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Study on Tax Motivated Illicit Financial Flow

FOSTERING CHANGE: TAX-MOTIVATED ILLICIT FINANCIAL FLOWS

Report

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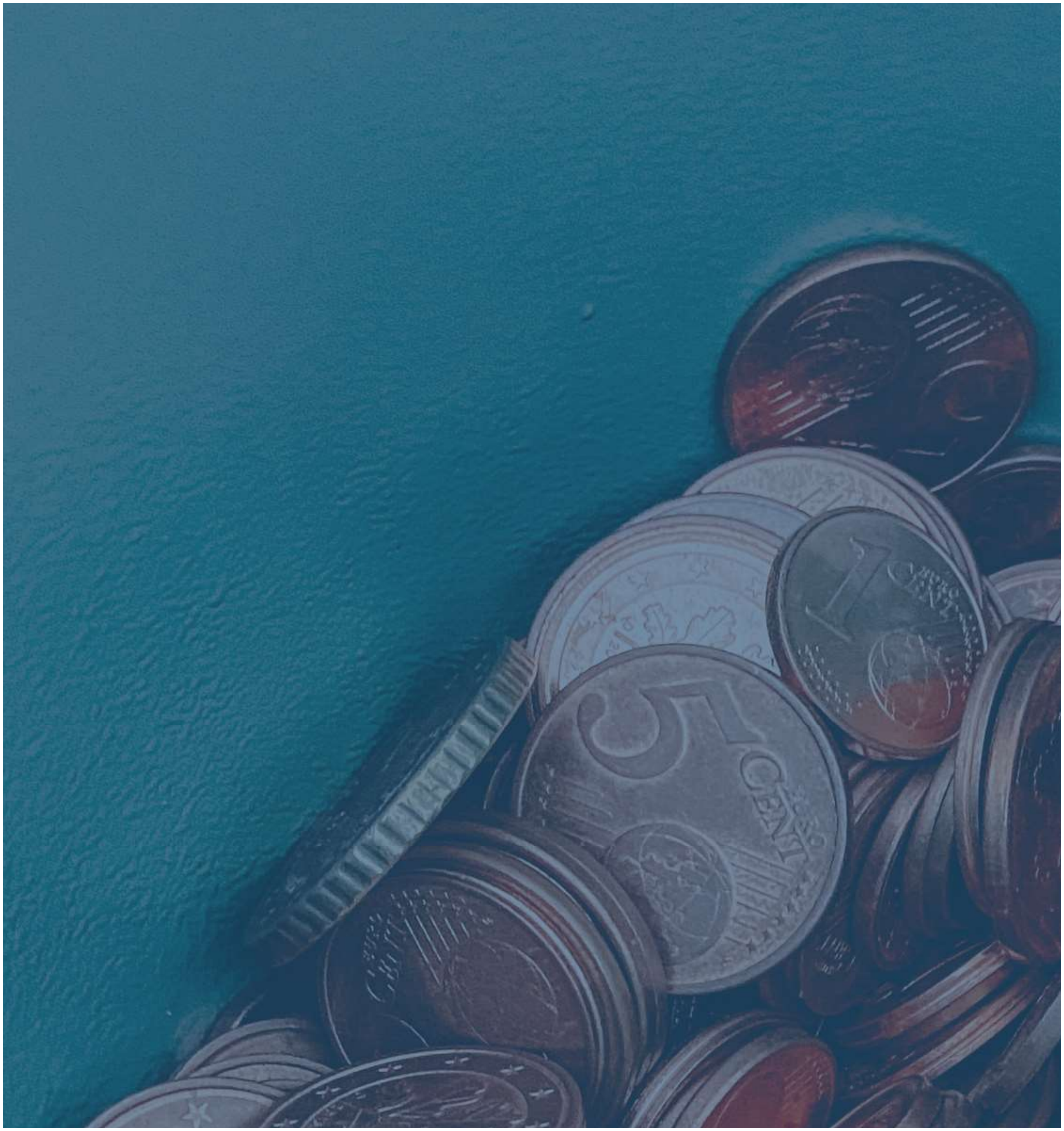
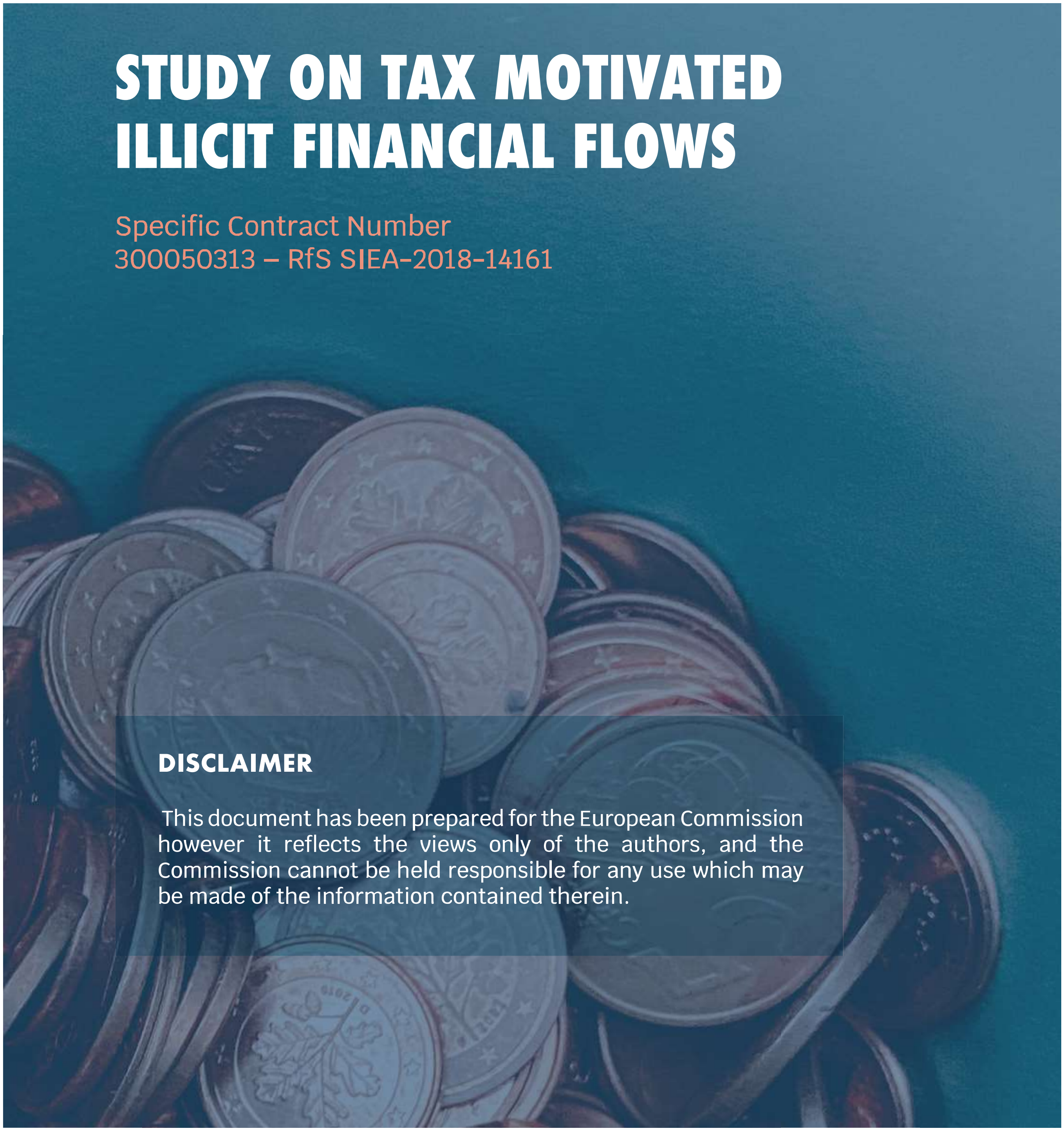


CONTRACTOR'S NAME AND ADDRESS

FCG Germany GmbH

Ms Milica Simin
Project Director

Fasanenstrasse 4,
10623 Berlin, Germany
Tel. +49 (0)30 200 89-200
Fax : +49 (0)30 200-89-79
E-mail: lot05@fcgconsult.com



STUDY ON TAX MOTIVATED ILLICIT FINANCIAL FLOWS

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REPORT PREPARED BY

Ms Kathy Nicolaou-Manias
Team Leader

Ms Joëlle Traore
KE2

REPORT REVISED BY

Ms Amélie Ville
Project Officer

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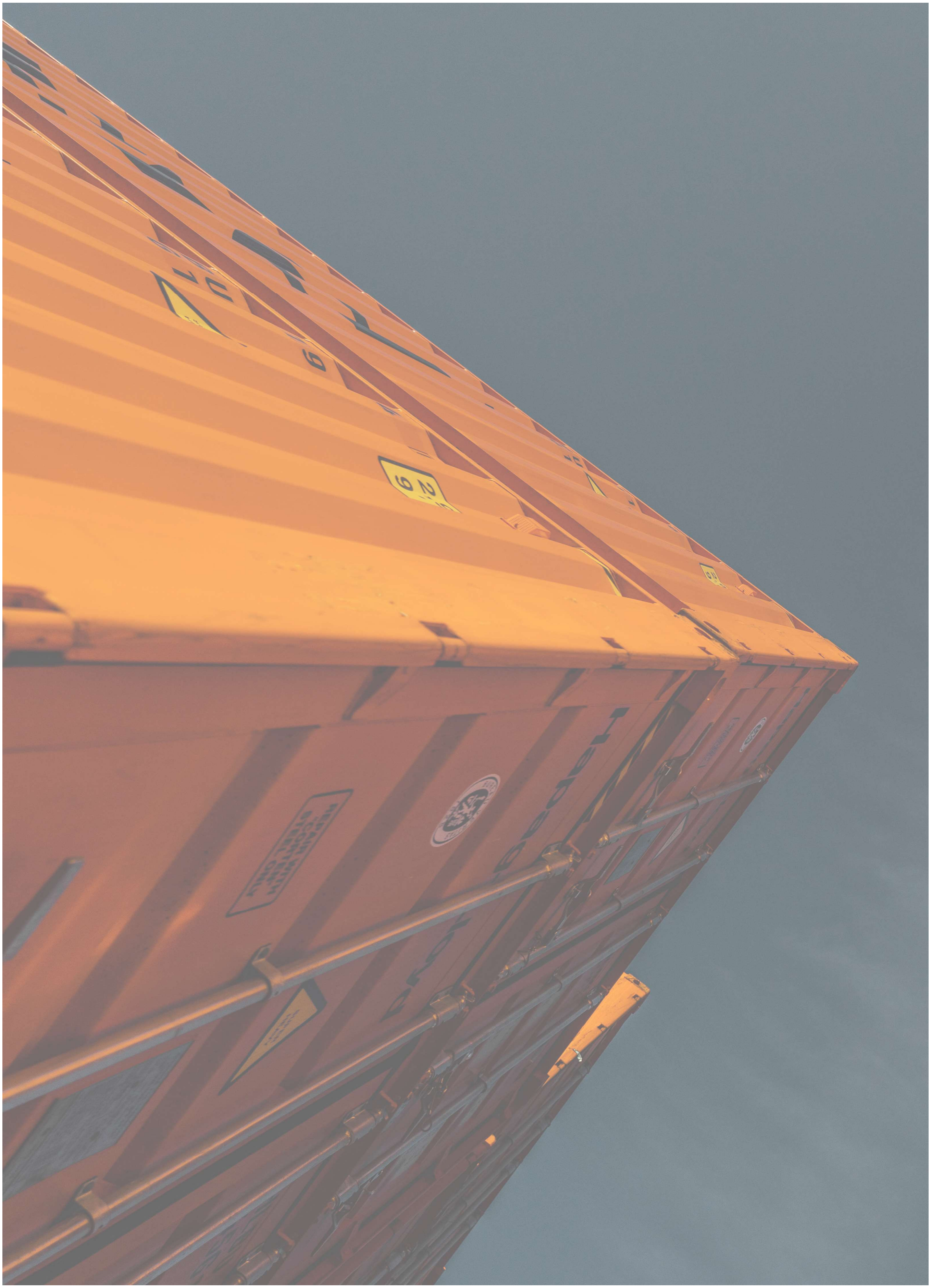
ACRONYMS

AfDB	African Development Bank
AML/CFT	Anti-Money Laundering and Counter-Terror Financing
ATAF	African Tax Administration Forum
AU	African Union
BEPS	Base Erosion and Profit Shifting
BIS	Bank of International Settlements
BOT	Beneficial Ownership Transparency
CMSB	Collect More Spend Better
CoDA	Coalition for Dialogue on Africa
CRA	Country Risk Assessment
CSO	Civil Society Organisations
EU	European Union
FATF	Financial Action Task Force
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GNI	Gross National Income
HLP	High Level Panel
IFFs	Illicit Financial Flows
MNEs	Multinational Enterprises
ODA	Overseas Development Assistance
PCT	Practice for Collaboration of Tax
RBA	Risk-based Approach
SDG	Sustainable Development Goal
StAR	Stolen Asset Recovery Assistance
TIFFs	Tax-motivated Illicit Financial Flows
TOC	Transnational organised crime
UNECA	United Nations Economic Commission for Africa
UNCTAD	United National Conference on Trade and Development
UNODC	United Nations Office on Drugs and Crime
WB / WBG	World Bank / World Bank Group



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ABOUT THE AUTHORS

Kathy Nicolaou-Manias has more than 12 years' experience working on all facets of IFFs on the African continent since her appointment at the Financial Intelligence Centre in South Africa in 2011. As the director of Argent Econ Consult and a freelance consultant she has worked with the EU, UNECA, UNODC, and the World Bank, along with various other development partners. She was the UNECA Regional Economic Advisor on IFFs for the 12-country pilot study (DA11) and has also played a pivotal role in definition and measurement of IFFs through the United Nations Task Force for SDGI 16.4.1. She has developed several risk assessment tools, including the UNODC's Southern Africa Beneficial Ownership Toolkit. Beyond IFFs, she possesses an expansive skill set that spans capacity building, digital identity and payments, social security, labour markets, public financial management, and economic development.

Joelle Traoré is a researcher in international taxation and tax policy, with specific expertise in African systems. She assisted in conducting interviews with stakeholders and compiling several supporting documents for this assignment.

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DISCLAIMER

The terms Illicit Financial Flows (IFFs) and Tax-motivated Illicit Financial Flows (TIFFs) are at times used interchangeably throughout the study. While TIFFs are the main subject of inquiry, many of the sources referred to in this paper refer to the broader term of IFFs so that a clear distinction between the two terms is not always possible.

EXECUTIVE SUMMARY

Illicit Financial Flows (IFFs) involve illegal or illicit financial transfers across borders, such as money laundering, tax abuse, and terrorist financing. They pose a significant threat, especially to developing economies. Such flows lead to revenue losses, particularly in Africa, weakening democratic institutions, decreasing private investments, and escalating inequalities. International organizations like the G20, World Bank, IMF, the European Commission (EC) and the African Union Commission (AUC) are paying keen attention to IFFs and TIFFs, striving to define, address, and mitigate them.

In the Joint Vision for 2030 adopted by political leaders at the 6th European Union-African Union Summit of February 2022, Heads of State stressed their commitment to jointly develop strategic capabilities to fight complex and context-specific IFFs. Following this call, the EU and its Member States have launched a Team Europe Initiative directly contributing to SDG 16.4 of the UN 2030 Agenda. This initiative aligns with global efforts, including the Addis Ababa Action Agenda and AU frameworks, aiming to reduce IFFs from tax evasion, avoidance, corruption, and criminal activities.

PURPOSE OF THE STUDY

- To shed light on the complex realm of IFFs, especially TIFFs.
- To suggest potential interventions, emphasizing the EU's role, to assist Africa in addressing IFFs.

METHODOLOGY

The study uses desktop research and a literature review to take a deep dive into research articles, policy briefs, reports, and other published material to understand Tax Motivated Illicit Financial Flows (TIFFs). A total of 32 semi-structured interviews were conducted with stakeholders from EU member states and the different EU directorates, multilateral organisations, pan-African organisations, Civil Society Organisations (CSOs), the African Union Commission, academic experts and business leaders, to capture a rich spectrum of perspectives. Finally, a number of pilots and case studies were analysed to understand the existing landscape, challenges, and potential solutions.

CHAPTER 1: UNRAVELLING THE DEFINITIONS OF IFFs AND TIFFs

The report delves into the intricate world of Illicit Financial Flows (IFFs) and their link to Tax-motivated Illicit Financial Flows (TIFFs). IFFs, fuelled by corruption, tax evasion, organized crime, and money laundering, undermine public trust, drain resources from sustainable development, and exacerbate poverty. The COVID-19 pandemic and geopolitical conflicts have highlighted the need for effective action to curb IFFs, particularly in societies with high inequalities and limited resources. It is important to note that 65% of IFFs are estimated to be tax-motivated or linked to commercial activities Understanding the interplay between real and monetary sectors is crucial to effectively capture IFFs.

There is no universally accepted definition of IFFs, leading to a spectrum of interpretations. The aim of this report is to identify and propose an approach to IFFs that the European Commission

[1] Tackling Illicit Financial Flows for Sustainable Development in Africa (unctad.org)

(EC),Directorate General International Partnerships (DG INTPA) could use in its strategic and operational interventions to tackle the various forms of IFFs and TIFFs. The intention is to use development cooperation to 'move the needle' on tackling IFFs. Moreover, this report provides insights and recommendations on the role that the EC could play in this space.

Defining IFFs and TIFFs relates to whether tax avoidance is included in the definition. The broad definition encompasses all financial activities, illicit or illegal, undertaken with the intent to minimize tax liability or evade taxation across national borders. However, it poses challenges in distinguishing between illicit and illegal actions, making enforcement intricate. For the purpose of this study, illegal activities are defined as those that breach both the letter and the spirit of the law, while illicit activities relate to those that only breach the spirit of the law. As the law differs across jurisdictions, the distinction between the two concepts is not clear cut when adopting a global perspective on TIFFs.

The narrow definition of IFFs (and TIFFs) focuses on illegal activities including tax evasion. It brings clarity and focus and makes law enforcement possible. Yet, it is criticized for allowing other, broader forms of illicit flows to persist.

It is proposed that the EC takes a developmental approach to the definition of IFFs, which encompasses the broad definition, including intentional tax avoidance aimed at minimizing the tax liability that is abusive in nature, whether illicit or illegal, across national borders. The developmental definition sets the tone for ensuring that all components of IFFs are included, even if they are more difficult to enforce. This approach also connects TIFFs with broader discussions on Sustainable Development Goals (SDGs). It helps raise awareness on the harmful effects of tax evasion and avoidance alike, urging policy makers to take actions to combat both.

CHAPTER 2: THE PROBLEM OF TAX-MOTIVATED ILLICIT FINANCIAL FLOWS (TIFFs)

The measurement of IFFs and TIFFs is a complex task due to various factors such as data availability, institutional roles, and policy priorities, including on data protection and data confidentiality matters. The United Nations Conference for Trade and Development (UNCTAD) and United Nations Office on Drug and Crimes (UNODC) offer different methods to measure different types of IFFs, including TIFFs. A recent estimate by UNCTAD identifies a loss of $88.6 billion annually from IFFs, equivalent to 3.7% of their GDP in Africa alone.[1] These flows are facilitated by weak governance, corruption, political power dynamics, corrupt MNEs and private individuals. MNEs and private individuals exploit double taxation agreements and loopholes in the domestic tax system using complex organisational structures and veils of opacity to move monies from higher tax countries to lower tax destinations or tax havens. The TIFF techniques deployed by these actors are generally very sophisticated and difficult to address by under-resourced government officials with limited institutional capacities and uncoordinated policies. The economic consequences of TIFFs are disproportionately affecting regions with high poverty rates, where they drain resources needed for development. Despite Africa's wealth of natural resources, their management and governance determine whether they become assets or liabilities leading to economic vulnerability.

These illicit flows exacerbate funding shortfalls, making it difficult to invest in critical infrastructure, health, education, and poverty reduction programmes. They also contribute to public debt accumulation, forcing governments to rely on external borrowing. Moreover, they are linked to transnational crime and large-scale political corruption. The secretive nature of these flows, often facilitated by tax havens and complex financial networks, underscore the

[2] A multi-stakeholder initiative

need for transparency and robust governance.

Addressing the associated institutional and legal challenges is complex, with the absence of a universally accepted definition leading to discrepancies in interpretations, affecting regulatory frameworks, law enforcement, and international cooperation. Legal constraints include jurisdictional issues, weak frameworks, and limited enforcement capacity. Cooperation between source and destination countries, beneficial ownership transparency, and civil society are vital for stemming TIFFs.

CHAPTER 3: GLOBAL EFFORTS TO COMBAT IFFs AND TIFFs

Key stakeholders and institutions, including multilateral institutions Civil Society Organisations (CSOs), and International Business Associations, are working towards combatting these flows. The European Commission channels financial support to combat IFFs through African institutions, while the African Union Commission hosts the High-Level Panel on IFFs. International organizations, such as the IMF, OECD, UN and World Bank, work on international standards, capacity-building, and cooperation to combat IFFs. Civil Society Organizations like Transparency International, Diakonia and Tax Justice Network Africa (TJNA), as well as the Extractives Industries Transparency Initiative[2] advocate for policy reforms. International business associations promote transparency and accountability in the private sector. Pilot projects and capacity-building initiatives are underway in Africa by UNECA-UNCTAD to enhance data collection, analysis, and anti-IFF measures. Collaborative efforts, such as the Joint United Nations Development Programme and African Development Bank partnership, aim to empower African nations in their fight against IFFs. The EU plays a vital role in promoting international cooperation and policy dialogue on IFFs, supporting technical assistance and capacity-building in developing countries, aligning with international tax transparency standards, and championing transparency and accountability in the global financial system. The EC's multifaceted projects in Africa address a wide spectrum of IFF-related issues, promoting regional and international cooperation, strengthening financial systems, and combating transnational organized crime and terrorism financing.

CHAPTER 4: STRATEGIES AND POLICIES TO CURB TIFFs

African nations face challenges in combating TIFFs, including inadequate digital tools and human capacity, lack of political will, data issues, and poor coordination. To successfully counter TIFFs, African governments must focus on data enhancement, robust regulatory frameworks and effective implementation of anti-corruption measures, as well as regional and international cooperation. Partnerships with international bodies like the EU are crucial. Political will and capacity development across operational, human, and system dimensions are indispensable.

Addressing TIFFs is a multi-disciplinary, multi-jurisdiction, multi-agency, and multi-policy approach relying on a number of interventions to curb IFFs, including:

- Risk assessments
- Beneficial ownership transparency and registers
- FATF 40+ recommendations including Know Your Customer (KYC) and Enhanced Due Diligence (EDD)
- Tax transparency, the exchange of information and BEPS processes
- Social network analyses
- Lifestyle audits

- Big data analytic and data interoperability
- Artificial Intelligence (AI) and Machine Learning (ML), and
- Cooperative governance and information sharing.

Efforts to combat TIFFs integrate measures enhancing transparency and strategies into broader regional and national policies. The EC's high policy priority, the G20's leadership, and the OECD's ongoing efforts are instrumental in addressing commercial tax irregularities leading to TIFFs. Thus, to effectively combat IFFs, African countries need to leverage various sophisticated tools and harmonise their efforts. This requires strong cooperative governance, enhanced data analysis capabilities, and effective information sharing both domestically and internationally. The EU can play a critical role in supporting these efforts through capacity building, advocacy, and financial support.

CHAPTER 5: RECOMMENDATIONS FOR THE EU COMMISSION

The EC is focusing on transformational interventions to combat TIFFs, tax avoidance and tax evasion. Three key focus areas are recommended: strategic intermediation, strengthened cooperation, collaboration and coordination, and innovative capacity building for the 4th and 5th industrial revolution.

Strategic intermediation involves promoting catalytic interventions through partnership, *championing tax and customs reform and transparency*. As this study shows, seeking strategic partnerships in the area of customs could benefit from the progress in the tax arena, learning from the implementation of tax transparency standards, including the automatic exchange of information, which could go a long way to address tax evasion and avoidance from trade or trade-based money laundering. This could be achieved through partnerships with the World Customs Organization (WCO), the AU, and other multilateral institutions active in the field, such as UNCTAD.

Strengthened collaboration and leading by example are equally important. Promoting tax transparency reforms and engaging in the UN Tax Convention and other global tax policy reforms including those related to the automatic exchange of information are critical in curbing TIFFs. A unified front driven by the EC, EU businesses, African governments, and civil society can set a robust precedent for transparent and ethical financial and tax activities.

The EU should also be a frontrunner by integrating the new global norms into EU law. The EC plays a pivotal role in the global fight against IFFs and TIFFs by continuing to engage in international taxation reform efforts, supporting multilateral initiatives, collaborating and financially supporting African countries through technical assistance to strengthen their internal regulatory frameworks.

Innovative capacity building (and technical assistance) is essential for addressing IFFs and TIFFs in Africa. This can be achieved through bespoke projects that leverage digital technologies, big data, intelligence, social network analyses, drone technologies, and distributed ledger technologies. Leveraging cutting-edge technologies, data analytic, and continuous training programmes can empower institutions and professionals to prevent, detect, and investigate IFFs and TIFFs, empowering tax and customs authorities, central banks, law enforcement agencies, and financial intelligence units.

In conclusion, the EU can share best practices with African nations, drawing on the challenges experienced, and lessons learned by the EU. By leveraging existing EU initiatives, African countries can gain access to valuable resources, technical assistance, expertise, and knowledge.

The ongoing commitment between the EU and the AU is paramount and through strengthened cooperation and collaboration, enhanced frameworks, and shared learnings, it is possible to pave the way towards a future where IFFs are significantly curbed.

OBJECTIVE OF THE STUDY

The aim of this report is to determine the EC's approach to IFFs, and more specifically TIFFs, with the intention to 'move the needle' on development cooperation when tackling IFFs. Moreover, this report provides insights and recommendations on the role that the EC together with its member states and African partners can play in this space. Determining the approach to IFFs and TIFFs for the European Commission's (EC) Directorate General for International Partnerships (DG INTPA) aids in **shaping the direction, scope, and impact of development cooperation interventions** to combat IFFs more broadly and on the African continent more specifically. The EC's development cooperation should have a **transformational impact**, contributing to the United Nation's 2030 Sustainable Development Agenda which aims to reduce IFFs, and transnational organised crime (TOC) as reflected in Sustainable Development Goal (SDG) target 16.4: "by 2030, significantly reduce illicit financial flows and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime".

STRUCTURE OF THE REPORT

The first chapter offers an analysis of the definitions of IFFs and underscores the challenges inherent in the broad and narrow approaches to IFFs. Chapter two reviews the impact of the problem and addresses the measurement approach and challenges of TIFFs. Chapter three focuses on the role of the international community, highlighting the EC's proactive stance in addressing IFFs and TIFFs across the broad value chain, providing assistance, particularly to African countries. Chapter four focuses on policy instruments and interventions to curb TIFFs, enhancing transparency in financial transactions, fortifying regulatory frameworks, and fostering international cooperation. Additionally, the chapter provides examples of successful measures to combat TIFFs while elucidating the challenges associated with their implementation. Finally, chapter five provides recommendations for addressing TIFFs more broadly and specifically what the EC can do to combat TIFFs and corruption. These recommendations underscore the need for a clear approach to conceptualising and addressing TIFFs, emphasizing transparency, strategic intermediation while promoting collaboration, as a foundational principle in combating these illicit activities.

METHODOLOGY OF THE REPORT

The methodology underpinning this report is robust. It encompasses thorough literature reviews, semi-structured interviews with stakeholders ranging from EU Member States to United Nations agencies, the OECD, World Bank, International Monetary Fund, Global Financial Integrity (GFI), private sector representatives, civil society actors, various EU Institutions, partner countries and African stakeholders, including the African Union Commission (AUC) and regional economic commissions. The culmination of these efforts lies in a comprehensive review of pilot study country cases and interventions initiated by UN and donor partners, followed by meticulous analysis, conclusions, and a set of actionable recommendations.

Chapter 1

UNRAVELLING THE DEFINITIONS OF ILLICIT FINANCIAL FLOWS AND TAX-MOTIVATED ILLICIT FINANCIAL FLOWS

> “Illicit financial flows represent a double theft: an expropriation of funds that also robs billions of a better future. This situation undermines trust in public ethics, drains resources from sustainable development and maximizes poverty.[3]

3 https://www.un.org/africarenewal/magazine/july-2021/tackling-illicit-financial-flows-matter-survival-africas-development

1.1 Introduction

In a world marked by global interconnectedness, the illicit movement of money across international borders has emerged as a formidable challenge. These clandestine Illicit Financial Flows (IFFs) encompass a wide spectrum of illegal practices. Picture drug cartels employing trade-based money laundering techniques, importers skirting taxes through misinvoicing, corrupt officials hiding behind anonymous shell companies, human traffickers discreetly ferrying cash, and terrorist organizations channelling funds to fuel their dark agendas.

These crimes haven't gone unnoticed; global heavyweights like the G20, IMF, Organisation for Economic Cooperation and Development (OECD), FATF, World Bank, the European Commission (EC), African Development Bank (AfDB), United Nations Economic Commission for Africa (UNECA), African Union (AU), and Bank of International Settlements (BIS) and the UN 2030 Agenda have all turned their focus to IFFs.

Tax-motivated Illicit Financial Flows (TIFFs) siphon off substantial annual tax revenues predominantly from developing countries, hitting African nations particularly hard, resulting in weakened democratic institutions, reduced private investments, and heightened inequalities. Efforts to combat TIFFs span the globe, ranging from global initiatives to national strategies and bilateral cooperation. The EC, together with its member states, assume a proactive role in combatting TIFFs and extending support to affected countries, especially in Africa.

The study seeks to establish priorities for targeted, transformational development cooperation interventions, such as the Team Europe Initiative (TEI) on fighting IFFs and Transnational Organized Crime (TOC) in Africa. With a laser focus on the EU's potential approach to tackling TIFFs, the report provides actionable insights that can significantly aid African countries in their battle against these pervasive issues.

1.2 IFF components

Before we can define IFFs, it is necessary to understand how they occur, noting that they have two sides to them: a real economy transaction (comprising of physical goods or services) and a monetary transaction (or the movement of money). When goods and services are produced within the illegal economy, the proceeds generated are an illicit flow, which is unobserved, unreported and unrecorded in the formal economy and therefore in the national accounts (or the Balance of Payments (BOP)), hence their clandestine nature.

These illicit proceeds can be laundered through the formal monetary sector using the financial, retail and real estate sectors of the economy. On the other hand, legitimate economic activities can transition into illicit proceeds through for example, tax evasion or tax avoidance, which represents money shifting into the illicit monetary sector by deploying strategies like deliberate transfer mispricing or trade misinvoicing used by multi-national corporations or enterprises (MNCs or MNEs).

The table below illustrates activities that generate IFFs from legally and illegally earned sources.

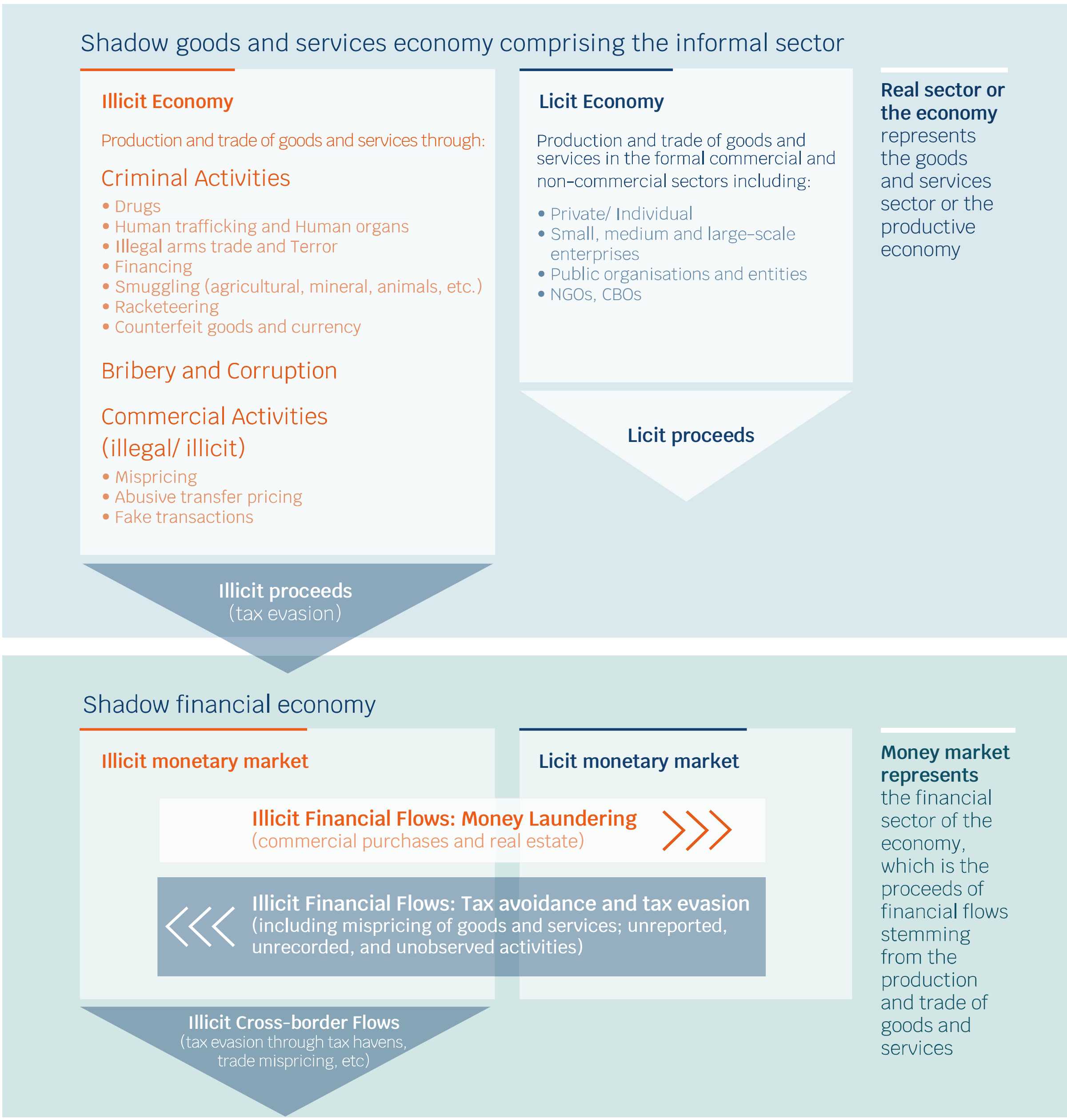
TABLE 1: ACTIONS GENERATING IFFs

		SOURCE OF EARNINGS	
		Money **legally** earned	Money **illegally** earned
ACTORS INVOLVED	Criminal organisation		• Drug trafficking • Human smuggling
	Individuals	• Tax evasion • Evasion of currency controls	• Corruption • Embezzlement
	Corporations	• Tax evasion • Profit shifting	• Violation of intellectual property rights • Illegal exploitation of natural resources

Source: World Development Report 2017 Team

The figure below explains the interplay between the real and monetary sector and the licit and illicit economies, explaining how IFFs occur.

FIGURE 1: THE RELATIONSHIP BETWEEN THE REAL AND MONETARY SECTORS OF THE ECONOMY

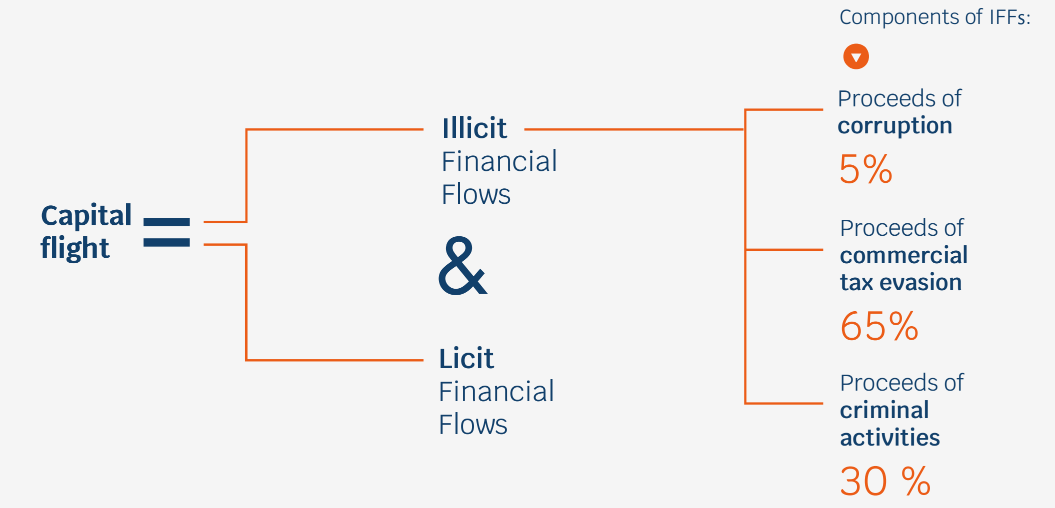


Source: K. Nicolaou, UNECA, 2018.

One of the earliest definitions of IFFs, developed by Global Financial Integrity (GFI), states that they occur when monies, funds or flows are illegally earned, transferred, or utilised. Somewhere at its origin, movement, or use, the money broke laws and hence it is considered illicit. The Thabo Mbeki High Level Panel Report on IFFs (2015) determined that IFFs are made up of three components, namely: commercial activities arising from business-related activities (such as hiding wealth, evading or aggressively avoiding tax or base erosion and profit shifting practices); criminal activities; and corruption. The commercial activities are predominantly TIFFs and accounted for as much as 65 percent of total IFFs, criminal activities were approximately 30%, and corruption, the largest lever of IFFs, was estimated at approximately 5%.[4].

[4] Kar, D., and D. Cartwright-Smith. (2010). Illicit financial flows from Africa: Hidden resource for development. Washington, D.C.: Global Financial Integrity. www.gfip.org

FIGURE 2: MAIN COMPONENTS OF ILLICIT FINANCIAL FLOWS



Source: Kar and Cartwright-Smith, 2010

Before we attempt to understand TIFFs, it is important to clarify a few key concepts: tax planning, tax avoidance and tax evasion and their illicit and illegal elements. The table below illustrates the elements of the three concepts.

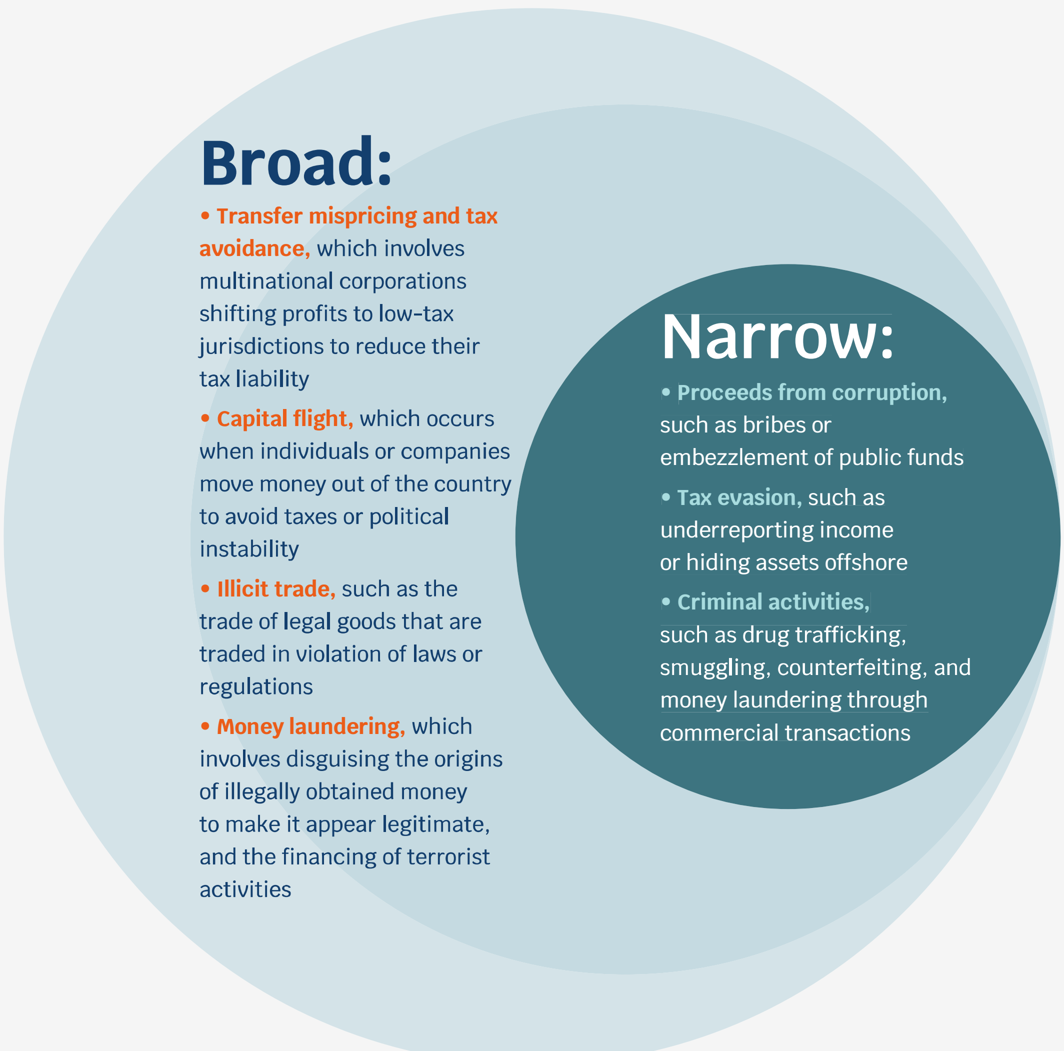
TABLE 2: THE DIFFERENCE BETWEEN TAX PLANNING, TAX AVOIDANCE AND TAX EVASION

TAX PLANNING	TAX AVOIDANCE	TAX EVASION
• Legal	• Illicit	• Illegal
• Ethical	• Unethical	• Unethical
• Complies with the spirit and letter of the law	• Complies with the letter of the law but not the spirit of the law	• Does not comply with the spirt nor the letter of the law
• No intention to defeat the legal spirit of the law	• Takes advantage and benefits from the loopholes in the law	• Misstatement and falsification of accounts, incomes and expenses
• No litigation in courts	• Leads to litigation in courts	• Leads to litigation in courts
• No penalty or prosecution	• No penalty or prosecution	• Attract penalty or prosecution
• Good for national and socio-economic development, creating employment, contributing to growth etc.	• Moderate probability that it does not benefit national and socio-economic development	• High probability that it does not benefit national and socio-economic development
• Promotes professionalism and strengthens economic and political situation	• Encourages bribery and weakens economic and political situation	• Encourages bribery and weakens economic and political situation
• Planning before tax liability arises	• Planning for avoidance before tax liability arises	• Involves avoidance of payment of tax after the liability of tax has occurred

1.3 Definitions of IFFs and TIFFs

At the heart of the debate on IFF and TIFF definitions lies the inclusion of illicit elements and in particular tax avoidance. The area of tax avoidance, is complex, as outlined in Table 2 above, and typically includes situations where a person reduces or eliminates tax through a transaction or a series of transactions that comply with the letter of the law but violate the spirit and intent of the law. Tax avoidance is therefore key to have a more comprehensive definition of IFFs which encompasses taxpayers' course of action against the spirit of the law. The figure below illustrates the elements or flows that are included in the broad and narrow definitions; however, each definition is nuanced in terms of language, creating subtle or stark differences in the definition.

FIGURE 3: BROAD VERSUS NARROW DEFINITION OF IFFs[5]



Source: Author's own

[5] Money laundering is included in both the narrow and broad definition, depending on its legal status in countries. Not all countries deem money laundering to be a predicate offense. If it is not a predicate offense it would be included in the broad category and where it is a criminal or predicate offense, it has been included in the narrow definition, A predicate offense is a crime that is a component of a more serious crime. The specific list of predicate offenses varies by country. For example, the European Union's sixth AML Directive defines and standardizes 22 such offenses for money laundering in all its member states.

There are a number of definitions of IFFs, which are listed in the table below:

TABLE 3: DEFINITIONS OR APPROACHES TO IFFs

INSTITUTION	DEFINITION TYPE	DEFINITION
Illicit Motivations (Cobham)	Broad	Tax Justice Network's (TJN) definition considers various illicit motivations, including market/regulatory abuse, tax abuse, abuse of power, and proceeds of crime ***"The (Oxford) dictionary definition is: "forbidden by law, rules or custom." The first three words alone would define 'illegal', and this highlights an important feature of any definition: illicit financial flows are not necessarily illegal. Flows forbidden by "rules or custom" may encompass those which are socially and/or morally unacceptable, and not necessarily legally so."***
Outcomes Perspective	Broad	Blankenburg and Khan view IFFs as flows that potentially harm economic development, considering both direct and indirect effects within a specific political economy. ***"An international flow of money that has a negative impact on an economy when all direct and indirect effects in the context of the specific political economy of the society are taken into account."***
Global Financial Integrity	Broad	GFI's Chief Economist, Dev Kar, defines IFFs as money that is illegally earned, transferred, or utilized, involving a breach of laws at some stage. ***"Illicit flows involve capital that is illegally earned, transferred, or utilized and covers all unrecorded private financial outflows that drive the accumulation of foreign assets by residents in contravention of applicable capital controls and regulatory frameworks. Hence, illicit flows may involve capital earned through legitimate means such as the profits of a legitimate business. It is the transfer abroad of that profit in violation of applicable laws (such as non-payment of applicable corporate taxes or breaking of exchange control regulations) that makes the outflows illicit."***
AU/UNECA HLP IFF Definition	Broad	This definition sees Illicit financial flows (IFFs) as money that is illegally earned, transferred or utilized1 . These funds typically originate from three sources: commercial tax evasion, trade misinvoicing and abusive transfer pricing; criminal activities, including the drug trade, human trafficking, illegal arms dealing, and smuggling of contraband; and bribery and theft by corrupt government officials.
UN SDG Definition	Broad	To measure SDG Target 16.4.1, a task force identifies four main types of IFFs, including tax and commercial malpractices, corruption, theft-type activities, terrorism financing, and illegal markets. ***"IFFs can be generated by many illicit tax and commercial practices, illegal markets, corruption or exploitation."*** ***The statistical definition of IFFs is as follows: "Financial flows that are illicit in origin, transfer or use, that reflect an exchange of value and that cross-country borders."***
IMF	Hybrid / Mixed	The IMF conceptualises IFFs as the movement of money across borders that is illegal in its source, transfer, or use. It also acknowledges concerns about flows associated with tax avoidance. Instead of IFFs, the IMF refers to Illicit and tax avoidance related financial flows (ITAFF). ***"Illicit financial flows refer to the movement of money across borders that is illegal in its source (e.g., corruption, smuggling), its transfer (e.g., tax evasion), or its use (e.g., terrorist financing).*** ***For decades, the IMF has played a key role in international efforts to combat these opaque and often destabilizing transfers. It also has longstanding concerns with flows that are not strictly illegal but are associated with tax avoidance."***

4

INSTITUTION	DEFINITION TYPE	DEFINITION
OECD	Narrow	***There are various definitions of illicit financial flows, but essentially they are generated by methods, practices and crimes aiming to transfer financial capital out of a country in contravention of national or international laws.[source]*** The OECD/G20 Base Erosion and Profit Shifting (BEPS) Project, which was conceived (broadly) in the aftermath of the 2008 global financial and economic crisis, underpinned the need to use a broader definition of IFFs/TIFFs. The OECD/G20 BEPS Reports emphasised that, even though most of the BEPS structures, strategies and practices are technically legal and rely on carefully planned interactions including mismatches between a variety of tax rules and principles, the overall effect of this type of tax planning is the erosion of the tax base in countries in a manner that is not intended under domestic tax policies. As a result, the BEPS process acknowledged that the international tax system faced challenges beyond tax evasion, which can assist in stemming TIFFs. Hence, the BEPS framework targeted to deter illicit practices.
World Bank	Narrow	The World Bank's definition focuses on capital movement associated with illegal activities, such as corruption, smuggling, and financing organized crime. ***"The World Bank Group recommends focusing on flows and activities that have a clear connection with illegality."***

Turning to TIFFs specifically, tax evasion entails a clear violation letter of the law, while tax avoidance entails leveraging both domestic and international tax rules (including existing loopholes) to gain advantages that deviate from the intended spirit of these laws and lawmakers' intentions in countries.

TIFFs refer to the illegal or illicit movement of money across borders related to tax evasion and/or tax avoidance, depending on whether the narrow or broad definition is applied. This can include activities such as transfer mispricing, where multinational corporations manipulate prices between their subsidiaries to shift profits to low tax jurisdictions or use tax havens to hide assets and income from tax authorities.[6]

Drawing from UNODC and UNCTAD (2020), one can define TIFFs as financial flows that are tax motivated and illicit in origin, transfer or use, that reflect an exchange of value and that cross-country borders. TIFFs can be classified into 4 groups[7]:

- **Trade misinvoicing:** the deliberate misrepresentation of the value, volume, and/or type of commodity in an international commercial transaction of goods or services
- **Tax evasion (either by a company or an individual)** represents under-reporting of income for the purposes of CIT or personal income tax
- **Tax avoidance (either by a company or an individual; e.g., profit shifting by multinational enterprises)** that in that it complies with the letter of the law is more difficult to distinguish from legitimate tax planning or optimisation
- **Other illegal practices that are tax-motivated: smuggling, where indirect/consumption taxes -e.g., customs duties, excise duties, VAT- are avoided, if not evaded**

The four above typologies quantitatively capture the most important forms of TIFFs as per

[6] UNCTAD (2020). Curbing Illicit Financial Flows to Finance Sustainable Development in Africa. Policy Brief No. 82. Available at: https://unctad.org/system/files/official-document/pb2020d82_en.pdf
[7] *Ibid*

international organisation reports and review articles by the OECD (2014)[8] and/or Brandt (2020)[9]. The typology above also clearly distinguishes between the legality of the underlying activities and accordingly differentiates between tax evasion and tax avoidance, the inclusion of which has been a contentious, and largely an unsettled issue when defining IFFs or TIFFs.

The broad definition includes both tax evasion and avoidance, generating a source of these disputes as it is often very difficult for tax and customs authorities to identify and claw-back these illicit flows. The narrow views focusing on tax evasion are criticized for their limited scope, allowing illicit flows to persist. Each approach carries unique implications and considerations for practical implementation.

TABLE 4: BROAD AND NARROW DEFINITIONS OF TIFFS

	Broad Definition	Narrow Definition
Concepts included in the definition	Tax evasion and tax avoidance	Tax evasion only
Implications and Considerations: Advantages	• **Comprehensive Scope:** This definition encompasses both tax avoidance and tax evasion, acknowledging the multifaceted nature of TIFFs. • **Global Cooperation:** Implementing this definition necessitates international cooperation due to the cross-border nature of TIFFs. • **Leading by example:** The EU could use the broader definition, setting the tone to reform legislation, rendering tax avoidance prohibited by the letter of the law.	• **Clarity and Focus:** This definition offers clarity by targeting illegal tax evasion activities, simplifying the implementation of punitive measures. • **Simplified and Easier Enforcement:** Focusing on tax evasion streamlines law enforcement efforts as it centres on clear violations of existing tax laws. Since these are illegal, they are easier to enforce and prosecute by tax, customs and law enforcement authorities.
Implications and Considerations: Limitations	• **Challenges in Enforcement:** Differentiating between tax avoidance and tax evasion can be intricate, requiring robust legal frameworks and international agreements. Illicit cases, where letter and spirit of the law are to be distinguished, are hard to enforce are hard to enforce by many country governments. • **Prosecution of illegal activities only:** While prosecution of an illegal activity, i.e., activity violating the very letter of the law, may be straightforward, this is not the case with illicit activity that can be in line with the letter of the law but contrary to its spirit. Country governments and competent authorities do not have adequate tools to prosecute effectively the latter illicit activities.	• **Limited Scope:** This narrower definition excludes tax avoidance missing some practices that erode tax revenues, erode the base and shift profits.

To summarise, a point of consensus is yet to be reached among researchers, activists, and policymakers in terms of defining IFFs and TIFFs, resulting in many organisations using their own workable definition. “Illicit” by definition is broader than “illegal.” Some multi-lateral institutions, pan-African and subject matter authorities, interested in supporting the broader scope of IFFs include “illicit” and therefore tax avoidance into their definition (e.g., UN agencies, CSOs, etc.). Others, especially country governments and government entities that operate in the legal compliance area such as law enforcement authorities, the financial intelligence centres

[8] OECD (2014). Illicit financial flows from developing countries: Measuring OECD responses. OECD.
[9] Brandt, K. (2020). Illicit financial flows and the Global South.

(guided by FATF 40+ recommendations), tax and customs authorities apply the much narrower definition focusing on the proceeds of crime. **It is important to note, that what is currently a broad definition today, could in fact become a narrow one, when tax avoidance is rendered illegal in the tax law , i.e., it is illegality is set by law prohibited by its letter.** Currently, on the African continent, Kenya stands out as a positive example of a country that rendered tax avoidance illegal in the above sense.[10]

1.4 Proposed EC Approach

The choice between a broad or narrow TIFFs definition depends on the goals of the EC and the willingness and capacities of country governments to implement and enforce measures to combat these financial flows. In practice, a comprehensive approach that addresses tax avoidance and evasion could be considered to effectively combat TIFFs while taking into account the specific challenges faced by countries. Collaboration with international bodies and support from developed nations may also be crucial in implementing any definition effectively.

It is important to balance the imperative of considering individual country contexts with the objective of maintaining a uniform application where the concept presents a complex dilemma for entities like the EU. It's crucial to acknowledge that the EU engages with a wide array of nations, each possessing their own distinctive legal and economic framework. This inherent diversity poses a formidable challenge in devising a one-size-fits-all approach.

Nonetheless, when it pertains to the application of a concept such as TIFFs, consistency is paramount. While it is imperative to take into consideration the distinct circumstances and legal systems of each country, there must be a measure of standardization in how the concept is wielded to ensure equity, transparency, and the efficient application of the definition. A lack of uniformity or variations in interpretation depending on the counterpart can engender confusion, create legal loopholes, or even lead to potential misuse.

Hence, while acknowledging the necessity for adaptability in addressing the multifaceted challenges posed by TIFFs in diverse nations, the EU should strive for a coherent and principled approach. Such an approach would safeguard the integrity of the definition and guarantee its consistent application across all relevant contexts, facilitating international collaboration and enhancing the global response to curb TIFFs.

1.4.1 A developmental approach to the definition of IFFs

The developmental approach encompasses the broad definition, including intentional tax avoidance aimed at minimizing the tax liability, whether illicit or illegal, across national borders. The developmental definition sets the tone for ensuring that all components of IFFs are included, even if they are more difficult to enforce. It helps raising awareness of the harmful effects of tax evasion and tax avoidance on economies of developing countries, urging policy makers to foster actions to combat them.

The Comprehensive Impact: A broader definition encourages to see the bigger picture and avoids separating the issue area of IFFs from discussions related to the Sustainable Development Goals (SDGs). In fact, measures to combat IFFs can actively contribute to the broader developmental agenda by calling for further action to ensure that everyone pays their fair share, particularly large international companies, and wealthy individual. This approach is broadly shared by developing countries, notably those on the African continent. By agreeing on a similar approach, it makes it easier to work together to combat IFFs.

[10] https://www.kra.go.ke/news-center/blog/1869-tax-avoidance-and-tax-evasion-a-tale-of-two-errors#:~:text=The%20Act%20further%20allows%20the,an%20offence%20and%20therefore%20illegal.

Holistic Integration and Future Endeavours: In essence the broad definition can be seen as a call to address TIFFs in a comprehensive way. It connects discussions about IFFs with illegal as well as illicit taxation matters, recognizing their close relationship. This sets the stage for future efforts that go beyond national borders, fostering a collective understanding and coordinated action against illicit financial flows.

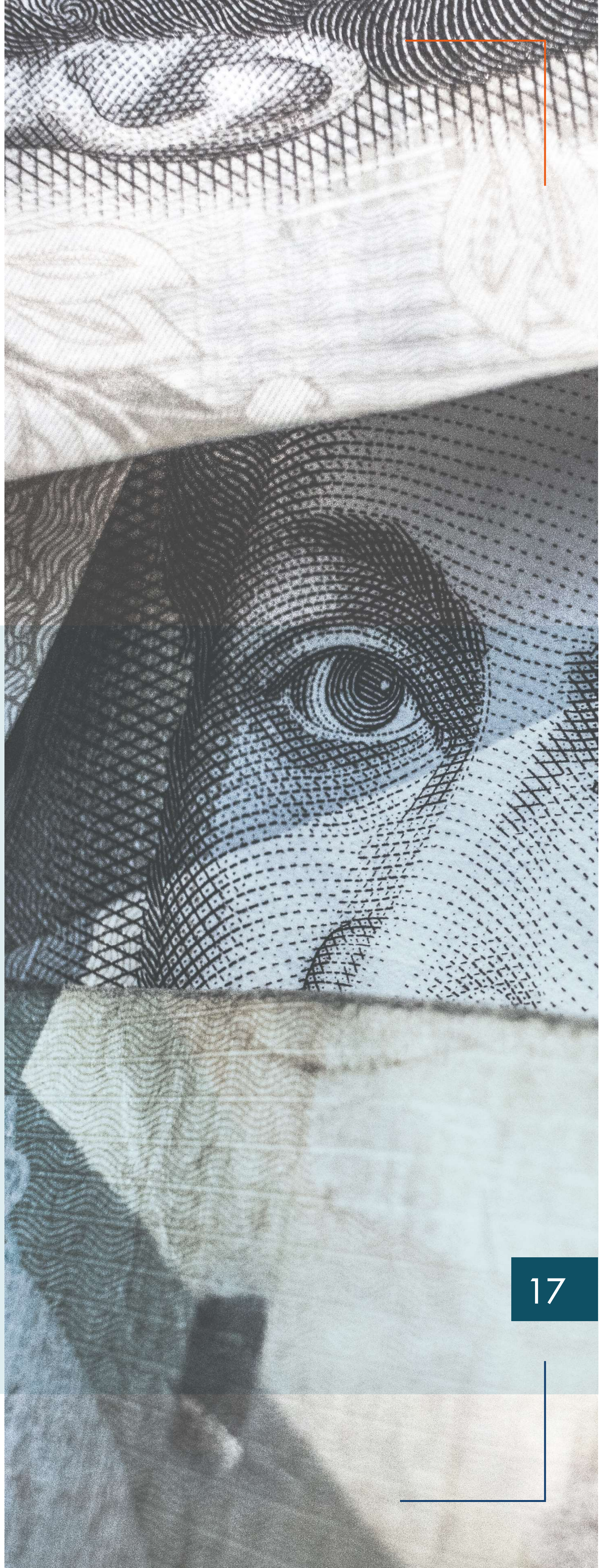
Capacity Building and Global Cooperation: Beyond just discussions, the broader definition emphasizes the need for institutions to enhance their skills, expertise, tools and knowledge to address IFFs. It's a complex issue that requires integrated thinking to account for the interconnections between different forms of financial misconduct. This approach also aligns with the global effort to reduce harmful tax competition by including tax avoidance as part of IFFs.

Dedicated streams of work with tailored policies to mitigate them: Bringing tax evasion and tax avoidance under the broad IFFs umbrella comes with the need to define them clearly, under different workstreams. This allows for the adoption of different mitigation measures, tailored for varying modalities of tax abuse in their respective jurisdictions where the boundaries of legality might differ.

In summary, the developmental approach offers a broad, overarching understanding of TIFFs, encompassing both illicit and illegal financial activities, reflecting the complexities and nuances of how individuals and entities engage in activities to minimize their tax liabilities. This broad perspective acknowledges the diverse motivations and intentions behind such actions, including those with potentially ambiguous legal implications. It is used and operationalized, for instance, by the UN agencies for their measurements of IFF flows and has already been adopted in the frame of the TEI on IFFs and TOC in Africa. In its practical application, the approach provides a more focused perspective by specifically addressing the tax-motivated financial flows that are both illegal and illicit in nature, emphasizing the transnational aspect and the exchange of value. This definition aids in quantifying and assessing the magnitude of the issue, enabling policymakers and law enforcement authorities to better comprehend the scale of tax-related IFFs and focus their action towards the riskiest tax-related areas.

Chapter 2

THE PROBLEM OF TAX MOTIVATED ILLICIT FINANCIAL FLOWS



> “Every year the developing world loses staggering amounts of its wealth to corruption, tax evasion and money laundering, which could help to fill the shortfall for funding sustainable development.[11]

11 Transparency International (2015). “Curbing IFFs to unlock a sustainable future”, Transparency international Working Paper #1, 2015.

2.1 Rippling consequences: How IFFs and TIFFs impact Africa

The COVID-19 pandemic and the Russian-Ukrainian conflict have unveiled critical gaps in achieving the 2030 Sustainable Development Goals (SDGs), notably in generating domestic resources for economic, social, and environmental investment. Even before these crises, factors like excessive debt, weak investment, wage stagnation, and job shortages posed challenges to the global economy.

IFFs are intricate and include money laundering, tax evasion, tax avoidance, corruption, black markets, terrorism financing, and exploitation-related activities such as human trafficking and modern slavery. The impacts of IFFs are undeniable: they deplete developing countries' financial resources. Measuring these impacts and tracking progress is challenging due to the lack of consensus on IFF definitions and measurement methods. Nonetheless, there's a consensus within the development community that IFFs are harmful, draining vast sums of monies from the developing world, weakening states, fuelling corruption and violence, hindering the rule of law, deterring investment, and depriving the formal economy of resources for development. IFFs impact both developing and developed countries, hindering inclusive recovery, economic transformation, and green policies. Aside from the staggering losses, the inability to keep up with internationally agreed standards and practices (such as FATF standards, BEPS practices, etc.) limits countries' access to global capital markets and financial systems, worsening trade relations and the investment climate.

Addressing IFFs and TIFFs presents a complex challenge deeply entrenched in the global political and economic landscape. This complexity is exacerbated by factors such as weak governance, corruption, and power dynamics, all of which foster the facilitation of these illicit flows. Developed nations play a pivotal role in enabling TIFFs through policies like tax treaties and corporate tax structures, creating opportunities for tax manipulation, particularly detrimental to developing countries.

The African continent has approximately 41% of the population living below the international poverty line of $1.90 per day in 2015.[12] In 2022, 20 African countries recorded a GNI per capita below $1,135 U.S. dollars, being classified as low-income economies.[13] The average growth rate for the African continent between 2000 and 2018, estimated at an average of 4.7% per year.[14] However, despite this relatively high growth rate, poverty levels have remained high.[15] In 2022, the Gross Domestic Product (GDP) per capita in Africa reached USD 2,15[16], the highest value since 2015[17], however, this level was still lower than the 2014 level of USD 2,316 U.S. dollars.[18] Sub-Saharan Africa had a lower GDP per capita of USD 1,502 U.S. dollars in 2020.[19] Seychelles had the largest GDP per capita in Africa as of 2022 at USD 20,300.[20] Furthermore, the continent's heavy reliance on natural resources presents vulnerabilities.

Recent evidence highlights that abundant natural resources can become a challenge for the countries' governance structures. Extractive industries reshape political, social, and economic dynamics. Effective management is fundamental to enhancing state and human security and fostering inclusive economic development.

2.1.1 Approaches to measuring the scale of TIFFs in Africa

One of the issues preventing countries to grow sustainably and harness their wealth is the loss of domestic financial resources in the form of IFFs. Measuring the precise scale and growth of

[12] World Bank Data website available at https://data.worldbank.org/topic/poverty?locations=ZA&view=chart
[13] Statista website available at https://www.statista.com/statistics/1290903/gross-national-income-per-capita-in-africa-by-country/
[14] DW website available at https://www.dw.com/en/africa-more-poverty-despite-economic-growth/a-52840817
[15] Ibid.
[16] Statista website available at https://www.statista.com/statistics/1300864/gdp-value-per-capita-in-africa/
[17-20] Ibid.

these flows is a formidable task due to their clandestine nature, thus the available estimates suffer from the thin underlying data quality.

"Between 1980 and 2018, sub-Saharan Africa received nearly $2 trillion in foreign direct investment (FDI) and official development assistance (ODA), but emitted over $1 trillion in illicit financial flows.[21]" According to the GFI[22] report released in March 2020 analysing trade-related IFFs from 2008 to 2017, developing and emerging economies lost USD 8,7 trillion in IFFs, measured as the sum of the value gaps in trade between 135 developing countries and 36 advanced economic for that period.[23] By measuring the flows between all developing and the top most developed countries, it assumes that IFFs only flow from developing countries to developed countries. For Sub-Saharan Africa, these flows amounted to USD 272.1 billion from 2008 to 2017, or an average USD 27.2 billion per annum for the same period. While this only represents 3,7 percent of total IFFs (associated with trade) it represents an alarming 17,8 percent of total trade for the region.[24] UNCTAD in contrast measures the bilateral flows between each developing country and its trading partner regardless of whether it is a developing or developed country. It is evident that IFFs are prevalent between developing countries and are driven by several factors including more favourable money laundering destinations, tax havens or secrecy destinations, exploiting export subsidies or subverting import taxes and quotas to mention a few. It estimates IFFs in Africa at USD 88.6 billion per annum, with TIFFs accounting for between USD 30 and 50 billion[25].

While these figures offer an approximation to the scale of the problem, more recent data published by UNCTAD/UNODC show that there is need for investment into improving data quality to obtain more accurate estimates. Particularly worrying is the fact that, as of 2020, only 45 out of 53 African countries provide data to the UN International Trade Statistics Database (UN Comtrade) in a continuous manner allowing trade statistics to be compared over time[26]. The UN Task Force on the Measurement of TIFFs has been working on the definition as well as on the methodologies to measure IFFs for SDG 16.4.1, focusing on both the measurement of TIFFs and on black markets. Thus, significant progress has been made in this regard, with UNECA-UNCTAD completing a 12-country pilot from Africa, in mid-2022, which aimed to build capacity on the measurement of IFFs. These pilots included the establishment of Inter-Agency Task Teams, Working Groups or Sub-Working Groups to address IFFs. This project has been extended to include the development of a coherent policy agenda across all UN regional bodies. As a consequence, on the African continent, only 4 countries are being supported to deepen the work on TIFF measurement while developing a policy framework to curb IFFs. Unfortunately, illicitly acquired financial flows that are channelled out of the continent continue to pose a development challenge to the region, as they remove domestic resources that are crucial for the continent's development.

Estimates on IFFs and TIFFs vary by methods and data used have been perceived to be exaggerated on the upper-end. The UNCTAD/UNODC statistical methods have the merit of bringing a solid framework for IFFs measurements. For instance, the use of OECD offshore wealth (profit shifting) method using Voluntary Tax Compliance (VTC) declarations[27] in South Africa have led to estimates about three times lower than those published 2015 by the Mbeki report[28]. However, it is important to note that the VTC method estimates offshore wealth for the individual, while

[21] Signe, L., Sow, M. and P Madden (2020). Illicit Financial Flows in Africa: Drivers, Destinations and Policy Options. Policy Brief. Illicit-financial-flows-in-Africa.pdf (brookings.edu)

[22] While this method is often contested, trade mis-invoicing is the first method recommended by UNCTAD when measuring IFFs. The GFI method is amended.

[23-24] Global Financial Integrity (2020). Trade-Related IFFs in 135 Developing Countries: 2008-2017. https://gfintegrity.org/report/trade-related-illicit-financial-flows-in-135-developing-countries-2008-2017/

[25] Tackling Illicit Financial Flows for Sustainable Development in Africa (unctad.org)

[26] Africa could gain $89 billion annually by curbing illicit financial flows | UNCTAD

[27] OECD (2022) Assessing Tax Compliance and Illicit Financial Flows in South Africa available at Assessing Tax Compliance and Illicit Financial Flows in South Africa | en | OECD.

[25] United Nations Economic Commission for Africa (2015). Illicit financial flows: report of the High Level Panel on illicit financial flows from Africa. Addis Ababa. © UN.ECA.(available at https://hdl.handle.net/10855/22695)

the Partner Country Method (PCM) approach used in the Mbeki report, measures corporate transfer mispricing, misinvoicing and even counterfeit goods. This estimate is for goods only and excludes services, where significant transfer mispricing occurs. Figure 5 below illustrates the overlaps between the different methods. Moreover, UNCTAD is currently reconciling the various estimates to come up with a comprehensive 'single' measure of IFFs for SDG 16.4.1. That said, there is still noise in data used the PCM measurement, which requires data to be reported more regularly, accurately, and consistently, to ensure their comparability across jurisdictions, enabling targeted and effective policy interventions.

Figures 4a and 4b provide estimates of TIFFs using the PCM + methodology that estimates trade misinvoicing by recording trade anomalies – this is one of the proposed methods of measurement prescribed by the UN Task Force on the measurement of IFFs for SDG 16.4.1. The graphic illustrates the risks associated with levels of TIFFs as a percentage of GDP and a percentage of trade for import and export over- and under-invoicing. The heat map (see the key on the graphic for the thresholds of IFFs as a percentage of GDP or trade), is useful in assessing the extent of the problem and the subsequent risks, which then should trigger a process of deeper analysis and investigation using granular, administrative data to identify perpetrating corporates, firms and even logistics and shipping enterprises.

It is not surprising that as a percentage of trade, the TIFFs estimated through trade misinvoicing are much higher, presenting higher risks for each of these countries as they lose valuable resources for socio-economic development.

2.1.2 Methodologies for measuring TIFFs

One of the key complexities relates to measuring IFFs – quantification is the first step in identifying the size of the IFF problem, the sources and channels used to move and hide wealth from authorities. Measurement is linked to the prevention, detection, and investigation elements of the value chain to curb IFFs.

The first level of complexity relates to the various methods that have been developed to measure TIFFs as per SDG 16.4.1. In May 2021, UNCTAD released its "Methodological Guidelines to Measure Tax and Commercial Illicit Financial Flows" for initial testing. These guidelines present a range of methods to gauge major tax and commercial IFFs. They emphasize a detailed, bottom-up approach, leveraging microdata accessible to national authorities. While primarily targeted at agencies that handle in-depth data, the guidelines also offer simpler methodologies to accommodate scenarios with limited data. For each of the three primary types of tax and commercial IFFs, UNCTAD's guidelines suggest two distinct methods.

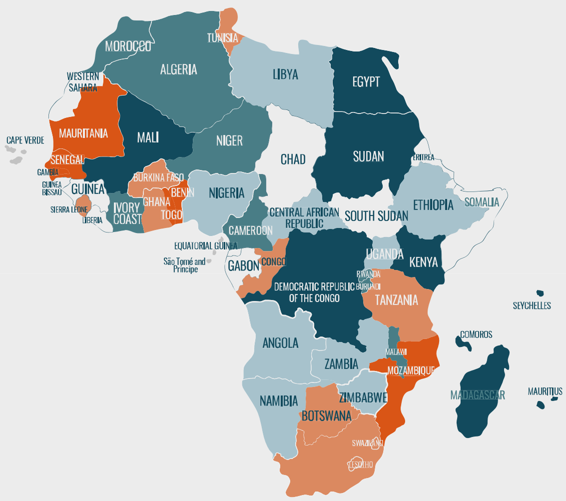
Therefore, there are 6 methods, which are clustered in to 3 complementary pairs, that have been developed by the UN as detailed in their methodological guideline to measures TIFFs. The three clusters and the paired, complementary methodologies are:

- Trade Misinvoicing
    - Partner Country Method + (PCM+)
    - Price Filter Method + (PFM+)
- Profit shifting
    - Global distribution of profits within an MNE
    - MNEs versus comparable non-MNEs
- Offshore wealth
    - Undeclared offshore assets
    - Offshore financial wealth

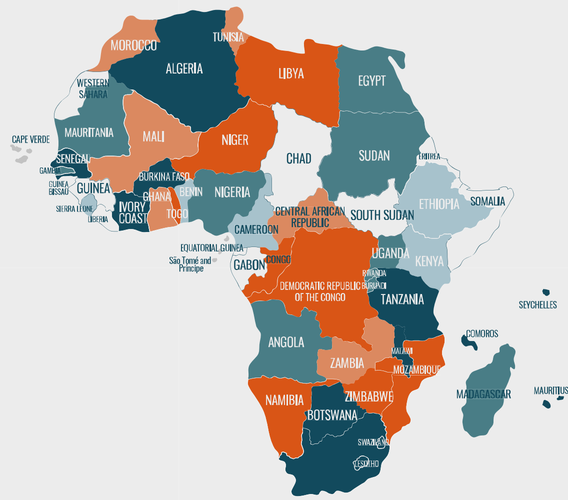
FIGURE 4a: TIFFs FROM TRADE MISINVOICING AS A PERCENTAGE OF GDP (2017, HS-2 DIGITAL)[29]

Inflows as a percentage of GDP
(based on HS 2-digit)

Import under-invoicing % GDP

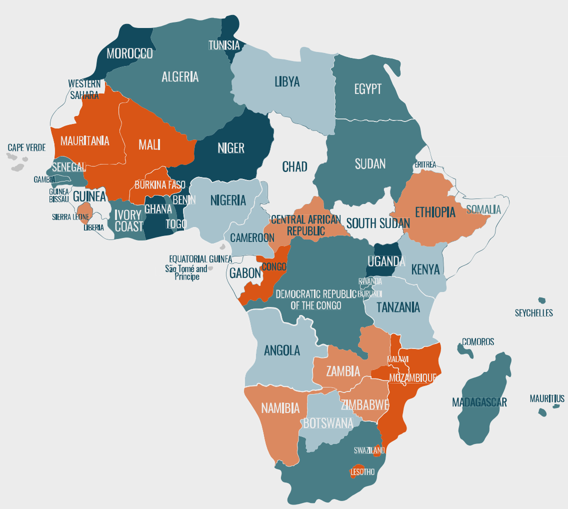


Export over-invoicing % GDP

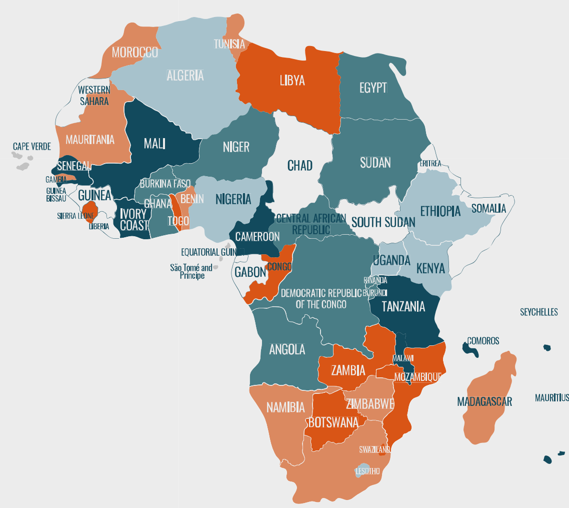


Outflows as a percentage of GDP
(based on HS 2-digit)

Import over-invoicing % GDP



Export under-invoicing % GDP



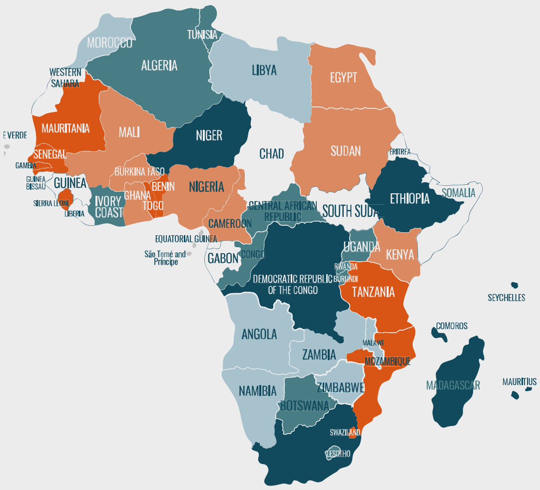
Very High	High	Moderate	Low	Very Low
> 10%	> 7.5% and < = 10%	> 5% and < = 7.5%	> 2.5% and < = 5%	< = 2.5%

[19] Wu, Y and K. Nicolaou-Manias (2023). Illicit Financial Flows for Africa: Measuring the Risks Associated with Trade Mis-invoicing and Trade Mispricing. Developed for UNECA's DA8 funding window. Forthcoming publication.

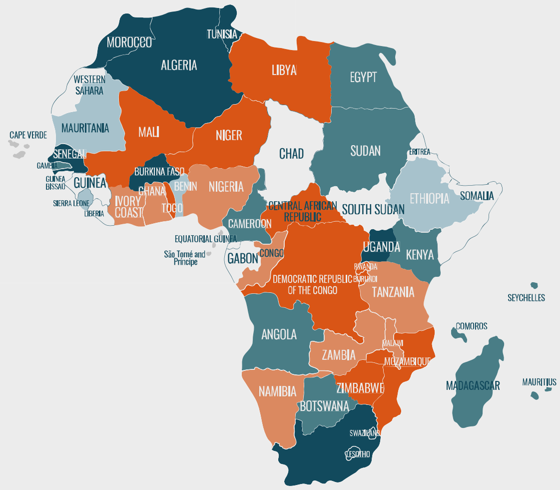
FIGURE 4b: TIFFs FROM TRADE MISINVOICING AS A PERCENTAGE OF TRADE (2017, HS-2 DIGIT LEVEL)

Inflows as a percentage of Trade
(based on HS 2-digit)

Import under-invoicing % Trade

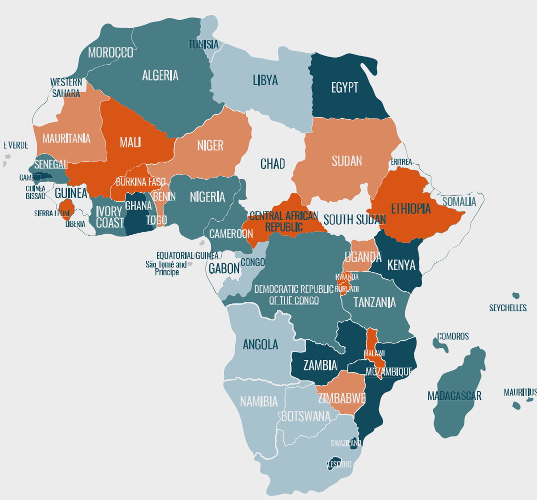


Export over-invoicing % Trade

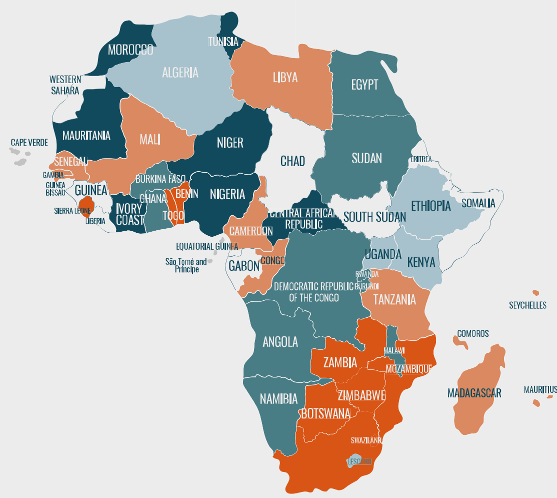


Outflows as a percentage of Trade
(based on HS 2-digit)

Import over-invoicing % Trade



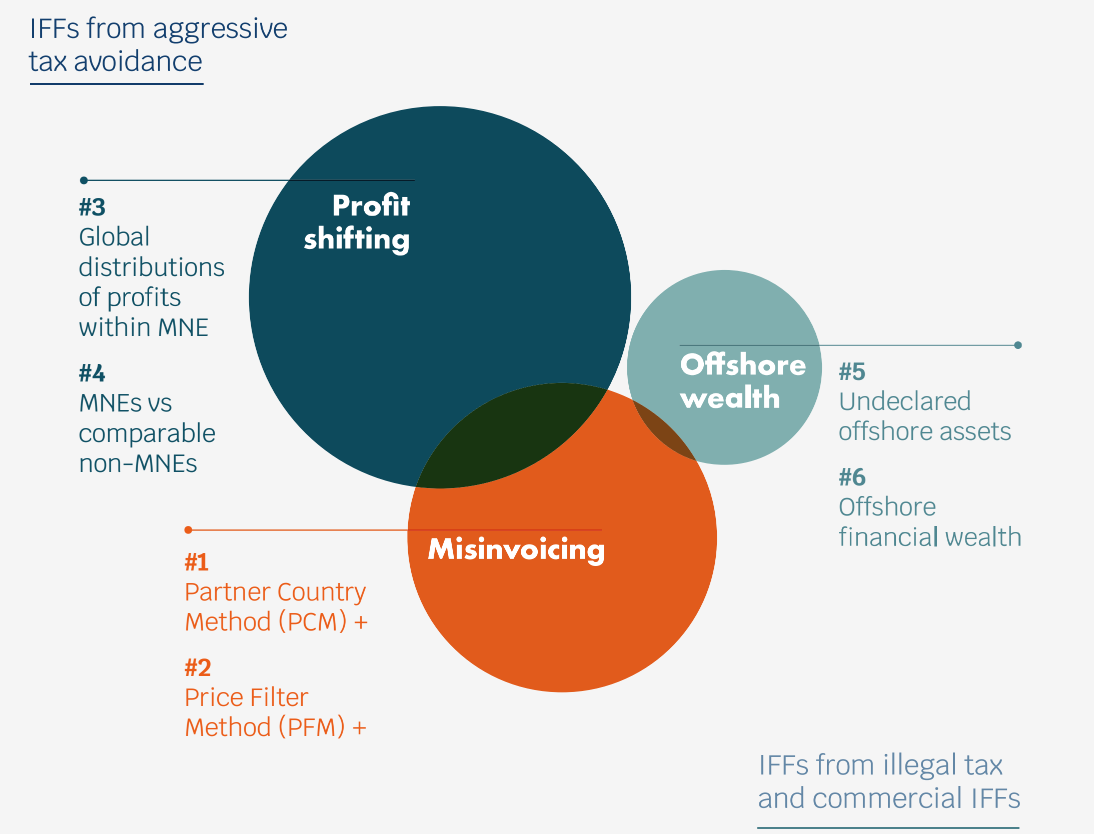
Export under-invoicing % Trade



Very High	High	Moderate	Low	Very Low
> 20%	> 20% and < = 25%	> 15% and < = 20%	> 10% and < = 15%	< = 10%

These methods and their interactions are outlined in the figure below.

FIGURE 5: SDG 16.4.1. METHODS TO MEASURE TAX AND COMMERCIAL IFFs



Source: UNCTAD, 2021.

It is important to note that the UNECA-UNCTAD 12 country pilot study (including Egypt) focused on building capacity in these countries, using a rigorous process to be followed that included the following processes:

- IFF Risk Assessment
- Mapping of agencies
- Technical Working Group (TWG) on IFFs
- Training and resources
- Data availability review
- Support during pilot testing

The following countries participated in the capacity building pilots to measure IFFs, publish and disseminate the statistical results: Angola, Burkina Faso, Benin, Egypt, Ghana, Gabon, Mozambique, Namibia, Nigeria, Senegal, South Africa and Zambia. The pilot countries that published their results are detailed in the figure below.

Of these countries, only South Africa completed three measurement methods, namely the PCM+, PFM+ and Offshore Wealth (research commissioned with the OECD). A total of 11 countries completed the PCM+ method, 7 countries applied the PFM+ and 3 countries completed method 3 on the global distribution of profits by MNE. Nigeria, through the help of Tax Justice Network, completed method 3.

TABLE 5: PRELIMINARY RESULTS OF UNCTAD METHODOLOGY TESTING BY PIONEERING COUNTRIES (Source: UNCTAD 2023)[30]

Unofficial and preliminary estimates	**Tax and commertial IFFs**	Unofficial and preliminary estimates are not reported on the Global SDG Indicators Database. All values in United States dollars. Data between countries is not comparable. SDG = Sustainable Development Goal. IFFs = Illicit Financial Flows.
Burkina Faso Africa	**Trade misinvoicing** was preliminary estimated at **$ 6.8 billion inward and outward IFFs** in different sectors, such as beverages, petroleum and ore between 2011 ans 2020.	
Gabon Africa	**Trade misinvoicing** was preliminary estimated to have generated **$ 65 billion inward and outward IFFs** between 2010 and 2021.	
Ghana Africa	**Trade misinvoicing** was preliminary estimated at **$ 6.8 billion inward and outward IFFs** with the United States of America and the European Union between 2000 and 2012.	
Namibia Africa	**Trade misinvoicing** was preliminary estimated to have generated **$ 19.6 billion inward IFFs,** and **$ 4.7 billion outward IFFs** between 2018 and 2020.	
South Africa Africa	**Trade misinvoicing** was preliminary estimated at **$ 21.9 billion inward IFFs,** and **$ 40.4 billion outward IFFs,** most prevalent in precious metals and stones, and electrical machinery and equipment in 2017.	
Zambia Africa	**Trade misinvoicing** was preliminary estimated to have generated **$ 44.9 billion inward and outward IFFs** based on seven major trading partners between 2012 and 2020.	

2.1.3 Operational and technical constraints to measure and combat IFFs and TIFFs

Capacity and access to quality and timely data, in general, are some of the biggest challenges (i.e., data is not in a digital form, data cannot be shared, data is housed in different organisations and poorly maintained, to mention a few). Some of the methods, particularly the profit shifting methods are not relevant for many African countries as they do not have MNE's earning enough to comply with the OECD BEPS standard of € 750 million per annum. Moreover, there aren't enough comparable MNEs in a sector within a country, unlike many European countries who have numerous MNEs operating within a sector.

It's important to highlight that operational constraints may also encompass technical complexities, including shortages in human resources, financial resources, adequate systems, processes and procedures, and capacities to monitor, track, detect, analyse and investigate. In addition, requisite expertise is needed to address strategic deficiencies in preventing IFFs. However, other operational constraints, such as the absence of adequate protocols guiding effective inter-agency cooperation, whether at the domestic level or across borders, is equally important.

Addressing IFFs necessitates a dual approach involving both national and international coordination. On the domestic front, it is imperative to fortify the legal framework enabling the exchange of intelligence and information among diverse agencies, including tax authorities, customs, Financial Intelligence Units (FIUs), central banks, asset recovery bodies, and private sector entities. This collaborative effort at the national level plays a pivotal role in the battle against IFFs.

Technical and operational constraints, such as the absence of robust IT systems and adequately skilled personnel, further impede progress to accessing data, with the intention to measure IFFs and identify potential threats and risks. The existing regulatory framework's inconsistency in curtailing avoidance practices, adds to this challenge.

[30] First-ever official data on illicit financial flows now available | UNCTAD

On the global stage, information exchange and the worldwide monitoring and exchange of tax and trade information constitute indispensable components in curbing IFFs. The establishment of global databases to facilitate information sharing among law enforcement agencies stands as a requisite measure. Nevertheless, the efficacy of such initiatives hinges on the adept handling of challenges related to data protection and IT-related aspects.

Furthermore, it underscores the significance of upholding robust data protection standards when engaged in international information exchange to counter IFFs. Additionally, it emphasizes the imperative of ensuring that data protection standards in third countries align with those applied within the EU when information is exchanged.

In the realm of beneficial ownership transparency, it remains critical to ensure transparency in beneficial ownership information as a means of tracing the true owners of assets entangled in IFFs. However, the implementation and enforcement of these transparency measures are complex to implement, as some entities have vested interests in preserving anonymity. More importantly, it requires inter-agency cooperation both domestically and internationally.

The issue of data privacy concerns looms large in the fight against IFFs. While sharing financial information and intelligence at an international level is imperative for combating these illicit flows, concerns stemming from data privacy laws can impose limitations on the extent to which information can be freely exchanged.

2.2 The entwined web of corruption and TIFFs

In the realm of international finance, IFFs (and TIFFs) represent a looming and intricate challenge, that adversely affects the African continent. From a policy perspective, the distinction is drawn between two typical forms of IFFs. On the one hand are the IFFs that are fuelled from illegal sources - namely, corruption and the embezzlement of public funds, and on the other, those that come from legal activities, but which serve tax evasion purposes. The distinction is of great importance: in less developed nations with abundant raw material resources and weak governance, TIFFs are more prevalent compared to middle-income countries with well-established and adequately capacitated institutions and systems i.e., tax, customs, financial intelligence, cross-border flows, law enforcement, etc.). Poor governance and mismanagement can lead to conflicts, human rights violations, environmental damage and poverty, negating potential development benefits.

Resource discoveries often lead to weaker political institutions, enabling those in power to exploit their political position to capture these windfall profits. IFFs therefore erode the sovereignty of the state, undermine the collection of tax and customs revenues which weaken tax systems, disrupt social cohesion, distort trade markets, and create a vicious cycle of corruption and illicit financial activities. Moreover, corrupt officials may prioritize projects that offer opportunities for bribery over essential public services, leading to skewed investment choices. In addition, in resource-rich countries, IFFs are particularly rampant, intensifying corruption and impeding developmental progress - an occurrence known as the 'paradox of plenty.'

IFFs go beyond merely funding terrorism and transnational organized crime; they're deeply intertwined with large-scale political corruption. Moore (2012) underscores how the ability to discreetly move and hide proceeds from illegal activities raises the stakes for those involved. The OECD (2012) report paints IFFs as a significant global source of corruption. The secure concealment of illicit capital in tax havens fuels corruption and other illegal activities, making it challenging to track and collect tax revenues. In the complex world of IFFs, there’s a troubling phenomenon at play.

Trade with Fictitious Corporate Entities

In line with recent research conducted by the International Monetary Fund (IMF) regarding phantom investments, investigations and audits conducted by the Secretariat of the Federal Revenue of Brazil revealed a prevalent pattern in Brazilian's export transactions. These transactions exhibited a pronounced dependence on triangular operations involving offshore intermediary entities, which are often special purpose entities or pass-through entities situated in tax havens or jurisdictions with favourable tax regimes.

These complex and layered structures are driven by tax incentives that frequently utilise hollow corporate entities devoid of genuine commercial activities to artificially redirect the financial flows associated with trade transactions toward low-tax jurisdictions.

This manipulation of financial flows through dealings with fictitious corporations' results in a significant distortion of the perceived structure of Brazil's international trade network. This distortion arises from the fact that reported export transactions are skewed due to aggressive tax avoidance or international tax evasion tactics.

As Herkenrath (2014) points out, the movement of assets from dubious origins to foreign shores can lead to distorted investment choices. Corrupt officials often bend laws and direct public funds towards areas ripe for bribery, favouring grand infrastructure projects while neglecting maintenance – a breeding ground for corruption. Companies, too, may find themselves spending hefty sums to maintain political connections rather than fostering productive activities, resulting in a rent-seeking economy.

This issue becomes particularly pronounced in nations rich in natural resources or commodities, where corruption and rent-seeking are rife. The 'paradox of plenty' surfaces, with raw material earnings rarely translating into sustainable development. In countries with weak political institutions, commodity earnings often find their way into private bank holdings in renowned tax havens. This phenomenon is both statistically and economically significant, with at least 8 percent of state oil revenues in autocratic nations ending up as private assets abroad, estimated by Herkenrath (2014). Discoveries of raw materials often coincide with weakened political institutions, making it easier for those in power to divert earnings overseas.

Historical and contemporary examples from the Philippines, Indonesia, Malaysia, the Democratic Republic of Congo and more illustrate how governments systematically undermine state institutions to amass private fortunes secretly transferred abroad. Tax evasion compounds these challenges, hindering the government's ability to provide essential services and carry out institutional reforms. The growing opportunities for secretive asset transfers align with socio-economic and development trends that exacerbate political issues, emphasizing the need for transparency and good governance.

Money laundering and bribery are two sides of the same coin legitimizing illicit gains, often involving banks, lawyers, and professionals, further complicating efforts to curb IFFs. Powerful political figures, or politically exposed persons (PEPs), may also be implicated, hampering investigations due to political interference.

In Africa, IFFs pose a multifaceted challenge driven by corruption, weak governance, conflict, and resource exploitation. Addressing these issues demands a comprehensive approach tailored to the region's unique circumstances. Strategies must focus on enhancing transparency, accountability in natural resource management, strengthening customs enforcement, and promoting regional cooperation to prevent cross-border illicit fund flows. Empowering civil society, engaging youth, and promoting gender equality are vital components. Political commitment, international collaboration, and public awareness are key to redirecting Africa's resources toward sustainable development and poverty reduction.

2.3 Navigating legal and institutional challenges

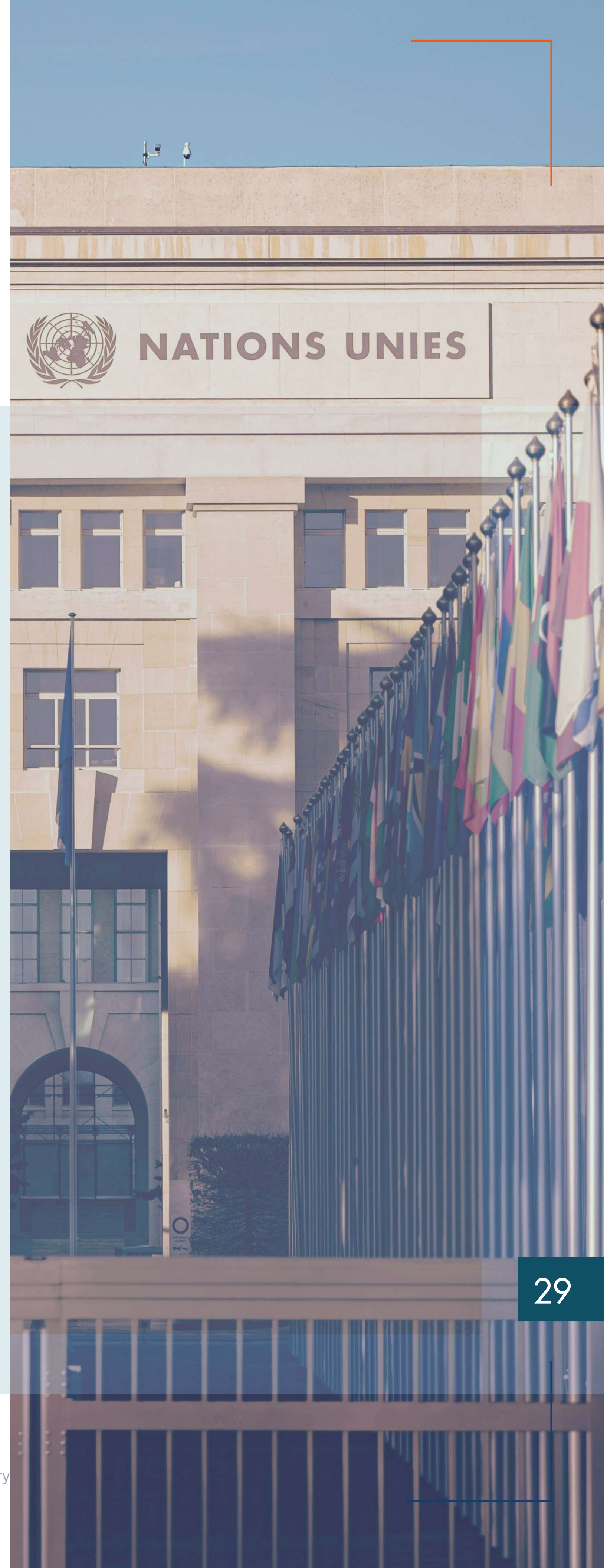
IFFs pose complex challenges in Africa due to institutional and legal constraints affecting regulatory frameworks and law enforcement. Further, the lack of a universally accepted definition for IFFs creates inconsistencies in addressing the issue in a globally coordinated matter. Legal boundaries are indeed challenged by jurisdictional complexities and weak legal systems, enabling IFFs to flourish.

Regulatory boundaries suffer from fragmented international regulations and limited capacity in many countries, while ethical boundaries face corporate practices that may raise ethical concerns. Weak governance and corruption in African nations facilitate IFFs, compounded by inadequate legal and regulatory frameworks.

Tax evasion through aggressive tax practices and the use of offshore financial centres contribute to the problem preventing resources-poor countries in benefitting from global trade. Harmonizing legislation, promoting transparency, improving capacity and international cooperation, are crucial steps in combatting IFFs, as transactions often involve multiple jurisdictions and complex ownership structures. Limited capacity in civil society, investigative journalism and the media hinders awareness and advocacy. International cooperation faces challenges in obtaining information from jurisdictions with strong financial secrecy laws. Addressing these institutional and legal constraints is essential for economic development and stability in Africa.

Chapter 3

EFFORTS TO COMBAT IFFs AND TIFFs IN AFRICA



> “IFFs have become a major concern because of their scale and the negative impact they pose on Africa’s development and governance agenda. IFFs are damaging African economies and impact overall capital outflows and ultimately increasing corruption, undermining governance, shrinking tax revenues and expediting global organized crime.[31]”

31 Honourable Excellency Ambassador Albert Muchanga, Commissioner of the African Union’s Economic, Development, Trade, Tourism, Industry and Minerals division.

3.1 IFF thematic areas and stakeholder landscape

To combat IFFs effectively, tax policies, organisational and system capability, analytical capability, information exchange and cooperative governance promoting transparency, are essential tools. Complementary policy levers include beneficial ownership transparency, country-by-country reporting, anti-money laundering strategies, and participation in global efforts such as th processes around the UN Tax Convention and/or Base Erosion and Profit Shifting (BEPS) project.

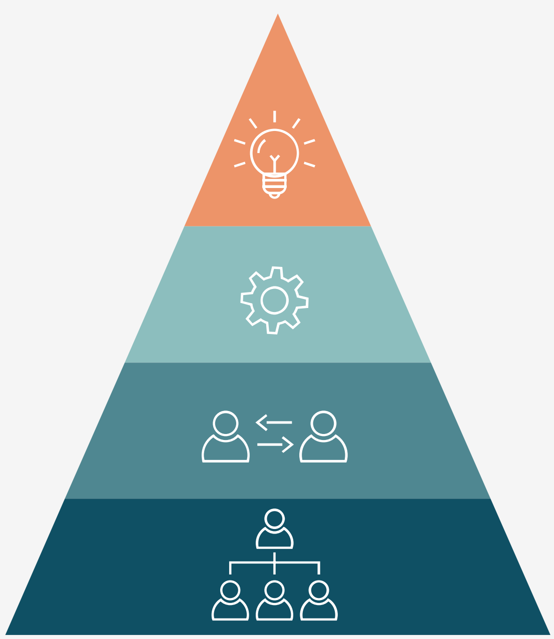
International anti-corruption activities are closely intertwined with the fight against IFFs, as many IFFs result from corruption and tax evasion. Development partners also play a crucial role by supporting anti-corruption measures, promoting international cooperation, and facilitating capacity building to curb IFFs, TIFFs and corruption. This includes the development of tax information exchange agreements and conducting risk assessments to prevent economic crime within development projects. Multilateral organisations and development banks contribute by strengthening banking supervision and financial institution regulations, thereby detecting, and preventing corruption and IFFs. These efforts collectively address the tax-related aspects of IFFs, promoting transparency and accountability in the global financial system.

Figure 6 below summarises the roles and responsibilities of some of the main stakeholders in the IFF and TIFF arena, according to the following classifications: policy making, operationalisation and implementation, regional and global network bodies, or organisations.

The Figure 7 below illustrates the vast number of role players involved in supporting countries in addressing IFFs and the various elements including money laundering, terror financing, proliferation financing, black markets and corruption. Funding initiatives span across multi-lateral agencies, donors, and civil society organisations working across a wide range of IFF-related topics.

Numerous global organizations and institutions are actively engaged in combatting IFFs, TIFFs and TOC on the continent, including the European Commission, the African Union Commission, governmental and intergovernmental bodies like the IMF, OECD, and World Bank Group, law enforcement agencies such as Interpol, Europol, civil society organizations like Transparency

FIGURE 6: NON-EXHAUSTIVE ILLUSTRATION OF THE ROLES AND RESPONSIBILITIES OF SOME OF THE MAIN IFF STAKEHOLDERS



Policy Making

OOSAA, UNECA, UNODC, UNCAC, UNTOC, UNCCT, CND, UNDP RBA, GFG, PaCT, GPDPD, OCWAR-T, HS-Africa Programme, ILO

Operatinalising & Implementation

AfDB, ATAF, ATI, AFRITACs, AFROSAI, AFRODAD, INCB, CTC, MEFMI

Regional Networks

CABRI, PAC network, AML network, anti-corruption network, prosecutors' network, Asset Recovery network, RECs, the Africa Initiative, WATAF, UNAFRI

Global Networks

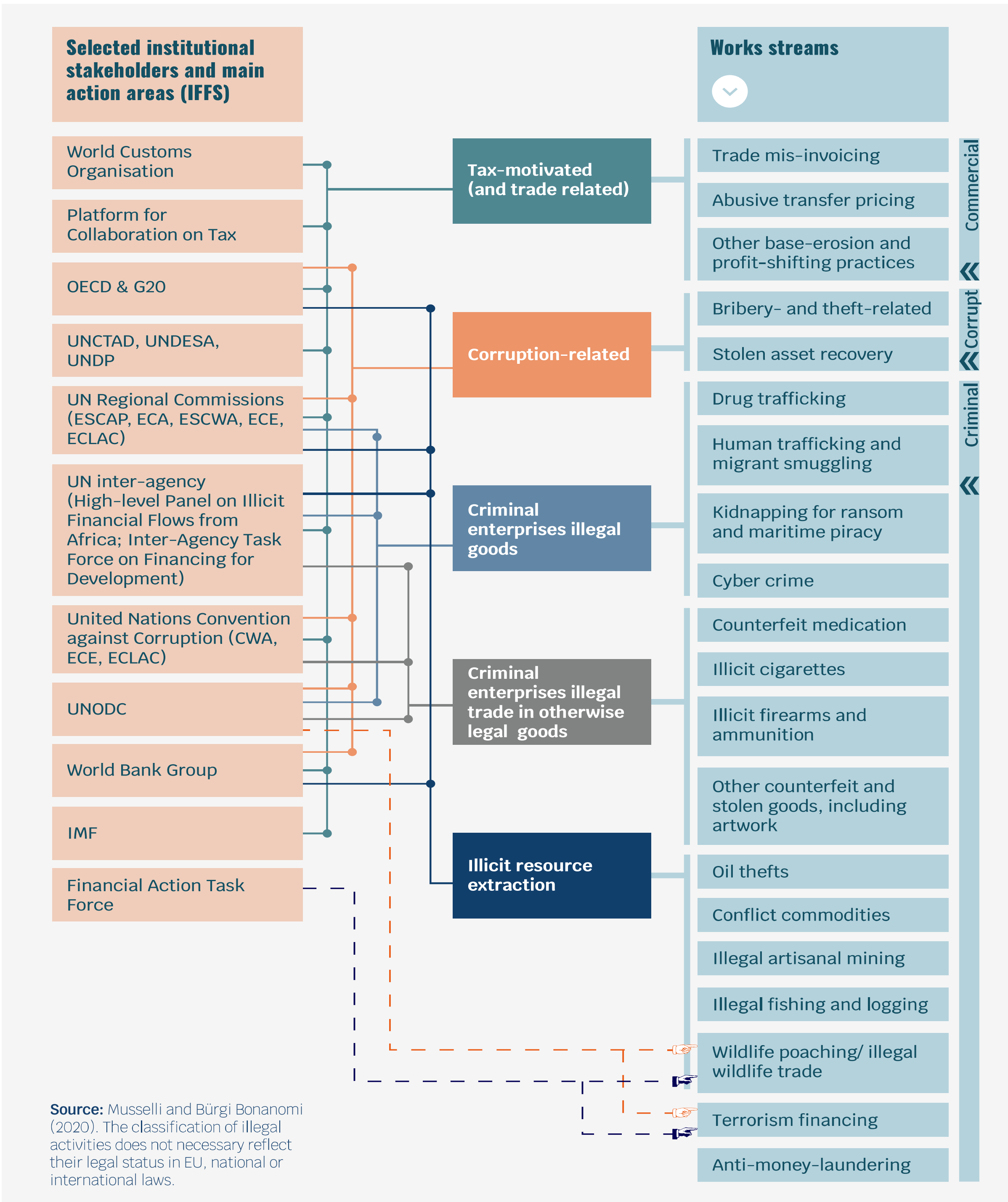
EITI, FATF, GFPN, FACTI Panel, ICAT, Alliance 8.7, CRIMJUST, GFEMS, AIRCOP, CCP, IDPC, UNICRI, GMCP, SHERLOC, PNI

Source: Author's own

International and Tax Justice Network Africa, and international business associations such as the ICC and Wolfsberg Group. These entities play pivotal roles in addressing the challenge of IFFs through cooperation, capacity-building, and advocacy efforts.

A global-level mapping exercise was undertaken by Musselli and Bürgi Bonanomi in 2020, which identifies thematic areas related to IFFs and the responsible agencies involved.

FIGURE 7: IFF THEMATIC AREAS [32]



Source: Musselli and Bürgi Bonanomi (2020). The classification of illegal activities does not necessary reflect their legal status in EU, national or international laws.

[32] The figure refers to illegal fishing as illegal. In terms of the Illegal, Unreported and Unrecorded (IUU) fishing, it is not under "criminal" activities, but rather "legal" and "corrupt". Neither in EU law nor in international law is IUU considered under criminal law. Illegal does not equate to criminal. This is a big issue in many of DG MARE's dealings with Maritime Services and Economic Free-Trade zones, third world countries, and even judges.

Shipping Vessels and Illicit Financial Flows:

Concerns in the Vessel Registration Industry:

There is a prevalent disregard for established norms in international vessel registration. There has been a prolific growth in open registers, where countries offer their flags to vessels with minimal conditions, fostering a lack of accountability, resulting in illicit activity that breaks the spirit of the law and in some instances the letter of the law, but due to these open registries, there is very poor enforcement, resulting in bonded labour and even slavery.

This deregulation is driven by two main incentives: tax benefits, which often translate into tax evasion for operators; and avoidance of rules applicable to shipping and fishing, including environmental and social guidelines.

Implications of Such Practices:

This behaviour has resulted in Institutionalized tax avoidance, with many countries legally offering tax benefits to these vessels, paired with lax rules on beneficial ownership. Moreover, this framework, although legal, often gives way to illegal activities in the maritime sphere: non-adherence to vessel safety standards; pollution violations.; illegal fishing and slave labour practices sanction evasions (e.g., oil sanctions).

Gaps in Current Understandings & Recommendations:

The existing legal framework is being exploited, resulting in illegal activities, which isn't sufficiently acknowledged in many studies. The pivotal role of beneficial ownership needs to be accentuated as a critical policy lever. While certain sectors, such as shipping services are often in the primary production market such as fishing or oil bunkering, this problem of non-compliance and 'legal' tax evasion and avoidance due to weak systems and enforcement, affects many other sectors of the economy, exacerbating the problem.

Addressing the Issue:

Few countries dominate the open registry space, with some in Africa. For these countries, vessel registration is a major revenue stream, thereby exploiting and flouting the international rules of law. The fundamental issue for these territories, often lacking in other revenue resources, is to identify alternative revenue sources. Any solution must consider this aspect to ensure sustainable change.

3.2 Donor and Multilateral Agency Interventions

There are a number of international organizations and stakeholders actively engaged in the fight against IFFs and TIFFs, namely:

- **UN Framework Convention on International Tax Cooperation:** The United Nations General Assembly's approval of the resolution on "Promotion of inclusive and effective tax cooperation" signifies a significant step towards enhancing international tax collaboration. The resolution mandates the establishment of a UN intergovernmental committee tasked with formulating terms of reference for a United Nations Framework Convention on International Tax Cooperation. The terms of reference are set to serve as the foundation for forthcoming negotiations in 2024. The primary objective of this new instrument is to bolster the inclusiveness and effectiveness of international tax cooperation, with a specific focus on addressing the unique needs of developing countries. Indeed, there is great potential of unlocking additional domestic revenues in areas of taxation currently not covered by international agreements.

- **OECD Global Forum** supports its nearly 170 members in tackling offshore tax evasion by monitoring, reviewing, and assisting jurisdictions to implement the international standards on transparency and the automatic exchange of information for tax purposes. The Africa Initiative was launched as a partnership between the Global Forum, its African members and a number of regional and international organisations and development partners, including the EC. Backed by the Yaoundé declaration, the Africa Initiative has benefited from significant engagement at ministerial level to ensure political buy-in and sustained momentum. Open to all African countries, it currently counts 37 (or 68%) member jurisdictions. Eighteen donors and partners support the Initiative. The Initiatives focuses on the development and consolidation of a culture of transparency and exchange of information on request in African countries, and to progress towards the implementation of automatic exchange of information. The OECD Global Forum aids countries, including African ones, through its global programme supported by the EU, complementing regional capacity building initiatives.
- **OECD/G20 Inclusive Framework on BEPS** has 140 countries and jurisdictions collaborating on the implementation of 15 measures to tackle tax avoidance, improve the coherence of international tax rules and ensure a more transparent tax environment. BEPS 4 minimum standards have been tailored for developing countries. The two-pillar solution to address the challenges arising from the digitalisation of the economy includes:
    - **Pillar One:** Provides for a reallocation of taxing rights for the largest multinational enterprises, ensuring that the market jurisdictions are able to levy corporate income tax, even in the absence of physical presence.
    - **Pillar Two:** Proposes a global minimum corporate tax rate of a minimum of 15%.
- **FATF** sets international standards and best practices that guide countries to prevent and detect IFFs by focusing on financial integrity and stability through the 40+ recommendations on anti-money laundering and counter-terrorist financing. They include measures on tax evasion.
- The **World Bank's Stolen Asset Recovery Initiative (StAR)** provides technical support to countries to recover stolen assets and prevent future theft. Acknowledging the detrimental impact of IFFs on crucial resources and tax revenue for development, the institution provides technical assistance to enhance countries' public financial management, including their tax administration and legal frameworks. World Bank works collaboratively with the Extractive Industry Transparency Initiative.
- The **International Monetary Fund (IMF)** offers assistance at a global level, to strengthen Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) capacities, improve tax systems, and combat tax evasion and avoidance. The IMF Regional Centres, pivotal in addressing both regional and global challenges related to illicit financial flows (IFFs), receive crucial support from the EU. Specifically designed for Africa, these centres provide essential technical assistance and training to enhance the capacity of African nations in combating IFFs, with a focus on areas such as tax administration and financial oversight. Simultaneously, through collaboration with regional partners, including local governments and financial institutions, the centres contribute to a coordinated response to the transnational nature of illicit financial activities.

- The **Platform for Collaboration on Tax (PCT),** comprising the IMF, OECD, UN, and World Bank Group (WBG), with the main focus on strengthening tax capacity in developing countries through collaboration and coordination among its partners, has gained valuable experience in combating IFFs. The PCT collaboratively develops effective policies to combat IFFs, including international standards like BEPS and transfer pricing. They provide technical assistance to strengthen tax systems and combat tax evasion in developing countries. PCT promotes the sharing of tax-related information among countries to prevent evasion and emphasize transparency through beneficial ownership registers.
- **Tax Inspectors Without Borders (TWIB)** is a joint initiative of the OECD and the United Nations Development Programme (UNDP), designed to support developing countries in building tax audit capacity, and its success is evident with the recent launch of its 100th programme.
- **UNCTAD-UNECA 12 country pilot on the African continent to build capacity to measure TIFFs (DA11 project):** In February 2021, the UNCTAD and UNECA held a Continental Workshop on IFFs in Africa, providing a forum for experts to discuss the intricacies of measuring IFFs and especially TIFFs. This was followed by a June Kick-off Workshop tailored for countries keen on participating in IFFs measuring pilot projects, with 11 African countries taking part plus Egypt (funded through a separate UN pillar). These pilot projects, focused on enhancing data quality on TIFFs, strengthening the capacity of national statistical offices, and developing standardised tools and methodologies to measure and therefore stem TIFFs. All 12 countries established inter-agency working groups and/or statistical sub-committees to tackle IFFs. Currently there is limited funding to support on 4 of the total 12 countries.
- **A global agenda to tackle IFF (DA15):** The approach of the DA15 is to build capacity on both TIFFs and black markets, and represents a collaboration between UNECA, UNCTAD and UNODC, and the other UN regional economic commissions, with the intention to develop a global agenda to combat IFFs, targeting 8 countries in Latin America, Asia. Africa and the middle East. There are only 5 countries that have been selected out of the 12 from Africa, with Egypt being classified as a middle East country for this pilot. These countries are Gabon, Senegal, Burkina Faso and Nigeria. The remaining 7 countries have all established IFF Technical Working groups but are not resourced to deepen the work on building capacity to curb TIFFs.
- **African Tax Administration Forum (ATAF)** has taken several steps to combat IFFs in Africa, having formulated a strategic approach focused on transparency and international cooperation to combat TIFFs. ATAF has a 6-pillar strategy to curb IFFs, namely:
    - Cross-border transactions: Focus on updating laws and training tax officials in international tax procedures to enhance risk assessment.
    - Transparency and treaties: Implement ownership standards, disclosure programmes, promote the better use of ATAF's model treaty, and enhance information exchange.
    - Trade and Customs: Address the correlation between illicit financial flows (IFFs), trade misinvoicing, and trade discrepancies.
    - Data and Statistics: Gather data on ATAF’s project implementation, analysing outcomes, and building country profiles.
    - Inter-agency cooperation: Prioritise national level cooperation among various agencies, emphasising collaboration between customs, tax departments, and financial entities.
    - Information Exchange: Strengthen the information exchange system with external parties, leveraging real-time data acquisition systems.
- **OECD and ATAF BEPS framework:** These two organisations are collaborating to address Base Erosion and Profit Shifting (BEPS) in Africa. They focus on capacity building, adapting BEPS actions to African contexts, improving tax transparency, and providing technical assistance. Their joint efforts aim to tailor global tax standards to Africa's unique challenges, ensuring

the continent can effectively guard against tax base erosion, thereby tackling TIFFs.

The table below details the specific IFF focus areas of each organisation, adding another dimension to the role of stakeholders active in the IFF and TIFF space.

TABLE 6: KEY STAKEHOLDERS BY IFF WORK AREA

IFF CATEGORY OF WORK	RELEVANT ORGANISATIONS THAT WORK IN THAT SPACE
Combating AML	FATF and its regional bodies, FACTI Panel, UNODC, IMF, GIZ GIFF , World Bank and IMF
Combating tax abuse including tax evasion, DRM and BEPS	The Africa Initiatives, OECD GF, OECD IF, UNECA, EU, TJN Africa, ATI, World Bank
Combating trade-misinvoicing	HS-Africa Programme, UNCTAD, UNECA, GFI, FATF
Combating anti-corruption	StAR, anti-corruption network regional bodies, Asset Recovery network regional bodies, UNCAC, AUABC, UNODC
Combating transnational organised crime, organised crime and financial crime	OECD Forum on Tax and Crime, UNODC, GFPN, Global Initiative Against Transnational Organized Crime, OCCRP, UNICRI
Combating IFFs in extractive industry	EITI, UNCTAD, World Bank, GIZ GFG, Publish What You Pay
Accountability and PFM including audit and procurement	FACTI, PAP, PAC, APRM, Publish What You Pay

The **private sector** also plays an important role by adopting anti-corruption measures, conducting due diligence, and supporting transparency initiatives, particularly in industries like the extractive sectors or the financial sectors. Moreover, real estate agents, dealers in precious metals, accountants, lawyers (who are classified as designated non-financial businesses and professions according to FAFT) also represent important resources.

Civil society organizations play a vital role in raising awareness on the impact of IFFs, advocating for policy reforms, and overseeing government and private sector activities aimed at curbing various types of IFFs. They conduct research, engage in advocacy campaigns, and ensure accountability.

Donors and international stakeholders have made progress in addressing TIFFs through transparency initiatives, improved methodologies, and capacity building. *However, challenges such as competing mandates, coordination, resource allocation, and policy harmonization need attention to create a more effective and coordinated approach in combatting IFFs and TIFFs.*

The following risk-based tools have been developed to address IFFs and TIFFs in the continent:

- **The Pan-African IFF Country Risk Assessment tool:** The Good Financial Governance programme in collaboration with Collaborative African Budget Reform Initiative (CABRI), developed an IFF country risk assessment tool that determines the IFF risks and threats. The instrument is a self-assessment tool that focuses on the ability of various institutions to address IFFs, namely the Ministry of Finance, Tax and Customs authorities, the Financial Intelligence Unit, the central bank as well as the supreme audit institution and the parliamentary budget office (and standing committees. The assessment also partnered with AFROPAC, ATAF and AFROSAI. The tax and customs pillar addresses TIFFs more specifically. Furthermore, the IFF threats and risks for each institution are assessed according to seven key categories: legislation, capacity and resources including political will, policies and operational procedures, monitoring and enforcement, domestic cooperative governance and international cooperative governance arrangements. This tool was beta-tested for South

Africa and was piloted in two countries, namely Kenya and Gabon.

- **Beneficial Ownership Transparency (BOT) risk assessment:** The South African government established a Beneficial Ownership Inter-Departmental Committee, who developed a beneficial ownership transparency risk assessment tool, that evaluated their BOT risk and readiness according to the FATF recommendations and mapping those to the domestic legislation, policies, procedures, systems including data interoperability, and cooperative governance.
- **Beneficial Ownership Toolkit:** The UNODC Southern African Office undertook an assessment of 8 countries in Southern Africa to evaluate their beneficial ownership status. A detailed questionnaire was developed, which 5 of the 8 countries completed. Following the assessment of each country's BOT status, a detailed toolkit was developed spanning the entire value chain, across the public and private sectors. This toolkit is currently being updated and includes an innovative toolkit that provides for digital innovation solutions including social network analyses, digital identity and the use of unique tax, trade or entity identifier numbers to mention a few.
- **TJNA policy tracker:** The AU has pledged support for the TJNA's IFF policy tracker tool following a recommendation made during the 6th meeting of the African Union Specialised Technical Committee on Finance, Monetary Affairs, Economic Planning, and Integration. The tool aims to combat illicit financial flows, strengthen domestic resources, and promote growth in Africa. The tool is also a self-assessment, likely to be completed with a country assessor. Moreover, the tool has four key pillars necessary to curb IFFs, namely the legislative framework, the institutional framework, the data and framework and the cooperative governance framework. This tool is being finalised, with several countries having raised their hands to participate in the pilot phase to beta-test the robustness of the tool.

3.2.1 European Union measures

The EU has embarked on a proactive journey to combat IFFs emphasizing the paramount importance of international cooperation, policy dialogues and the sharing of critical information. In this endeavour, the EU has implemented several pivotal measures.

Global interventions at the policy level include the following:

- **Anti-tax avoidance directive:** This directive draws on the OECD's BEPS project and introduces legally binding rules against tax avoidance within the EU, to ensure that companies pay their fair share of taxes. It therefore lays down rules that strengthens the average level of protection against aggressive tax planning in the internal market, to e enhance tax fairness and preserve revenue collection.
- **Anti-money laundering directives:** These directives mandate member states to establish beneficial ownership registers, conduct enhanced customer due diligence, and foster collaboration among financial intelligence units, promoting transparency and reducing the risk of illicit financial activities.

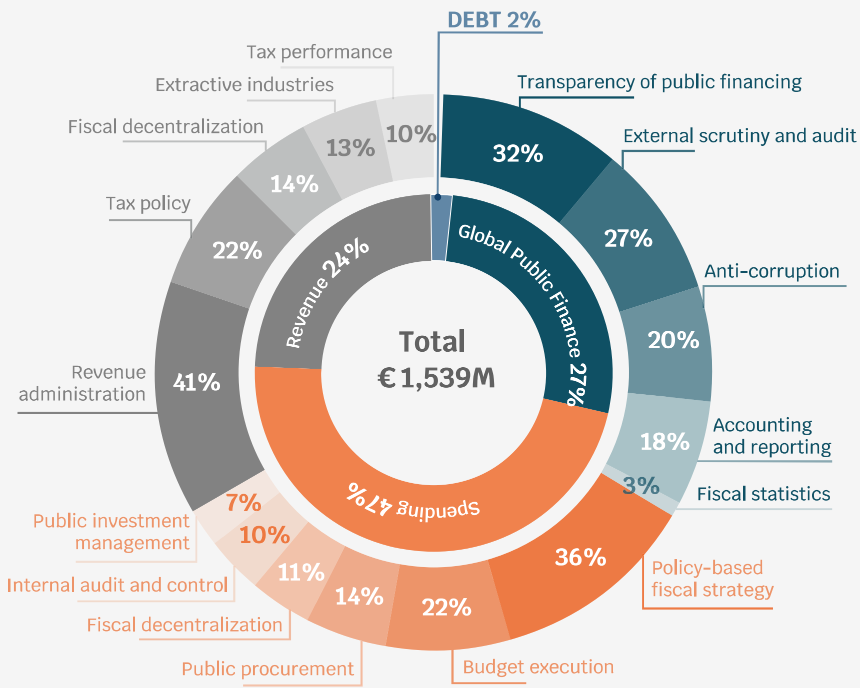
Global support to partner countries:

- **The European Comission's 'Collect More Spend Better' (CMSB)** approach provides a holistic perspective on domestic resource mobilisation and public finance, covering actions in the realm of 1) revenue mobilisation, 2) public expenditure management and debt as well as 3) transparency and accountability through the promotion of global standards and collaboration. Between 2015 and 2020, the EU disbursed EUR 7,5 billion directly or indirectly related to CMSB through budget support programmes, technical assistance, or capacity-building programmes and through partnerships with international institutions. The largest beneficiaries were

African countries, particularly those located in Western and Central Africa.

Figure 8 shows how EU funds channelled through one implementing modality have been distributed across the main CMSB core areas.

FIGURE 8: DISTRIBUTION OF BUDGET SUPPORT PERFORMANCE INDICATORS RELATED TO CORE CMSB BY MANY AREAS (COMMITMENTS IN MILLIONS OF EUROS) BETWEEN 2015-2020[33]



Source: EC Budget Support database

By supporting actions that strengthen the capacity of national tax administrations to reduce the tax compliance gap and improve the transparency and exchange of information, illicit flows are more easily uncovered. In this regard, many measures that are primarily aimed at increasing the mobilisation of domestic revenue also tackle the reduction of illicit flows by increasing the capacity of authorities to identify and close loopholes.

The EU and its Member States are strong supporters of the Addis Tax Initiative (ATI), a multi-stakeholder partnership of development partners and partner countries established in 2015 to improve the transparency, fairness, effectiveness, and efficiency of tax systems. Besides the European Commission, 12 EU Member States are signatories to the initiative.[34]

Together with 20 African countries[35] and ECOWAS as the newest member it makes nearly 45 % of the total ATI membership. Aggregated data for 2018 shows that the EU together with its Member States had more than doubled the 2018 target as their commitments to support DRM had more than tripled from USD 103 million to USD 366 million, while their DRM gross disbursements have doubled from USD 106 million to USD 214 million[36]. While these figures are global, it is worth noting that support to Africa accounts for most of the development partner members' support (or 63%) in the Initiative. EU and African countries combine efforts to combat TIFFs under Declaration 2025.

[33] Due to the limited granularity and comparability of the data available for interventions in technical assistance programmes and international partnerships, the figure covers only budget support activities
[34] Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Slovakia, Slovenia and Sweden
[35] Benin, Burkina Faso, Cameroon, Ethiopia, Ghana, Kenya, Liberia, Madagascar, Malawi, Mauritania, Namibia, Niger, Rwanda, Senegal, Sierra Leone, Tanzania, The Gambia, Togo, Uganda, Zambia
[36] EC (2021). Investing In Sustainable Development Progress Report 2018-2020, European Commission.

More importantly CMSB reforms are also part of the enabling environment for a successful implementation of the EU Global Gateway strategy. Predictable and fair tax systems contribute to a positive investment climate, as do transparent and efficient public investment and public procurement policies. These EU actions reflect a commitment to combat IFFs through a holistic and collaborative approach that targets tax evasion, money laundering, and misinvoicing while safeguarding financial integrity.

Fighting IFFs is a priority of the EU-AU partnership and delivering the Global Gateway Africa-Europe investment package in the area of sustainable finance, economic governance, and security.

The Global Gateway Africa-Europe Investment Package is central to the Joint Vision for 2030 adopted by political leaders at the 6th European Union-African Union Summit of February 2022. Heads of State and Government stressed their commitment to jointly develop strategic capabilities to fight complex and context specific IFFs. This commitment complements other global efforts to ensure accountable, transparent, inclusive, and responsive governance.

Following this call, the EU and EU MS have launched a Team Europe Initiative (TEI) on Fighting Illicit Financial Flows (IFFs) and Transnational Organised Crimes (TOC) in Africa. The TEI directly contributes to the UN 2030 Agenda to target SDG 16.4, aiming to "significantly reduce illicit financial flows and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime" by 2030.

The TEI also contributes to the Addis Ababa Action Agenda for Financing Development, the AU Strategy on Combatting Illicit Financial Flows (IFFs) in Africa, and AU Agenda 2063, to curb IFFs and TOC, which aims to substantially curb illicit financial flows from tax evasion, tax avoidance and other harmful tax practices, as well as money laundering and corruption.

The Team Europe Initiative (TEI)

The Team Europe Initiative (TEI) utilises a multi-agency and multi-level approach and applies a comprehensive multi-stakeholder engagement strategy, targeting pertinent stakeholders and institutions at different levels – national, regional, continental, and international – to enhance the effectiveness of proposed activities. This new initiative comprises around 75 ongoing and planned programmes and projects corresponding to a financial commitment of over EUR 450 million from TEI Members until 2027. The table below highlights the programmes and projects by the EU and its member states to the different countries on the continent and the pan-African or regional institutions.

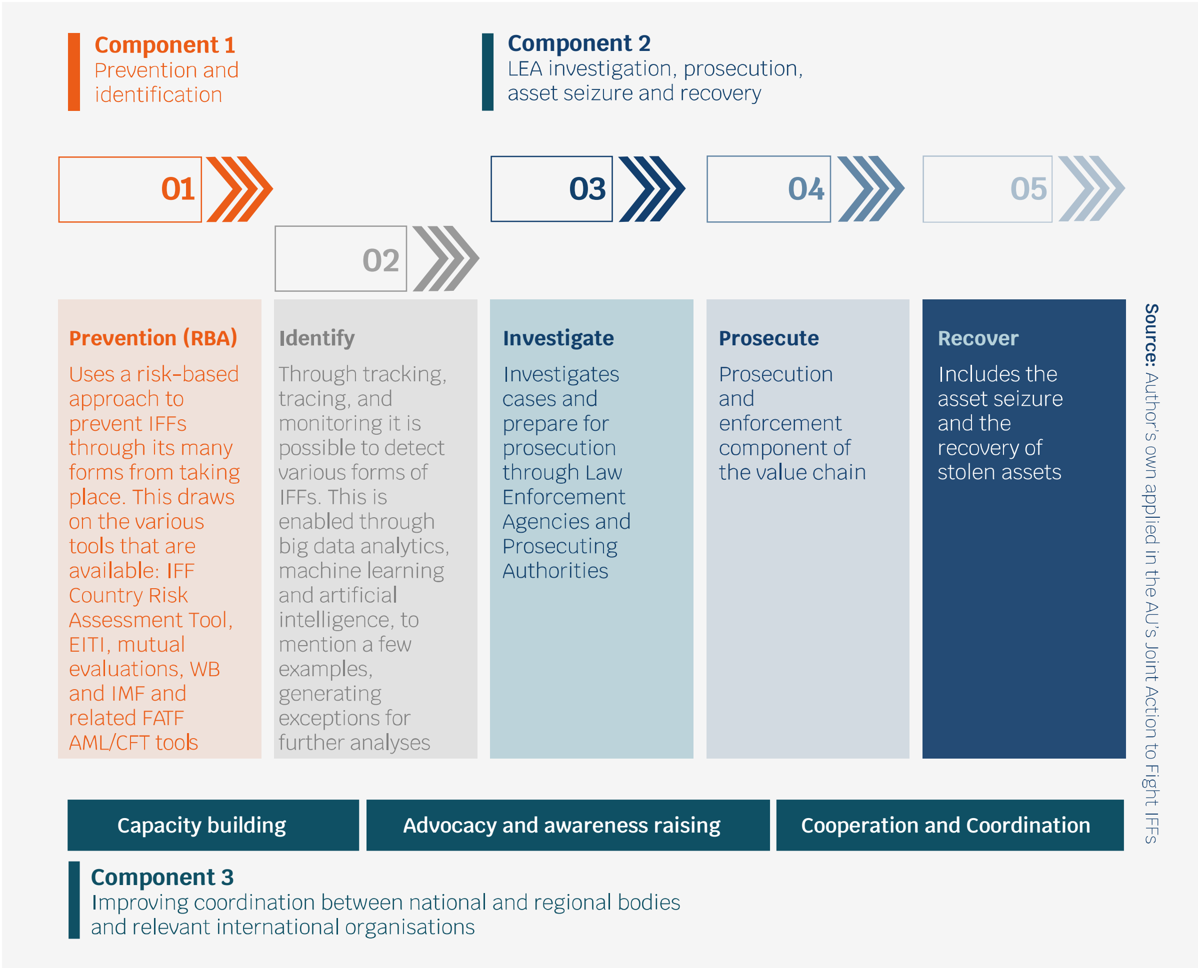
The TEI establishes a strategic framework for European engagement in Africa and a platform for operational and political dialogue on IFFs. It addresses the entire IFFs spectrum, targeting crime-related aspects such as money laundering and terrorism financing, as well as TIFFs and anti-corruption.

The TEI is organised around three pillars, from 1) prevention and identification to 2) thorough investigations, prosecution, asset seizure, and the recovery of stolen assets to 3) improving coordination between national and regional bodies and with relevant international organizations.

The figure below illustrates the value chain to curb IFFs (drawn from the AU's strategy to fight IFFs, a programme funded by the EU) and links these three TEI components to the IFF value chain.

Examining the TEI project components[37], Component 2 represents 2/3 of the value chain.

FIGURE 9: VALUE-CHAIN TO CURB IFFs AND ALIGNMENT WITH THE TEI / TIFF PROGRAMME COMPONENTS



Source: Author's own applied in the AU's Joint Action to Fight IFFs

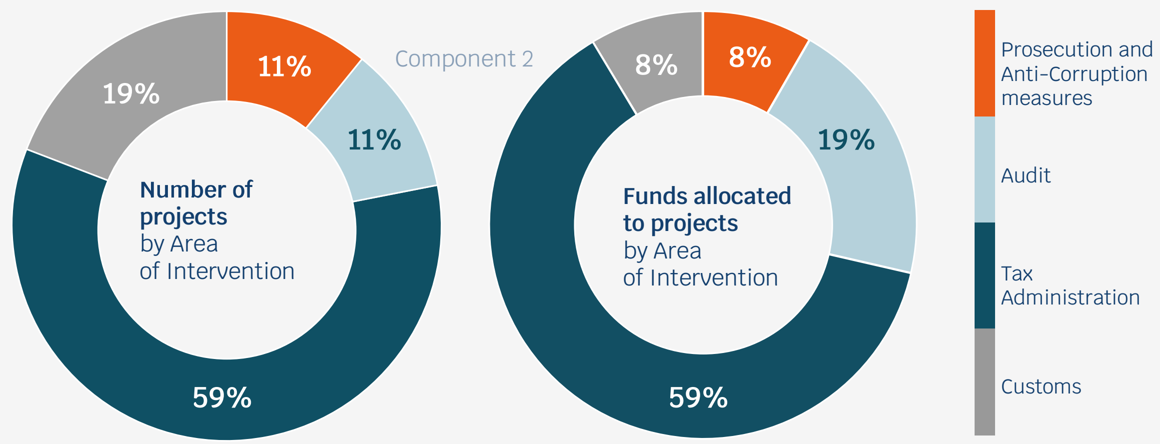
Consequently, a strategic emphasis on strengthening capabilities related to the investigation, prosecution, and recovery of misappropriated assets within TEI projects is necessary. This strategic focus is also justified by its potential deterrent effect on wrongdoers, while simultaneously offering incentives to deprived states.

A closer look into Component 2, particularly in projects addressing tax-motivated IFFs reveals that a significant portion of projects —59%— and their funding is directed towards tax administrations. Customs follows at 19%, and the external audit function at 11%, with a mere 11% allocated to enhancing capacities for prosecution and anti-corruption efforts. Notably, Figure 9 underscores the necessity of prioritizing the final stages of the value chain in tackling Tax-Motivated Illicit Financial Flows

Within the total fund allocation of EUR 451.1 million to combat Illicit Financial Flows (IFFs), a significant portion exceeding 50%, or EUR 237 million, is designated for addressing tax-motivated Illicit Financial Flows (TIFFs). The project classifications in Figure 10 provides a detailed breakdown. Most projects funded under the TEI and addressing TIFFs offer support in various forms, including capacity building to tax administrations, implementation of transparency standards, revenue enhancement, and tackling Base Erosion and Profit Shifting (BEPS). Surprisingly, despite trade misinvoicing being identified as the primary channel for TIFFs, explicit efforts to enhance the capacity of customs authorities seem to be lacking.

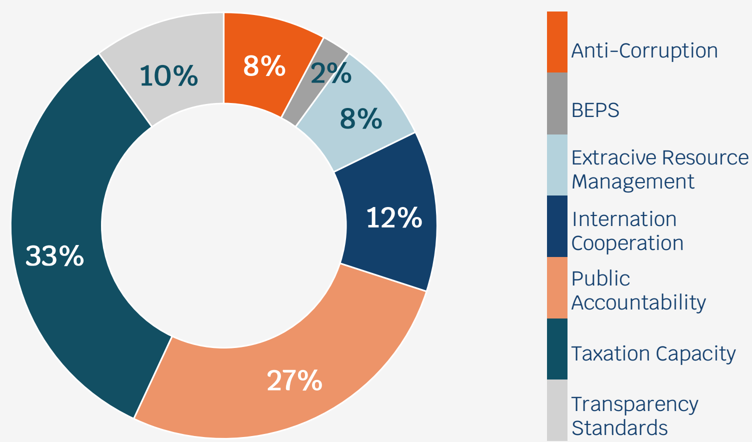
[37] This is a snapshot of the TEI structure, based on several assumptions due to incomplete data on projects. The analysis will be updated by the EC and communicated under the TEI.

FIGURE 10: TEI TIFF FUNDING FOCUS AREAS WITHIN COMPONENT 2 – LEA, PROSECUTORIAL AND JUDICIAL CAPACITIES



Source: Author's own analysis. DG INTPA, 2023

FIGURE 11: PROJECT DISTRIBUTION ACROSS THE TIFFS AND CORRUPTION AREAS, TEI AFRICA, 2021-2027



Source: DG INTPA analysis, 2023

This gap prompts questions regarding the indirect allocation of funds to customs, given that many revenue authorities inherently encompass both tax and customs competencies. Recognizing the significance of trade misinvoicing in the context of TIFFs, it becomes imperative to further analyse and address the apparent gap in enhancing the capacity of customs authorities.

More detailed examples of EU-supported initiatives include the following:

- **Donor support in partnership with the African Union:** The EU, along with Germany and Finland and the AUC have dedicated funds to combat IFFs and build capacity in Africa through organizations like the African Tax Administration Forum (ATAF) and the African Supreme Audit Institutions (AFROSAI).
- The **EU's Fiscal Transition Support Programme in West Africa** serves as an example of regional and international cooperation. A part of the Africa Initiative, implemented by OECD and the Global Forum, in partnership with ECOWAS and UEMOA and their 15 members states and Mauritania, the programme successfully introduced three new regional tax instruments. These include rules for transfer pricing, identifying beneficial ownership, and fostering cooperation among tax administrations. Adopted in July 2023, these measures align with global tax standards and aim to combat tax avoidance and evasion and enhance tax transparency in West Africa.

- **EU-WCO Programme for Harmonized System in Africa (HS-Africa Programme):** This programme concentrates on streamlining customs and trade facilitation in Africa. Its objective is to modernize customs procedures by promoting the adoption of the Harmonized System for goods classification. By simplifying customs processes, reducing trade barriers, and enhancing revenue collection, the program collaborates with customs authorities and trade-related institutions. This effort strengthens customs operations, fosters regional cooperation, and aligns African countries with global trade standards, ultimately promoting economic integration and competitiveness across the continent.
- **Individual Country Initiatives:**
  - **Finland:** Finland collaborates with organizations like UNDP and OECD to enhance Africa's taxation capabilities, advocate responsible resource extraction, and strengthen revenue collection mechanisms.
  - **France:** France supports various projects in West Africa, such as using data science to combat fraud, implementing the United Nations Convention against Corruption (UNCAC), promoting transparency in extractive industries, enhancing aviation security, and combating organized crime.
  - **Germany:** Germany's initiatives focus on prevention, financial investigation, asset recovery, and inter-agency coordination. They support anti-money laundering strategies, enhance law enforcement and prosecutorial capacities, and foster regional cooperation.
  - **Sweden:** Sweden is involved in multiple programs aimed at improving tax policies, reducing tax avoidance and evasion, and increasing transparency in the extractive sector. They also work to mitigate the illegal wildlife trade in Africa.

In conclusion, the EU's multifaceted approach to combat IFFs and promote good governance underscores its commitment to addressing IFFs, TIFFs, AML/CFT and TOC by promoting cooperation, capacity building, advocacy and awareness raising while strengthening the administrative capacity of government entities in tax and customs, law enforcement authorities, public prosecutors, asset forfeiture units, and central banks, both within Europe and globally. These initiatives exemplify the EU's dedication to addressing the complex challenges posed by IFFs and especially TIFFs.

3.2.2 African Union Approach and the High-Level Panel on IFFs

The AU is actively working to enhance the financial integrity of African nations by implementing comprehensive strategies to combat IFFs and TIFFs and strengthen DRM.

Central to the AU's strategy is the emphasis on the refinement of tax policy and legislation across African nations. By fostering tax policy reforms that align with international standards, the AU endeavours to create a conducive business environment, stimulate economic growth, and ensure equitable tax burdens for all. In addition to its focus on taxation, the AU seeks comprehensive financial governance reform:

- **Enhancing Public Financial Management:** The AU aims to improve the management of public funds, ensuring their judicious allocation and utilization. Robust public financial management systems are instrumental in deterring financial irregularities.
- **Increasing transparency:** Transparency is vital in the battle against IFFs. The AU works to enhance transparency in financial transactions, public resource allocation, and government expenditures.

- **Reinforcing accountability:** Ensuring that public resources are allocated and utilized accountably is paramount. The AU promotes mechanisms that hold governments accountable for their financial decisions, thereby reducing opportunities for IFFs.

Recognizing the need for synergy and collaboration in combating IFFs, the AfDB has forged partnerships with organizations like the United Nations UNDP to implement the IFFs Programme in Africa. These initiatives seek to enhance the capacity of African countries to combat IFFs through various means:

- **Improving tax administration:** The programme aims to strengthen tax administration capacities, ensuring that governments can effectively collect taxes and identify potential IFFs.
- **Promoting transparency and accountability:** Transparency and accountability are integral components of the IFFs Program, working hand in hand with African countries to create a financial landscape resistant to illicit activities.
- **Facilitating international cooperation:** Recognizingthe global nature of IFFs, the IFFs Program fosters international collaboration, enabling African nations to engage in the exchange of critical information and intelligence.

From the perspective of the AU, the battle against IFFs underscores the paramount importance of collaborative initiatives among various organizations. The challenges stemming from fragmentation and the lack of coordination among tax units, financial institutions, and FIUs pose significant obstacles to the effective identification and mitigation of IFFs. Some of the AU's interventions include:

- **IFF and DRM Strategies:** The AU has developed strategies targeting IFFs and DRM, focusing on initiatives to bolster domestic revenue collection, improve tax administration, ensure tax compliance, and reduce tax evasion and avoidance
- **Tax policy and legislation:** Central to the AU's efforts is refining tax policies and legislation in African nations to align with international standards. This aims to stimulate economic growth, create a favourable business environment, and ensure equitable tax burdens.
- **Financial governance reform:** The AU is dedicated to enhancing public financial management, increasing transparency in financial transactions and government expenditures, and reinforcing accountability mechanisms.
- **Partnerships:** The African Development Bank (AfDB) collaborates with organizations like the UNDP to implement the IFFs Program in Africa. This programme focuses on improving tax administration, promoting transparency and accountability, and facilitating international cooperation.
- **Coordination:** The AU recognizes the importance of collaboration among various organizations to effectively combat IFFs. Challenges related to fragmentation and coordination gaps are being addressed through collaborative efforts.
- **International cooperation:** Emphasizing the role of international cooperation and information exchange, institutions like the AfDB play a crucial role in fostering coordination among diverse stakeholders.

The AU's dedication to addressing IFFs is reflected in its two recently adopted strategies on IFFs and DRM respectively, which prioritise various aspects of financial integrity, tax policy enhancements, robust tax collection mechanisms, and the promotion of transparency and accountability. These comprehensive approaches are aimed at fostering sustainable development across the African continent.

The **Thabo Mbeki High Level Panel on Illicit Financial Flows**[38] (HLP-IFF) is a panel established by the AU and the UNECA in February 2012 to address the issue of illicit financial flows from Africa. The panel was chaired by Thabo Mbeki, former President of South Africa, and consisted of 10 other members from various fields . The panel's report, which was adopted at the 24th Assembly of the African Union in 2015, provides a realistic and accurate assessment of the volumes and sources of illicit financial flows from Africa, based on case studies of a sample of African countries. The report also makes specific recommendations of practical, realistic, short- to medium-term actions that should be taken both by Africa and by the rest of the world to effectively confront what is in fact a global challenge.

The Coalition for Dialogue on Africa (CoDA) operates as the secretariat of the African Union HLP-IFFs from Africa and as the joint secretariat (with the African Union Department of Economic Affairs) of the **Consortium to Stem IFFs from Africa**[39]. The Consortium is a broad coalition of African institutions working to address illicit financial flows inAfrica. It was established in 2016, following the adoption of the HLP report by African leaders, which is co-chaired by H.E. Thabo Mbeki and H.E. Thomas Kwesi Quartey, former Deputy Chairperson of the African Union Commission. The Consortium oversees and engages in the implementation of the recommendations of the HLP. It consists of up to 17 institutions and is guided by the by-laws within its Terms of Reference. The Consortium has a technical arm, the IFF Working Group (IWG), which operates under the guidance of the Consortium as outlined within its Terms of Reference. To advance its work of leading the implementation of the HLP recommendations, the Consortium's secretariat was established within CoDA, which is situated at the headquarters of the African Union Commission.

Advancing on the IFFs and DRM agenda, requires clear mandates and enhanced cooperation and collaboration of the various African institutions, with a recognised coordination mechanism.

[38] Accessed from https://au.int/en/documents/20210708/report-high-level-panel-illicit-financial-flows-africa
[39] Accessed from The Consortium – codafrica

Chapter 4

STRATEGIES AND TOOLS TO COMBAT TIFFs

“ The combination of globalisation and digitalisation has increased the ability of foreign entities to earn revenue from the continent without establishing a tax presence within the existing international tax framework. Therefore, it is pertinent that African countries have taxing rights proportionate to tax revenues earned from their countries which are predominantly market jurisdictions .[40]

40 Honourable Clemence Chiduwa (MP), Deputy Minister for Finance and Economic Development for the Republic of Zimbabwe, April 2022, available at: The African Union Commission to fight Illicit Financial Flows (IFFs) out of Africa and to harmonize continental tax policy on tax Incentives | African Union (au.int)

4.1 Challenges facing many African countries

African nations face challenges in curbing IFFs due to capacity shortfalls in tax and customs sectors. Many lack digital tools, software, and proper data management. Combating IFFs requires a collaborative approach involving tax evasion prevention, corruption control, and money laundering deterrence. Internationally, donors highlight the necessity for cooperation, information exchange, and political commitment to tackle IFFs. Strategies for African governments involve enhancing trade data collection, intensifying anti-corruption measures, and encouraging regional coordination. Overall, a coordinated, holistic approach involving all stakeholders is essential to combat IFFs in Africa, with both positive advancements and potential drawbacks recognized in current efforts, for example in the Inclusive Framework on BEPS.

4.1.1 Human capacity and skills

Tackling IFFs and TIFFs is compounded by deficiencies in human capacity, particularly within tax and customs institutions, where identifying areas of financial leakage are hampered by limited financial and human resources. Skills are required to be able to analyse, detect, investigate, prosecute and recover stolen assets, are a missing ingredient in most African countries.

It's not just about skills it's also about the warm body dedicated to addressing the various components of IFFs. Oftentimes, complicit politicians collapse the budgetary resources and underfund a function, resulting in a limited number of staff to analyse, detect, investigate, prosecute and recover stolen assets. Underfunding is a common tactic to ensuring that complicit and corrupt officials and PEPs are not caught.

4.1.2 Political will

The presence of strong political will is paramount in the battle against TIFFs. Without a genuine commitment from political leaders, efforts to curtail TIFFs can be easily undermined by internal and external pressures, regulatory loopholes, or institutional inefficiencies. Moreover, political will ensures that adequate resources are allocated to tax and customs authorities, FIUs, law enforcement agencies, to mention a few. In addition, it ensures that policies are not only formulated but also rigorously implemented, sending a clear signal to potential violators, allies, and the international community that the country is serious about maintaining financial integrity and safeguarding its economic future. In essence, political will is the backbone that underpins a nation's resilience against the tide of illicit financial activities.

4.1.3 Accessible and interoperable data and big data analytics

The use of complementary digital tools, software and equipment promoting the use of digitised data that can be analysed is often missing. Moreover, data and system interoperability are seriously lacking, which means that modern tools that are relatively inexpensive, allowing them to capitalise on big data analytics which draws an administrative and third-party data or social network analyses, cannot be leveraged. This capability includes Social Network Analyses coupled with a process of red-flagging transactions (or exceptions) that could represent tax evasion and other activities that break the spirit and letter of the law, using supervised and unsupervised machine learning are not available to many countries because they don't have the supporting data in a structured, machine-readable and useable format. More importantly, blacklisting enablers and identifying the depth of their networks are powerful tools. The ability to link various datasets – tax, customs, cross border flows, suspicious transactions and beneficial ownership information - are key for analysis, detection and investigation purposes. Traditional processes are manual and require a high demand for manpower to curb IFFs.

Up to date, validated and verified information is also key in addressing IFFs. Collecting data that is not well maintained and prepared for analysis, is of no value.

The existing regulatory framework's inconsistency in curtailing tax avoidance practices, adds to the challenges of curbing IFFs. Policy harmonisation between the different key stakeholders within a country is important in ensuring consistency and allows for efforts to be leveraged between institutions, instead of working against each other.

Conducting risk assessment are useful tools in identifying the possible risks to curb IFFs.

4.1.4 A holistic, collaborative, and coordinated approach to tackle IFFs

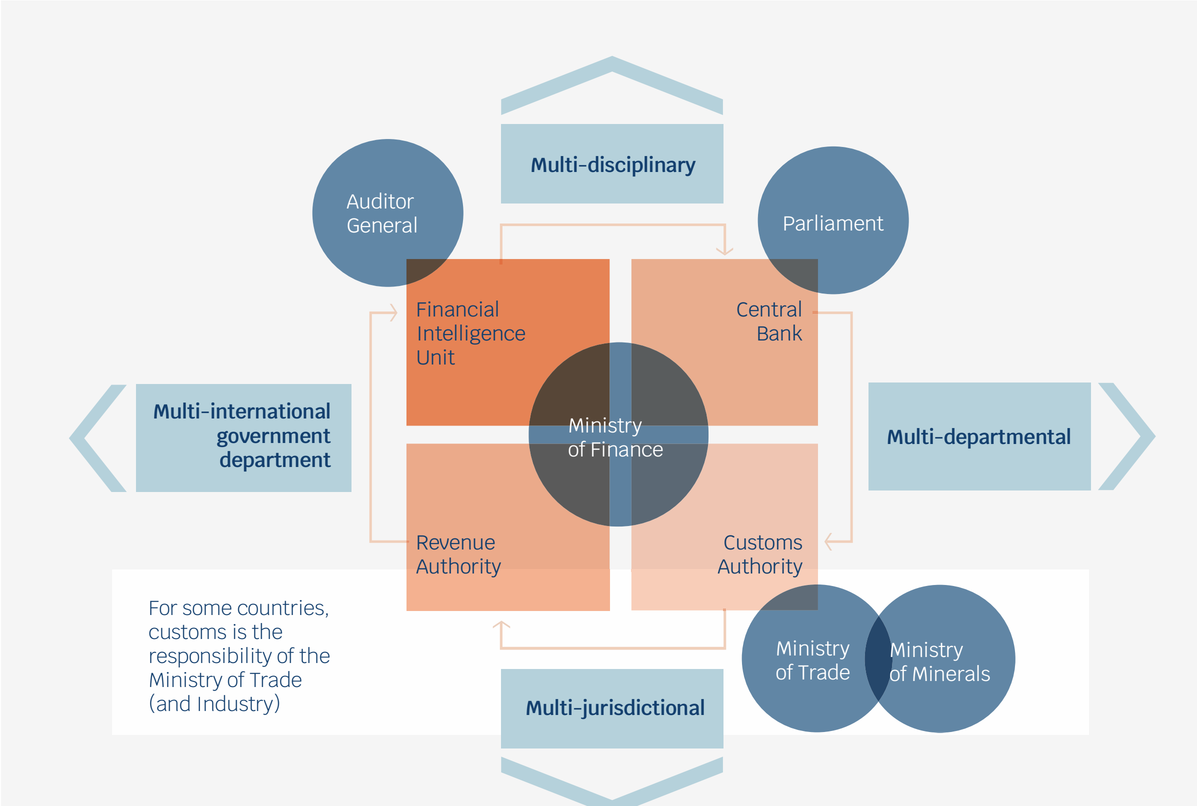
Addressing the multifaceted challenges of IFFs in Africa demands a holistic, collaborative, and internationally coordinated approach. Strengthening governance structures, combating corruption, enhancing regulatory frameworks, and promoting regional cooperation are vital components of this effort. Active involvement of all stakeholders, from governments to international organizations, is essential in the battle against illicit financial flows, which have severe development repercussions on the continent, affecting economic growth, employment opportunities, and reinvestment.

Additionally, insufficient coordination and collaboration among various entities, including tax and customs units, financial institutions, and financial intelligence units, frequently hinder the exchange of pertinent information and the identification of TIFFs.

To tackle these complex challenges comprehensively, a collaborative approach is necessary, encompassing efforts to combat tax evasion (including transfer mispricing and trade misinvoicing), corruption and money laundering. This approach requires the coordination of different departments and organizations and the establishment of a functioning justice system to prosecute tax evasion and money laundering and facilitate the successful freezing and return of assets. However, the absence of an accountable body to drive IFFs in a coordinated manner among various government organisations with varying mandates, coupled with the measurement complexities that are often not politically palatable, pose additional challenges to implementing the anti-IFFs strategy in Africa.

The figure below illustrates the fact that tackling TIFFs requires 'organised government' that has the ability to work across: various disciplines (i.e., tax, public finance, accounting, trade, economics, AML/CFT, anti-corruption, etc.); various institutions within a country; various jurisdictions; and numerous multi-lateral agencies and counterparty institutions in other countries (FIU to FIU, tax authority to tax authority).

FIGURE 12: CURBING TIFFs: A MULTI-DISCIPLINARY, MULTI-DEPARTMENTAL, MULTI-JURISDICTIONAL, MULTI-FOREIGN INSTITUTIONAL



Source: Author's own

The automatic exchange of information between different institutions and jurisdictions is key in curbing TIFFs as information needs to be triangulated between domestic government departments and entities and their international counterparts. This is one of the key policy levers that promote transparency and good governance.

Given the large number of multilateral organisations and donors supporting anti-IFF approaches on the continent, the value and pressure placed on a limited number of officials responsible for implementation on the ground, is extensive. Coordination between institutions, leveraging resources, skills and expertise is paramount to curbing IFFs. Improved coordination and donor support coherence is definitely required on the continent.

The collective effort to stem IFFs and TIFFs between different stakeholders has both positive and negative effects:

- **Synergies and incremental progress:**
  - Transparency Agenda: Donors and international stakeholders have advanced transparency agendas. Initiatives like the Common Reporting Standard (CRS) and the automatic exchange of tax and financial account information have made it harder to hide assets and evade taxes, contributing to incremental progress.
  - Methodologies for Estimating IFFs: Collaborative efforts have improved methodologies for estimating tax related IFFs. International organizations, civil society groups, and researchers have worked together to create more accurate assessments, enhancing our understanding of the issue.

Case studies on Vessel data: A potential framework to exchange vessel data between port authorities

Vessel data is a critical component of automatic information exchange (AEOI) at ports. It includes details about a ship's identity, ownership, origin, cargo, and destination. Sharing a standardised set of vessel data, or a framework) between ports is necessary to enhances transparency, streamlines customs procedures, assist in gathering intelligence to curb IFFs. However, this framework must ensure compliance with data protection regulations. Strict data security measures are essential to safeguard sensitive information.

In global trade, specific documents are essential for efficient goods transportation and customs procedures, with the Bill of Lading and the Maritime Manifest being crucial in maritime transport. These documents contain vital information for tracking goods and detecting fraud.

To combat trade misinvoicing effectively, it's crucial to identify data typically manipulated in commercial invoicing fraud in maritime transport. Documents such as the Bill of Lading, maritime manifest, commercial invoice, Certificate of Origin, packing list, and import/export permit are instrumental in this effort. In fact, it would be better to focus on identifying a minimum set of data requirements that can be extracted from commercial and transport documents to have a starting point. Enumerating all documents could become burdensome for traders, which could lead to duplication, in particular in less developed jurisdictions.

Some suggestions on possible inclusions related to vessel data:

- Establishing a legal framework for AEOI requires international and national considerations. Multilateral conventions are favoured at the international level to ensure global cooperation. At the national level, countries must align their legislation with international standards and empower competent port authorities, especially customs. A robust IT infrastructure is essential for AEOI, with potential solutions including the Single Window system and distributed ledger technology, each with its advantages and challenges.
- Data security and confidentiality are paramount when implementing these technologies. Access to exchanged information must be restricted, and cybersecurity measures and international standards compliance should be in place to mitigate cyber risks. Supporting developing countries, particularly African nations, is crucial in bridging the technological gap and ensuring adherence to data protection standards.

- Capacity Building: Donors have supported capacity-building in developing countries, training tax authorities, providing technical assistance, and improving data capabilities. These efforts have contributed to incremental progress.

■ **Possible adverse effects:**

- Competing Mandates: Different organizations often have competing mandates and priorities. Some focus on anti-money laundering, while others target tax related IFFs. This fragmentation can hinder a coordinated approach. While there are mechanisms for the exchange of tax information it's generally not permitted to use the information to address other financial crimes.[41] Also, to work on continental level, there is need for clarification and recognition of one continental coordinator at political level.
- Lack of Awareness and Coordination: Despite progress, there can be a lack of awareness and coordination among stakeholders, leading to duplicated efforts or gaps in addressing the issue. TEAM Europe Initiative is a concrete example of enhanced coordination and cooperation.
- Resource Allocation: Limited funding for initiatives targeting tax related IFFs can divert attention and funding from this crucial issue.
- Policy Harmonization: Achieving policy harmonization can be challenging due to differing interests and regulatory frameworks among donor countries and stakeholders.
- Private Sector Engagement: Balancing the interests of the private sector with efforts to prevent tax related IFFs is complex but necessary.

In summary policy recommendations that can guide and assist African governments in their fight against IFFs and TIFFs include enhancing the collection of more accurate (tax and trade) data, strengthening domestic regulatory frameworks, harmonising the legislation and policies, intensifying the fight against corruption and money laundering, and prioritizing regional cooperation and coordination to address IFFs. The EC can play a strategic intermediary role in guiding and financing the support interventions that can help transform the fight against IFFs on the continent.

4.2 Specific policies and tools that can transform the fight against IFFs on the African Continent

Aside for the EU's usual support in coordination, advocacy, financial support and capacity building, the list below provides insights into more specific or sophisticated support, that requires greater capacity and skill, harmonisation of improved cooperations.

Due to the multi-disciplinary nature of curbing TIFFs, many of these instruments and levers are **complementary and work in a synergistic manner with the other policy tools and levers.** These need to be complemented with strong cooperative governance and information sharing, both domestically and internationally. The EU support needs to be complemented by the political will to curb TIFFs. More importantly, the EU support should also aim to develop the **appropriate capacity and capability** from an operational, people and systems perspective. In addition, the EU support could also promote adequate **monitoring, tracking and deterring capability** as well as strengthened enforcement and prosecution capacity.

EU support could strengthen a suite of interventions, for each country government, listed below:

4.2.1 Risk Assessments

Risk Assessment is the first step in implementing a risk-based approach that shifts risk

[38] The mechanisms to extend the use of tax information exchanged for other financial crimes is relatively simple. However, the political will to do so is lacking.

management from the regulator to the one being regulated – the entity. The aim of a national risk assessment is to support government departments, supervisory authorities, entities, institutions, businesses and professionals to conduct their own risk assessments. Risks can be seen as a function of 3 factors: threat, vulnerabilities and consequences. A deficient risk assessment at any stage of the process will have a cascading effect on the effectiveness of systems and controls to curb TIFFs at every level.

Risk-assessment tools include the World Bank and the IMF (AML/CFT) tools, CENFRI's Financial Inclusion and AML/CFT tool, GIZ's Pan-African IFF Country Risk Assessment tool (that includes a TIFFs pillar), GIZ's Beneficial Ownership Transparency Risk Assessment Tool and South Africa's Reserve Bank's Money Value Transfer Services Interactive Risk Assessment Tool.

4.2.2 Beneficial ownership registers

The beneficial ownership register was established to prevent money laundering and terror financing by lifting the veil on the complex layering of corporate structures used to hide wealth. Beneficial ownership transparency helps identify the natural person behind legal entities and arrangements. There is significant work being done in this space, however, there is diversity around whether the registers should be public or private. CSOs are pushing for public registers.

In its judgement of 22 November 2022, the Court of Justice of the European Union (the 'Court') invalidated the requirement introduced by Directive 2018/843 ('AMLD5') that Member States should make information on the beneficial ownership of legal entities held in central registers accessible in all cases to any member of the general public. The Court considered that such public access was neither strictly necessary to prevent money laundering and terrorist financing, nor proportionate and could therefore not justify a serious interference with fundamental rights, namely the right to respect for private life and to the protection of personal data enshrined in Articles 7 and 8 of the Charter. The latest FATF recommendations requires a central beneficial ownership register to be held by a public authority, but it does not have to be a public register.

4.2.3 Tax transparency (EOI and AEOI) and BEPS minimum standards

A decade of intensive international tax co-operation has seen the progressive involvement of African countries. The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) has 37 African members, and the Africa Initiative has been instrumental in seeing African countries make greater use of exchange of information (EOI) tools to raise tax revenues. The OECD/G20 Inclusive Framework on BEPS (the Inclusive Framework) has 27 members from the continent, where African countries have played a critical role in the development of new proposals to modernise and stabilise the international tax systems. The UN Tax Convention processes will augment the tax policy instruments to address IFFs.

4.2.4 FATF's Know Your Customer and Enhanced Customer Due Diligence

Know Your Customer (KYC) and Enhanced Due Diligence (EDD) belong to the broader scope of AML/CFT policy, however, are very powerful levers that promotes transparency when linked to other pieces of administrative information such as tax and customs declarations.

KYC is the process of gathering information and data in order to verify the identity of clients and make sure that they are not involved with money-laundering or another type of financial crime. EDD is the KYC process of gathering data and information to verify the identity of clients, but with additional information required to mitigate the risk associated with the client. As KYC compliance costs are high a tiered approach to such compliance effort should be followed to tackle the challenge of financial inclusion.

4.2.5 Social Network Analyses

Social Network Analysis (SNA), a commonly proposed concept by the OECD, is an approach used more in the tax space to detect tax fraud but should be used in the customs space as well. SNA is an analytic approach of correlating people, entities and relationships to determine how tightly an individual or business is related to others who have known compliance issues. These relationships can be from shared phone numbers, physical addresses, bank accounts, credit cards, or any other connection that is available through data capture. The results of the SNA can show the risk that a specific individual or business presents, based on their relationship with others who are known perpetrators that enable IFFs or illicit trade.

4.2.6 Big data analytics, system and data interoperability

Big data analytics is crucial in reducing TIFFs in African countries, enabling them to progress by utilizing advanced analytic techniques against large, diverse data sets. This powerful tool allows for quick responses to threats, identification of patterns, prediction of illicit activities, and addressing cross-border elements of illicit financial flows. It also facilitates faster data sharing between agencies and provides a broader picture of illicit financial flows.

4.2.7 Artificial Intelligence and Machine Learning (AI and ML)

AI and ML techniques, utilizing big data analytics and algorithms, are crucial for tracking and analysing transactions that may be TIFFs. These methods can also be used to measure TIFFs, using granular transactional data. AI and ML are not just modelling approaches but also technology tools for data collection and mining, enabling the development of adaptive models.

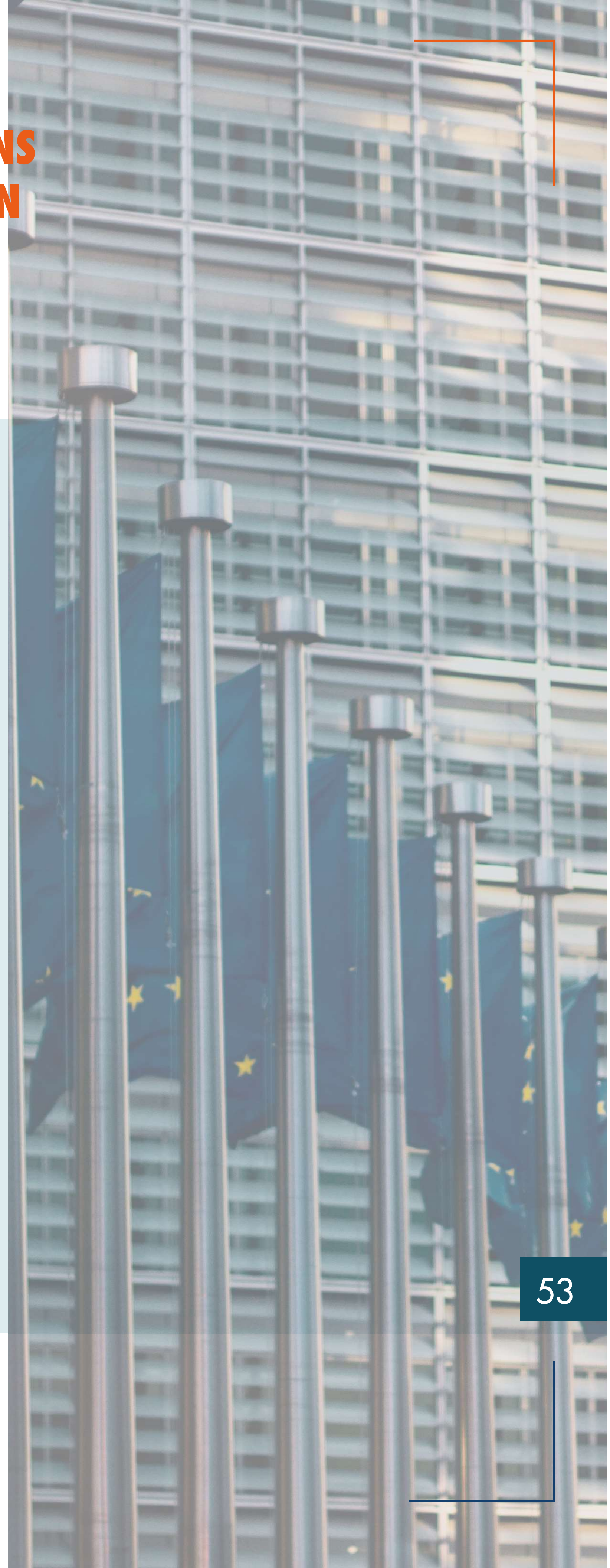
4.2.8 Cooperative governance and MOUs with other governments to share information, including AEOI

IFFs are complex issues requiring strong cooperative governance. The Ministry of Finance indirectly manages corruption in the public sector, while parliamentary portfolio committees, budget office, and Auditor General ensure transparency and accountability. Information exchange aims to achieve global tax cooperation, end bank secrecy, and tackle tax evasion. It solves information asymmetry between MNEs and tax authorities, improves tax collection efficiency, and reduces tax arbitrage opportunities. Mutual Legal Assistance Conventions, which often lead to joint investigations and audits could also be considered.

In conclusion, combating IFFs requires policies that enhance transparency, due diligence, and prevent tax evasion. Key elements include Beneficial Ownership and KYC regulations, CbCR requirements, AML/CFT strategies, and tax malpractices. The effectiveness of these policies depends on their integration into national policy frameworks. The AU Commission and Ministers of Finance have prioritized IFFs, and the G20 has taken a more prominent role in addressing TIFFs since the 2008 global financial crisis. The OECD has also made significant efforts, particularly through BEPS, to address commercial tax irregularities.

Chapter 5

RECOMMENDATIONS FOR THE EUROPEAN COMMISSION



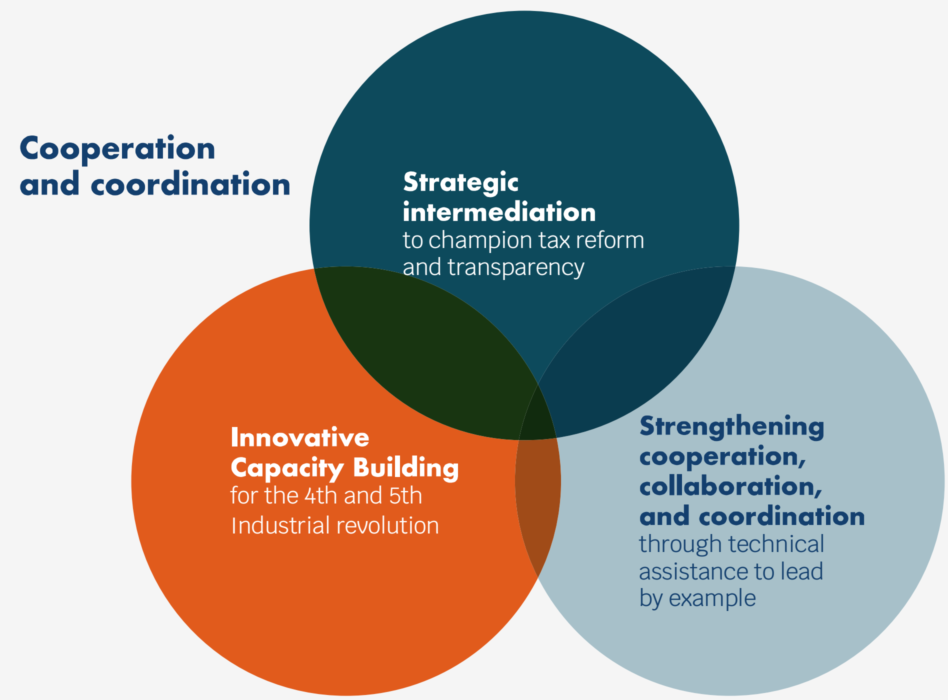
> “Fighting illicit financial flows is part of efforts to collect more and spend better to support countries’ development.[42]

42 Honourable Excellency Birgitte Markussen, EU Ambassador, quoted on 5 December 2020, available at: Africa and Europe join forces to fight Illicit Financial Flows (IFFs) in Africa | EEAS (europa.eu)

5.1 High level perspective for transformational interventions by the European Commission

In order to combat IFFs and especially tax motivated IFFs, a transformational approach that 'moves the needle' is paramount. Three key areas are recommended; namely strategic intermediation[43], strengthened cooperation, collaboration and coordination and innovative capacity building for the 4th and 5th industrial revolution.[44] The figure below illustrates the interplay between these three strategic interventions.

FIGURE 13: OVERVIEW OF THE EC APPROACH TO CURB IFFs AND TIFFs



Source: Author's own

Firstly, **strategic intermediation is necessary to curate partnerships and catalytic intervention, championing tax reform and transparency.** By actively reshaping the global tax landscape and championing reforms, we can ensure that loopholes are minimized, and transparency is enhanced, reducing opportunities for illicit activities.

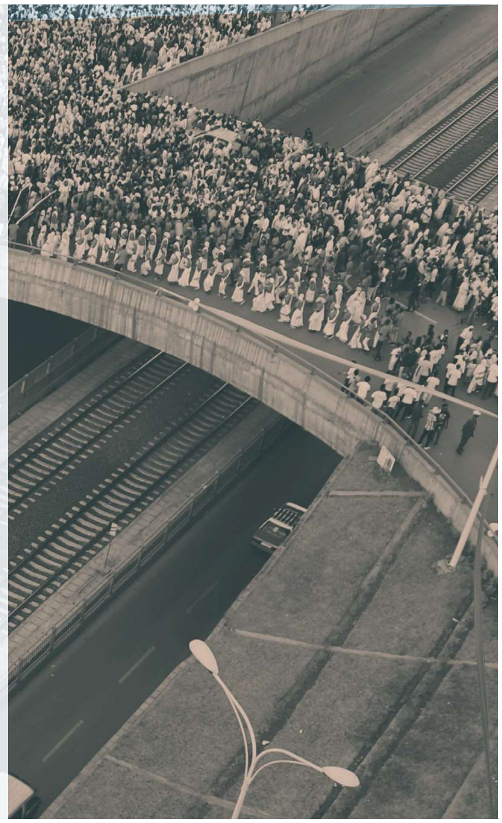
Secondly, **strengthening collaboration with developing countries and leading by example** is important. The EC has a pivotal role to play in the global fight against IFFs by (i) continuing to engage in international taxation reform efforts, (ii) supporting relevant multilateral initiatives, (iii) collaborating and financially supporting African countries through technical assistance, to strengthen their internal regulatory frameworks.

[43] Strategic intermediation" often refers to the role played by individuals, organizations, or institutions that act as intermediaries or facilitators to bridge gaps between different stakeholders. The EC could act as intermediaries, working to connect disparate entities, streamline communication, curate partnerships and negotiate differences to create a platform for collaboration to curb TIFFs and IFFs more broadly. The strategic role of the EC involves understanding the objectives and interests of each party and finding ways to align them for a catalytic intervention that can impact the fight against IFFs. Strategic intermediaries play a critical role in situations where direct communication or cooperation between parties is challenging, complex or inefficient.

[44] The Fourth Industrial Revolution (4IR) is a term coined in 2016 by Klaus Schwab, Founder and Executive Chairman of the World Economic Forum (WEF). It refers to the blurring of boundaries between the physical, digital, and biological worlds. It is a fusion of advances in artificial intelligence (AI), robotics, the Internet of Things (IoT), Web3, blockchain, 3D printing, genetic engineering, quantum computing, and other technologies The Fifth Industrial Revolution (5IR) is a new and emerging phase of industrialisation that sees humans working alongside advanced technology and AI-powered robots to enhance workplace processes. This is coupled with a more human-centric focus as well as increased resilience and an improved focus on sustainability.

What is strategic intermediation?

"Strategic intermediation" involves promoting catalytic interventions through partnerships, **championing tax and customs reform and transparency**. As this study shows, enhancing existing strategic partnerships in the fiscal and tax arenas while extending them to customs could constitute one major approach to combatting TIFFs. This can be achieved through partnerships with international organisations engaged in the area of tax good governance, such as the World Customs Organization (WCO), the AU, and other multilaterals active in the field, such as UNCTAD.



- The EU can promote improved collaboration and information sharing on beneficial ownership registers for foreign companies or even shipping vessels – these are not only about collaboration but also about strategic intermediation that is catalytic in nature.
- Moreover, an improved coordination and information exchange between the EC, EU businesses, African governments and civil society can set a robust precedent, showcasing the benefits of transparent and ethical financial and tax activities that ensure compliance with the letter and spirit of the tax laws.

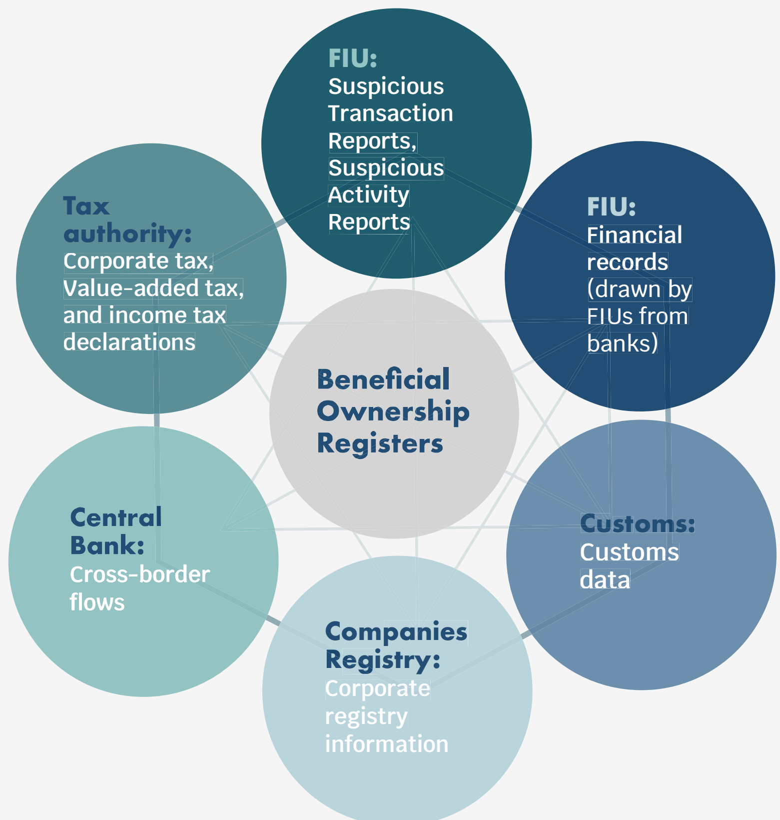
Finally, innovative capacity building at country level is essential. The main problem with effectively addressing IFFs and TIFFs in Africa and developing countries in general, is the capacity and resources available across each relevant country government institutions to tackle IFFs and TIFFs. Thus, a bespoke or customised project, that is specific to the needs of that country to tackle the different types of TIFFs (and IFFs) is required. However, this approach should be innovative, focusing on ways in which African countries can leverage digital technologies, big data, intelligence, social network analyses or other smarter ways of doing things, like using drone technologies, or blockchains to manage ethical logistics planning, etc.

- One of the biggest gaps in Africa is the lack of interoperable, machine readable, digital data that can be used to detect and identify suspicious transactions that need to be investigated. This requires several datasets to be combined, as illustrated in the Figure 14 below. Anonymising this data and ensuring that Law Enforcement Agencies (LEAS) have access to this data for investigative purposes would assist attempts at addressing illicit, illegal, and corrupt behaviour. Building this kind of capability in tax and customs authorities, central banks, LEAs and FIUs could make a big difference in addressing IFFs.[45] Promoting an intervention of this nature, testing ethical and secure access to data, while protecting data privacy, and more importantly developing the analytical tools and capability to investigate is an absolute necessity. This work could be funded through a partnership with UNECA, UNCTAD

[45] Leveraging UNCTAD's work on TIFFs which focuses on building the capacity of statistical divisions, would be a form of strategic partnership intermediation.

and the AU. This is an example of a catalytic, innovative project that could transform the fight against TIFFs.

FIGURE 14: COOPERATIVE GOVERNANCE AND ANONYMISED, INTEROPERABLE DATA



Source: Author's own

By leveraging cutting-edge technologies, data analytics, and continuous training programmes, institutions and professionals can be empowered to prevent, detect and investigate IFFs and TIFFs. Together, these three pillars can forge a resilient and proactive defence against illicit financial activities, where the EC takes a proactive role in international taxation reform efforts.

5.2 Recommendations to the EC – possible interventions to support

The OECD (2023) states that the challenge of IFFs has persistently troubled African governments. Global tax standards are crucial instruments in the fight against this issue, among others. UNCTAD, estimates IFFs of approximately USD 88,6 billion leave the African continent per annum with TIFFs being estimated at between USD 30 and 50 billion per annum. The HLP report on IFFs offered imperative recommendations for African countries in relation to BEPS and transparency.

Against this background, this study proposes the following three areas of intervention to the European Commission:

5.2.1 Strategic intermediation to champion tax reform and transparency

- **Engagement with the UN tax reform process at a global level**, in a spirit of partnership with AU members states, thereby contributing to UN Tax Convention becoming a powerful tool for promoting global tax reform and transparency.
- **Advocating for global financial transparency** and encouraging AU member states to ratify pertinent tax transparency reforms, customs reforms, the AML/CFT 40+ recommendations and anti-corruption conventions. Encourage the use of exchange of information beyond tax.
- **Close collaboration with the AUC for effective implementation of strategies to tackle TIFFs.** The AU should be the primary driver of the IFF strategy on the continent. The EU could intermediate on setting the development partner framework and agenda, which in turn determines the areas of intervention together with partner countries, regional or pan-African bodies. By creating the framework, the pan-African and regional bodies including the AU can operationalise their IFF strategy with interventions to curb IFFs in full cooperation with all partners.
- **Assess the feasibility of developing a partnership with WCO, AU, UNECA, and other multilaterals for strategic customs interventions**, including data quality improvement to address trade and AI-ML algorithms for trade data analysis. This could support a couple of AU member countries to carry-out self-assessments of their customs function, based on the recent WCO tool. Similarly, it could strengthen the single customs window to improve the quality of data and automate reporting of trade data, measurement of trade misinvoicing and development of AI-ML algorithms to red flag potential TIFF transactions/consignments. Alternatively, the development of modules of customs information systems to identify abnormal prices and/- or quantities could benefit customs inspectors in detecting wrongdoing, as well as statisticians who compile the volumes and values of illicit financial flows.
- **Assess the need for automatic exchange of information on vessels between port authorities at international level**. In this vein, there is a need to develop the legal framework at international level and identify data requirements required for such an exchange to help tackle trade misinvoicing.
- **Reporting aggressive tax planning by enablers to tax authorities**, Leading by example, the EU and its MS can start encouraging transparency in this area.

5.2.2 Strengthen cooperation, collaboration and coordination

- **Enhance EU support for the further development and implementation of the BEPS Inclusive Framework, including the 2-pillar deal of OECD.** The EU MS are frontrunners when it comes to the implementation of international tax standards. They could share their experience and knowledge with partner countries through instruments like Twinning or Taiex. This support could focus on enhancing negotiation skills and capacities of Africa in the international tax arena.
  - ▹ Prioritizing the evaluation of tax incentives in relation to OECD Pillar Two is crucial, especially considering that EU countries will soon begin enforcing Pillar Two regulations, potentially impacting revenues that African countries might be entitled to.[46]
- **To advance the transparency agenda,** including the automatic exchange of information and beneficial ownership (BO) registers, there is a need to bolster cooperation. Despite the substantial coverage with 68% of African countries as members, the Africa Initiative could extend its reach to the entire continent. The high-level political agreement at the level of the African Union (AU) and regional communities (RECs) and the Global Forum could play a

[46] https://www.oecd.org/tax/crime/fighting-tax-crime-the-ten-global-principles-second-edition-006a6512-en.htm

pivotal role in promoting further expansion to new jurisdictions while deepening cooperation with the existing ones. Technical support is essential to build and develop systems at the country level, ensuring proper implementation, which includes support for legal and tax systems. The OECD's 10 global principles could serve as valuable guidance in this endeavour.

- **Encourage cooperation between financial regulatory authorities, tax agencies, and law enforcement bodies to harmonize AML measures with tax compliance efforts, both domestically and cross-border.** Encourage the integration or harmonisation of AML measures with tax regulation and compliance efforts to improve financial transparency to reduce IFFs by fostering both domestic and international cooperation. This entails fostering closer collaboration and information sharing between financial regulatory authorities, tax agencies, and law enforcement bodies. This synergy between AML and tax compliance will not only serve as a powerful deterrent but also create a more robust framework for tracking and stopping illicit financial flows.
- **Assisting countries to strengthen their prosecution and sentencing capacities for the effective recovery of assets from TIFFs could be prioritised for future interventions.** The analysis of the TEI has shown that support is unevenly provided along the IFFs value chain (see chapter 3).

5.2.3 Innovative capacity building for the 4th and 5th industrial revolution

- **Provide technical assistance to digitize tax and customs systems.** Leveraging a partnership with UNCTAD, UNECA, AU and ATAF, and targeting the 12 African countries that were in the measurement pilot could result in interventions that are scalable over time and have a significant impact in addressing TIFFs, IFFs, corruption, money laundering and terror financing. The project could follow the 12-country pilot method that was tested. This is a blend of strategic intermediation by the EC and innovative capacity building. This intervention, would pilot the use of different data sets, rendering them interoperable for detection and investigation purposes, while building statistical and analytical capability. This should include analysis of BO information.
- **Promote a global culture of integrity and transparency to combat corruption and illicit financial flows.** Actively promoting a culture of integrity and transparency globally is vital to combating corruption and illicit financial flows. This entails engaging with countries outside the EU and supporting international initiatives like the Common Foreign Security Policy (CFSP) sanctions regime targeting serious acts of corruption. By demonstrating a commitment to fighting corruption on a global scale, we can encourage nations worldwide to adopt stringent measures against corruption and reduce opportunities for illicit financial flows.

*It is important to note that the recommendations are not ground-breaking, as the EC is already active in these and many more areas. It is about **how** the EC interventions are implemented. The most successful interventions are at both the strategic policy and operational levels, being implemented within African countries. However, the latter is more complex as it is demand-driven and costly to implement and requires some customisation and innovative adaptiveness to gain traction: where the real impact can be felt and made.*

5.3 Conclusions

IFFs represent a significant challenge, especially for African nations. The UNCTAD 2020 report underscored the annual loss of an alarming USD 88,6 billion to African economies due to IFFs. These flows not only undermine economic development but also hinder efforts toward achieving a fair and transparent global financial system.

The EC stands in a pivotal position to address this global phenomenon drawing on its extensive experience in tax good governance, financial regulations, beneficial ownership transparency, and anti-corruption measures. The EC can offer substantial support through strategic intermediation and mediating of impactful interventions, strengthening cooperation and leading by example, and providing technical assistance for innovative capacity building for the 4th and 5th industrial revolutions to tackle IFFs and TIFFs on the African continent in the medium to long-run.

The EU can promote best practices to African nations, drawing on the challenges experienced, and lessons learned by the EU. By leveraging existing EU initiatives, African countries can gain access to valuable resources, knowledge, and expertise. Such cooperation also provides an opportunity for both the EU and the African Union (AU) to foster mutual growth and development, while facilitating a safer financial environment that benefits all parties.

The ongoing commitment of the EU, in synergy with the AU's determination, is paramount. Through strengthened collaboration, enhanced frameworks, and shared learnings, it's conceivable to pave the way towards a future where IFFs are significantly curbed, if not eradicated. The global financial ecosystem stands to gain immensely from such cooperative endeavours, driving toward a more equitable and transparent world economy.

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ANNEX

ANNEX A: Broad and Narrow Approach views from semi-structured interviews

BROAD OR NARROW	INTERVIEWEES	MOTIVATION
Broad	Sol Picciotto AFRODAD Ministry for Foreign Affairs of Finland DG TAXUD CoDA UNCTAD GIZ BMZ AUC	• **Encompassing illicit or immoral activities:** Advocates for a broad definition of IFFs emphasize the importance of including activities that may not be strictly criminal but are considered against the spirit of the law. This approach ensures that unethical financial practices are also addressed, not just those that are clearly illegal. By covering a wider spectrum of activities, it becomes possible to combat a range of financial improprieties. • **Addressing tax avoidance:** A key rationale for adopting a broader definition of IFFs is the recognition that some activities, while not illegal per se, as they may not be directly prohibited by the letter of the law, should still be considered illicit due to their impact on revenue collection and economic fairness. This perspective accommodates activities that fall into a grey area between what is in line with the letter and the spirit of the law.. What is in line with the letter but not the spirit, legality and illegality, hence the term illicit. This is the case of aggressive tax avoidance. • **Recognition of changing dynamics:** Historically, concerns about capital flight and international tax avoidance were distinct from IFF discussions. However, changing global dynamics, including financial crises and international tax system reforms, have led to greater awareness of both tax evasion and avoidance as contributors to IFFs. Advocates argue that a broad definition is adaptable to these evolving circumstances, ensuring that new challenges are adequately addressed. • **Promoting a paradigm shift:** To discourage the use of offshore tax havens and address tax-related IFFs effectively, there's a need for a paradigm shift in taxing multinational corporations. A broad definition aligns with this shift in perspective, recognizing the importance of revising international tax rules to capture revenue that may be illicitly shifted offshore. • **Addressing fragmented definitions:** In discussions related to Sustainable Development Goals (SDGs) and other frameworks, the lack of a universally agreed-upon IFF definition has led to fragmented debates. Advocates contend that a broad definition encourages holistic thinking and helps avoid compartmentalization of the issue, promoting a comprehensive understanding. • **Fostering integrated approaches:** Given that many organizations have specialized experts in areas like taxes, money laundering, and corruption, a broad definition promotes integrated thinking. It encourages an approach that considers various aspects, including customs and their work, to tackle complex challenges effectively. This holistic approach recognizes the interconnections between different forms of financial misconduct. • **Global consistency:** Many development country partners primarily use a broader definition of IFFs. Advocates argue that adopting a similar perspective ensures global consistency and facilitates collaboration among partners. This consistency simplifies cooperation in addressing the issue and aligning policy efforts. • **Emphasizing tax-related IFFs:** Advocates highlight that tax-related IFFs are of significant concern, with a substantial proportion attributed to tax avoidance. A broad definition helps emphasize the importance of addressing this issue, particularly in the context of multinational corporations and their tax practices. • **Recognizing interconnectedness:** Different financial issues, such as money laundering, are interconnected with IFFs. Advocates argue that a broad definition underscores the need for a more integrated and coordinated approach to address these issues collectively. Recognizing these connections can lead to more effective policies.

Broad	**Sol Picciotto** **AFRODAD Ministry for Foreign Affairs of Finland** **DG TAXUD** **CoDA** **UNCTAD** **GIZ** **BMZ** **AUC**	• **Complexity and data challenges:** IFFs encompass a wide range of financial activities that are often interconnected and challenging to classify. Moreover, accurate data is often lacking. A broad definition accounts for this complexity and data limitations, recognizing the difficulty of categorizing all financial flows into illicit or illegal categories. • **Sectoral impact:** Advocates highlight that IFFs affect various sectors, from natural resources to telecom and construction. A broad definition acknowledges the multisectoral impact of these activities, ensuring that all affected sectors are considered in policy formulation. • **Regulatory framework weaknesses:** Sometimes, the regulatory framework enables tax avoidance without rendering it clearly illegal through literal prohibition in the law. Advocates argue that a broad definition considers not just illegal activities but also systemic weaknesses contributing to these flows. This comprehensive view ensures that both illicit and regulatory shortcomings are addressed. • **Governance and coordination:** IFFs are sometimes intertwined with issues like corruption and weak governance. A broad approach recognizes these connections and emphasizes the importance of coordination between institutions and initiatives aimed at addressing these challenges. • **Capacity building:** Combatting IFFs often requires specialized knowledge and skills. Advocates contend that a broad definition acknowledges the need for capacity building within institutions to effectively address these complex and multifaceted issues. Building institutional capacity can lead to more successful efforts to combat IFFs. • **Complexity of definitions:** The complexity of existing definitions of IFFs presents a challenge. Advocates argue that a broad definition can help overcome this challenge by providing a more inclusive and flexible framework. • **Support for broader definition:** Some countries support a broader definition of IFFs, aligning with the preferences of their partners. Advocates acknowledge that not all countries may immediately embrace a broad definition, but they argue that it allows for more comprehensive discussions and policy development. • **Development perspective:** The importance of combating tax avoidance and aggressive tax planning from a development perspective is emphasized. Advocates believe that a broader definition is a means to address these issues and promote sustainable development, aligning development goals with IFF discussions. • **Global tax competition:** Harmful tax competition is highlighted as a concern. A broader definition of IFFs, which includes addressing tax avoidance and aggressive tax planning, aligns with the interest in reducing harmful tax competition on a global scale. • **Holistic approach:** Advocates emphasize that addressing IFFs should take a holistic approach. They argue that tax avoidance is a crucial component of IFFs and should be included in any comprehensive definition. This perspective underscores the interconnectedness of tax-related IFFs with broader economic and development concerns. • **Linking IFFs and taxation:** The link between IFFs and taxation, especially tax avoidance, is considered crucial. Advocates suggest that removing tax avoidance from the IFF definition would lead to a narrower focus on illegal activities, while excluding the broader issues related to multinational corporations and tax practices that impact revenue mobilization in countries. This perspective aligns the discussion of IFFs closely with taxation matters, recognizing their intertwined nature.

BROAD OR NARROW	INTERVIEWEES	MOTIVATION
Narrow	Jeffrey Owens OECD WBG	• **Clarity and Semantics:** Advocates for a narrow definition of Illicit Financial Flows (IFFs) stress the importance of clarity and semantics. They argue that by narrowing the definition to include only activities that unequivocally violate the law, it becomes easier to prevent semantic debates and confusion. According to this perspective, the term "IFFs" should be reserved for financial flows that clearly breach the law, thus distinguishing them from (presumably) legal tax avoidance strategies. This clarity aids in framing discussions around IFFs more precisely. • **Policy focus:** A central argument for the narrow definition is that different policy responses are required for illegal activities like tax evasion compared to presumably permitted by the letter of the law tax avoidance. Advocates emphasize that by concentrating efforts on tax evasion, a well-established illegal activity, policymakers can address a significant contributor to IFFs more effectively. This focused policy approach allows for targeted guidance and recommendations within the core policy area, especially for organizations like the OECD that primarily deal with economic and tax policy issues. • **Global consensus and international standards:** The absence of international consensus on IFF definitions leads advocates to assert the importance of defining IFFs primarily in terms of criminal activities. They highlight a strong connection between IFFs and activities such as money laundering, tax evasion, and corruption. This perspective underscores that IFFs should primarily encompass activities that are clearly illegal, aligning with international standards that address specific illegal activities like tax evasion and money laundering. • **Measurement and assessment:** Advocates argue that broad definitions of IFFs can complicate measurement efforts. By narrowing the definition to activities like tax evasion, measurement and assessment become more feasible. This precision in measurement enables organizations and policymakers to collect data and develop methodologies to estimate the extent of tax evasion, which is essential for formulating and evaluating effective policies to combat this specific problem. • **Legal clarity and compliance:** A central tenet of the narrow IFF definition is that the term "illicit" should be closely tied to law or regulation violations. Advocates argue that to be considered IFFs, financial flows must involve a clear breach of the law, differentiating them from illicit tax avoidance strategies that may comply with the letter of existing laws and regulations. This emphasis on legal clarity ensures that discussions around IFFs focus on unequivocally illegal activities, maintaining a clear distinction between what is illegal and what is border line. • **Instrumental differences:** Advocates stress that illegal and illicit financial activities require different policy responses. They believe that merging these issues under a single, broad IFF definition can hinder the development of targeted policies for each specific problem. By narrowing the definition to illegal activities like tax evasion, it becomes easier to measure, assess, and address these criminal aspects of IFFs effectively. • **Measurement robustness:** Concerns are raised about the potential overstatement of some estimates of IFFs, particularly related to issues like trade mis-invoicing. Advocates argue that inflated estimates can mislead policymakers into thinking that addressing these issues will yield significant revenue gains when, in reality, other policy areas may have more substantial impacts on domestic resource mobilization. They call for robust measurement methods to avoid such misconceptions and ensure that policy efforts are directed where they are most needed..

BROAD OR NARROW	INTERVIEWEES	MOTIVATION
Hybrid	IMF	• **Diverse nature of IFFs:** Illicit Financial Flows encompass a wide range of activities, including tax evasion, tax avoidance, corruption, crimes against the environment, and embezzlement of natural resources. A mixed approach allows for a more comprehensive understanding of the different types of financial misconduct. • **Policy flexibility:** Adopting a mixed approach provides policymakers with flexibility. They can address tax evasion and tax avoidance separately if the situation requires distinct responses, while still acknowledging their shared characteristics within the IFF framework. • **Contextual considerations:** Each country and region may face unique challenges related to IFF. A mixed approach allows for tailored responses that consider the specific context and dynamics in a given area. • **Legal and regulatory frameworks:** The international standards and frameworks for combating IFF often rely on addressing both tax evasion and tax avoidance. A mixed approach aligns with these established standards, ensuring consistency in addressing financial misconduct. • **Clarity and distinction:** Articulating the differences between tax evasion and tax avoidance is essential for policymakers and stakeholders to understand the implications and design appropriate solutions for each. A mixed approach encourages clarity in distinguishing these activities. • **Holistic solution design:** A mixed approach enables the development of a holistic toolkit to combat various aspects of IFF, including legal, regulatory, and policy measures. It allows for a comprehensive strategy that covers a broader spectrum of financial misconduct.