives. In this regard, increased goodwill of MNEs to voluntarily publish their tax data for global reporting initiatives should be matched by similar enthusiasm for public country-by-country reporting (Tax Justice Network, 2020).

## 7.5 Strengthen regulatory frameworks at the domestic level through a multi-track approach

### *Design a specific policy and regulatory framework on illicit financial flows*

The prevalence of IFFs in Africa and the diversity in their origins, mechanisms and impact are such that countries should have their own national policy framework for combating these flows. Such a framework should include a full assessment of existing policies and legislation across countries.

In addition, countries should strengthen the set of standard legislations and regulatory measures of relevance to IFFs. These should also include strengthening of local judiciary

<sup>92</sup> See <https://www.tfafacility.org/article-12>.

systems, increase capacity for dispute resolution and consider adoption of UNCTAD reforms on international investment agreements (UNCTAD, 2018).

### ***Domesticate the African Mining Vision***

The AMV was adopted by the African Union in 2009 to promote equitable, broad-based development through prudent exploitation and utilization of the continent's mineral wealth. The AMV aims at setting the path to broad-based sustainable growth and socioeconomic development, including through the adoption of global norms for the equitable governance of the natural resources sector. Its objectives are far-reaching and actions of intervention are spread across six major areas, namely: improving the quality of geological data, as a bargaining tool for fairer deals and more equitable returns on mining investments; contract negotiation capacity; resource governance; management of mineral wealth; tackling infrastructure constraints; and recognizing the developmental role of artisanal and small-scale mining.

Considering the comprehensive coverage of the AMV, countries should use existing guidelines to enact policies and regulations aimed at its implementation (UNECA, 2014). The expectations of mineral-rich countries in Africa on development benefits from the extractive sector are justified by its status as a key generator of export revenues and foreign exchange in mineral-exporting economies. To fulfil these expectations and considering the magnitude of the extractive sector as a source of IFFs, African countries should build on lessons learned from past engagement on international commodity governance (chapter 4).

### ***Establish cross-institutional collaboration***

The multi-dimensional nature of IFFs requires coordinated multi-institutional actions at the domestic level. In this regard, a combination of interministerial actions and strengthening of lead institutions in the fight against tax avoidance, money-laundering and other crimes is needed. On interministerial actions, in Nigeria, for example, the interministerial committee on anti-money-laundering is co-chaired by the ministers of finance, justice and interior, to fulfil its mandate of national cooperation and coordination of other national stakeholders (Intergovernmental Action Group against Money-Laundering in West Africa, 2018). As part of this cross-institutional collaboration, a pre-evaluation workshop gathered more than 20 agencies, including regulators, tax authorities, financial and non-financial institutions.

Efforts to invest in strengthening the capacity of the range of domestic institutions involved in monitoring, identifying and regulating IFFs should be supported. National

financial intelligence units are public agencies that play a central role as receivers of notifications about large and/or suspicious transactions. They analyse and forward them to law enforcement bodies, where appropriate. Tax authorities should have the capacity to scrutinize company contracts and accounts and tax declarations, identify accurate product prices and combat abusive practices. Customs authorities are responsible for monitoring and evaluating the veracity of export and import prices and quantities, while judicial authorities are responsible for law enforcement. Designing policies and laws to combat IFFs is the responsibility of policymakers. This underscores the importance of supporting institutional capacity-building across all levels of national authorities in Africa.

More specifically, in many African countries, tax authorities are in urgent need of additional resources and capacity-building activities and training. They are understaffed and lack the required expertise. For example, in a survey of Nigeria, 62 per cent of firms expressed concern with the lack of knowledge of tax authorities during audits (AndersenTax, 2019). To build its domestic capacity in revenue collection, an issue for many African countries, as shown in chapter 4, the Government of the United Republic of Tanzania, for example, invested resources in auditing capacity after a decade of private investment in the mining sector and persistently low revenue collection. It created the Tanzania Mineral Audit Agency as an autonomous agency under its Ministry of Energy and Minerals in 2009. The Agency is responsible for monitoring the quality and quantity of minerals that mining companies produce and export, and for conducting financial audits. Owing to sufficient funding and staffing, including tax experts, environmental scientists, information technology analysts, engineers and gemmologists, the Tanzania Mineral Audit Agency has been successful in financial auditing and addressing transfer pricing. Thanks to the effective cooperation between the Tanzania Revenue Authority and the Tanzania Mineral Audit Agency, tax authorities collected an additional \$65 million in corporate income tax between 2009 and 2015, accounting for about 7 per cent of mining tax receipts in that period (Redhead, 2017).

## 7.6 Devote more resources to the recovery of stolen assets

The slow pace of progress on the recovery of stolen assets emphasizes the need for greater capacity at the domestic and international levels to quicken the pace for recovery in the context of the Decade for Action. In this regard, the international

community should provide greater support to initiatives, such as StAR of the World Bank–UNODC, in efforts to offer practical advice on the strategy and management of asset recovery efforts. The multilateral nature of the organizations leading the project makes it an appropriate platform for dialogue and collaboration on specific cases as they often involve different jurisdictions, spanning developed and developing countries.

## 7.7 Protect and support civil society organizations, whistle-blowers and investigative journalists

Civil society organizations, whistle-blowers and investigative journalists have played a critical role in revealing the magnitude of IFFs and the mechanisms that support them in Africa and beyond. As part of this chain of actors, transparency initiatives must be encouraged and supported, including in their use of new technologies. In the United Republic of Tanzania, for example, Jamii Forums is a news and social networking platform for whistle-blowing and has exposed several national corruption scandals. It has more than 3 million Facebook followers and, as of 2015, had 28 million mobile subscribers.<sup>93</sup> In Kenya, the Action for Transparency application, produced by Transparency International–Kenya, provides information on money promised for school and hospital funding versus money actually disbursed.<sup>94</sup>

At the global level, organizations such as Open Ownership and the Financial Transparency Coalition work on ending secrecy legislation that is holding back full beneficial ownership transparency. In addition to the central leading role played by ATAF on taxation issues, other organizations such as the Tax Justice Network–Africa also provide capacity-building initiatives. For instance, in 2015 the Tax Justice Network successfully campaigned for renegotiating the tax treaty of Zambia with Ireland and the Netherlands to include anti-abuse provisions. Similarly, Action Aid and partners have been vigorously supporting campaigners in Malawi in their fight against existing tax treaties, which made use of the country's weak taxation frameworks, with loopholes that offered ample opportunities for tax avoidance.<sup>95</sup>

Whistle-blowing comes with enormous risks, but as it can serve the public interest, it should be protected by law. For instance, in October 2019, the Council of Ministers of the European Union adopted new rules to ensure that member countries change domestic laws to protect insiders who report on misconduct. The impact of the Panama papers

<sup>93</sup> See <https://thelawmarket.com/anti-corruption-and-anti-bribery-apps-2dc578efad6e>.

<sup>94</sup> See <https://actionfortransparency.org/>.

<sup>95</sup> See <https://mwnation.com/treasury-reviewing-double-taxation-pacts/>.

on the design of legislation illustrates the powerful reach of whistle-blowing. Following the press revelations, many countries, including Australia and France, for example, established parliamentary commissions to consider actions to tackle tax evasion. Some of these measures were the catalysts for legislative change on multinational anti-avoidance laws. It is estimated, for instance, that, as a result, AU\$7 billion a year in sales by 44 MNEs will be returned to Australia.<sup>96</sup>

## 7.8 Build bridges between multinational enterprises, taxation and the 2030 Agenda for Sustainable Development

### *Curbing illicit financial flows for structural transformation*

African countries should communicate to all actors, including MNEs, the primacy of the role that curbing IFFs would play in the financing of sustainable development on the continent (chapter 5). In addition, Governments and MNEs should focus on constructive engagement with a view to eliminating tax evasion and curbing tax avoidance. Doing so is likely to help addressing the effects of IFFs on economic, political and social stability in Africa and beyond (introduction and chapter 1).

### *Include taxation... in environmental, social and governance reporting*

The review of the international corporate taxation regime and of the associated theoretical economic literature on MNEs and transfer pricing provides justification that they provide for developmentally harmful tax practices among MNEs (chapter 3). Furthermore, international guiding principles for better practices are soft laws and not legally binding, while domestic regulatory systems are insufficiently developed. As a result, African countries have become dependent on mining contracts and case-specific community development agreements (chapter 4). Considering increasing interest in sustainability issues among private sector stakeholders, African countries should build on the rise in environmental, social and governance reporting to identify links between these reporting mechanisms and the objectives of curbing IFFs for sustainable development. Progress in the Sustainable Stock Exchanges Initiative shows that there is an increasing number of stock exchanges mandating environmental, social and governance disclosure for listed companies, which provides good grounds for pioneering greater consideration

<sup>96</sup> See [www.theguardian.com/australia-news/2019/apr/05/tax-office-may-apply-40-tax-against-multinationals-for-diverting-profits](http://www.theguardian.com/australia-news/2019/apr/05/tax-office-may-apply-40-tax-against-multinationals-for-diverting-profits).

of taxation components.<sup>97</sup> In this regard, efforts to strengthen the capacities of Governments to measure and monitor private-sector contribution to the 2030 Agenda for Sustainable Development should be encouraged. Examples of such efforts include an UNCTAD project on enabling policy frameworks for enterprise sustainability and Sustainable Development Goal reporting in Africa and Latin America.<sup>98</sup> Other examples include transparency pacts between Governments and the private sector, such as Publish What You Pay.<sup>99</sup>

Pioneering of the inclusion of taxation in environmental, social and governance reporting should be done with recognition of the mixed performance of private-sector engagement in sustainability initiatives. Key business analysts, recognize, for example, that neither the 2008 crisis nor corporate social responsibility nor sustainability initiatives have changed the current status quo of a world “where people and the planet are in the service of business. Business, in turn, is in the service of finance, and finance is primarily in the service of itself” (Saïd Business School, 2019).

## 7.9 Invest in research to account for links between illicit financial flows, environmental sustainability and climate change

The review of sources of IFFs highlights the magnitude of environmentally harmful activities, such as illegal logging, illegal fishing, illegal mining and illegal waste trafficking (chapter 1). Similarly, as shown in the report’s empirical analysis (chapter 5), negative externalities from the extractive industry not only have ripple effects on other sectors, such as agriculture, but also affect critical water resources at the community level. However, challenges related to the dominant features of established economic models of structural transformation and data constraints make it difficult to establish causality links in econometric models on IFFs and sustainable development.

In light of these findings, there should be greater research on integrating the value of environmental damage caused by dominant sources of illicit flows into ongoing initiatives on the measurement of IFFs. Such efforts could allow African Governments to strengthen the case for bridging negotiation agendas on curbing IFFs and making claims on climate finance (chapter 5).

<sup>97</sup> For more information on the Sustainable Stock Exchanges Initiative, see <https://sseinitiative.org/>.

<sup>98</sup> See <https://unctad.org/en/Pages/DIAE/ISAR/UNDA-Project-1819H.aspx>.

<sup>99</sup> See <https://www.pwyp.org/>.

## 7.10 Rekindle trust in multilateralism through tangible actions in the fight against illicit financial flows

### *Support multilateralism to curb illegal financial flows at the Economic and Social Council and United Nations General Assembly*

Multilateralism implies use of international cooperation to attempt to find solutions to transnational problems. Globalization has brought a new set of challenges to multilateralism, as globalization is associated with the spread of problems of a transnational dimension and involving many non-State actors (Newman et al., eds., 2006). IFFs are part of such transnational problems and, hence, could be resolved through multilateral means. Such efforts could benefit from lessons learned from multilateral engagement on the international commodity agenda (chapter 4).

Beyond the multiple United Nations resolutions on IFFs, recent initiatives, such as a joint initiative to establish a high-level panel on financial accountability, transparency and integrity under the President of the General Assembly and the President of the Economic and Social Council, provide hope of moving towards more concrete action on addressing IFFs through inclusive multilateral action. The joint initiative is set in the context of the Decade of Action to help promote faster progress towards achieving the 2030 Agenda on Sustainable Development. The panel is expected to produce an interim report in July 2020 and a final report with recommendations in January 2021.

### *Walk the talk: Put more resources in international cooperation on illicit financial flows*

More resources are needed to amplify the work of various agencies and donors to enhance the capacity of local revenue authorities in Africa. OECD and UNDP, for example, set up the Tax Inspectors Without Borders programme which delivers technical assistance predominantly on auditing multinational taxpayers. The programme claims to have contributed to an additional \$220 million in tax revenue in Africa between 2013 and 2018 (OECD and UNDP, 2018). Several donors committed to double their aid for tax capacity-building between 2015 and 2020 through the Addis Tax Initiative. This initiative aims at increasing the volume and quality of technical assistance to enhance domestic resource mobilization in partner countries. Furthermore, OECD along with three countries (Germany, Italy and Kenya) launched the pilot programme, Africa Academy for Tax and Financial Crime Investigation, at the Group of 20 Africa Conference held in Berlin in June 2017. This programme will cover all aspects of conducting and managing financial investigations, including complex money-laundering and the role of tax investigators,



investigative techniques, identifying, freezing and recovering assets, managing international investigations and speciality topics, such as value added tax/goods and services tax fraud.

***Enhance cooperation on tackling illicit financial flows in relation to achieving health-related Sustainable Development Goals and building resilience to shocks***

The current coronavirus disease outbreak is first and foremost a health crisis. Second, it is an impediment to progress towards achieving health-related Sustainable Development Goals. Third, it is fast becoming the starting point of a global economic and financial crisis with severe economic and social consequences for the world's poorest countries. Tackling the crisis will not be easy in a context of inadequate funds for health services globally (Glied and Miller, 2015), including in Africa. Though the first to reach a global scale, this coronavirus outbreak is not the first health crisis with international dimensions. The Ebola crisis triggered debates on the creation of an international health emergency fund (Ooms and Hammond, 2014). The Ebola crisis also underlined the critical role that global governance for health could play, through partnership and financial and technical assistance and the reduction of health inequalities (Waris and Latif, 2015). These issues remain relevant today and missed opportunities in fiscal revenue due to tax avoidance and tax evasion should be addressed (ibid.). Although the current epidemic appears to affect fewer women than men, it is likely that women will be affected by the socioeconomic impact of the crisis as core care providers for their families. Achievement of the Sustainable Development Goals in the context of the emerging implications of the current coronavirus disease crisis will likely be more challenging and depend critically on the capacity of African countries to tackle IFFs, which hinder the mobilization of sufficient resources to finance development.

***Identify win–win solutions***

In addition to engagement through existing mechanisms of information exchange, despite difficulties in avoiding tax competition, developing countries can jointly decide to identify common areas of interest. These could include, for example, an agreement not to give tax incentives on profits, but rather provide incentives on actual business activities based on a set of indicators pertaining to the real economy. Similarly, greater resources could be pooled in undertaking capacity-building initiatives with dual objectives: (a) exchanges of experiences and capacity and (b) coalition building in areas of common interest.

In this regard, African countries could engage in exchanges on negotiation tactics on the combination of multiple agendas with other countries from the global South. The

Republic of Korea, for example, successfully used a request for the restitution of cultural heritage as part of their leverage in 2010 in bilateral trade negotiations with France (Savoy, 2018).<sup>100</sup>

However, given differing economic interests, achieving consensus on tackling IFFs among countries will be difficult, but should be fully considered. Indeed, small island developing States, for example, feature prominently among the top list of financial secrecy jurisdictions. In such cases, finding common areas of interest would be more challenging and would necessitate greater investments in preliminary assessments of areas of convergence and compromise.

## 7.11 Engage on illicit financial flows and ethics

In many ways, addressing IFFs is a matter of ethics. These ethical concerns are recognized by all stakeholders, including MNEs, involved in the fight against IFFs.<sup>101</sup> In the African context, the emphasis on ethics is apparent in the African Peer Review Mechanism. The Mechanism's methodology includes a corporate governance thematic area and an objective on ensuring ethical conduct within organizations, which seeks to address corruption and illicit flow of funds (African Union Commission, 2019: 130).

## 7.12 Conclusion

The role of multilateralism in reducing the harm from IFFs and encouraging greater participation by African countries in global governance on the matter is clear. The expectation is that the recommendations drawn from the analysis presented in this report will strengthen the policy approaches taken to tackle the incidence and impact of IFFs. A stronger and more resilient Africa, as a result, would be better situated to tackle the current coronavirus disease pandemic, as well as future challenges.

<sup>100</sup> See <https://www.theartnewspaper.com/comment/the-restitution-revolution-begins>.

<sup>101</sup> The World Bank, for example, states that "a potentially more far-reaching development is the increased attention the private sector is paying to adherence to ethical compliance across all business practices. Increased legal and market risks connected to being associated with corruption have spurred firms to establish ethics and compliance programmes" (available at <https://www.worldbank.org/en/topic/financialsector/brief/illicit-financial-flows-iffs>).

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