



American Model United Nations
Economic Commission for Africa

Report to the Economic and Social Council on The State of Governance in Africa: The Dimension of Illicit Financial Flows in Africa as a Governance Challenge

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Executive Summary

1 The Economic Commission on Africa identified Illicit Financial Flows (IFF) as a major
2 inhibitor of development. In order to effectively manage the issue of illicit financial
3 flows, the Commission considered several avenues towards alleviating the stifling impact
4 of IFF by recognizing these following topics: regional cooperation, education, money
5 laundering, transfer mis-pricing and multinational corporations, African nations' in
6 participation in international financial institutions, illegal revenue generated by organized
7 crime, and data collection.

8
9 The Commission recognizes the importance of regional cooperation and discusses the
10 creation of a regional financial union. The Commission considers education as a possible
11 way to tackle financial mismanagement and discusses possible educational programs. The
12 Commission discusses the problem of money laundering. The Economic Commission of
13 Africa is concerned with the lack of transparency in financial and governmental
14 institutions.

15
16 The Commission believes that multinational corporations and trade mis-pricing are major
17 contributors to the exacerbation of Illicit Financial Flows. To combat trade mis-pricing,
18 there was a proposed cooperation amongst African nations in establishing a price floor.
19 As another major contributor to lost revenue for African nations in unclear tax laws both
20 within Africa and abroad, the committee spoke of the need to emphasize clarity and
21 uniformity in tax laws. Significant time was spent discussing the need to ensure
22 Multinational Corporations adhere to international laws and are held accountable for their
23 actions.

24
25 The Commission emphasizes that previous legislation on organized crime has been
26 largely ineffective due to a lack of specificity and capacity of African nations to combat
27 organized crime. The Commission wishes for a more transparent and consistent means of
28 gathering data on illicit financial flows that does not infringe on national sovereignty.

29
30 After deliberating on these various topics, the Commission drafted and passed a
31 resolution which it solemnly believes will be effective in addressing the issue of illicit
32 financial flow. The resolution urged African Member States to ratify the United Nations
33 Convention against Corruption (UNCAC), as well as created an institutional framework
34 for global governance to coordinate cooperation between developed and developing
35 nations and increasing transparency and collection of data.

Matters calling for action by the Economic and Social Council

Draft resolutions for adoption by the Economic and Social Council

36 The Economic Commission for Africa recommends to the Economic and Social Council
37 (ECOSOC) the adoption of the following draft resolutions:

Draft resolution I/1

ECA/II/2-1

SUBJECT OF RESOLUTION: The State of Governance in Africa: The Dimension
of Illicit Financial Flows as a Governance Challenge

SUBMITTED TO: The Economic Commission for
Africa

The Economic Commission for Africa,

38 *Recalling* its resolution 68/1 of 20 September 2013 and previous relevant
39 resolutions,
40

41 *Recognizing* that without a stable governmental mechanism and adequate
42 assistance from Multinational Corporations (MNC) for the purpose of funneling
43 international private investment, funding fails to translate into public works,
44

45 *Emphasizing* that the need for detailed regional programmatic guidelines on
46 relating to price transfers and taxation policies central to the future success and
47 implementation in developing countries on the African continent,
48

49 *Fully aware* of the importance of detailed information concerning interstate trade
50 policy, the amount of revenue that can be feasibly reallocated for tax enforcement
51 measures and its financial context surrounding potential regional financial based
52 activities,
53

54 *Recalling* the United Nations Model on Double Taxation between Developed and
55 Developing countries in which sustainable pricing benchmarks and MNC focus areas
56 were created to achieve gains in eliminating Western tax-havens,
57

58 *Considering* that existing articles on double taxation established by the 2000
59 High-level panels on illicit financial trade are vague with regards to interstate pricing and
60 cooperation over areas relating to illicit financial transactions,

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61
62 *Noting* that countries differ significantly with regards to transparent economic
63 policy due to a host of intrastate factors,

64
65 1. *Urges* the ratification of the United Nations Convention against Corruption
66 (UNCAC) by all African States;

67
68 2. *Endorses* an institutional framework for global governance called the African
69 Coalition Against Illicit Financial Flows (ACAIFF), to work in collaboration with the
70 African Centre for Statistics, a subdivision of the Economic Commission for Africa, in
71 order to:

72 (a) Assist in implementation of the UNCAC in Member States;

73 (b) Coordinate transnational monitoring and data-collection regarding Illicit
74 Financial Flows (IFF) for Member States regarding relevant information to a particular
75 Member State;

76 (c) Coordinate cooperation between developed and developing States, as well as
77 with non-governmental international organizations, such as the International Monetary
78 Fund (IMF) and World Bank, over IFF;

79 (d) Assist in the establishment of appropriate and effective legal regimes against
80 IFF by providing tax and financial expertise including creating effective tax regimes to
81 halt the spread of IFF through monetary aid and information assistance;

82 (e) Provide a framework for returning assets lost through IFF or assets of
83 equivalent value to their rightful owner;

84 (f) Create an interstate price peg for the costs of goods to prevent exploitation of
85 member states;

86 (g) Require an annual transparency information report by each State in order to
87 receive benefits in a reciprocal manner under the newly formed economic cooperative
88 framework;

89 (h) Encourage good faith efforts toward providing information and reform
90 regarding IFF to continue to receive relevant benefits;

91 (i) Establish governmental transparency best-practices through cooperation
92 between international actors and Africa;

93 (j) Establish a five member leadership panel in the ACAIFF through a majority
94 vote by the body;

95 (k) Pressure offshore financial centers and tax havens to remove secrecy laws;

96 (l) Encourage a dialogue on the effective training and education of law
97 enforcement bodies dealing with illicit financial flows;

98
99 3. *Proposes* the implementation of the Financial Action Task Force on Money
100 Laundering's (FATF) recommendations by all Member States, with a special focus on:

101 (a) Independence of financial institutions;

102 (b) Confiscation and seizure rights of authorities;

103 (c) Reporting of financial transactions by NGOs;

104 (d) Secrecy laws and anonymous bank accounts;

105 (e) Wire transfers;

106
107 4. *Calls upon* Member States to combat the problem of transfer mispricing with
108 the ‘Arm’s Length Principle’ endorsed by the Organization for Economic Cooperation
109 and Development (OECD) Transfer Pricing guidelines by implementing the methods
110 most suitable to their situation with technical assistance from the OECD, IMF and World
111 Bank:

112 (a) Establishing a cooperative price-signal floor for negotiation on the selling of
113 commodities in terms of exporting goods utilizing a fair market-based price;

114
115 5. *Further recommends* for the purpose of greater transparency and understanding
116 with regard to transfer pricing:

117 (a) Timely audits of companies to obtain information on their activities;
118 (b) Signing Advance Pricing Agreements that specify appropriate Transfer Pricing
119 methodology;

120
121 6. *Requests* the United Nations Model on Double Taxation Policy clarify language
122 present in Article Two relating to taxation enforcement so as to conform with interstate
123 agreements that are crafted during African Union (AU) based negotiations;

124
125 7. *Encourages* the incorporation of anti-corruption lessons within African States’
126 national education programs, as well as collaboration with NGOs to accomplish these
127 goals;

128
129 8. *Further recommends* the integration of appropriate record keeping and
130 accounting practices into the existing curriculum of national education programs;

131
132 9. *Suggests* technical training of personnel working in financial institutions, with
133 expertise from organizations like the World Bank and IMF, in order to track illicit
134 financial flows.

Passed, Yes: 25 / No: 3 / Abstain: 6

Consideration of The State of Governance in Africa: The Dimension of Illicit Financial Flows as a Governance Challenge

135 At its 2014 session, the Commission considered agenda item II, The State of Governance
136 in Africa: The Dimension of Illicit Financial Flows as Governance Challenge.

Deliberations

138 At its meeting on November 23, 2014, the Commission deliberated on the topic of Illicit
139 Financial Flows in Africa in order to solve the major economic and social issues caused
140 by this issue. To do this, we discussed:

Deliberations Subsection 1- Regional Cooperation

141 In general terms, the body as a whole agreed that regional financial cooperation is crucial
142 to solving the issue of illicit financial flows in the continent. The most widely accepted
143 method of regional cooperation that the Commission discussed was the creation of a
144 regional financial union. This union would seek to increase the continental leverage that
145 Africa has when dealing with international financial institutions, and especially when
146 agreeing to the prices of commodities with MNCs. The particularities of a union of this
147 sort were enshrined in Draft Resolution 2.1. As the 2013 ECA Report suggested, the
148 Commission also stressed transparency and availability of data on money being
149 exchanged between national borders, which can be improved with increased cooperation
150 among African Member States. Members of the Commission also emphasized that there
151 is no punishment or punitive measures for retreating from participation.

Deliberations Subsection 2- Education

152 At the end of the first session, the commission began considering the idea of utilizing
153 education to tackle the issue of financial mismanagement. Some of the proposals
154 included enhancing technological literacy among citizens of the AU, and advising
155 members of the financial sector within AU Member States and younger AU citizens on
156 ethical financial practices. Certain representatives suggested that any education program
157 ought to include topics such as record keeping, accounting, and observing customer due
158 diligence. The representatives specified that the United Nations should be the body that
159 ultimately recommends who administers the education program on the ground. In
160 addition, those representatives recommended that both non-governmental and
161 governmental financial advisers be included as part of the education program.

162
163 At the beginning, representatives shared concerns over who would benefit from these
164 education programs first. Representatives supported the notion that a basic technology
165 education program be created that functions on a tier system reflecting the knowledge,
166 skills, and expertise of prospective participants. Some representatives expressed interest

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in establishing a separate program that educates officials who will administer the transnational monitoring and data collection initiative under the African Coalition Against Illicit Financial Flows (ACAIFF), as highlighted in a United Nations report, entitled, "Illicit Financial Flows from Africa: track it, stop it, get it." The Representatives suggested that this program be created by the United Nations Commission on Science and Technology for Development and be administered per individual state approval.

At first, Members of the Commission decided that it would be appropriate to include language regarding educating young people on anti-corruption tactics. As deliberations continued, it was determined that the best way to educate young people on anti-corruption would be through implementing a comprehensive ethics programs. The purposes of the program, as suggested by several representatives, would be to implement the practices and values set forth in the advisory description under the United Nations Public Administration Programme, Division for Public Administration and Development Management (DPADM). Representatives highlighted a few of the program's important points, including one section which stipulates the creation of an "ethics infrastructure that not only provides guidance for good conduct, but also administratively and legally punishes misconduct." DPADM also explains that the "ethics infrastructure" includes "measures to enhance and preserve organizational integrity, access to information that promotes transparency and accountability, and oversight by independent institutions and the public at large."

Deliberations Subsection 3- Money Laundering

The Commission discussed the issue of money laundering early on its deliberations. Representatives expressed concern over lack of transparency in financial and governmental institutions. By improving transparency measures through the submission of financial transaction information to the African Statistics Board, the Commission is trying to address issues related to improper governmental purchases. In the 2011 ECA Report on financial transactions and purchasing, the issue of money laundering was addressed, specifically discussing the laundering of money for the purchase of oil. By providing a legal avenue of selling and purchasing various commodities, the Commission wishes to show an alternative path for African countries wishing to turn a profit.

Deliberations Subsection 4- Transfer Mis-Pricing and Multi-National Corporations

Currently, countries are undervaluing their goods when selling on the open market to MNCs, as there is no universal standard amongst the countries. This unfair price signaling can be corrected, and the commission has discussed remedying this problem by adopting a cooperative economic framework among African nations, as suggested in the 2001 High Panel on Economic Cooperation. This framework, through the enabling of information sharing, would give collective bargaining power over commodity pricing to African governments rather than the corporations exploiting the continent--as suggested in the 2012 Internal Tax Dialogue Conference.

Rather than imposing new restrictions on corporations which seek to develop African countries, this helps governments negotiate trade terms in good faith. Taxation has also been a problem plaguing many countries in Africa. The United Nations Model for Double Taxation between Developed and Developing Countries includes numerous instances of vague language. The Commission has worked to fix this imprecision by allowing countries to discuss differences in state tax code. Reducing opacity relating to information on taxable goods is a way in which complications on double taxation can be resolved.

Representatives expressed concern over exploitation of Africa by Western-based MNCs. As outlined in the article “Extractive Sectors and illicit financial flows: What role for revenue governance initiatives?”, these MNCs need to be responsible for their actions. They must be held to the same standard of taxation and regulation as in the West. Only when Africa achieves economic sovereignty and is empowered to control its abundant resources can we curtail the illicit financial flows stemming from MNCs.

Deliberations Subsection 5- African Nation's Participation in International Institutions

Early on, several delegates introduced the topic of Africa’s participation in international financial institutions, and its potential to solving the issue of illicit financial flows. Generating a lot of controversy, the proposal resulted in a lengthy debate. In particular, some of the questions posed on the topic included how realistic increased participation would be, and how the number of seats given to Africa would be determined (especially, as was noted by the Commission, given the weighted voting systems of some institutions). As well, the Commission discussed the ways in which such increased participation would be useful in tackling the issue of IFFs, as well as which institutions would be subject to this change in representation. Among the proposals for the latter were the International Monetary Fund and the World Bank, with the rationales being that their immense influence across the world would help African economic development, as suggested in the report about 2000 high level panel on the establishment on the African Cooperative Framework presented by ECOSOC. Moreover, the Commission discussed the alternative possibility of involving regional financial institutions in achieving the same goal. However, in later debate, the Commission came to the conclusion that this would be too difficult of an issue to approach at the moment, and considered other possibilities.

Deliberations Subsection 6- Illegal Revenue Generated by Organized Crime

While the delegates agree with the identification of key issues concerning corruption in regards to money laundering and organized crime, they condemn the failure of Resolution 54/128 in enforcing its proposed solutions. The delegates implore the Economic and Social Council to form a resolution that effectively enforces the proposed solutions. The delegates also expressed the lack of legislature and capacity to effectively deal with illicit financial flows resulting from organized crime, as noted by Ambassador Segun Apata of

Nigeria from the High Panel on Illicit Financial Flows from Africa in his interview with Africa Renewal. Representatives have agreed that transnational crime is a major contributor to illicit financial flows and inhibition of regional development, however there is no unanimity on methods to handle transnational crime. Somalia has suggested the creation of an African Criminal Police Organization (AFROPOL), which is an intelligence agency/communication network that ensures a steady stream of information regarding Transnational Criminal Organization. Somalia stresses that the organization is primarily an intelligence agency that is restricted from making arrests and prohibited. Other delegations, such as Chad, have stressed that if such an agency comes to fruition, it should not become a regional police force given the numerous conflicts that have arisen on the African continent from regional differences and conflicting jurisdictions.

Deliberations Subsection 7- Data Collection

Representatives expressed concern over a lack of cohesive data collection capabilities. There are not sufficient means to hold companies and businesses responsible without infringing on state sovereignty or de-incentivizing investment in Africa. General concerns in the body were the absence of transparency and uncertainty over how resources are distributed. Representatives also expressed concern over whether a non-governmental organization or a national government would provide the monetary resources to develop the appropriate technological infrastructure to ensure equitable data collection and distribution. Representatives indicated that cooperation with NGOs that already engage in data collection would circumvent the concerns regarding funding and technical expertise. Therefore, the commission decided to adopt a provision within the resolution that essentially legitimized the aforementioned recommendation.

Action taken by the Commission

At its meeting on November 23, 2014, the Commission approved for recommendation for adoption by the Encouragement of a mutually cooperative agreement on the establishment of price floors and the sharing of stable tax policy.

Dissenting Opinion - Chad:

Operative clause 2, subsection (f), calls for an interstate price peg for commodities. Without direct control of pricing we lose an important tool in protecting and growing infant industries in our country. Infant industries can rarely be competitive without protections. One method to combat this is price controls. Without the capacity to control pricing, many infant industries will not grow in Chad, which may lead to further reliance on MNCs, potentially exacerbating Chad's IFF problems. While regionally this will likely benefit the continent, it may come at the cost of developing industries in Chad.

Dissenting Opinion - Zambia:

They undermined the impact of the O.C. activity and how it's 35% of the main issue area. Looks like it has been rephrased from our session in 2013. They brought in education programs that targeted youth that had nothing to do with the overall objectives of combating corruption and organized crime.

292
293 Dissenting Opinion- Ethiopia:
294 The delegation of Ethiopia opposed the resolution on the grounds that the delegation of
295 Mali was disingenuous in the preparation of Resolution 2.1, and used previously prepared
296 working papers that copied and paraphrased United Nations Resolution (68/1) of
297 September 2013 as a political strategy, as well as similar methods with regards to Topic 1.
298 As such, the Ethiopian delegation vote against the resolution
299
300 Abstained Opinion- Democratic Republic of the Congo
301 The delegation of the Democratic Republic of the Congo did not see any additional
302 details or edits made to clarify the sections of the resolution.

Adoption of the Report

303 The Economic Commission for Africa adopted this report by consensus with no
304 abstentions.