

Part III:
“New kids on the block” in illicit trade

Out of Africa. Following the money: uncovering illicit financial flows from Africa to Europe

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Introduction

Illicit financial flows (IFFs) cost honest citizens around the world a great deal. They siphon off from us to criminals huge amounts of money which could and should be used for the development of countries, e.g. for better schools, hospitals, roads and railways. This is why combatting IFFs has now been included under target 16.4 in the 17 United Nations Sustainable Development Goals (SDGs) to be attained by 2030 – just eight years away. For Africa, IFFs are especially relevant because this continent has a very large financing shortfall – which could largely be wiped out if IFFs were eliminated. The African Union Commission noted in December 2020 that the amount of US\$88.6 billion in annual IFFs from Africa (as recently estimated by the United Nations Conference on Trade and Development (UNCTAD)) was almost as high as the combined capital inflows from official development aid (ODA) of US\$48 billion and foreign direct investment (FDI) of US\$54 billion (AU Commission 2020).

This was why former South African president Thabo Mbeki, as chair of the United Nations Economic Commission for Africa (UNECA) High Level Panel on Illicit Financial Flows from Africa, wrote in the panel's 2015 report that "Africa was a net creditor to the rest of the world" and not the mendicant debtor it was generally presented to be (Mbeki et al. 2015: 2).

Yet even if all can agree that IFFs are a very large problem for Africa, it is not easy to get a firm conceptual grasp on the problem. There are grey areas. For one thing, the term "illicit financial flows" is not easily defined. The word "illicit" is used instead of "illegal" mainly to include tax avoidance – such as registering companies in tax havens – which may be legal but is considered immoral. Moral and other ambiguities also arise about whether the proceeds of some illicit activities – like informal gold mining – which don't cross borders but are spent to the benefit of local communities should be considered as IFFs.

Quantifying IFFs also presents problems. The large estimates of IFFs which UNCTAD, Mbeki's UNECA panel and other analysts have made seem to contain a lot of guesswork. Moreover, they may reflect certain pre-conceptions about the roots of the problem. Both UNCTAD and Mbeki's panel lay most of the blame for IFFs on multinational corporations for tax evasion and avoidance or mispricing exports or imports. In the 2015 UNECA High Level Panel report, Mbeki and his co-authors – probably not well disposed towards global capital anyway – estimated the sources of IFFs as 65 % commercial, 30 % criminal and 5 % corruption (Mbeki 2015: 24). Yet some analysts have suggested this ratio is a very rough estimate. Marcena Hunter of the Global Initiative against Transnational Organized Crime (GI-TOC) has written that not only Mbeki and UNCTAD but most analysts have focused on commercial IFFs because they are more easily quantified. This is basically like a person looking for their lost keys under a street light – not because they think that's where they dropped them but just because that's where the light is (Hunter 2018). Hunter suggests that IFFs from the other two broad categories, crime and corruption, may be much larger than most analysts propose, but they are much harder to quantify (Hunter 2018).

Clearly, the commercial aspects such as tax avoidance and evasion and trade misinvoicing must be addressed, and this must be done at the highest level, perhaps through a global pact to be administered by the United Nations, as the FACTI Panel (the High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda) proposed in February 2021. The panel also proposed greater global cooperation on money laundering, which is vital as so much money laundering crosses international borders.

But the international community should not lose sight of the fact that vast quantities of money are generated by transnational crimes such as trafficking in various types of contraband – and that these are very often facilitated by corruption. So combatting this type of more conventional crime and corruption must enjoy equal attention with commercial crimes and unethical practices such as tax avoidance in the fight against IFFs.

“Follow the money” is the advice often given to those investigating non-commercial crime. Transfers of money often lead to those complicit in such crimes. But we should also move in the opposite direction, by starting our search for illicit financial flows at the point of these non-commercial crimes. For example, when law enforcement authorities in Guinea-Bissau intercept a large cache of cocaine and discover a whiteboard showing all the senior government figures who have been bribed, this should be a clue to possible IFFs. And if South African police break into a house in

Johannesburg and discover an Indian national tied up in the basement, evidence that he has been kidnapped for ransom and ISIS literature all around, this should prompt suspicion that IFFs are flowing out of the country to finance ISIS.

UNECA panel sets a benchmark by estimating that Africa is losing at least US\$50 billion annually in IFFs

Six years ago, the UNECA IFF report said the continent was losing at least US\$50 billion a year in illicit financial flows comprising about 65 % from tax evasion and avoidance and other questionable practices of multinational enterprises (MNEs), about 30 % from ordinary crime and 5 % from corruption. The panel said curbing IFFs would greatly help Africa to become financially independent of foreign donors by mobilising its own domestic resources. Aid dependence, indeed, remains high. According to World Bank statistics, the unweighted average for African countries of net official development assistance (ODA) as a proportion of central government spending is about 40 %. The percentage is as high as 291.9 % for the Central African Republic, 178.7 % for the Gambia, 144.49 % for Guinea and 70.4 % for the Democratic Republic of the Congo (DRC) (World Bank n.d.).

Conversely, African governments raise comparatively little tax. The latest figures of the unweighted average of central government tax revenues as a percentage of GDP was 15.10 for the 45 African countries for which the IMF has statistics (IMF Data n.d.). The Organisation for Economic Co-operation and Development (OECD) gives an unweighted average tax-to-GDP ratio of 16.6 % for 30 selected African countries in 2019, compared to 22.9 % for the Latin American and Caribbean countries and 33.8 % for the OECD countries (OECD 2021: 1). Moreover, “African countries are particularly vulnerable to IFFs due to deriving a large part of their revenue from corporate income tax”, as Lee Corrick, technical adviser on international tax at the African Tax Administration Forum (ATAF), said in an interview with this author (Corrick 2021). He said ATAF had calculated that the average share of corporate income tax in the total revenues of 35 ATAF member countries had risen from 15.6 % in 2010 to 17.8 % in 2019. “This compares to around 9 % in OECD countries” (ATAF 2020).

There could of course be many reasons why African countries raise so little tax and are so dependent on foreign aid. But Mbeki’s UNECA panel focused on the role of IFFs. The panel’s report was a watershed moment,

bringing much wider attention to IFFs in Africa and renewing the call for efforts to counter them.

Tackling IFFs globally

The OECD and the G20 have taken the lead with a broad and comprehensive agenda of reform of the international tax system. Loopholes in that system have allowed MNEs – in Africa these are particularly mining and energy companies – to relocate their profits to tax havens to avoid paying higher taxes in the countries where they actually make their money (“profit shifting”). Other loopholes have permitted MNEs to avoid taxes by claiming deductions on a variety of dubious costs such as interest and royalties. This practice is labelled as “base erosion”.

The OECD has estimated that up to US\$240 billion in tax is being lost annually by countries due to base erosion and profit shifting (BEPS) by MNEs (OECD n.d.-a).

The OECD and G20, joined by many other countries, have tackled IFFs via several initiatives. First, as part of the Global Forum on Transparency and Exchange of Information for Tax Purposes, in which 163 countries and jurisdictions are participating, 90 jurisdictions started automatically exchanging tax information in 2017 and 2018. In this way, they are providing tax administrations with data on more than 84 million offshore accounts with a value of €10 trillion, for example. Anticipating these disclosures, almost half a million individuals have come forward to disclose their hidden assets. Over €107 billion in taxes has been recovered so far, and foreign-owned offshore bank deposits have been reduced by 20–25 % (OECD n.d.-b).

Second, 141 countries and jurisdictions are working together in another major OECD/G20 initiative, the Inclusive Framework on BEPS, which is tackling tax avoidance through measures such as combatting harmful tax regimes; prevention of tax treaty abuse and countering “treaty shopping”;¹ and country-by-country reporting to reveal the tax jurisdictions in which companies actually make specific profits. The OECD (2020: 3) calls this “the first substantial – and overdue – renovation of the international tax standards in almost a century”. The OECD is helping developing coun-

1 “Treaty shopping typically involves the attempt by a person to access indirectly the benefits of a tax agreement between two jurisdictions without being a resident of one of those jurisdictions.” (OECD/G20 BEPS 2020: 19).

tries implement these measures against tax avoidance through technical assistance. For example, between 2016 and 2020, the Inclusive Framework reviewed 287 suspect tax regimes to ensure that companies conducted substantial business activities in the jurisdiction offering the tax regime to justify domiciling themselves there for tax purposes. Of these, 76 were abolished, 50 were amended, 15 were in the process of being abolished or amended, 59 were found not to be harmful, four were considered harmful, seven were assessed as potentially harmful but not actually harmful, 35 remained under review and the rest were mainly considered beyond the scope of the review (OECD 2020: 14–15).

Over three-quarters of the Inclusive Framework members, including all G20 countries, have introduced or are in the process of introducing an obligation for large MNEs to report their accounts country by country, to show where exactly they make their money (OECD 2020: 3). And in October 2021, the G20 leaders endorsed an OECD deal for a global minimum corporate tax of 15 %, which 136 member countries of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting had agreed on earlier that month. It was believed to be aimed, among others, at internet giants like Google, Amazon, Facebook, Microsoft and Apple which had been accused of avoiding taxation by domiciling in tax havens (Reuters 2021).

Africa addresses IFFs

Meanwhile, Africa has also stepped up its own efforts to combat IFFs. In December 2020, the African Union Commission launched a “Multi-Donor Action against Illicit Financial Flows in Africa” as a follow-up to the UNECA report by Mbeki’s panel. The AU noted that the COVID-19 pandemic had exacerbated the fiscal deficit of some African countries, underscoring the urgency to address illicit outflows. The new initiative is being financed by the EU and the German Federal Ministry for Economic Cooperation and Development (BMZ) and implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) through the Good Financial Governance in Africa programme. The strategy is to strengthen the AU’s capacity to coordinate anti-IFF policies on the continent. The strategy also supports the implementation of country pilot measures being undertaken through the leadership of the ATAF. The AU noted that “Domestic Resource Mobilisation (DRM) is one of the most promising sustainable development financing sources. However, tax-to-GDP ratios in most [...] African countries have remained extremely low – averaging only 18 percent in 2018. Tax revenue under-collection is largely associated with

considerable IFF in the region” (African Union Commission 2020). ATAF, which advises African countries on how to counter tax avoidance, mainly through revising tax treaties, has helped its members assess additional tax of more than US\$2.2 billion and collect additional tax of over US\$900 million in the past six years (Corrick 2021).

Towards a global pact?

Some African and other analysts have questioned whether the OECD and G20 can be depended upon to really tackle IFFs from Africa thoroughly since their members often look for benefits for themselves. UNCTAD complained that though the OECD/G20 initiatives had closed or reformed many smaller and well-known tax havens, they had not touched financially more powerful states such as the US, Switzerland, Ireland, Luxembourg or the Netherlands. Some African tax havens, notably Mauritius and Seychelles, also continued to operate. UNCTAD also chided African states for not really participating in international negotiations to reform international taxation, despite having so much to gain from them (UNCTAD 2020).

Current international negotiations mainly address the thorny problem of how to tax digital commerce. This requires going beyond the established principle of taxing companies in countries where they have a physical presence to taxing them in markets where they generate revenue. The Tax Justice Network Africa advocacy group recently complained that the latest OECD/G20 draft proposals for taxing digital commerce are biased in favour of rich countries and urged developing countries to seek a different forum for negotiating a global agreement (Tax Justice Network Africa 2020). The UNECA IFF panel had also recommended in its 2015 report that the IFF problem be taken up by a more representative body, preferably the UN (Mbeki 2015: 86).

There are now signs of such a wider forum evolving. In its report, Mbeki’s panel had also lamented that curbing IFFs had not been included among the Millennium Development Goals and recommended that it be included in the successor regime (Mbeki 2015: 79). Indeed it was included under target 16.4 in the 17 SDGs adopted in 2015 and meant to be reached by 2030. Target 16.4 states that by 2030, the world should “significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime” (SDSN n.d.). Curbing IFFs is important to help African countries mobilise capital to finance the achievement of all the SDGs and other national priorities, espe-

cially in the wake of the COVID-19 pandemic, which increased Africa's financing shortfall.

"Official development assistance (ODA) to Africa has stagnated for a decade at around \$30 billion per year and donor countries are unlikely to increase their aid commitments as they spend on COVID-19 recovery packages at home" according to Paul Akiwumi, Director for Africa and Least Developed Countries at UNCTAD. "Meanwhile, UNCTAD predicts that foreign direct investment (FDI) in Africa will plunge from \$45 billion in 2019 to between \$25 and \$35 billion in 2020, with a recovery not expected until 2022" (Akiwumi 2020). UNCTAD (2020) calculated that the US\$88.6 billion in annual IFFs could bridge half of Africa's gap in financing the implementation of the SDGs.

Clearly, what was needed was a truly global approach to combatting IFFs.

In 2020, the FACTI panel was created to that end jointly by the President of the United Nations General Assembly and the President of the United Nations Economic and Social Council. Chaired by former Nigerian Prime Minister Ibrahim Mayaki, now CEO of the New Partnership for Africa's Development (NEPAD), in February 2021 the FACTI Panel recommended 14 "ambitious [...] measures to reform, redesign and revitalise the global architecture, so it can effectively foster financial integrity for sustainable development" (FACTI Panel 2021: III). These would be based on a global pact under the auspices of the UN. Beyond an impact on the well-being of people and planet, the panel stressed the potential contribution of such a pact to improving multilateral and national governance.

Such a global pact would include establishing common standards of financial transparency to eliminate the secrecy jurisdictions which encourage money laundering. It would also include a universal approach to oblige all taxpayers, especially multinational corporations, to pay their fair share of taxes. Fairer rules and stronger incentives would be established to combat tax competition, tax avoidance and tax evasion², starting with an agreement on a global minimum corporate tax. To avoid profit shifting, multinationals would have to declare their taxes on a country-by-country basis, showing where their income was earned. While some of these mea-

2 "Tax competition" here refers to countries competing with each other for investment by offering foreign companies better tax terms than other countries. This easily becomes a "race to the bottom". "Tax evasion" is illegal action by a taxpayer to escape tax, such as hiding income. "Tax avoidance" refers to legal but ethically questionable actions to escape taxation, such as registering businesses in tax havens.

asures are already being implemented by the OECD and G20 (as described above), the 14 recommendations of the panel constitute an ambitious proposal to make the response to IFFs more universal. If implemented, the FACTI Panel's recommendations would certainly make a substantial impact on IFFs. However, we need to bear in mind that tackling the full scope of IFFs – including those deriving from corruption and crime – will require much more than reforming the financial system.

Beyond commercial IFFs

There are big questions about the quantity of IFFs and the relative contribution of different sources, with some analysts casting doubt on the sorts of statistics being published in the UNECA IFF panel report by UNCTAD and others. In a 2018 study commissioned by the G20, the World Customs Organization (WCO) was unable to put a reliable figure on IFFs and said that the many existing large estimates should be regarded only as “risk indicators” rather than as hard facts (WCO 2018: 5). The UNCTAD estimate of a US\$88.6 billion IFF outflow – of which about US\$40 billion was from extractive industries – was largely based on UN Comtrade data comparing exports of commodities from Africa with imports of the same commodities in other countries. But this method has been questioned before.

In particular, doubts were expressed in South Africa about the conclusions of a July 2016 UNCTAD (2016a) report entitled “Trade Misinvoicing in Primary Commodities in Developing Countries: The cases of Chile, Côte d’Ivoire, Nigeria, South Africa and Zambia”. The UNCTAD report found purported widespread underinvoicing³ of commodity exports which, it alleged, was deliberately designed by commodity producers to evade taxes and other payments due to the fiscal authorities. For South Africa, the report calculated cumulative underinvoicing over the period 2000–2014 to have amounted to US\$102.8 billion (in constant 2014 US dollars): US\$621 million for iron ore; US\$24 billion for silver and platinum; and US\$78 billion for gold (UNCTAD 2016a: 26, Table 9; 27, Table

3 “Underinvoicing” refers to the practice of invoicing for a lower amount than the real value of the particular goods (in this case of alleged trade misinvoicing, primary commodity exports) to avoid taxation or other moneys due to the state or for other illegal purposes. Overinvoicing is the practice of invoicing for a higher amount than the real value of the goods. This is done, for example, to illegally export money or to launder it.

10; 30, Table 11). UNCTAD revised the report in December 2016, but its fundamentals remained unchanged (UNCTAD 2016b).

The Chamber of Mines of South Africa (tralac 2017), representing the mining industry, firmly denied these allegations. It pointed out that many of its gold and platinum exports are not classified by South Africa as such because they originate in other African countries and are merely refined in South Africa. But they are registered by importers as South African products, hence the discrepancy. The chamber also claimed that the UNCTAD claims of underinvoicing of iron ore exports were simply based on wrong statistics.

If the Chamber of Mines (now called Minerals Council South Africa) is right, such errors in UN Comtrade data could have large implications for global estimates of IFFs from Africa. The data would overstate the contribution of commercial IFFs to overall IFF figures, including in the report of the UNECA IFF panel. That panel relied heavily on UN Comtrade data. And its 65:30:5 breakdown of IFFs into commercial, criminal and corruption sources, respectively, seems to have been based largely on that of the think tank Global Financial Integrity (GFI). GFI director Raymond Baker was a prominent member of the UNECA panel. In the GI-TOC report “Measures that Miss the Mark” of June 2018, Marcena Hunter dismisses GFI’s breakdown of the sources of IFFs as largely guesswork (Hunter 2018). Part of the reason she gives is that GFI simply transposed the global 65:30:5 ratio to Africa without evidence that it was locally applicable. She asserts that IFFs deriving from commerce – such as trade misinvoicing or tax avoidance and evasion – have been overemphasised simply because they are easier to measure – for example by analysing the discrepancies between exports and imports. As we have seen in the case of African mineral exports, these discrepancies can be misleading.

In any case, the measures fail to give proper weight to the IFFs which derive from crime and corruption. And IFFs from the least developed countries are at even higher risk of being underestimated, largely because crime and corruption are harder to measure in poorer than in richer countries. Hunter suggests this is because poorer countries have less developed financial systems, rely more on cash transactions and generally have lower bureaucratic capacity to maintain crime statistics. Hunter notes, nevertheless, that crime IFFs have a significant impact on lives, even if they cannot be quantified. “In fact, the Global Initiative Against Transnational Organized Crime found that organized crime could directly and significantly impair the ability to achieve 23 of the 169 SDG targets. IFFs, together with the underlying activities, distort economic and political competition,

subvert government institutions, generate conflict and violence, and undermine the integrity of legal and financial systems.” (Hunter 2018)

Money laundering is often the financial manifestation of other non-financial crime, but it is hard to quantify. The United Nations Office on Drugs and Crime (UNODC) calculated in 2011 that the proceeds of all crimes amounted to about US\$2.1 trillion or 3.6 % of global GDP in 2009, of which about US\$1.6 trillion, or 2.7 % of global GDP, was laundered (UNODC 2011). The latter is about the total size of Africa’s current economy. This tallied with the International Monetary Fund’s estimate in 1998 that global money laundering could represent somewhere between two and five percent of the world’s gross domestic product (IMF 1998).

UNODC has estimated, very roughly, that the proceeds of all crimes could amount to about 3.6 % of global GDP per annum, which would have been about US\$2.1 trillion in 2009. Of this, it estimated that about 1.5 % of global GDP (i.e. about US\$870 billion) emanated from transnational organised crime – mainly drug trafficking, counterfeiting, human trafficking, oil bunkering, environmental crimes and arms trafficking. Of this in turn about 1 % of GDP (i.e. US\$580 billion) was laundered. And UNODC estimated that about half of the proceeds of transnational organised crime were from drug trafficking (UNODC 2011: 7). The biggest drug trade was in cocaine, estimated to be worth about US\$85 billion in 2009, of which about US\$84 billion was profits of traffickers all along the supply chain, leaving only US\$1 billion to the Andean growers of the coca plants (UNODC 2011).

Gauging crime IFFs from Africa: the looting continues

By UNODC’s measure, money laundering in or from Africa, if proportional to GDP, would currently total about US\$70 billion a year – i.e. more than the UNECA panel’s estimate of total annual IFFs of around US\$50 billion. UNODC has also estimated that most of the money invested offshore by Africa – including laundered money – goes to Europe. It said that of the US\$7.4 trillion invested offshore by all countries in 2009 (legally and illegally), about US\$1.3 trillion came from Africa and the Middle East. Of this, about US\$490 billion was invested in the United Kingdom and US\$460 billion in Switzerland (UNODC 2011: 44, Table 35). The assumption is that offshore money launderers would choose about the same investment destinations. The share of drug-trafficking in the proceeds of transnational organised crime may be even higher in the largely informal economies of West Africa than it is globally (OECD 2018: 62). West Africa

is the drug-trafficking fulcrum of the continent, the conduit for three major illicit drug flows, cocaine, cannabis and methamphetamines (OECD 2018: 62).

The most lucrative of these is the cocaine trade, with West Africa emerging from about 2007 as the main transit region for the flow of this narcotic from Latin America to Europe – channelling about one quarter of Europe’s cocaine supply (Shaw 2015: 339–340). “Because of the flow’s high value and the lack of an indigenous market, cocaine trafficking has had the greatest impact of all drug flows on the region’s illicit economy and stability” (OECD 2018: 62). While cocaine trafficking generated US\$34.8 billion in North America and US\$27.5 billion in Europe in 2009, the value of the trade in Africa was a mere US\$1.6 billion, with only US\$600 million of that remaining on the continent and US\$1 billion being laundered abroad. This was nevertheless a large amount of money by regional standards. Most of the African cocaine trade goes through West Africa, with just a small amount transiting South Africa, the report added. It estimated that West African actors earned only US\$40 million per year from the drug trade, with the rest staying in the hands of Colombian and other Latin American drug dealers (OECD 2018: 62).

Of the US\$40 million, the authors estimate that about 80 % remain in the region and is spent on local operations and patronage systems. “The remaining 20 % enter the formal banking system and are laundered through the region’s larger economies, i.e. Ghana, Senegal or Nigeria.” (OECD 2018: 65) The OECD report documents how Latin American drug cartels have captured some West African states by finding partners or at least protectors at the highest level of these states, especially those who could control transport hubs or deploy military power to protect the trade (OECD 2018: 64). Most of the local proceeds remain with these elites, and for the rest of the population the drug trade has largely been an unmitigated disaster, corrupting politics and law enforcement and sparking instability (OECD 2018: 65).

A narco-state with strong links to Portugal

As the classic example of state capture by drug traffickers, the OECD report cites Guinea-Bissau, the former Portuguese colony widely reputed to be a “narco-state”. Shaw disapproves of applying this term and prefers to describe the state as being run by an “elite network with mafia-like attributes” (Shaw 2015: 339–340). However, the term remains useful for our purposes. Shaw describes how police discovered evidence in August

2007 that Columbian drug traffickers were paying off all the key figures in the government, including national President Nino Vieira. Greed for drug money then led to a bust-up between Vieira and his military chief General Batista Tagme Na Waie, who was killed in a bomb blast in 2009, provoking his soldiers to beat Vieira to death in his home in retaliation the next day (Shaw 2015: 352–353). The US designated the navy chief Admiral José Américo Bubo Na Tchuto and the air force chief Papa Camará as drug kingpins in 2010, imposed sanctions on them and managed to arrest Na Tchuto in a daring offshore sting operation in 2013 (Shaw 2015: 359). Since then, the government of Guinea-Bissau has shown renewed commitment to engage in the fight against drug trafficking and organised crime, as evidenced by the two largest ever cocaine seizures in the country in 2019 (UNODC 2020).

A local analyst nonetheless said that rumours were still very strong that Guinea-Bissau “is still an important point of transshipment of drugs and that business is just as good, if not even better for the traffickers” (Guinea-Bissau analyst 2021). This analyst said it was generally believed that about 10 to 15 % of the cocaine that enters Guinea-Bissau stays in the hands of locals and the rest transits to Europe. The cocaine seizure operations had revealed many wire transfers of drug proceeds to Europe, particularly Portugal, Spain, the UK and France (Guinea-Bissau analyst 2021). Portugal is evidently the money laundering centre of choice. “The so-called elite has tight links with Portugal, children are sent away to study and they live in expensive areas in Lisbon. It is impossible for a public servant from Guinea-Bissau to buy a 5-bedroom apartment for example in Cascais city only with their salary, yet that is something common.” (Guinea-Bissau analyst 2021)

The US State Department’s 2018 International Narcotics Control Strategy Report agreed, stating that “Portugal is a transit point for narcotics entering Europe. Portugal’s long coastline, vast territorial waters, and privileged relationships with countries in South America and Lusophone Africa make it a gateway country for South American cocaine and a transshipment point for drugs coming to Europe from West Africa. Portugal has a significant number of dual-nationals who move wealth between Angola and Portugal.” (US State Department 2018: 168) “Suspicious funds from Angola continue to be used to purchase Portuguese businesses and real estate.” (US State Department 2018: 167)

Luanda Leaks: how Isabel dos Santos, the former president's daughter, became the richest woman in Africa

This last observation was sharply vindicated in 2019 by the “Luanda Leaks”, a trove of more than 715,000 secret emails, contracts and other documents which were passed on to the International Consortium of Investigative Journalists (ICIJ) and other media representatives.

These documents confirmed the widely held belief that over the last few years of his tenure, which ended in 2017, President José Eduardo dos Santos had basically made his daughter Isabel probably the richest woman in Africa by awarding her companies, public contracts, tax breaks, telecom licences, diamond-mining rights, insider deals and preferential loans (ICIJ 19 January 2020). This blew her cover story that she was a self-made business tycoon. “Over the last two decades, she acquired valuable stakes in every important Angolan industry, including oil, diamonds, telecom and banking” (ICIJ 19 January 2020). Her most important position was as CEO of the state oil firm Sonangol. And large quantities of these ill-gotten moneys – which the ICIJ quantified at about US\$2.1 billion – flowed beyond Angola’s borders as IFFs, mainly to Europe but also to the US and Asia.

Dos Santos and her late husband, Sindika Dokolo, amassed a vast foreign empire of more than 400 companies and subsidiaries in 41 countries and bought up assets such as high-priced real estate in London and Lisbon (ICIJ 19 January 2020). The heart of dos Santos’s business empire was in Europe. The ICIJ found that she had interests in 17 companies in Portugal, including Banco BIC Português, S.A., 14 in Malta, nine in the Netherlands, seven in the British Virgin Islands, five in Madeira, three in Switzerland and one in each of Italy, the UK, Luxembourg, Cyprus and France (ICIJ 19 January 2020). European and American consulting firms, accountants and lawyers such as Boston Consulting, PwC (formerly PricewaterhouseCoopers), KPMG and others also helped sustain the dos Santos empire for years, the ICIJ said. This included helping her set up shell companies to move hundreds of millions of US dollars in public money out of Angola, one of the poorest countries in the world (ICIJ 7 December 2020).

Dos Santos and Dokolo denied wrongdoing, and she claimed to be the victim of a political “witch hunt” and “political persecution” by the new President João Lourenço (ICIJ 19 January 2020). Lourenço did indeed precipitate her downfall by firing her as CEO of Sonangol in November 2017, but the Luanda Leaks accelerated her demise. Days after the leaks, Angola’s prosecutor general charged dos Santos with money laundering

and embezzlement committed when she headed Sonangol in Angola (Africanews 2020). That precipitated an avalanche of reactions in Europe as courts and regulatory authorities in Portugal, the Netherlands and Germany froze dos Santos's and Dokolo's assets and bank accounts or seized their businesses (ICIJ 17 March 2020). These actions followed a request from the Lourenço administration, which was pursuing more than US\$1 billion that it claimed she, her husband and associates had siphoned off from Angola (ICIJ 7 April 2020).

In June 2020, dos Santos closed down her business offices in Portugal, the heart of her offshore business empire, complaining that the asset freeze had made it impossible for her to continue paying staff salaries (ICIJ 18 June 2020). The European authorities also turned their attention to locals complicit in dos Santos's gigantic money laundering enterprise. In July 2020, the European Banking Authority launched an inquiry into whether EU financial supervisors had failed to perform their duty to monitor her money laundering (ICIJ 20 July 2020). On 2 October 2020, the Portuguese Securities Market Commission CMVM opened investigations against nine auditing companies that had worked with dos Santos (ICIJ 2 October 2020). In September 2021, German authorities fined the state-owned KfW-Ipex-Bank US\$178,000 for indirectly lending about \$55 million to dos Santos's brewery Sodiba through an Angolan state-owned bank (ICIJ 3 September 2021). The dismantling of the vast business empire of Isabel dos Santos seems to be continuing indefinitely, a measure in part of how deeply the many tentacles of that giant enterprise penetrated, mainly into European economies.

It is proving to be a case study of crime IFFs from Africa, a rare glimpse into what everyone had long suspected but no one could prove, that the dos Santos family was pillaging the state and exporting the proceeds. No amount of international tax reform was ever likely to address this problem. The dos Santos empire is falling firstly for political reasons, because Angola's ruling MPLA finally decided it had had enough of José Eduardo dos Santos and his children and forced him to stand down in 2017. And then because of good investigative journalism – which may well have been aided in turn by the change of political power in Luanda. Nevertheless, there is reason to suspect that Lourenço's pursuit of the dos Santos family has more to do with asserting his own personal political power than with cleaning out the state. It would probably take a change in the ruling party, not just a change in the president, to really root out Angola's deep corruption and staunch the flow of illicit finances. The Luanda Leaks have also exposed the interface between African corruption and hitherto apparently respectable and legal professionals and businesses in Europe which helped

dos Santos launder her loot. It is hardly surprising that crime IFFs from Africa are vast on a continent where the reach of the law is often limited, as are democratic constraints on corruption.

Especially in countries like Angola, Gabon, the Republic of the Congo or Mozambique, where the same leader, family or party has been in power for a long time, one often finds sustained and systematic looting of state coffers or national resources. And Europe seems to be the destination of choice for the proceeds of this pillaging, which are often deposited in bank accounts or invested in fixed property or other valuable assets. The Middle East and the US also feature prominently as destinations. The IFFs are often facilitated by European or American bankers, tax accountants, lawyers, estate agents and other financial officers who enable these transactions to occur clandestinely, in defiance of money laundering laws or just commonsense ethics.

How African leaders stash their loot abroad

The 2013 report of the Africa Progress Panel (APP) chaired by the late UN Secretary General Kofi Annan also gave a snapshot of how the leaders of some of Africa's most resource-rich countries stash loot abroad (APP 2013). It noted that lawsuits filed in foreign countries had revealed that the Republic of the Congo's President Denis Sassou-Nguesso allegedly owned 24 estates and operated 112 bank accounts in France while then Gabonese President Omar Bongo Ondimba and his relatives allegedly owned 30 luxurious estates on the French Riviera and in Paris. Sassou-Nguesso and Bongo featured again in the Pandora Papers, another huge trove of secret emails revealed by the ICIJ in October 2021, which showed that they had secretly stashed millions of US dollars offshore.

The exposé also fingered Kenyan President Uhuru Kenyatta and his family (ICIJ 3 October 2021). The APP report also said that the US Justice Department had seized several assets which Equatorial Guinea president Teodoro Obiang Nguema Mbasogo's son Teodoro Obiang Mangué, a government minister, had acquired offshore. These included "a Gulfstream jet, a variety of cars – including eight Ferraris, seven Rolls-Royces and two Bugattis – a 12-acre estate in Malibu valued at US\$38 million, and white gloves previously owned by Michael Jackson" (APP 2013: 29). Transparency International noted that in 2017, Obiang junior had his €107 million (US\$118 million) mansion in Paris confiscated after he was found guilty by a court in France of money laundering and embezzlement. It also noted that President Obiang was at the time hosting Yahya Jammeh, the exiled

former Gambian president. “Jammeh and Obiang owned luxury mansions next door to each other in Maryland, USA” (Transparency International 2019).

And it cited the case of James Ibori, once a shop assistant in a DIY store in London and later governor of Delta State in Nigeria from 1999 to 2007, who was sentenced to 13 years in prison in London in 2012 after admitting fraud of nearly £50 million (US\$66 million). Ibori used shell companies to buy luxury goods around the world, including six houses in London, one a Hampstead mansion. “Around the world, buying property is a favourite method for the corrupt to launder their ill-gotten gains.” (Transparency International 2019) The Financial Action Task Force (FATF) found that “[r]eal estate accounted for up to 30 % of criminal assets confiscated in the last two years [between 2011 and 2013], demonstrating this as a clear area of vulnerability” (FATF 2013: 24). Transparency International and FATF have recommended various measures to combat money laundering through the purchase of real estate, most of which entail an obligation on estate agents, lawyers and other professionals involved to know their customers. Yet Transparency International found in a study of the US, UK, Canada and Australia, that relevant officials were not following their own guidelines to avoid money-laundering through property purchases (Maira 2017).

Smuggling gold through the souks of Dubai

As the APP revealed, the extractive industries are particularly vulnerable to IFFs, and gold and diamonds are often the products of choice for money laundering and smuggling, as they are more portable because of their high value relative to weight. Hunter has noted: “Gold is a desirable financial vehicle to move and hide wealth because it is almost untraceable, the exact amount or value can be easily concealed, it possesses a high level of liquidity, and it holds its value.” (Hunter 2019: 16) She has estimated that in 2016 at least US\$4.1 billion worth of gold mined by artisanal and small-scale gold miners (ASGM) was smuggled abroad from Sudan, South Africa, Zimbabwe, Mali, Burkina Faso, the Democratic Republic of the Congo, Ghana and Libya (Hunter 2019: 14). Most of this went to Dubai, which Hunter and other researchers have identified as the money laundering capital of the world because of its lax import and export controls (Blore and Hunter 2020).

According to Hunter (2021), Dubai serves as a buffer for European nations, providing “a level of plausible deniability because they aren’t as

directly engaged with these supply chains or financial flows”. “The process of reselling ASGM gold freely exported from red-flagged sources to Dubai jewellers and refiners (via the emirate’s bustling souk) essentially launders illicit ASGM gold into a refined product that is acceptable to the world’s most reputable gold hubs.” Switzerland was one of the largest buyers of this partly processed gold from Dubai, importing 148,423 tonnes in 2016, valued at just under US\$6 billion (Blore and Hunter 2020: 37–38).

Hunter has also noted that in places like the Democratic Republic of the Congo and Sudan, ASGM gold is sometimes taxed by, or otherwise used to benefit, illegal armed groups conducting insurgencies or is implicated in gross human rights violations. “For this reason, ASGM gold is sometimes characterized as a conflict mineral” (Blore and Hunter 2020: 36). Though these “taxes” mostly stay in the country, other beneficiaries may be laundering some of the proceeds abroad. Though conflict (or “blood”) diamonds have received the most global attention – such as through the Kimberley Process – the international community has begun to widen the scope of its efforts to combat conflict minerals, e.g. through the EU’s 1 January 2021 Conflict Minerals Regulation to help stem the trade in tin, tantalum, tungsten and gold – which sometimes finance armed conflict (European Commission n.d.).

The DRC: a smugglers’ and looters’ paradise

The DRC has been one of the most lawless and corrupt countries on the continent for decades, particularly in view of its lax control over minerals. The Enough Project has estimated that more than US\$600 million in gold leaves the DRC annually, and greed for gold provokes fighting among armed groups trying to control mines and trading routes (Enough Project n.d.). As Hunter (2019) notes, there is strong evidence that large volumes of gold are being smuggled from unstable Eastern DRC to Uganda and Rwanda in particular but also to Burundi and Tanzania. This also applies to many other minerals, such as coltan, which is used extensively in high-tech electronics like cell phones and in jewellery, as well as tin, tantalum and tungsten, according to the UN Group of Experts on the DRC (UN 2021: 19). Several foreign trading companies were also suspected of having bought these minerals directly from small artisanal miners.

These IFFs are depriving the DRC of large revenues, firstly to the benefit of Rwanda in particular but also to the benefit of foreign traders, as well as manufacturers of cell phones, jewellery and other products beyond Africa who obtain valuable minerals at smuggled prices. The DRC has

also lost billions of US dollars through the official but clearly corrupt sale of its state-owned mines at bargain prices to foreign mining companies which then sell them on at large profit. The obvious assumption is that Congolese officials – probably all the way up the president – benefit from large kickbacks from these mining companies. In the process, of course, Congolese citizens have also lost hundreds of millions of US dollars from the proceeds of what were supposed to be state assets. According to the APP report, the DRC lost US\$1.36 billion between 2010 and 2012 as a result of the alleged undervaluation of state assets in just five selected mining deals. This was equivalent to more than double the combined annual budget of the DRC for health and education in 2012. The report said the five companies it investigated – all listed on the London Stock Exchange and most registered in the British Virgin Islands – had paid just a sixth of the real price of the mining assets they had bought and had then sold them at average rates of return of 512 per cent. This generated a return of US\$1.63 billion on assets purchased for US\$275.5 million, the APP calculated. “Under these deals, the DRC sold copper and cobalt assets to offshore companies linked to an offshore-registered holding company called Fleurette. [...] Glencore and the Eurasian Natural Resources Corporation (ENRC) subsequently purchased assets acquired by offshore concession holders – both are FTSE100 companies listed on the London Stock Exchange.” (APP 2013: 100, Annex 1) The implication of the APP report was that Fleurette had acted as an intermediary in these privatisations of the DRC’s minerals at bargain-basement prices. Fleurette is owned by the notorious Israeli businessman Dan Gertler, who was close to the previous DRC president Joseph Kabila. In 2017, the US slapped sanctions on Gertler and some of his companies, including Fleurette, for “hundreds of millions of dollars’ worth of opaque and corrupt mining and oil deals” in the DRC (U.S. Department of the Treasury 2017).

These examples from the DRC, probably Africa’s richest country in natural resources, show that stealing from Africa’s citizens does not necessarily require the sophisticated BEPS techniques of clever tax accountants and lawyers. It can be done more simply and more crudely by physically smuggling gold or coltan across the border into Rwanda or “selling the family silver”, i.e. entire mines (though in this case more likely gold and copper mines), to corrupt European and other foreign companies at bargain-basement prices – and then recycling some of that back into one’s personal bank account. In a country – and on a continent – where democratic oversight of government spending and selling is in short supply, why cook the books when you can simply steal the loot directly?

Hidden debt: Mozambique reels from the consequences of looting of state coffers and neglect of its own people

Crime IFFs may be harder to quantify than commercial IFFs, but they are probably even more costly to a state and its people (Hunter 2018). Mozambique is a case in point. It is currently experiencing a devastating insurgency which is jeopardising the exploitation of its vast liquid natural gas reserves. It is also reeling from the long-term impacts of a US\$2 billion “hidden debt” scandal which has seriously undermined its international standing and economy. Both have arguably been at least in part consequences of the looting of national resources and the government’s failure to deliver basic services. The Mozambique government secretly contracted US\$2 billion in loans from Credit Suisse and the Russian company VTB Capital in 2013 and 2014 to buy a tuna trawler fleet and maritime patrol craft, ostensibly to both exploit its fishing waters and guard them against illegal exploitation by foreign fishing interests. The late exposure of this debt, which had not been approved by parliament nor included in the budget, by the Wall Street Journal in April 2016 prompted the IMF and all other international donors to halt direct budget support in 2016, with a huge knock-on effect on the economy. The fleet of tuna trawlers and patrol boats was supplied by the Abu Dhabi-based Privinvest Group and built in Cherbourg, France. Credit Suisse and VTB Capital, unusually, disbursed the US\$2 billion loans directly to Privinvest rather than to the Mozambique government.

In a 2017 analysis of the deal, the risk assessment company Kroll calculated that Privinvest had overcharged Mozambique US\$713 million for the vessels and back-up equipment (Kroll 2017: 16). This was an example of overinvoicing to perpetrate IFFs. Kroll also found that the tuna fishing enterprise was not fully operational and so had been able to generate only “negligible revenue” instead of the combined operating revenues of US\$2.3 billion it had been expected to generate by December 2016 to be able to start repaying the loans (Kroll 2017: 17). Though some media reports have put the figure higher, Kroll said it could not account for at least US\$500 million of the \$2 billion loans (Kroll 2017: 16). The US\$2 billion loan scandal has generated enormous controversy and litigation. After long delays, a corruption case against 19 Mozambican officials and other individuals – including the son of previous President Armando Guebuza – began in Maputo in August 2021. The US indicted several people involved, and three Credit Suisse officials pleaded guilty. Both Mozambique and the US government have indicted former finance minister Manuel Chang, who signed off on the loans, for receiving a bribe. He

is in jail in South Africa. In November 2021, the Johannesburg High Court ordered the South African government to extradite him to the US, though Mozambique has requested leave to appeal this ruling. Meanwhile, the Mozambique government is fighting in a London court to avoid having to repay the \$2 billion in loans because it says these were fraudulently contracted.

The “hidden debt” scandal provides another glimpse into the possible scale and impact of crime IFFs on the continent, though it is possibly just the tip of the iceberg. In a study published in May 2021 and reported by Mozambique’s official news agency AIM, Mozambique’s anti-corruption NGO, the Public Integrity Center (CIP), calculated that the “hidden debt” had already cost the country at least US\$11 billion and had plunged an additional two million people into poverty (CIP/Chr. Michelsen Institute 2021: 6).

CIP arrived at this larger figure by taking into account interest on the debt, the cancellation of foreign aid by all foreign donors – which has not been resumed – as a result of the fraud as well as the huge blow to Mozambique’s international credibility and reputation. This scandal caused a financial crisis, “making the government unable to pay its bills, there was a major currency devaluation, foreign debt became unpayable, the economy slowed down sharply, real GDP per capita fell, unemployment soared, and poverty increased” (CIP/Chr. Michelsen Institute 2021: 6).

The “hidden debt” scandal exhibits some of the same features as Angola’s Luanda Leaks saga. For one thing, it took investigative journalists to uncover both scandals. The official oversight bodies of Angola and Mozambique did not initiate the exposures of the scandals, though they got on board eventually. And foreigners – including some in Europe – were major beneficiaries of both corruption scandals, while ordinary locals were the big losers. Though much has been made of the bribes paid to the likes of Manuel Chang and former President Armando Guebuza’s son Ndambi in the Mozambique looting, the big winner was the shipbuilder Privinvest. Clearly, corruption runs deep in the Mozambique state and the Frelimo ruling party. FATF, operating through its local branch, the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) has been trying for years to get the government to comply, at least at the theoretical level, with international benchmarks for combating money laundering and terrorist financing. In its latest report of June 2021, it noted that “Mozambique has not yet assessed its ML/TF [money-laundering and terrorist financing] risks” (ESAAMLG 2021: 11). Mozambique’s

reluctance to tackle ML/TF may well derive from the complicity of very senior government officials in those money laundering offences.

Conclusion

It is clear that illicit financial flows are a highly complex problem with little in the way of absolutely hard facts to grasp onto and many grey areas. These include difficulties in quantifying IFFs, or even defining them. The word “illicit” is part of the problem. “Illegal” would be straightforward and objective. “Illicit” is complicated and subjective. In the commercial areas, the word “illicit” brings into the definition activities such as tax avoidance – rather than evasion – by multinational corporations: avoiding tax by domiciling companies in offshore tax havens can be legal but is considered morally wrong. As we have seen, trying to give appropriate weight to different types of IFFs is also difficult. Commercial IFFs – such as tax avoidance and misinvoicing exports – are easier to quantify, so they have received greater attention, at the expense of crime IFFs, the proceeds of non-financial crimes such as trafficking contraband or corruption. Yet the latter are arguably larger and also have a huge impact on development.

Some of the ambiguity about the illicitness of IFFs also pertains to Africa’s extremely vast informal business sector, such as ASGM, which can be good or bad.

Hunter notes that in some areas of Sierra Leone, financial contributions by the ASGM sector to local communities, such as the payment of teachers’ salaries, have been reported to far outstrip the financial support provided by government programmes, civil society organisations or development organisations. This gives ASGM stakeholders, which might include criminal actors, a substantial degree of legitimacy with the local population. Thus, efforts to counter criminal networks or break down markets might be met with considerable resistance – or even harm development and undermine state authority. One might add that investing the revenues of such illicit activities in the local economy is better than exporting them abroad. But it is not ideal either, as it unfairly competes with legitimate businesses and creates an environment for more serious crime and also an opportunity to buy political influence and protection.

In any case, we have seen that Europe is the favourite destination for IFFs from Africa, including crime IFFs, though it seems to be impossible to put anything but the roughest figure on this. It is clear that commercial aspects of IFFs are damaging Africa’s development prospects and so must

be addressed, in part through raising them to the level of a global responsibility and therefore one to be undertaken under UN control.

But the international community must never lose sight of the fact that a very large part of IFFs apparently derives from “ordinary” transnational crime, such as corruption and trafficking of drugs, minerals, other contraband and people – and that these must be tackled with just as much vigour as commercial IFFs. Ultimately, the only way to do this is through greater democracy and much better and more efficient governance.

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