

Trade FDI and Illicit Flows: Global Asymmetries in Mirror Trade Data

Africa's Integration Agenda: From Aspirations to Pragmatic
Implementation

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 - ▶ CPPA also facilitates dialogue and promotes broad based stakeholder participation in the policy process. Thematic areas of focus include Governance, Gender and Inequality, Cities and Growth, Energy & Environment, Health, Food and Agribusiness.
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“Institutional Foundations of Capital Flight from Africa”
in the book
Capital Flight: Country Case Studies
by
Leonce Ndikumana and James Boyce
Oxford University Press

WHAT IS MIRROR STATISTICS?

- Circumstances in which two distinct entities collect same set of info on same transactions
- That is, in a mirror dataset, each set of info from one source is a duplicate of another set of info from the other source
- Thus, each dataset from one source can verify the claimed identical dataset of the other side, e.g. **a country's bilateral trade**

MIRROR TRADE DATA AS AN EXAMPLE

- Bilateral exchange of goods and services identified and recorded (i.e. captured) in the BoP account of each country
- Discrepancies arise in the identical twin dataset when the numbers differ for the same transactions reported by counterparties
- Generalized, such discrepancies lead to global asymmetries in bilateral trade stat

FRAMEWORK OR METADATA ISSUES

- Common framework for BoP recording ensures conceptual and methodological consistencies
- Cross-country diligent application restrict range of plausible explanations for asymmetries
- However, Uniform Customs and Practice in the IMF Manual open to degree of variance in interpretation and practice

FRAMEWORK OR METADATA ISSUES

- Such variations in practice generated competing hypotheses about most likely explanations for persistent year-on-year Discordia
- Conjectures have said little about why estimates of the discrepancies are humongous

WHO CARES ABOUT ASYMMETRIES?

- EU is concerned about discrepancies in its trade in services (so called invisibles)
- Understandably because of potential IFF given the ease of human capital cross-border movements within the Union

WHO CARES ABOUT ASYMMETRIES?

- US is concerned with sizable asymmetries in its bilateral merchandise trade data with China
- Africa is concerned about the apparently huge asymmetries in the primary commodities trade with rest of the world

WHY CARE ABOUT ASYMMETRIES?

- Persistent asymmetries in mirror trade stat casts doubt on the credibility of BoP accounts
- BoP stat is not the only database with heavy credibility overhang
- All the prominent international database rely on national feeds for its information

WHY CARE ABOUT ASYMMETRIES?

- **Direction of Trade Statistics** (IMF) –Aggregate M and X by Partner Countries
- **UNCTADstat** -database of Trade and Development info compiled by UNCTAD, validates and processes based on a wide range of data collected from National and International sources
- **UN Comtrade** -United National International Trade Statistics Database – detailed record by types and partner countries of exports and imports of goods crossing national borders as reported by statistical authorities of close to 200 countries or areas. Reported on an annual basis since 1962. Most comprehensive database available with over 3 billion records
- **BoP**

SOURCES OF ASYMMETRIES?

- **Discordia:** unintentional miscellaneous errors in recording; known and unknown diverse customs and practices at primary point of data capture; suspiciously deliberate obfuscations arrangements but in fact are quirks
- **Capital Flight** which is a subset of illicit financial flows
- **Both**

CONTROVERSIES ARISING FROM ...

- Do the Data mean what they say?
- The Logic of Attribution

THE LANDSCAPE

- Misinvoicing: over- and under-invoicing
- Misattribution and role of Free Ports
- Differences in approach to product classification
- Harmonized Commodity Description and Coding System of World Customs Organization –General v. Special Trade
- SITC, Broad Economic Categories Conversion and Correspondence Tables: devices to minimize discrepancies at Product Level Reconciliation

THE LANDSCAPE

- Country code ZN is described as “Origin of Goods is Unknown.” For purposes of better understanding, this has been renamed to “Gold, Petroleum and Other” as over 95% of this bubble is made up of gold. **Gold due to legacy rules, is treated as a country. You will therefore not be able to determine where the exports are going to [sic] or the imports are coming from.** The aim is to rectify this, for gold specifically, as part of moving to the general system.
- www.sars.gov.za/clientsegment/customs-excise/trade-statistics accessed October 3, 2018

The case monetary gold. From 2011, nearly **all gold exports went to 'unspecified' destinations**; this is the same year where the distinction between monetary gold and non-monetary gold vanishes in SA data and all exports are lumped under non-monetary gold. It is not clear why the government made this decision. The **South African Reserve Bank data** on gold exports versus **COMTRADE** data for 2012-14 reveals \$19 million of asymmetry in the trade data.

Between 2010-13, South Africa's gold imports from other African countries increased significantly, from a previously high of 50 million rand to an all-time high of 150 million rand in 2012 before dropping to 50 million rand in 2013. **Platinum trade shows data asymmetry of about \$24 billion over 15 years with no record of export** from South Africa in 2000 and 2002. Trade data are also available from **Department of Trade and Industry** and **South African Reserve Bank** even though the official repository of trade data is the **South African Revenue Service**.

MISCLASSIFICATION CAN BE INTENDED?

The partner "Areas NES (not elsewhere specified)" is used (a) for low value trade and (b) if the partner designation was unknown to the country or if an error was made in the partner assignment. The reporting country does not send the UN details of the trading partner in these specific cases. Sometimes **reporters do this to protect company information...Due to confidentiality, countries may not report some of its detailed trade.** ... Countries (or areas) do not necessarily report their trade statistics for each and every year. The availability of data is dependent on the reporting national statistical authorities.

<https://comtrade.un.org/labs/dit-trade-vis/pages/about.html>

INSTITUTIONS

- For merchandise trade statistics, almost all countries report as partner country for imports the country of origin, which is determined by the **rules of origin** established **by each country**, and country of **last known destination** as the partner country for exports.
- <https://unstats.un.org/unsd/tradekb/Knowledgebase/50657/Bilateral-asymmetries>

INSTRUMENTALITY-HAIL “ENTREPOT TRADE”

- Vitol, Trafigura, Gunvor, Mercuria, Noble (HK-based), Glencore (independent trader now integrated into production)
- Oil can be traded several times while in the tanker before reaching final customer
- Switzerland is world's leading commodities trading hub (yet landlocked)
- Home to several agric commodities trading coys – grain, cocoa, coffee, cotton

INSTRUMENTALITY - HAIL “ENTREPOT TRADE”

- Estimated 35% share of the oil market. 60% of metals and minerals
- 5 largest Swiss independent traders were trading 18 million bpd = 20% of global demand (2015 stat)
- By comparison 3 majors- BP, Shell and Total trade about 15 million bpd
- World's largest, Vitol: 2015 turnover close to \$168 billion
- Glencore, world's primary trader in ore and non-ferrous minerals. 2011: controlled 60% of the world's zinc and 50% of world's copper markets

The UN Statistical Commission is concerned that the footloose criteria for partner attribution severely limits the reliability of trade data as well as the range of analysis to which it can be meaningfully applied.

Additional complications arise from the transnational operations of multinational corporations who are increasingly engaging in global value chains.

IMTS Expert Group to propose that country of consignment be also included in the data compilation manual as a possible partner attribution

PUBLISH WHAT YOU TAKE

- Current initiatives from UN Comtrade to upgrade its database to provide to users “more information on the **nature** of trade flows and **partner-country attribution**
- Symmetrical valuation of imports and exports and more information on insurance and freight costs
- More information on the **nature of trade** flows especially **re-exports, re-imports, and goods for processing, and intra-firm trade** <https://comtrade.un.org/data/doc/UpgradePlan>

FDI IMTS TRANSFER PRICING IFF MISINVOICING

Money laundering Mis-invoicing and Transfer Pricing

- TP is not considered capital flight simply because the identifiers differ.
- But the underlying principles are the same.
- In capital flight, the identifiers rely on discordant mirror-statistics

FDI IMTS TRANSFER PRICING IFF MISINVOICING

- In TP, it is a case of misinvoicing—i.e. the true value of the services and the declared value of those services differ (**hidden figures**).
- In transfer pricing, the mirror trade data capturing the activities of the multinational firm is **identically captured** in the transaction records of both the originating and destination countries.
- But the **inter-firm valuation** across the two jurisdictions in which the firm operates is **contrived** to favor the firm and disadvantage the outsider, often the people (i.e. the state).

FDI IMTS TRANSFER PRICING IFF MISINVOICING

- Exporter falsifies an export documentation to park money overseas illegally
- Such cross-border transportation of funds is designed not only to create the appearance of legitimate wealth.
- The structuring (i.e. nature) of the transportation is designed to avoid detection.
- Parking the money overseas illegally to evade exchange control regulations or to avoid surrendering the proceeds to monetary authorities at the official exchange rate is equivalent to tax evasion.

FDI IMTS TRANSFER PRICING IFF MISINVOICING

- So, in addition to the predicate crime of falsification, there is the element of structuring of a monetary transaction
- Purpose is concealment of the origin and nature of the money or to disguise the nature of a trade to avoid transaction reporting.
- Clearly, the two key elements of money laundering

FDI IMTS TRANSFER PRICING IFF MISINVOICING

- In principle, transfer pricing allows shifting of earnings from high-tax jurisdiction to a low cost one; a form of tax arbitrage.
- But the mechanism can be used to disguise the illegitimate shifting of earnings from one country to the other
- MNCs headquartered and controlled by majority shareholders in developed countries with operations dependent on primary inputs sourced from developing countries, can **use transfer pricing for asset stripping**

FDI IMTS TRANSFER PRICING IFF MISINVOICING

- FDI strategy by some MNCs in developing countries are like **Trojan horses** planted to facilitate vicious extraction of natural resources.
- This scenario is analogous to *debt-fueled capital flight* according to which borrowed funds provide the ways and means for illicit diversion of public funds. The public borrows internationally ostensibly to develop its economy, but the funds are promptly privatized through kleptocracy.
- Therefore, whereas borrowed funds can act as facilitators in debt-fueled capital flight, **FDI by MNCs can act as an enabler for asset stripping** or resource spoliation.
- Continuing with the analogy, **mis-invoicing is to money laundering as trading hubs are to hidden figures**, meaning in the latter case that trading hubs are **obfuscators**, making it that much more difficult to identify and trace the shipment of commodities

Examples

IVORIAN COCOA BEANS DUTCH SPANNISH IMPORT
MTN
STANBIC-IBTC BANK

NEWS

Police turn back factional members of Anambra House of Assembly

... Security agents maintain seal on Assembly

EMMANUEL NDUKUBA

The Police in Awka today disallowed some factional members of the Anambra House of Assembly from gaining access to the Complex, as the law enforcement agency maintained the seal on the venue.

Ikem Uzoezie, who emerged a factional Speaker following a crisis in the House recently, led some members to the House for plenary, but met the complex still sealed.

He appealed to the Inspector General Police and the Anambra state Commissioner of Police to unseal the complex to enable members hold their usual plenary and other functions for which they were elected.

It would be recalled that the Nigeria police authority on Nov. 15 sealed off the complex till further notice following a crisis that erupted over the alleged impeachment of the speaker, Rita Maduagwu, by about 30 members.

She was purportedly replaced by Ikem Uzoezie who represents Aguata II Constituency, Maduagwu, backed by some state officials, had described her impeachment as a "bundle of illegality."

Uzoezie described the action by the police as "unfortunate", adding that the assembly complex that represents the symbol of democracy was still under lock and key.

The factional speaker said they were "worried that in this era of democracy, a complex that represents the symbol of democracy is under lock and key."

"This is only the arm of government that is not functioning at this point in time, the executive and judiciary are doing their work," Uzoezie said.

He said that they had adjourned to Nov. 27 and would take legal action if the sealing of the complex persists. Uzoezie appealed to the citizens of the state to prevail over the crisis, to stop it from escalating further.



Wiebe Boer (l), CEO of All On, presenting his acclaimed book, A STORY OF HEROES AND EPICS: THE HISTORY OF FOOTBALL IN NIGERIA to Aliko Dangote, president, Dangote Group.

CBN, MTN near agreement on alleged illegal capital repatriation - Emefiele

... to make announcement soon ... holds policy rate at 14%

ONYINYE NWACHUKWU, Abuja, HOPE MOSES-ASHIKE, ENDURANCE OKAFOR & BUNMI BAILEY, Lagos

Governor Godwin Emefiele of the Central Bank of Nigeria (CBN) assured on Thursday that amicable, equitable resolutions have been reached over sanctions on the mobile telecommunications giant, MTN Nigeria and the four banks which participated in the alleged illegal repatriation of \$8.1 billion.

Emefiele said the resolutions reached between the apex bank, officials of MTN and the four banks

banks for what it called "flagrant violation of extant laws and regulations of the Federal Republic of Nigeria, including the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, 1995 and the Foreign Exchange Manual, 2006."

The CBN had asked MTN Nigeria to refund of about \$8.13 billion allegedly repatriated illegally out of Nigeria while Standard Chartered was asked to refund N2.5 billion; Stanbic IBTC (N1.9 billion); Citibank (N1.3 billion) and Diamond Bank (N250 million).

Reacting to concerns on why it took the apex bank such a long time

around the MPR, the Cash Reserve Requirement (CRR) at 22.5 percent and, liquidity ratio at 4 percent.

Emefiele explained that to hold is an expression of confidence in the policy regime given the gradual improvement in both output growth and price stability. "On this premise the forward risk to growth and outside risk to inflation appears contained."

Analysts in the financial services sector yesterday commended the CBN for the decision to retain the benchmark interest rate and other monetary indicators

Rate expresses commitment to speedy amendment of NDIC Act

OKAFOR

Senate Committee on Banking, Insurance and Other Financial Institutions has expressed a strong commitment to expedite amendment of the Deposit Insurance Corporation Act, 2006, to eliminate the gaps that hindered the full realization of public policy objectives of the revitalization of the Deposit Insurance Corporation (DIS) in Nigeria.

Chairman of the Committee, Chibato Ibrahim, said the

establishment and the overbearing influence of its wider fringe operations, along with poor earnings.

The NDIC boss further used the opportunity to inform members of the Committee of the strong resolve and commitment of the Corporation to assist in the investigation and prosecution of all those who contributed to the collapse of the defunct Skye Bank.

On the issue of the long suffering depositors of Savanah Bank, Fortis MFB, Aso Savings and 11 banks

By Bassey Udo

The governor of the Central Bank of Nigeria (CBN), Godwin Emefiele, on Thursday gave reasons why it took the apex financial industry regulator almost nine years to uncover alleged systematic repatriation out of Nigeria of over \$8.134bn profits by MTN Nigeria.

Mr Emefiele, who spoke on Thursday at the end of the monetary policy committee (MPC) meeting in Abuja, rejected accusations the CBN neglected its monitoring and regulatory role and allowed the illegal transfers by the South African telecoms firm to fester.

Last August, Mr Emefiele announced CBN's decision to impose various sanctions totalling about N5.87 billion against four banks accused of "flagrant violation" of foreign exchange regulations.

The banks, namely, Standard Chartered, Stanbic-IBTC, Citi and Diamond, were alleged to have facilitated remittances of foreign exchange using irregular Certificates of Capital Importation (CCIs) issued on behalf of some offshore investors of MTN Nigeria Communications Limited.

The transactions, which occurred between 2006 and 2015, were never reported by the CBN until this year.

“They brought in \$402 million and said about \$350 million of that was equity and the balance was loan, and they were issued Certificates of Capital Importation (CCIs) for the equity. They later reversed that position when they realised that the loans will not attract the kind of taxation equity investment will attract.

“And they altered the structure of their funding in a clear violation of the spirit and intent of Nigeria’s foreign exchange regulations,” he had explained. Emefiele had insisted that MTN Nigeria manipulated the regulations for maximum profit and tax avoidance, without regards to the laws when they embarked on unauthorised conversion of loans to equity so as to game the system and exploit loopholes.

The Financial Reporting Council of Nigeria (FRC) accused Stanbic IBTC Plc of falsifying its annual reports in 2013 and 2014. The FRC noted that annual reports were **manipulated to deceive tax authorities, regulators, and shareholders**. The discrepancy in the reports, which was brought to the attention of the FRC by some minority shareholders of Stanbic IBTC

The FRC also suspended Arthur Oginga, Dr. Daru Owei and Ayodele H. Othihiwa, **officials of KPMG, a tax and audit advisory firm** for their role in the financial fraud committed by Stanbic IBTC. ...sale, purchase and assignment agreement between **Standard Bank of South Africa Limited and Stanbic IBTC** on the use of a banking **application software** which was stated to have been developed by Stanbic IBTC

The Standard Bank Group was also ordered to pay \$37 million in fines to UK and US regulators as a result of the bank's failure to prevent bribery by two Standard Bank Tanzania business executives. The settlement relates to the Standard Bank's involvement in 2012 on a \$600 million **private placement of sovereign debt** to finance electricity, water and other infrastructure in Tanzania.

The project was part of the Tanzanian government's five-year development plan and the bank wanted to be in on the action. To ensure members of the government of Tanzania show favor to Stanbic Tanzania and Standard Bank, two Stanbic Tanzania officers transferred \$6 million to Enterprise Growth Market Advisors (EGMA) account and in ten days the account was emptied after four cash withdrawals.

The proceeds could not be traced. The management of Standard Bank decided to cooperate with an investigation of the scandal by the Tanzanian government and the US Securities and Exchange Commission.

For attempting to cover up the scandal, Standard Bank was ordered by the United Kingdom Serious Fraud Office under the Deferred Prosecution Agreement to pay financial orders of \$25.2 million and \$7 million to the Tanzanian government

The Standard Bank was also accused of foreign exchange price fixing in South Africa and Angola. In South Africa, the Competition Commission recommended that the Competition Tribunal punish 15 local and foreign owned banks operating in South Africa for price fixing. Standard bank would have been ordered to pay 51 billion Rand if it was found guilty.

Standard Bank CEO, Sim Tshabalala however noted that the bank would not be paying the fine because the internal investigations conducted by the bank did not reveal any illegal activities. Tshabalala was quick to point out that the bank employed 55,000 employees and only three had been implicated in the fraud

He stated that two of the traders were in the process of being dismissed while the third took a plea bargain with the United States authorities in December 2016.

Similarly, in Angola, Angola's central bank said it will sanction seven financial institutions for failing to comply with foreign exchange rules.

The Standard Bank of Angola however responded to questions asked by Reuters regarding the allegations by stating that “the standard Bank is of the view that it has not transgressed or misinterpreted the framework for implementation of foreign exchange resources and will defend its position

END – Thank You