

FINANCIAL CRIME AND ENVIRONMENTAL DEGRADATION – THE ISSUES IN AFRICA

3rd IAP African & Indian Ocean Regional Conference
Livingstone, Zambia-March 2-6 2014

Akere Muna (of Lincoln's Inn London) Barrister-at-Law
Vice-Chair, Transparency International

- Accountable really to no one, its finances "off the books" ----- provided an unprecedented opportunity for fraud, waste, and corruption involving-----, and many others. In its short life more than \$23 billion would pass through its hands. And that didn't include potentially billions more in ----- shipments the-----neglected to meter. At stake was an ocean of cash that would evaporate whenever the-----did. All parties understood that there was a sell-by date, and that it was everyone for himself.

----- hospital administrator told *The Guardian* of England that, when he arrived to sign a contract, -----officer representing the ----
----- had crossed out the original price and doubled it. “..... officer explained that the increase (more than \$1 million) was his retirement package.” ----- lawyer for whistle-blowers who have worked for -----, says simply that during that----- first year under the ----- the country was turned into "a free-fraud zone."

- Accountable really to no one, its finances "off the books" for U.S. government purposes, the Coalition Provisional Authority (C.P.A.) provided an unprecedented opportunity for fraud, waste, and corruption involving American government officials, American contractors, renegade Iraqis, and many others. In its short life more than \$23 billion would pass through its hands. And that didn't include potentially billions more in oil shipments the C.P.A. neglected to meter. At stake was an ocean of cash that would evaporate whenever the C.P.A. did. All parties understood that there was a sell-by date, and that it was everyone for himself

- An Iraqi hospital administrator told *The Guardian* of England that, when he arrived to sign a contract, the army officer representing the C.P.A. had crossed out the original price and doubled it. "The American officer explained that the increase (more than \$1 million) was his retirement package." Alan Grayson, a Washington, D.C., lawyer for whistleblowers who have worked for American contractors in Iraq, says simply that during that first year under the C.P.A. the country was turned into "a free-fraud zone."



**Transparency International:
95 chapters
17 in formation / contact
groups
31 individual members**

Advisory Council



MANDATE OF THE HIGH LEVEL PANEL ON IFF



- Cognisant of the detrimental effects of IFF for Africa – the 4th Joint Annual Meetings of the AU/ECA Conference of Ministers of Finance, Planning and Economic Development adopted Resolution L8 mandating the establishment of a High Level Panel (HLP) on illicit financial flows

OBJECTIVES OF THE HIGH LEVEL PANEL



The primary role of the panel is to complement and support work on illicit financial flows

Specifically the Panel aims to:

- Assess the complex and long-term implications of illicit financial flows on development
- Sensitize African governments, citizens and international development partners on the scale, and effect of financial outflows on development
- Propose policies and mobilize support for practices that would help reverse these illicit financial outflows

MEMBERS OF THE HIGH LEVEL PANEL



- **Chair, H.E. Thabo Mbeki - Former President of South Africa (South Africa)**
- **Vice Chair, Carlos Lopes – Under Secretary General and Executive Secretary of UNECA (Guinea-Bissau)**
- Olusegun Apata - Former Ambassador and Chairman Coca Cola Bottling Company (Nigeria)
- Raymond Baker – Director, Global Financial Integrity (USA)
- Dr. Zeinab Bashir el Bakri - Former Vice President of the African Development Bank (Sudan)
- Abdoulaye Bio-Tchane - Former Minister of Finance and Economy of Benin (Benin)
- Henrik Harboe -Director, Development Policy, Ministry of Foreign Affairs (Norway)
- Prof. El Hadi Makboul – Director, National Centre for the Study and Analysis of Population and Development (Algeria)
- Barrister Akere Muna - President, Pan-African Lawyers Union; President, ECOSOC; Member, Eminent Persons Panel of the APRM; and Vice President, Transparency International (Cameroun)
- Irene Ovonji-Odida - ActionAid International Board Chair (Uganda)



DEFINING ILLICIT FINANCIAL FLOWS

Illicit Financial Flows (IFF) is defined as any money that is:

- Illegally earned, transferred or utilized. If it breaks the law in its origin, movement or use it merits the label. The movement of such types of money is made with clear intentions to make it disappear from any records in the country of origin.

THE SCALE OF ILLICIT FINANCIAL FLOWS

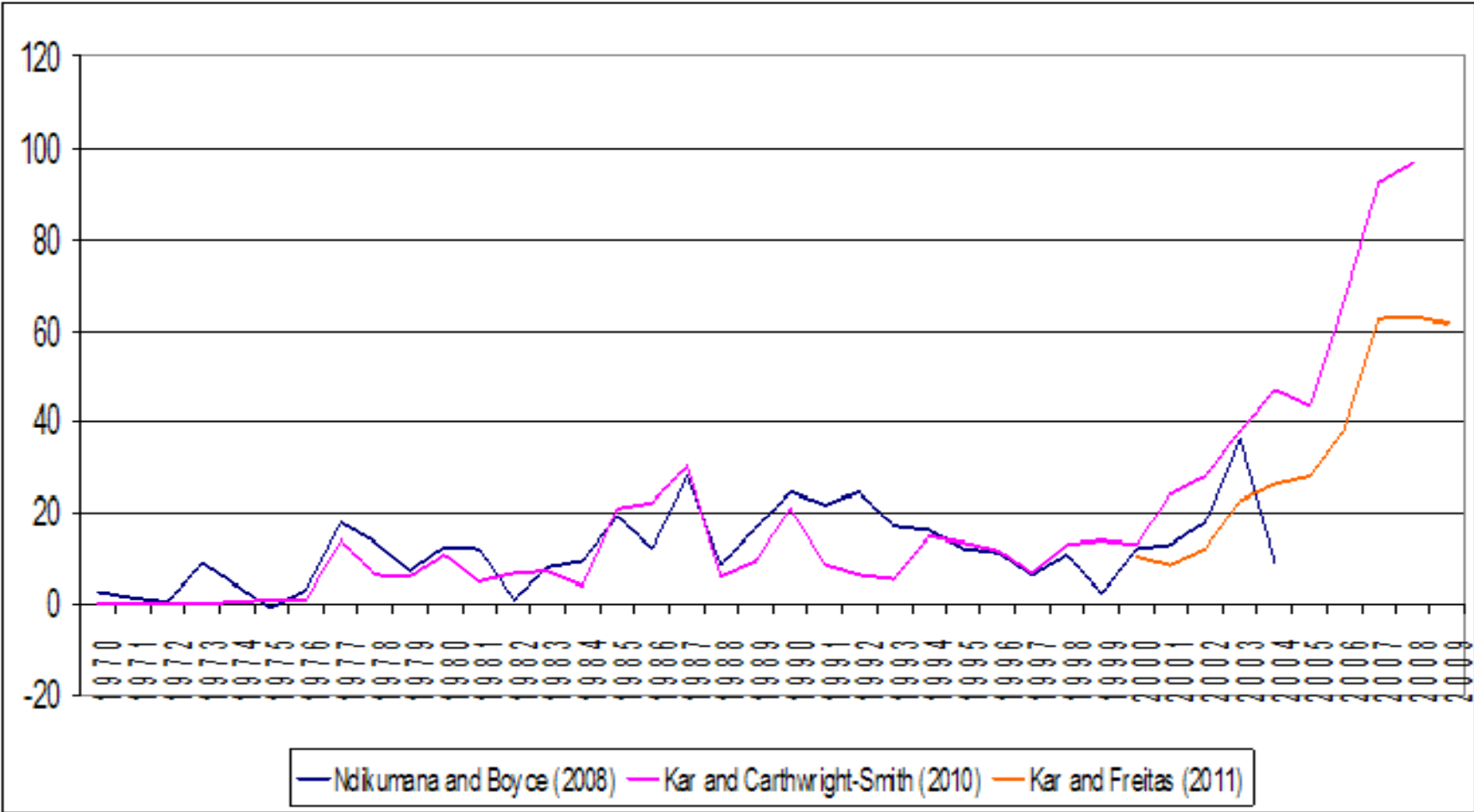


Crime, Corruption, Tax Evasion Drained
\$946.7bn from Developing Countries in 2011

Nearly \$6 Trillion Stolen from Developing
Countries in Decade between 2002 and 2011

Illicit Financial Flows up more than 13.7
percent from 2010

IFF FROM AFRICA 1970-2009 IN US\$ BILLION

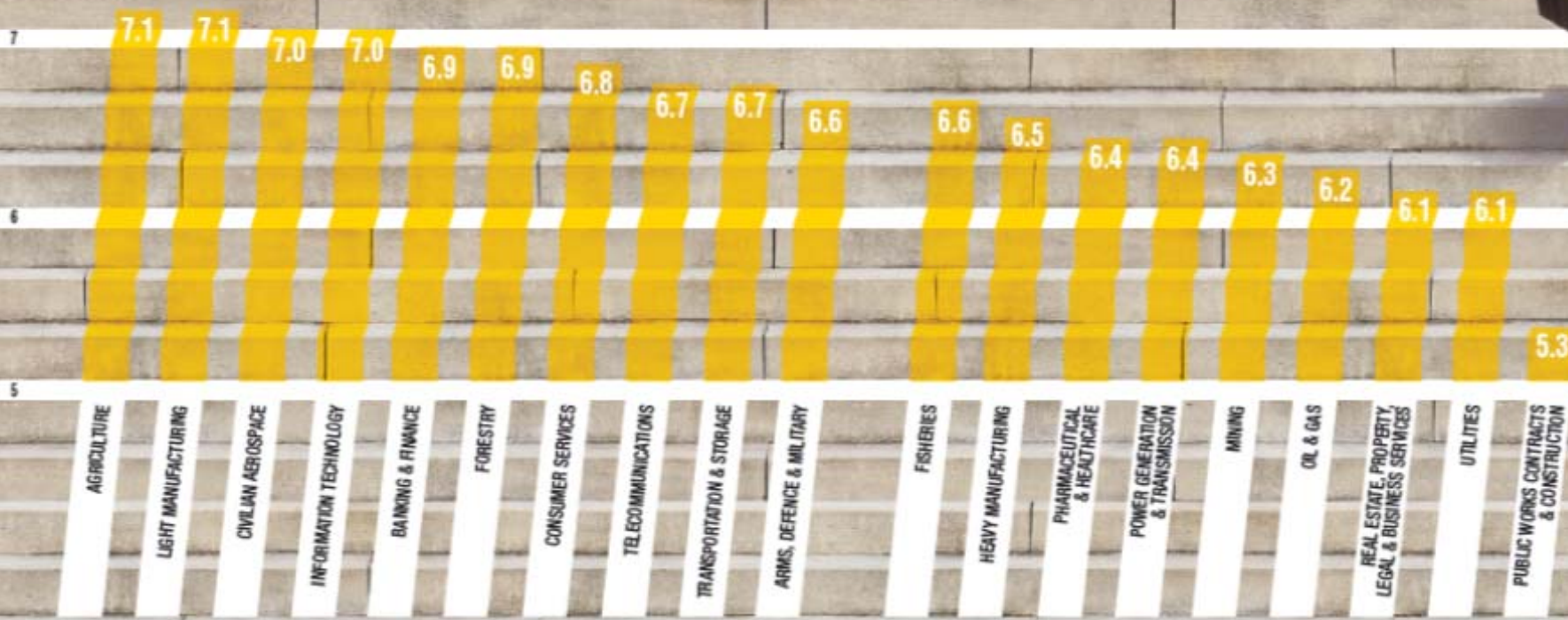


IFF FROM AFRICA- ESTIMATES FROM THE LITERATURE



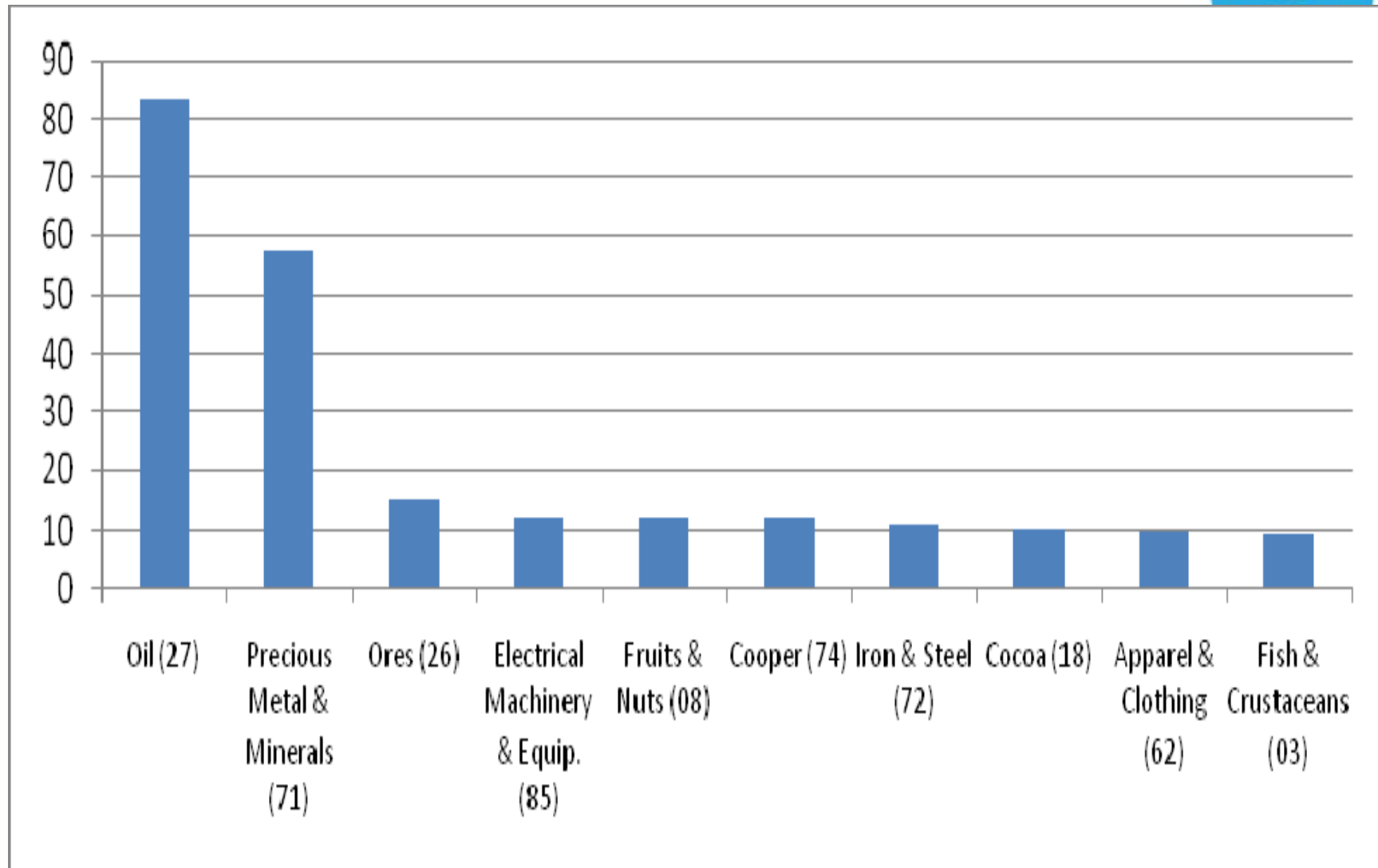
- Africa lost about **US\$854 billion** in illicit financial flows over a 39 years period (1970-2008); corresponding to a yearly average of about **US\$22 billion** (Kar and Carthwright-Smith, 2010).
- The trend has been increasing, especially in the last decade, with an annual average IFF of **US\$50 billion** between 2000 and 2008 against a yearly average of only **US\$9 billion** for the period 1970-1999 (Ibid).
- Many challenges in measuring IFF such as the unavailability of data combined with lack of transparency on the part of institutions involved in these transactions

0 = always, 10 = never



Sectors are scored on a scale of 0-10, where a maximum score of 10 corresponds with the view that companies in that sector never bribe and a 0 corresponds with the view that they always do.

TOP 10 SECTORS BY CUMULATIVE IFF (2000-2010) FOR AFRICA IN US\$ BILLION



IFF AT THE SECTOR LEVEL



- More than half (i.e. 56%) of the IFFs from the African continent over the 10 years period comes from oil; precious metals and minerals; ores; iron and steel; and copper. These are highly concentrated in very few countries.
- Sectors such as edible fruit and nuts; electrical machinery and equipment; fish and crustaceans; apparel; and cacao account for (each of them) between 3% and 4% of the total IFFs from the continent.
- Within each country with relatively large amounts of IFFs, there is a concentration in one sector .
- The main destinations of IFF from African countries are developed countries (especially, the United States, Europe, Canada, Japan and Korea) and emerging economies (such as China, India).

DEVELOPMENT CHALLENGES AND CONSEQUENCES OF IFF FROM AFRICA



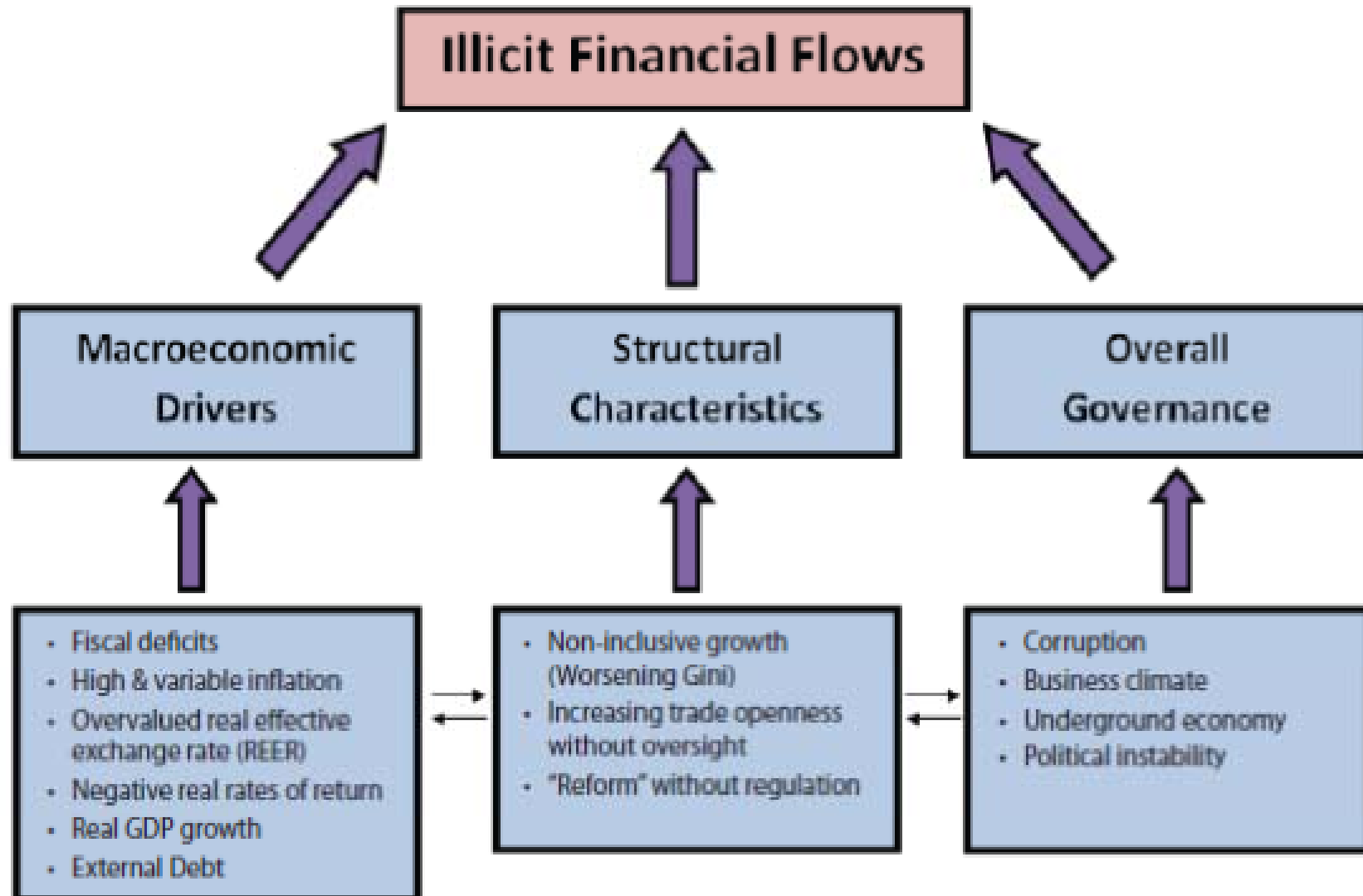
- IFFs have damaging effects on African countries, including: (i) draining resources and tax revenues ; (ii) stifling growth and socio-economic development ; (iii) weakening governance.
- Africa loses significant volumes of financial resources, which could have been used to finance critical development projects, due to illicit outflows.

POLITICAL ECONOMY OF ILLICIT FINANCIAL FLOWS



- IFFs undermine the ability of governments to implement economic policies that run against the powerful interest groups that oppose these policies
- Financial globalization has provided a conducive environment for a ‘capital strike’ against undesired taxation or regulatory policies
- This has wider implications on the nature and the modes of development in Africa and the orientation of the domestic capitalists
- The incentives facing economic and political elites have been shaped particularly by the major changes in the global economy that took place since the late 1970s:
 - Financial deregulation and the emergence of the global shadow financial system
 - Increased demand for natural resources

DRIVERS OF IFF



COMPONENTS OF IFF



IFF comprises three major components:

- Theft, bribery and other forms of corruption by government officials
- Criminal activities including drug trafficking and funds, money laundering, racketeering and counterfeiting
- International commercial transactions (including tax evasion, trade mis-pricing, over-invoicing etc. involving mostly multinational corporations)
- However, the cross-border nature of illicit financial flows and the interconnectedness of these components make it difficult to disentangle these components into concrete unified units



Negative impacts of illicit
flows in Africa

Why is there impunity for
financial crime?

What is being done?

Using transparency as
prevention

GLOBAL CONTEXT



- **The OECD ANTI-BRIBERY CONVENTION** has been ratified by 40 countries representing two thirds of world exports
- **170 countries have ratified the UN CONVENTION AGAINST CORRUPTION.**
- **AFRICAN UNION CONVENTION AGAINST CORRUPTION**



UN CONVENTION AGAINST CORRUPTION

First framework for international anti-corruption cooperation now ratified by 170 countries

UNODC runs the review process for UN Convention against Corruption

18 of the G20 countries have ratified UNCAC

Germany, Japan biggest economies yet to ratify



AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION



Ratified by 31 out of 53 African countries.

Unique binding provisions on private sector corruption such as tender procedures, private sector bribery

Obliges governments to carry out research on the conduct of multinational companies in Africa

It forbids governments from citing bank secrecy as an excuse for not providing legal assistance with investigation of suspicious assets

Harsher measures on illicit enrichment than UNCAC.





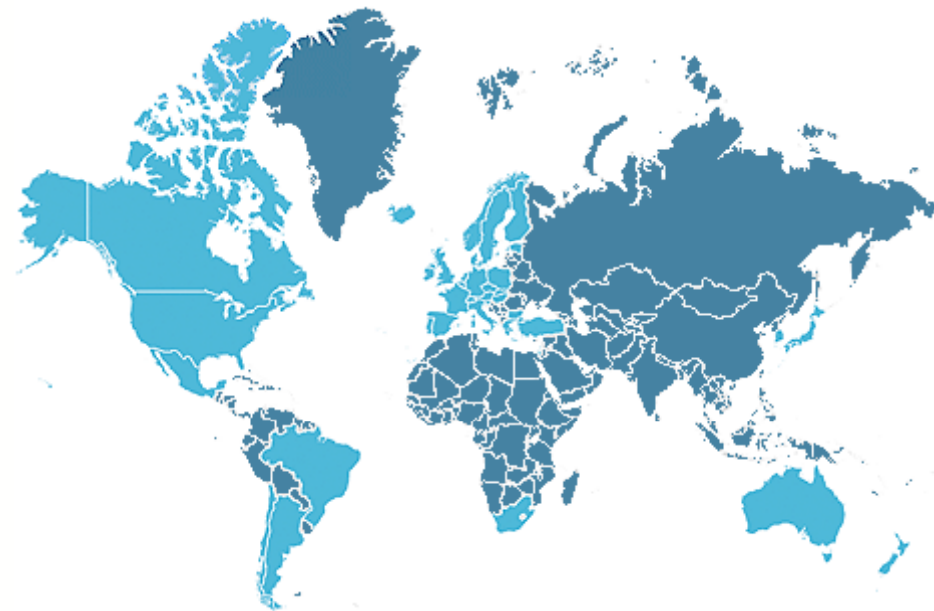
OECD ANTI-BRIBERY CONVENTION

First international law tackling supply side of corruption.

Ratified by 40 countries
representing two thirds of world
exports

21 of these countries doing little
or nothing to enforce it

China banned foreign bribery in
2011, Russia in 2012



■ Not party to the convention ■ Accepted, approved or ratified the convention



G20: ANTI-CORRUPTION ACTION PLAN

Group of 20 leading economies agreed Anti-corruption action plan in November 2010, renewed in November 2012

Implementation overseen by Anti-Corruption Working Group

Progress includes:

- Action plan to enhance tax transparency
- Endorsement of OECD Base Erosion and Profit Shifting plan
- Money laundering/tax evasion – commitment to automatic exchange of information
- Know your customer / due diligence procedures
- Beneficial ownership (UK first government to commit to measures)

ACTIVITIES UNDERTAKEN BY THE HIGH LEVEL PANEL



- Preparation of background document on nature, scale and development impact of IFF
- Preparation of policy document on nature, scale and development impact of IFF
- Brochure on the High Level Panel and IFF from Africa
- Website on illicit financial outflows from Africa
- Development of communication strategy
- Advocacy and sensitization of African governments, citizens and international development partners on the scale, and effect of financial outflows on development

TRANSPARENCY LEGISLATION



BENEFICIAL OWNERSHIP

▪UK, 30 OCTOBER 2013: HIDDEN COMPANY OWNERSHIP

Government announced it will create a public register of beneficial owners of companies in the UK. Legislation aimed for 2015

EXTRACTIVE SECTOR

▪ EU, 9 APRIL 2013: COUNTRY-BY-COUNTRY REPORTING

New EU rules require extractive companies to publicly disclose payments country-by-country and project-by-project

▪US, 22 AUGUST 2012: SEC ISSUES ROBUST RULES IMPLEMENTING SECTION 1504 OF 2010 DODD-FRANK ACT

Extractive companies listed on US Stock Exchanges required to publish the payments that they make to governments

THANK YOU





www.transparency.org

facebook.com/transparencyinternational

twitter.com/anticorruption

blog.transparency.org

© 2013 Transparency International. All rights reserved.