Africa: The billions that got away

TRUSTAFRICA



FOREWORD

Africa loses approximately US\$50 billion annually through Illicit Financial Flows (IFFs). The AU/ECA's High Level Panel on Illicit Financial Flows report and other studies argue that Africa lost over US\$1 trillion through IFFs in the last 50 years - an amount similar to Official Development Assistance in the same period.

Many, including ourselves at TrustAfrica, have always been cautious about the over dramatised narrative of "Africa Rising" especially as it mostly uses Gross Domestic Product (GDP) as a measure of growth. Other Human Development indicators such as Gross National Income (GNI), access to affordable health care, education, and decent jobs are rarely considered in the ongoing optimism surrounding Africa.

Whilst GDP growth has indeed been above an average of 5% for most of Africa, we rarely get insights into how African economies are structured and also a discussion on who benefits from this growth. One salient fact about the growth is that it comes largely from the global commodity super cycle and to some extent the boom in the telecommunications industry. Enterprises that produce and trade in the commodities are mostly large multinationals domiciled outside of Africa. They enjoy tax holidays, revenue repatriation arrangements and relaxed labour laws. Revenue repatriation agreements allow companies to remit their revenues to the head office, but this practice is NOT part of IFF.

Beyond the benefits cited above, these large companies are the drivers of illicit financial flows. According to the AU/ECA report, the most common practices include trade mispricing, under-invoicing of exports, exaggeration of import values, and general tax avoidance schemes. IFF processes are very complex in nature and some of the reports in this handbook attempt to expand upon them - except to restate that they are costing Africa about US\$50 billion per year - approximately 68% of Kenya's GDP.

Human development, inclusive of access to quality health provision, education, jobs and decent standards of living remains unattainable for many Africans. The benefits of the current growth cycle have been highly unequal and limited mostly to higher income earners.

More and more Africans perish in the

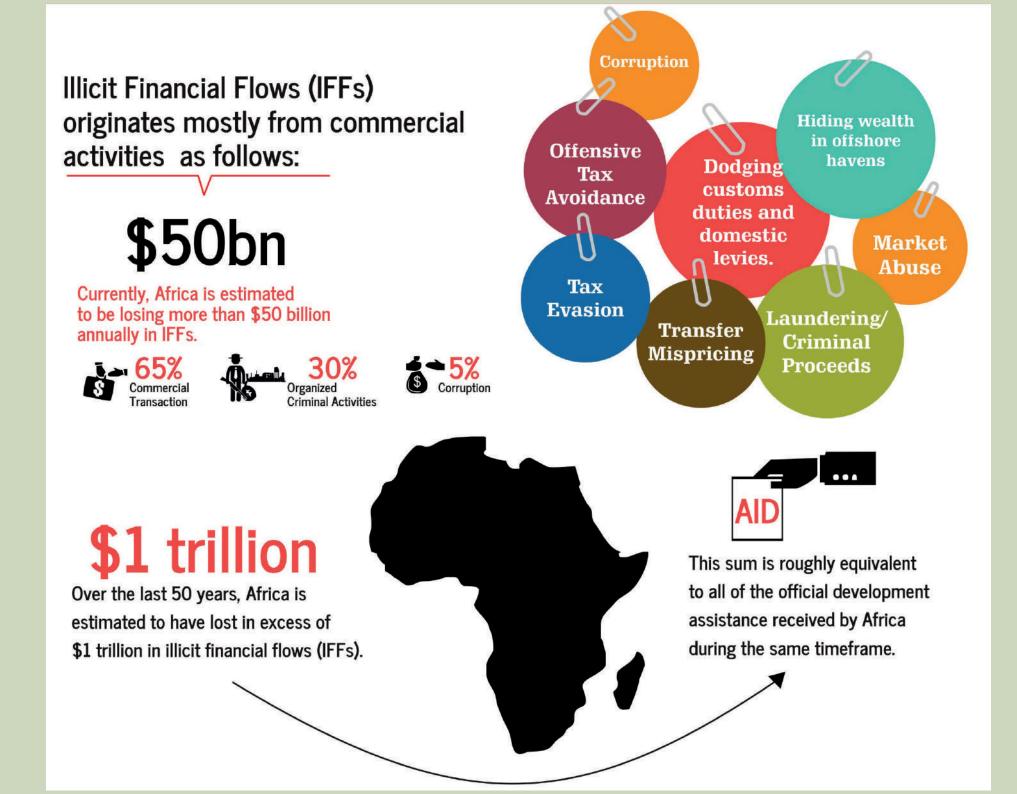
Mediterranean every year trying to enter Europe in search of greener pastures. We also know about US\$50 billion is needed annually to fund infrastructural projects amid the steady decline in Official Development Assistance (ODA).

The AU's Agenda 2063 underlines improved domestic resource mobilisation as a key pillar for Africa's sustainable and inclusive development. It is in this light that we at TrustAfrica, alongside our friends and partners within civil society, are calling for a new development compact underpinned by transparency, accountability and equity.

We aim at collecting a million signatures against an opaque global economic system that accommodates IFFs. It is morally reprehensible for economic actors to continue engaging in these harmful practices at the expense of Africa's future. We need sufficient public energy and an outcry for an immediate end to these practices. Our governments and regional processes should play their part in fast tracking mechanisms and laws for compliance with the new thinking.

- Tendai Murisa, Executive Director, TrustAfrica







TrustAfrica is supporting African civil society organisations in launching a popular campaign to end illicit financial from Africa. Dubbed "Stop the Bleeding – Campaign to End Illicit Financial Flows from Africa", this is envisaged as a campaign rooted in African experiences, driven by African agency and reinforced by global Africa solidarity linkages. The campaign broadens the conversation on illicit financial flows beyond specialist circles and seeks to mobilise ordinary people and key constituencies such as students and youth, trade unions and grassroots social movements to be a key part of the voices for change.

The much awaited Report of the High Level Panel (HLP) on Illicit Financial Flows from Africa was finally presented at the 24th AU Summit in Addis Ababa and adopted by African leaders. The findings from the former South African president Thabo Mbeki led HLP echoes civil society voices from across the continent in highlighting illicit financial flows as a serious threat to inclusive development in Africa and calling for urgent practical policy action to stop the hemorrhage. One of the most notable findings of the HLP process is that illicit outflows from Africa are large and increasing at an alarming rate of 20.2% per year (according to Global Financial Integrity (GFI) calculations for the period 2002 – 2011).

While observing that the dependence of African economies on natural resources extraction makes them particularly vulnerable to IFFs, the panel also point to emerging new and innovative ways of generating IFFs enabled by the digital economy and new technologies. In addition, the report singles out the

issue of weak national and regional capacities as a major obstacle in efforts to curb illicit outflows, while making it clear that ending illicit financial flows is ultimately a political issue.

In the last few years there has been a notable emergence of concerted advocacy efforts from various civil society based groups across the continent rallying against the issue of illicit movement of finances from Africa. Indeed, today the subject of illicit financial flows is a key part of conversations on Africa's development road map as reflected in Agenda 2063 and ongoing processes such as the Financing for Development and the post 2015 Sustainable Development Goals.

The HLP report presents an opportunity for African CSOs and partners to forge a coherent continental architecture for tackling IFFs which presently does not exist. A particular challenge is that some of the responses from the continent have borrowed, sometimes uncritically, concepts and proposed solutions from mostly global north driven processes such as the G20 and Organisation for Economic Cooperation and Development (OECD) initiatives without factoring in the specificities of the African context and experience.

Thus, while embracing what works from the proposals put on the table so far by groups such as the OECD, it is imperative to realize that these responses are largely based on a particular experience of the problem by Western and Global North economies. The proposed solutions therefore will not adequately respond to the specific ways that the challenge of illicit flows and its attendant

root causes manifests in the African context.

Therefore, a crucial task for African CSOs and partners is to properly problematise illicit financial flows in the African context and develop distinctly African policy responses.

- Briggs Bomba, TrustAfrica





Song launched for popular campaign

"Stop the Bleeding"

Featured Artists: Livesoul, Synik, Pauline & The Kids Credits: Music producer: Cutty Beats (for Legendary Africa) Creative Director: Briggs Bomba Executive Producer: TrustAfrica C They have got diamonds under the soles of their feet But nothing in their stomachs, so they are broken and weak

MNCs extracting all the gold they can reach Leaving waste while they send the profits over the seas

CEOs toasting with the shareholders they meet While the local population ain't affording to eat Our poverty is propping up the global elite They paint my continent as the home of war and disease Can I challenge you to imagine a reality that's different? Where Africa's resources will benefit her children

We wouldn't have to risk our lives on rickety boats And be treated like animals when we get to the coast Aid will never work, it's a fraction of the siphoning We support the world, but the continent is suffering

We don't need donated clothes, we need the bleeding to stop Because Africa is rich But her people are not Stop the bleeding! Stop the bleeding! It's creating and sustaining my people's poverty Stop the bleeding! Stop the bleeding!

Generating conflict through inequality >>

Here are the real crooks in Africa - where big, legal businesses outdo organised crime

It's a crying shame. With at least US\$50 billion flowing out illegally every year, illicit outflows threaten to completely reverse development gains



THE UN and African Union's Illicit Financial Flows report has been released. For many who follow these matters closely, the world "illicit" perhaps immediately conjures the most notorious case of illicit funds in Africa - that perpetrated by former Nigerian dictator, Sani Abacha.

Last year the US government announced it had immediately frozen about \$460 million in proceeds from corruption traced back to the strongman and stashed in various accounts in the country before being moved around the world.

An additional \$100 million was thought to have been held in the United Kingdom in a trail of rapacity that to date remains the stuff of African governance folklore.

But while corruption is often identified as a major agent of illicit money on the continent, the new report commissioned by the UN and the African Union suggests that commercial firms are responsible for more broke exchequers. The Illicit Financial Flows report was put together by a joint panel headed by former South Africa president Thabo Mbeki to help inform responses by African governments towards the phenomenon that is estimated to have drained at least \$1 trillion out of the region over the last 50 years; equivalent to all the official aid received by Africa over the same period.

The report focused on six countries—Algeria, Nigeria, Kenya, the Democratic Republic of Congo, Liberia and Mozambique but extrapolated its findings to the impact of these illicit funds on the wider continent.

The panel, which defines illicit outflows as money earned, transferred or used illegally, however noted that they were not only a regional problem but one that required a global response given most of these funds usually ended outside the continent.

Such outflows exacted major harm on African economies, it noted, the most serious being the inability to fund development programmes and consequently fall short of Millennium Development Goals, which are already up for renewal this year.

"Our Panel is convinced that Africa's retention of the capital that is generated

on the continent and should legitimately be retained in Africa must be an important part of the resources to finance the Post-2015 Development Agenda," Mbeki said.

Headlines have centred on the \$50 billion that the continent is estimated to be losing annually, an amount the panel admits "fall well short of reality" given the lack of data, and the secrecy surrounding activities such as bribery and trafficking.

The men in suits

But while the focus of such staggering outflows—and which are increasing has been their source - either from corruption or criminal networks - the activities of companies run by otherwise men in expensive suits were found to be bigger contributors to the funding hole.

Illicit outflows linked to commercial activities had several purposes, the study noted, including hiding wealth, evading or aggressively avoiding tax, and dodging customs and domestic levies.

They were done by way of among others abusive transfer pricing, trade misplacing, mis-invoicing of services and the use of lopsided contracts. Some methods of tax evasion are entirely legal—companies like Apple have recently been on the spot for the billions stashed in low-tax jurisdictions such as Ireland.

One African president told the panel that a major multinational in his country has never paid taxes for two decades, leaving him wondering how it had remained in business despite reporting losses for such a long time.

Numbers don't add up

In Mozambique, exported shrimps often have their quality lowered, while records cited for 2012 showed the southern African country exported 260,385 cubic metres of logs and timber to the world, while figures from China alone showed that it had imported 450,000 cubic metres of the same products from it.

Nigeria was reported to be having its oil looted on an industrial scale, while even services such as telecommunications were not exempt, where a new scam called SIM box fraud and which sees international minutes billed at local rates is gaining traction, with Kenya estimated to be losing up to \$440,000 monthly due to this.

In Guinea, one of its ore mines was estimated to be worth \$140 billion over the next two years, but a concession for the same was granted to one multinational for only \$165 million, before it was discovered that half of the same rights had been sold on for \$2.5 billion.

Criminal activities however contribute their fair share to these outflows, with money laundering from the proceeds of crime and drug and human trafficking still healthy.Smuggling and trading with an intent to avoid paying duties and domestic levies were also identified. The panel noted that criminality contributes significantly to illicit outflows due to the desire to hide the proceeds.

But commercial activities remained king: one study showed that African countries lost up to \$407 billion between 2001 and 2010 from trade misplacing alone—the misrepresenting of data about imports or exports.

Net creditor to world

The overall picture is that Africa loses between \$30 billion and \$50 billion every year to illicit activities, meaning the continent is a net creditor, rather than debtor, to the world.

A major obstacle identified is that African governments do not have the means to challenge some of the commercial tactics employed, outgunned by the ability of companies to attract and retain the best legal talents.

Only three African countries were found to have transfer pricing units in their internal revenue services, while other institutions were underfunded or bogged down by bureaucracy, when not having their top talents poached by private

business. There has been little awareness about the topic: many large companies when caught out often negotiate anonymity clauses to protect their reputations. But an array of civil society organisations have since raised the decibel around the issue.

Another concern is that banks sometimes knowingly facilitate such outflows, adding to weak governance and regulation, and self-inflicted national blows, such as double taxation agreements that contain provisions that businesses can exploit.

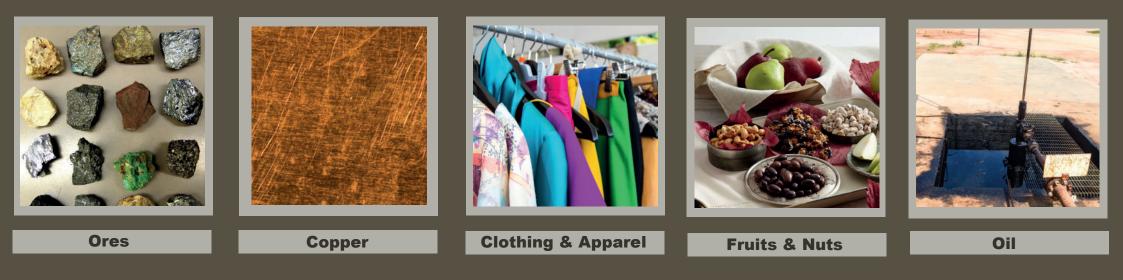
There are however efforts underway to curb illicit cash, both domestic and regional ones such as the Inter-Governmental Action Group Against Money Laundering in West Africa, the African Tax Administration Forum and the Financial Action Task Force.

This adds to global efforts in the US and EU such as the Dodd-Frank Act and the Extractive Industries Transparency Initiative, but the panel notes there remains a lot of scope to increase their effectiveness.

The losses have had a major impact: one study cited estimates Africa's capital stock would have expanded by more than 60% if these illicit funds had remained in Africa, while another dramatically shortened the time needed by African governments to reach specific MDG goals. There also remains the shifting financial and political ground in donor countries leading to uncertain aid.

Political will, increasing transparency and curbing corruption are held up by the report as key to reducing the outflows, which are increasingly the subject of a tailwind from digital shifts. The Mbeki-led panel also recommends closing tax loopholes such as registration and better funding of key institutions, and strengthening regional agreements such as the AU Convention on Preventing and Combating Corruption and the African Peer Review Mechanism, among other measures.

The overall message is that Africa must seal its own loopholes before it puts out the begging bowl.



Top 10 sectors by illicit financial flows for Africa between 2000-2010 (trade mispricing only)



Illicit financial flows: Digital pirates costing Africa big bucks, but mobile banking could surprisingly save the day

Fast moving money and telecomms manipulations give authorities a tough ride, but help may come from unexpected quarters

ILLICIT Financial Flows (IFF) are now at the forefront of the international agenda, as governments worldwide join forces to combat money laundering, tax evasion, and international bribery, which make up the bulk of such flows with devastating effects on developing countries.

Currently, Africa is estimated to be losing more than \$50 billion annually in IFFs. But as countries come together to try to minimise the amount of money being lost through illicit outflows, the high pace at which African technological uptake and innovation is happening may be handicapping some of these efforts.

This was highlighted in the UN and African Union's Illicit Financial Flows report, released in February--popularly called the "Mbeki Report" because former South African president Thabo Mbeki chairs the High Level Panel on IFF.

The report says that "the growth in information and communications technologies has made it possible to transfer huge sums of money at the click of a mouse while also enabling innovative forms of mis-invoicing."

One African country was estimated to be losing up to \$90 million every year from the theft of minutes in the telecommunications sector. This fraud involved masking international calls as local calls, with operators then making fake declarations of incoming international call minutes to reduce tax payable to the government.

Another similar scheme is SIM box fraud where individuals or organisations buy thousands of SIM cards offering free or low-cost calls to mobile numbers. The cards are then used to channel national or international calls away from mobile network operators and deliver them as local calls, costing the operators millions of dollars in revenue.

African governments are taking huge tax hits from this scam following the massive growth of the mobile industry on the continent. The Democratic Republic of Congo (DRC) is estimated to be losing about \$90 million in tax revenue a year from the embezzlement of telephone time.

According to the Mbeki report, by diverting these incoming calls using the SIM box in the DRC, pirates pay three times less tax, since international calls are presented as local calls.

Fast-moving money

The Centre for Technology Innovation at Brookings, Rice University, has published a study which looked at how the digital space is fundamentally altering the landscape of financial transactions.

Because transactions can now be done with purely digital currencies, virtual currencies, and virtual goods, "amounts, sources, and destinations can be intentionally structured to be misleading," the study noted.

"Transactions can be masked as other activities appearing to have nothing to do with money. The possibilities are limited only by the high levels of imagination and skill of people who dream up new ways to use technology."

Manipulating scale for example would hide larger movements of money by simply conducting many smaller transactions. For example, the study explains that if the power of a large, distributed online network were used to move money with 100,000 transactions with randomised amounts generally in the \$6-\$15 range, detection would be much more difficult.

In a World Bank report tracking the illicit financial flows from Somali pirate activities, Somalia money value transfer system (MVTS) providers (the equivalent of Western Union or a network that receives money for the purpose of making the equivalent funds payable to a third party in another geographic location) repeatedly claimed they were unaware of funds from piracy transiting through their services. But according to reformed pirates and officials, they were.

Due to low reliability identification systems and the inability to "know your customer", there are reports of abuse of MVTS services by criminals.

According to the World Bank, one reformed pirate interviewed explained his

experience in moving money to acquire goods abroad. He sent \$12,000 via a well-known MTVS provider in Puntland. The money was sent to Dubai where an intermediary bought a car for him. The car was subsequently shipped to Somalia.

He took the cash to the MVTS office in \$50 and \$100 bills which he justified by saying he got it through "Shahaad", a traditional charity custom in Muslim societies.

Mobile banking 'exemption'

In looking at the various ways in which pirates obtained money and goods, the report did say that one way they did not get money was through mobile bank-ing.

While M-Pesa is a popular mobile phone telephone financial service in the region offered by the Kenyan-based company Safaricom, there was "no cross-border movement of money to and from Somalia" and "no reports" indicating that the Kenyan service is being misused by pirates.

This may come as a surprise since the mobile banking sector in Africa has taken off exponentially, allowing an increasing number of people to open accounts, pay bills, and transfer money.

A recent survey of global financial habits by the Gates Foundation, the World Bank, and Gallup World Poll highlighted that the use of mobile money in Africa is much higher than that in other regions with even more developed financial systems. In fact, three-quarters of the countries that use mobile money most frequently are in Africa with some countries, namely Kenya, Gabon, and Sudan, having half or more of the adult population using mobile money.

In countries such as Madagascar, Tanzania, and Uganda, where mobile network operators are allowed to offer mobile money services, the number of mobile money accounts is already higher than the number of bank accounts

However, a report by the Overseas Development Institute (ODI) explains that

while "in principle mobile banking is likely to facilitate capital flight, especially the movement of illegal funds abroad...Data on mobile money in Africa, seem[s] not to confirm this hypothesis since no clear correlation can be identified between capital flight and mobile banking."

This correlation was explained in a GSMA paper which states that the low risk of IFF through mobile banking is due to the nature of mobile channels and devices, which track all transactions and localise users, and to the transaction limits that allow customers to transact only relatively small amounts of money.

Mobile transactions are less anonymous than cash because they can be linked to a unique mobile number and transactions are recorded and traceable. The full details including the telephone number of the sender and receiver, the time, and the amount of the transaction are all known to the mobile money provider.

Additionally, the mobile money provider offering the mobile money services is usually regulated and mobile network operators will usually have strict internal controls with regular internal and external auditing.

So whilst the potential is there for IFF through various technological means, creating formidable technical and organisational challenges associated with detecting and monitoring these transactions, solace can be found in Africa's mobile banking systems.

The question however will remain as to how long. The mobile banking sector is still a relatively new phenomenon and therefore it is too early to assess its impact on illicit financial flows, another factor that may explain this result.



Multinationals' dodgy tax dealings stripping Africa's women of their rights

Tax avoidance, poor CSR exacerbate the gender gap

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BIG multinational companies like Associated British Foods (owners of Silverspoon Sugar, Twinings tea and many more) dodge millions in taxes on their operations in Zambia, according to leading international charity ActionAid.

In support of its claim, The group describes how between 2007-2012, a company called Zambia Sugar, owned by Associated British Foods, paid "virtually no" corporation tax in Zambia despite making profits of \$123 million.

Associated British Foods denied the accusation.

The components of the case are by no means unique. While corruption is often identified as a major agent of illicit money on the continent, the much-covered illicit financial flows (IFF) report commissioned by the UN and the African Union suggests that commercial firms are responsible for more broke exchequers - costing Africa at least \$1 trillion over the last 50 years.

Another expose by the charity in 2010 charged that UK-based brewer SAB-Miller was avoiding an estimated \$31 million in taxes in Africa and India every year - "enough money to educate a quarter-of-a-million African children".

This tax avoidance by multinational companies in developing countries is becoming a hot topic for development for precisely this reason – what that money could have done for developing countries had it stayed in the country.

Gender gap

"Women lose out the most," Patita Tingoi of the Association for Women's Rights in Development (AWID) said in an interview, explaining that when governments do not collect these taxes, they cut their national budgets. An example is in primary education: when it is not free, the gender gap gets bigger with girls getting left behind.

This observation was reiterated by Nebila Abdulmelik of the African Women's Development and Communication Network (FEMNET), who said that Illicit financial flows increase social, gender, spatial inequities and inequalities.

"States are often at a deficit, using regressive taxation - including VAT on essential products and cutting spending on social services which again disproportionately affect those most in need and increase the burden of care on women and girls," said Nebila.

"Many of the factors that exacerbate IFFs, such as over-reliance on natural resource extraction and the work of many multi-national corporations further environmental degradation, and often workers in such industries operate in low-paying, unsafe and insecure working conditions with rampant human rights violations -- which disproportionately affect women," she said.

"It is estimated that 40-50% of workers in the mining industry (particularly in small-scale and artisanal) are women who are not receiving living wages, don't have a right to unionise, don't have access to benefits or social protection mechanisms."

Profit motive

Patita said also of concern is the glossing over done by large corporations in their tax avoidance by instead focusing on corporate social responsibility (CSR) programmes.

According to a 2013 report by AWID, this leads to a situation where democratically elected bodies become overshadowed by institutions that have profit rather than public interest as their primary mission, and operate with inadequate regulation or mechanisms of public accountability.

Yet "questions persist as to how the profit motive will play out in relation to internationally agreed development goals, environmental and human rights standards and in the longer term sustainability of some of these gains."

In terms of gender, the interventions provided by the private actors do deliver some benefits to women – particularly in instances of scholarships and access to health services and loans.

However the report expressed concern that these did not fully take into

account "human rights, women's rights, and most importantly, what women's rights organisations have learnt about the structural roots of gender power that continue to subordinate, marginalise, or exclude women and girls."

For example, economic empowerment is reduced to support for small entrepreneurs or micro-credit activities; [while] the barriers to equal rights and access to education for girls are sidestepped through a focus on scholarships. Trafficking of women is conflated with sex trafficking and sex work, without a comprehensive view of poverty- or conflict-induced migration and trafficking practices linked to agricultural, domestic, care-giving and other work.

The report suggests instead that these groups "embrace an analysis of the deeply embedded socio-cultural factors that shape norms and expectations of women and girls, and how these limit their ability to use and benefit from the training or resources provided by such projects in the longer run."

Stop the bleeding

For these reasons, AWID has joined forces with other women's rights groups who are pushing for a concrete proposal for reforms to international financial and trade systems so that they support the achievement of global sustainable development goals at the upcoming third UN International Conference on Financing for Development in Addis Ababa in June.

A report written by a group of Civil Society Organisations including the African Forum and Network on Debt and Development (AFRODAD), outlines key recommendations which includes the establishment of a "new intergovernmental body on international cooperation in tax matters and provide the resources necessary to allow the body to operate effectively".

It also seeks "a comprehensive mandate for the new intergovernmental tax body, including base erosion and profit shifting, tax and investment treaties, tax incentives, taxation of extractive industries, beneficial ownership transparency, country by country reporting, and automatic exchange of information for tax purposes."

A unified African campaign was also launched this year to address the issue. Christened "Stop the Bleeding", the campaign comprises six pan-African organisations and aims to stop illicit financial flows from Africa. It has a strong gender component with FEMNET being a member of the Interim Working Group for the campaign.