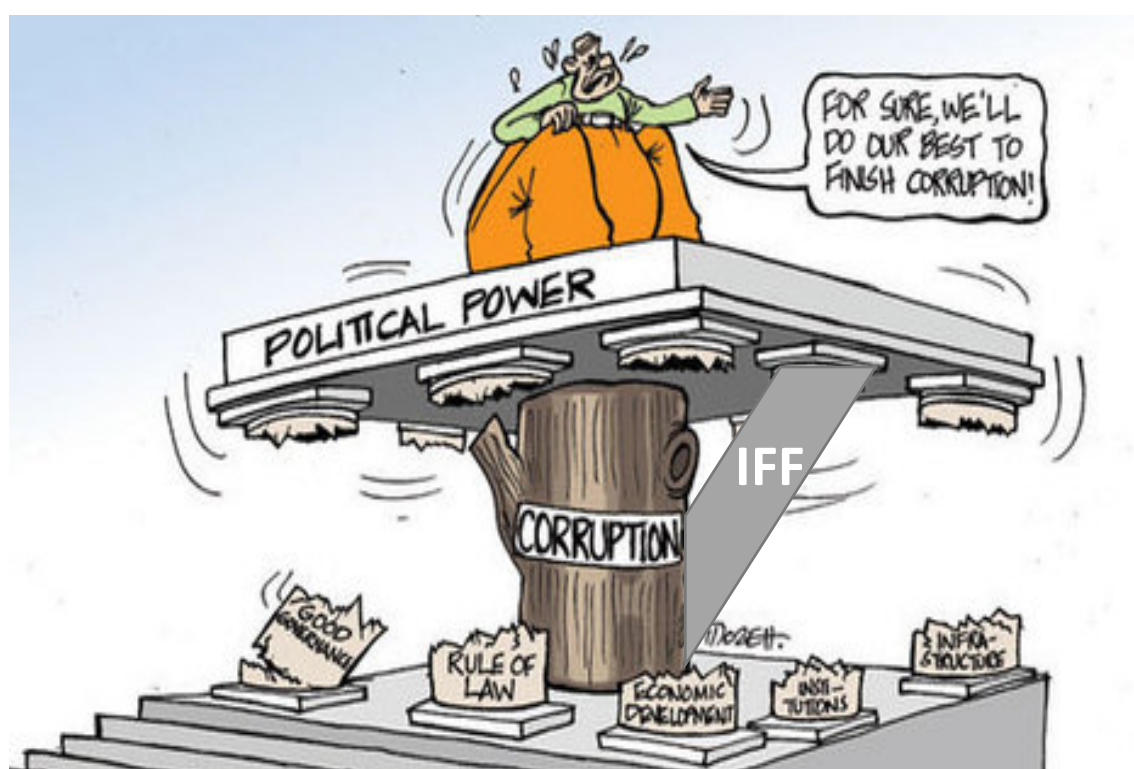


TRAINING MODULE

Understanding the Linkages between Corruption, Taxation and Illicit Financial Flows from Africa



Lyla Latif

‘If Africa fails to stop
corruption, corruption is most
likely going to stop Africa.’

Akin Oyeboade in ‘An Overview of Corruption in Nigeria,’ in *Political Reform and Economic Recovery in Nigeria* 603, 612 (I.A. Ayua & D.A. Guobadia, eds., 2001)



Summer School 2018

**Raising the Voice against Illicit Financial Flows, Corruption and
Inequality in Africa. Existing and New Challenges**

Mangochi, Malawi



**AFRICAN FORUM AND NETWORK
ON DEBT AND DEVELOPMENT**

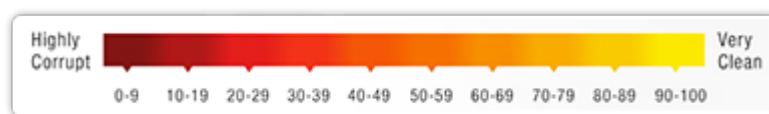
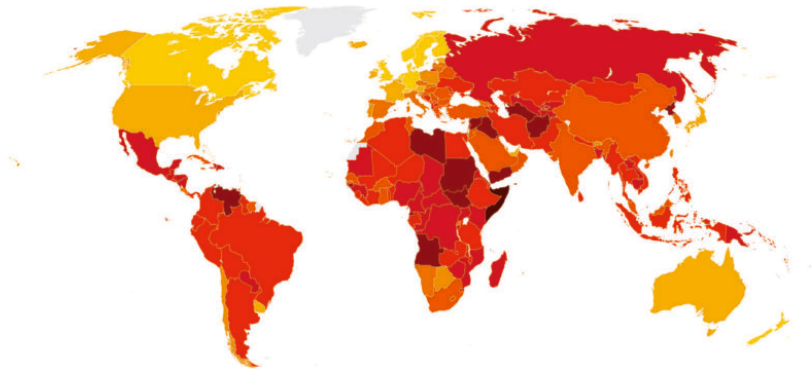
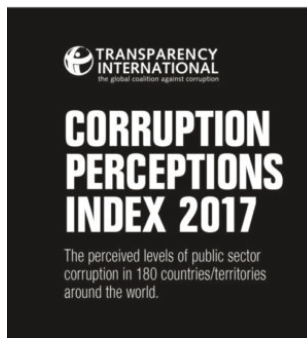
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Acronyms and Abbreviations

AfDB	African Development Bank
AML	Anti-Money Laundering
AMV	Africa Mining Vision
APRM	Africa Peer Review Mechanism
ATAF	Africa Tax Administration Forum
ATI	Addis Tax Initiative
AU	Africa Union
AUCPCC	Africa Union Convention on Preventing and Combating Corruption
CGT	Capital Gains Tax
CSA	Cost Sharing Agreement
DAC	Development Assistance Committee
AU	Africa Union
DRM	Domestic Resource Mobilisation
EITI	Extractive Industries Transparency Initiative
HLP	High Level Panel
IFC	International Finance Corporation
IFF	Illicit Financial Flows
IMF	International Monetary Fund
IP	Intellectual Property
FATF	Financial Action Task Force
MNCs	Multinational Corporations
NEPAD	New Partnership for Africa's Development
OECD	Organisation for Economic Co-operation and Development
ODA	Official Development Assistance
RA	Revenue Authorities
ROI	Return on Investment
SDG	Sustainable Development Goals
SSA	Sub Saharan Africa
StAR	Stolen Assets Recovery Initiative
TJN-A	Tax Justice Network Africa
TJN	Tax Justice Network
UNECA	United Nations Economic Commission for Africa
WB	World Bank

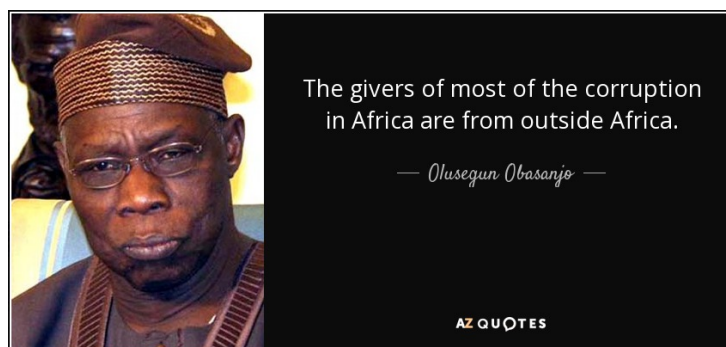
Overview



This training manual targets three key themes that are interrelated- the link between corruption, taxation and illicit financial flows (IFF). Its objective is to prepare you to identify the legal, administrative and regulatory loopholes on the one hand, and the socio-economic and political factors on the other, that facilitate and exacerbate this link. It focuses on Africa's extractives sector and aims to provide knowledge and understanding of the various stages through which corruption and IFF occur. The manual draws its content from having considered literature and data gathered from the High-Level Panel Report on IFF, ATAF, APRM, NEPAD, AUCPCC, Addis Tax Initiative, Agenda 2063, AMV, TJNA, UNECA as well as the international normative framework on corruption, taxation IFF as contained in the works of the OECD, UN Tax Committee, ICRICT and academic scholarship. The training manual is structured to focus on five main areas;

1. Definition, nature and scope of corruption and IFF, and the types of specific taxes that can be generated from the extractives sector.
2. The value addition process and Global Wealth Chains as the drivers that underpin the link between corruption, taxation and IFF resulting in inequality, economic and income loss
3. The global and continental response in the fight against corruption and IFF
4. Recommendations for breaking this link
5. Toolkit to help you assess your country's stand towards weakening and subsequently eliminating this link

Why is it important to understand the linkages between corruption, taxation and IFF?



Corruption

- Has debilitating and corrosive effects on progress, stability and development of the continent.
- Impedes economic growth by discouraging foreign investments, creates distortion in resource allocation and competitive markets, increases the cost of doing business, and reduces the net-value of public spending.
- Reduces the quality of services and public infrastructure and the volume of tax revenues and encourages the misappropriation and misallocation of scarce resources.
- Undermines the rule of law, respect for human rights, accountability and transparency and weakens government institutions. This in turn erodes public legitimacy in government and compromises good governance.
- Deepens income inequality, poverty and adversely affects good moral values in the society.
- Challenges sustainable economic development, peace and good governance.
- Losses from corruption are estimated to be more than 1 trillion dollars per year; with corruption adding up to 25% to the cost of government contracts in developing countries¹.

IFF

- Deprives African governments of resources required to achieve structural transformation, economic development and progressively realise human rights.
- Exacerbates inequality. Tax evasion and avoidance by MNCs forces governments to raise revenue from other sources, including through regressive taxes, the burden of which falls hardest on the poor. MNCs adopt the OECD double taxation model that favours the Global North at the expense of the African economy in the taxation of profits and deprives Africa of taxes from income sourced domestically and from whence value is created. MNCs by their

¹ World Bank, Myths and Realities of Governance and Corruption, Daniel Kaufman (2005).

global nature are predominant movers of IFF by creating global wealth and value chains through which money is moved and made untraceable. The international corporate structure enables this movement within the parameters of the law through the use of definitions such as residence, subsidiaries, affiliates, beneficial ownership, debt servicing and permanent establishments. Legal concepts that are ambiguous and lacking in transparency.

- Perpetuates and aggravates extreme economic inequality, benefiting the rich at the expense of the poor. Inequality prevents millions of Africans from enjoying social and economic rights on a non-discriminatory basis, such as access to adequate housing, healthcare and food. Curbing IFF is therefore not only essential for achieving equality, but also for financing development in Africa. Thus, making progress on target 16.4 of the Sustainable Development Goals on reducing IFF will make an important contribution not only to achieve various other goals included in the Agenda 2030 for sustainable development, but also to the enjoyment of development and equality.
- Contributes to the build-up of debt crises since, in the face of missing revenues, African governments resort to external borrowing. Debt servicing reduces the amount of public resources available for development and achieving equality. MNCs focus their market in jurisdictions where the legal system is fragile such as in failed African states and states in conflict, as well as in countries that host financial centres that are self-regulated with minimal supervision from the domestic capital markets to trace financial flows. MNCs also invest in states where their financial institutions are yet to comply with the Financial Action Task Force (FATF) recommendations on tracing the source and flow of money.
- Contributes to the capital flight schemes employed by MNCs.

Taxation

- Corruption as a form of IFF erodes the tax base of many African countries.
- Domestic resource mobilisation is adversely affected.
- Tax collection is not commensurate with the budget required for recurrent and development expenditure.
- Tax burden as a result of corruption falls on the poor, women and middle income earners.
- Loss of taxation and revenue as a result of corruption leads to imposition of increased taxes.
- Structural transformation is restricted as a result of lower taxes and taxes lost through corrupt practices.

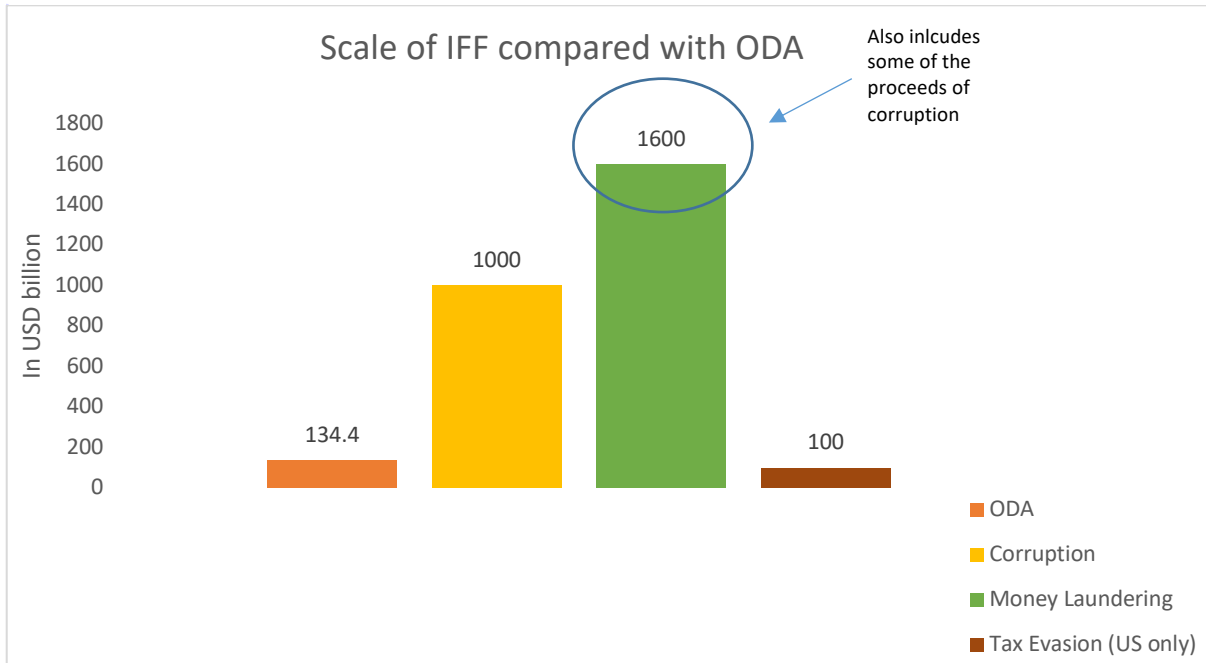


A World Bank study estimates losses through tax evasion at 8-12% of GDP in Malawi, and 9% of GDP in Namibia.²

² http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/III_gotten_money_and_economy.pdf



Statistics on corruption, IFF and tax losses



Source: OECD

Organisations	Tax Loss Estimates per year
AfDB ³	>USD 1trillion in corporate tax losses since 1980 from Africa
TJN ⁴	USD 500billion in corporate tax losses globally
IMF Fiscal Affairs Department ⁵	USD 200billion in corporate tax losses globally
HLP Report ⁶	USD 50billion in IFF from Africa
ECA ⁷	USD 100billion through mis-invoicing from Africa
AU ⁸	USD 67billion in IFF from Africa – of which 5% lost through corruption

³ Alex Cobham. 2014. The Impacts of Illicit Financial Flows on Peace and Security in Africa, Study for Tana High Level Forum on Security in Africa

⁴ Alex Cobham, & Janský, P. 2018. Global distribution of revenue loss from corporate tax avoidance - Re-estimation and country results. Journal of International Development, Forthcoming. Ungated version: 3 <http://www.europarl.europa.eu/legislative-train/theme-deeper-and-fairer-internal-market-with-a-strengthened-industrial-base-taxation/file-quantification-of-the-scale-of-tax-evasion-and-avoidance>

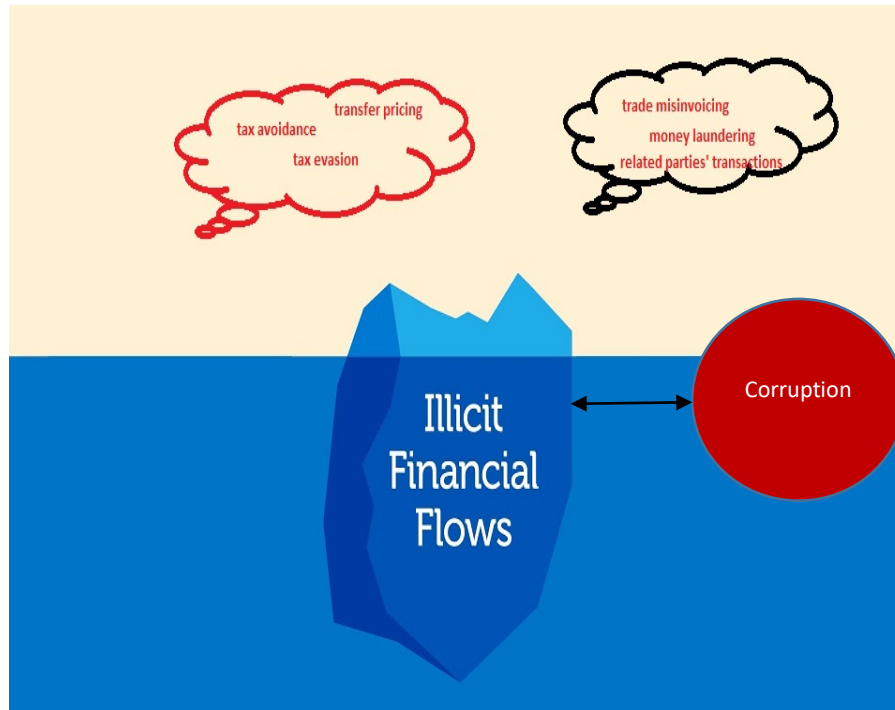
⁵ Crivelli, E., de Mooij, R., & Keen, M. 2016. Base Erosion, Profit Shifting and Developing Countries. FinanzArchiv: Public Finance Analysis, 72(3), 268–301.

⁶ Illicit Financial Flows. Report of the High Level Panel on Illicit Financial Flows from Africa, commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development. https://www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf

⁷ In July 2018, at the High Level Policy Dialogue on Development Planning in Africa the Head of Development Planning and Statistics at the Economic Commission for Africa reported that USD\$100billion a year is illegally earned, transferred or used due to misinvoicing.

⁸ African Union Commission Department of Economic Affairs. 2018. Mobilisation of Domestic Resources: Fighting against Corruption and Illicit Financial Flows. https://au.int/sites/default/files/newsevents/workingdocuments/34086-wd-dea_paper_stc_2018_mobilization_of_domestic_resources_fighting_against_corruption_iff_english_0.pdf

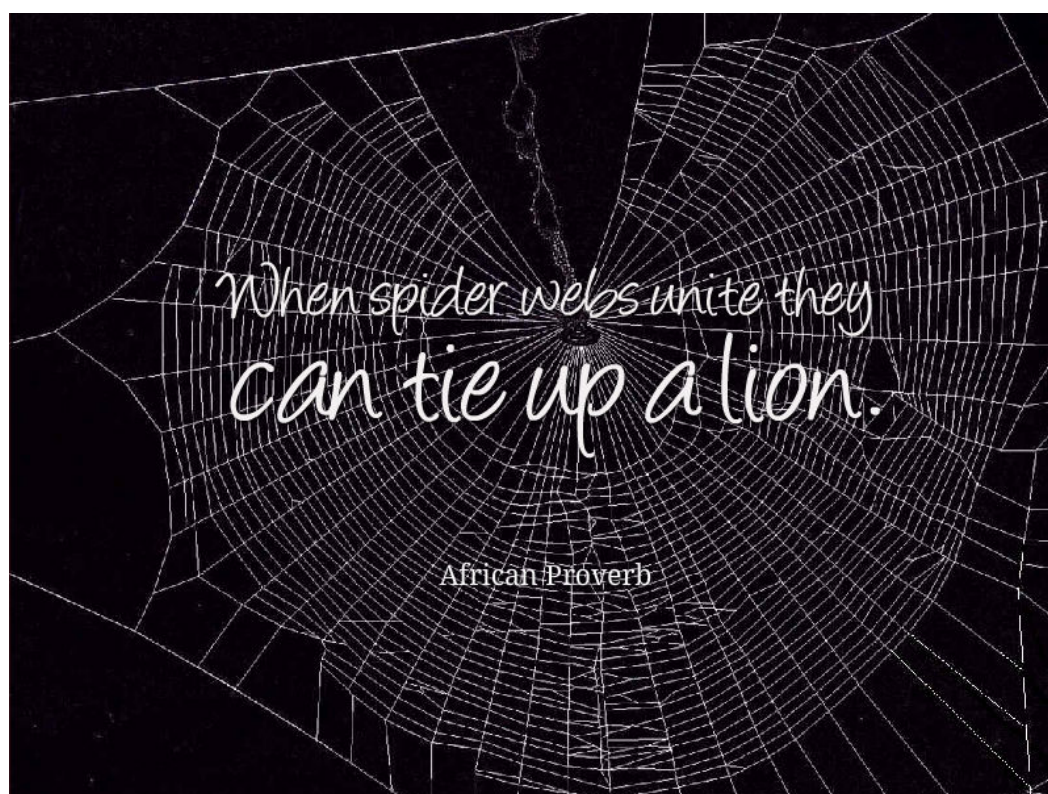
Training Objectives



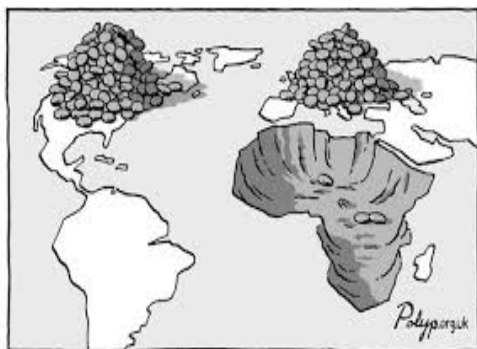
-
- ✚ Understanding the link between corruption, taxation and IFF and what it entails
 - ✚ Identifying the political and economic factors exacerbating this link
 - ✚ Unpacking the secret nature of corruption and IFF in the value addition process
 - ✚ Tracing the nodes through which information is restricted so as to facilitate corruption and IFF
 - ✚ Due diligence methods on detection of IFF in the value chain process
 - ✚ Thinking of solutions to weaken the corruption and IFF link
 - ✚ Using a toolkit to assess a country's approach and stand on fighting against corruption and IFF
 - ✚ Protecting the domestic resource base of African economies
-

Training Outline

Time		Session Breakdown
13.30 – 15.30		
Session 1	13.30 – 14.00	Introduction
	14.00 – 14.30	Understanding the linkages between corruption, taxation and IFF
	14.30 – 14.45	Group Reflective exercise
	14.45 – 15.00	Discussion
	15.00 – 15.10	Case Studies
	15.10 – 15.20	Group Reflective exercise
	15.20 – 15.30	Discussion
15.30 – 15.45	BREAK	
15.45 – 16.45		
Session 2	15.45 – 16.15	Identifying, pre-empting and redirecting policy change in curbing corruption, taxation and IFF
	16.15 – 16.30	Working with the toolkit
	16.30 – 16.45	Questions and Way Forward



1.0. Introduction



Africa's natural resources and extractives sector is an important driver for the continent's economic growth and provides a unique opportunity for generating revenues needed for infrastructure and human development. Unfortunately, its potential as a driver for improving livelihoods, structural transformation and domestic resource mobilisation has been adversely impacted by corruption and IFF resulting in tax losses of over US\$50 billion annually.

1.1. Context Setting

1.1.1. What is corruption?

'The abuse of public office for private gain' (World Bank, 1997)

Problem with this definition is that it relates only to malfeasance in government and overlooks abuses within the private sector. This has led many to treat corruption as a public sector problem and almost entirely exclude the actions of private firms from conceptual examination (Gardiner, 2002).

'The abuse of entrusted power for private gain?' (Transparency International, 2016)

This broadens the scope of corruption to include business activity. Public sector corruption tends to attract more attention than private sector corruption because there is a view that corruption within business is less socially impactful, more regulated through the market mechanism and less publicly visible. Yet, a cursory glance at the business press exposes a number of high-profile corruption cases involving large multinational corporations.

'Abuse of entrusted power' (HLP Report)

Definition takes account of corruption in both the public and private sphere.

Corruption can be contextualised into three categories:

1. **Public sector corruption** (bureaucratic discretion, political, lack of transparency and accountability)
2. **Private to private sector corruption** (market abuse, including bribery, can occur between rival firms or within the supply chain. Example, British American Tobacco (BAT) agents paid employees of rival firms to provide access to confidential marketing plans 'within hours' of their composition-BBC, 2015)
3. **Private to public sector corruption** (procurement process)

Reflective Exercises:

How would you define corruption?

Can you cite examples of the types of corrupt practices that are prevalent in your country's public and private sectors that you know of?

Public

- 1.
- 2.
- 3.

Private

- 1.
- 2.
- 3.

What are the main features/drivers that facilitate corruption?

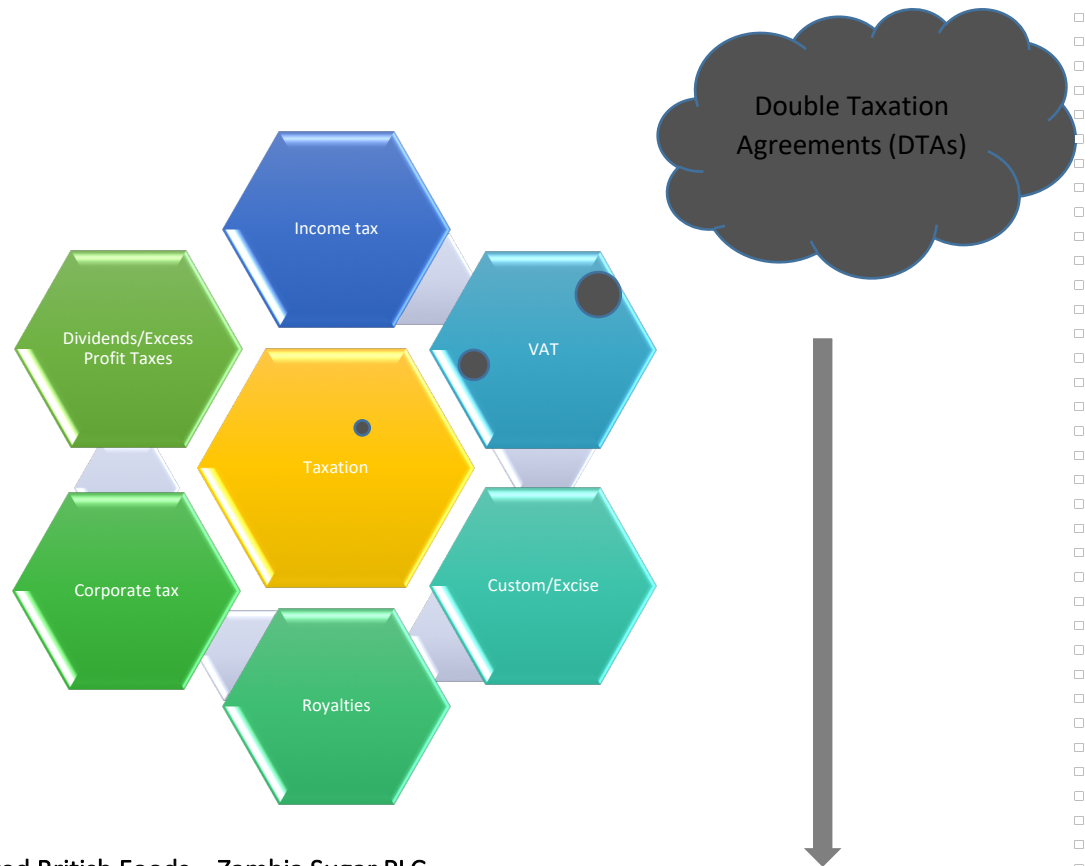
- 1.
- 2.
- 3.

Examples

Bribery	The payment of goods or services to an individual who can provide an illicit favour in return. <i>Active bribery: supplying illicit payments to another</i> <i>Passive bribery: receiving payments from another</i>
Extortion	A version of passive bribery. A bribe is demanded
Embezzlement	Often known as 'auto corruption'. A type of white collar crime where only one person is involved
Trading in influence	An abuse of influence or personal connections to sway a favour for a third party. The difference from bribery being that the agent engaging in this form of corruption is not directly providing the good or service, but influencing the process or individual that determines resource allocation
Abuse of functions	This form of corruption is divided into two categories: <i>Patronage: controlling appointments of organisational decision makers or other key positions</i> <i>Nepotism: a more personalised version of patronage, where appointments are made in favour of family or kin</i>

Adapted from Boersma (2012) and Gambetta (2005)

1.1.2. Types of taxes specific to the extractives sector



The Case of Associated British Foods – Zambia Sugar PLC

Associated British Foods – the UK parent company of Zambia Sugar PLC - has used Ireland and the Netherlands to route income in order to take advantage of the Ireland-Zambia and Zambia- Netherlands tax treaties, avoiding source taxation in Zambia. The company used three main tactics to do this (see ActionAid - Sweet Nothings, 2013). These tactics have seen cross-border payments equivalent to over US\$13.8million (Zambian Kwacha 62 Million) a year – redirected via sister companies in Ireland, Mauritius and the Netherlands. As a result, it is estimated that Zambia has lost withholding tax revenues of some US\$17.7 million (ZK78 Million) since 2007, when ABF took over the Illovo sugar group.



Reflective Exercises:

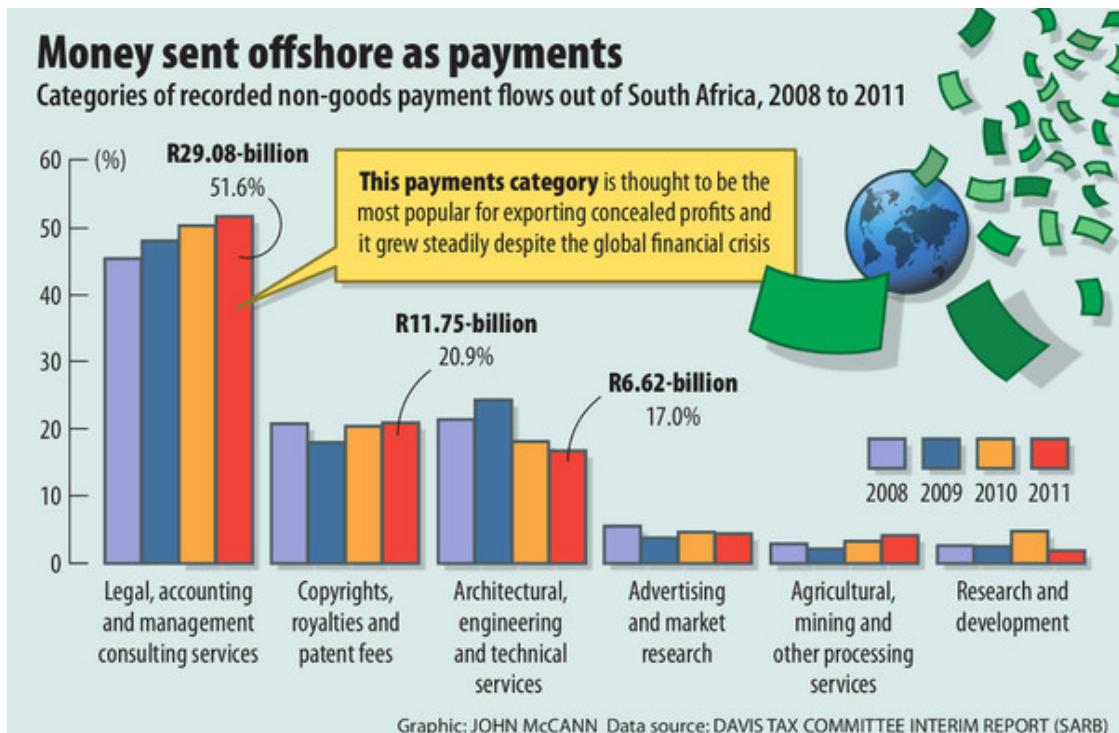
List down the specific types of taxes in your country that apply to the extractives sector:

- 1.
- 2.
- 3.
- 4.
- 5.

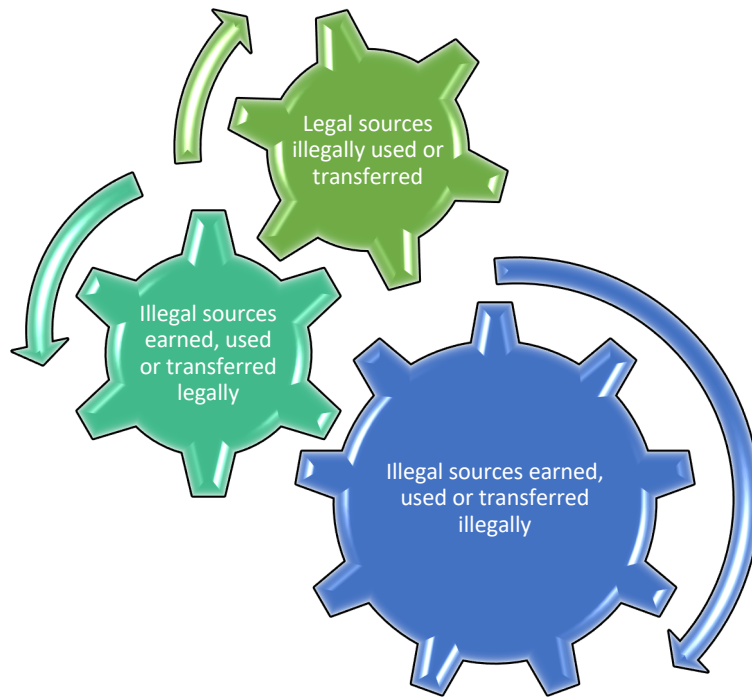
What are DTAs?

How can DTAs be problematic in terms of taxation?

- 1.
- 2.
- 3.
- 4.



1.1.3. What are Illicit Financial Flows?



1.1.4. Main features of illicit financial flows?

Funds with criminal origin, such as proceeds of crime
Funds with a criminal destination, such as bribery, terrorist financing or conflict financing
Funds associated with tax evasion
Transfers to, by, or for, entities subject to financial sanctions
Transfers which seek to evade anti money laundering/counter terrorist financing measures or other legal requirements (such as transparency or capital controls)

1.1.5. Brief history tracing the development of law on IFF

2010 - 2012

In the 2010 Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, Member States called for: “developing strategies or policies to combat illicit capital flows and to curb the harmful effects of jurisdictions and territories uncooperative in tax matters.”⁹ (A/RES/65/230). This gave rise to resolutions in the Economic and Social Council in 2011¹⁰ (E/RES/2011/32) and General Assembly in 2012¹¹ (A/RES/66/177) which refer to “illicit financial flows” but usually with further narrowing of the concept when discussing the substance, for example: “to prevent, detect and deter illicit financial flows originating from transnational organized crime”.

2013

In 2013, the OECD characterized IFFs as: “a set of methods and practices aimed at transferring financial capital out of a country in contravention of national or international laws. In practice an ‘illicit financial flow’ ranges from something as simple as a private individual transferring funds into his/her account abroad without having paid taxes on the funds, to highly complex money laundering schemes involving criminal networks setting up multi-layered multi-jurisdictional structures to hide ownership and transfer stolen funds.” (OECD, 2013. Measuring OECD responses to illicit financial flows)¹²

2014

In 2014, the OECD had already written about Illicit Financial Flows from Developing Countries in 2014.¹³ In that report, it attempted to define illicit financial flows through its constituting activities. The focus of the report was on developing countries and there was a strong emphasis on corrupt practices occurring in developing countries and capital flight initiated by members of the public administration.

2015

In 2015 the OECD produced a thematic module on illicit financial flows (OECD, Policy Coherence for Sustainable Development (PCSD), Thematic Module on Illicit Financial Flows, Workshop, 2015) which proposed the following definition:

“Illicit financial flows (IFFs) means all cross-border financial transfers which contravene national or international laws. This is a wide category which encompasses several different types of financial transfers, made for different of reasons. It can include: funds with criminal origin, such as the proceeds of crime (including corruption); funds with a criminal destination, such as bribery, terrorist financing or conflict financing; funds associated with tax evasion; transfers to, by, or for, entities subject to financial sanctions; and transfers which seek to evade anti-money laundering /counter-terrorist financing measures or other legal requirements (such as transparency or capital controls).”¹⁴

⁹ A/RES/65/230

¹⁰ E/RES/2011/32

¹¹ A/RES/66/177

¹² OECD (2013), *Measuring OECD responses to illicit financial flows*, available from: http://www.oecd.org/dac/SLM2013_issue%20paper%20illicit%20flows.pdf

¹³ OECD, *Illicit Financial Flows from Developing Countries: Measuring OECD Responses*, 2014, pg. 16.

¹⁴ OECD, *Policy Coherence for Sustainable Development (PCSD)*, Thematic Module on Illicit Financial Flows, Workshop, 2015, pg. 3.

The 2015 report of the High-Level Panel on Illicit Financial Flows from Africa formally defines IFFs as “money illegally earned, transferred or used” but goes on to include tax avoidance as a type of IFF:

“IFFs originating from commercial activities have several purposes, including hiding wealth, evading or aggressively avoiding tax, and dodging customs duties and domestic levies. Some of these activities, especially those linked to taxation, are described from a more technical perspective as ‘base erosion and profit shifting’ especially within the ambit of the OECD. The various means by which IFFs take place in Africa include abusive transfer pricing, trade mispricing, misinvoicing of services and intangibles and using unequal contracts, all for purposes of tax evasion, aggressive tax avoidance and illegal export of foreign exchange.”¹⁵

2016

In 2016 the World Bank stated that the concept of IFF generally refers to cross-border movement of capital associated with illegal activity or more explicitly, money that is illegally earned, transferred or used that crosses borders and that this falls into three main areas: The acts themselves are illegal (e.g., corruption, tax evasion); or the funds are the results of illegal acts (e.g., smuggling and trafficking in minerals, wildlife, drugs, and people); or the funds are used for illegal purposes (e.g., financing of organized crime).¹⁶ (WB, Illicit Financial Flows, April 14 2016).

In the United Nations “Coherent Policies for Combatting Illicit Financial Flows” the first footnote mentioned that:

‘The term “illicit financial flows” (IFFs) is not defined in the international normative framework. For the purposes of this paper, IFFs are defined broadly as all cross-border financial transfers, which contravene national or international laws. This wide category encompasses several different types of financial transfers, made for different reasons, including: funds with criminal origin, such as the proceeds of crime (for example tax evasion, money laundering, fraud and corruption); funds with a criminal destination, such as bribery, terrorist financing or conflict financing; transfers to, by, or for, entities subject to financial sanctions under UN Security Council Resolutions such as 1267 (1999) and its successor resolutions (e.g. Al Qaida and other terrorist organisations); and transfers that seek to evade anti-money laundering/counter-terrorist financing measures or other legal requirements (such as transparency or capital controls)’.¹⁷

The UN in 2016 also reiterated that: “there is no agreed definition of the concept of illicit financial flows (IFFs), but it is generally used to convey three different sources of IFFs: **the proceeds of commercial tax evasion, revenues from criminal activities, and public corruption.**”¹⁸

¹⁵ High Level Panel on Illicit Financial Flows from Africa (2015), p.24.

¹⁶ World Bank, *Illicit Financial Flows*, April 14, 2016, available at: <http://www.worldbank.org/en/topic/financialmarketintegrity/brief/illicitfinancialflowsiffs>.

¹⁷ United Nations, *Coherent Policies for Combatting Illicit Financial Flows*, United Nations Office on Drugs and Crime (UNODC) and Organization for Economic Co-Operation and Development (OECD), Issue Brief Series from the Inter-Agency Task Force on Financing for Development, July 2016.

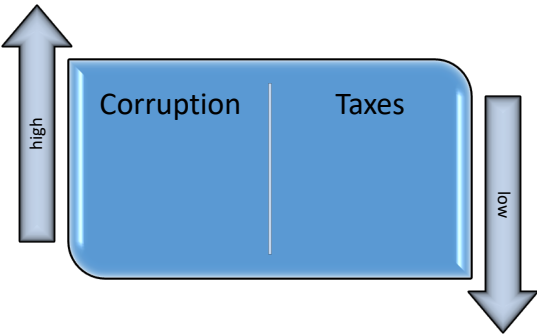
¹⁸ United Nations, *World Economic Situation and Prospects 2016*, (UN 2016), footnote 19, pg. 103

1.1.6. Framework for understanding sources of income and their tax implications

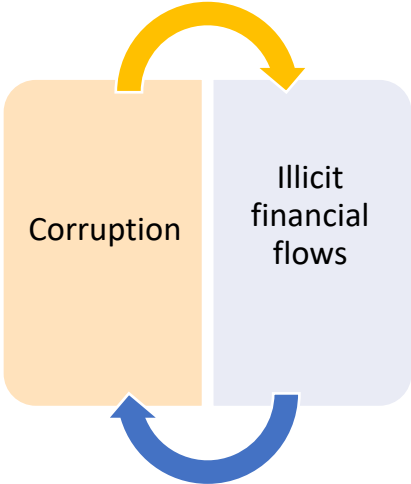
Category	Source of income/ financial gain	Resulting effects	Tax assessment	Outcome
Legal	Legally generated profits, capital gains, income, dividends, rental income	Tax compliance	Legally generated, fully tax compliant and legally transferred abroad – Strong institution and enforcement capacity	Revenue earned
		Lawful tax avoidance	By application of current laws and regulations – gaps in law on curbing tax avoidance schemes	Revenue lost through debt shifting, profit shifting, trade misinvoicing, transfer pricing
Unlawful		Unlawful tax avoidance	Legally generated but unlawful tax avoiding – poor enforcement, detection and identification capacities	Revenue lost through debt shifting, profit shifting, trade misinvoicing, transfer pricing, smuggling of goods, elite capture
		Market/regulatory abuse	Circumvention of laws and regulations via offshore ownership for unlawfully earned profits in Afghanistan, ambiguous legislation, weak enforcement	Revenue lost through debt shifting, profit shifting, trade misinvoicing, transfer pricing, non-payment of customs, Hawala
Criminal		Illicitly transferred, and/or transferred for illicit purposes	Legally generated but violating law and regulations	Revenue lost through debt shifting, profit shifting, trade misinvoicing, transfer pricing, smuggling of goods, Hawala
		Tax evasion	Legally generated but criminal tax evasion scheme	Revenue lost through debt shifting, profit shifting, trade misinvoicing, transfer pricing, smuggling of goods, Hawala
		Proceeds of corruption	Bribery: corruption	Corruption related illegal income
	Proceeds of theft/related crime	Smuggling of goods, Theft, extortion, terrorist financing, kidnapping, fraud	Theft related illegal income	IFF, Hawala
	Proceeds of illegal markets	Drug trafficking, counterfeiting, smuggling of goods, opium	Illegal income	IFF, Hawala

1.2. The corruption, taxation and IFF causal effect

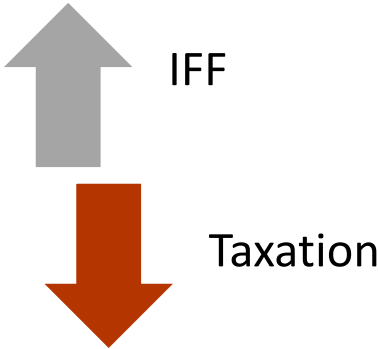
Corruption



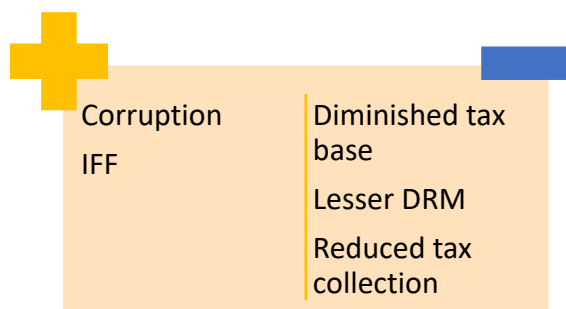
Taxation



Illicit Financial Flows



Corruption, taxation and IFF



Contributing factors



Contributing Factors

- Weak legal framework (old tax laws, laws on extractives ambiguous, weak procurement process)
- Political accountability
- FDI conditions
- DTAs
- Lack of transparency and accountability (no automatic exchange of information)
- Porous borders
- Beneficial ownerships and no public registers
- Complicit professionals and third parties
- Capacity (human resource, training)
- Institutions
- Infrastructure (technology)
- Tax havens
- Global value and wealth chains

1.3. The Global and Continental Responses

1.3.1. Overview of the international framework

United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (Vienna Convention).	This includes provisions on money laundering and international cooperation.
United Nations Convention against Transnational Organized Crime 2000 (Palermo Convention).	This requires countries to criminalise money laundering, and includes frameworks for extradition, mutual legal assistance and law enforcement cooperation
International Convention for the Suppression of the Financing of Terrorism 1999	Requires states to criminalise the financing of terrorism, and adopt powers to freeze and seize funds intended to be used for terrorist activities.
United Nations Convention against Corruption 2003 (Merida Convention)	Requires measures to prevent and criminalise corruption, provide international cooperation and asset recovery on corruption cases.
OECD Model Tax Convention	The OECD published its first draft <i>Double Taxation Convention on Income and Capital</i> in 1963, building on work which had begun in the League of Nations in the 1920s. Today more than 3 000 bilateral tax treaties are based on the OECD Model, which addresses key issues arising in the international tax system including to promote the elimination of double taxation and to prevent fiscal evasion.
Multilateral Convention on Mutual Administrative Assistance in Tax Matters	The multilateral Convention was developed by the OECD and Council of Europe in 1988 as a legal instrument for countries to undertake cross-border cooperation to counter tax evasion and avoidance in areas including exchange of tax information (on request, automatic and spontaneous) as well as assistance in tax collection and simultaneous tax examinations. The multilateral Convention was updated in 2010 with an amending Protocol to reflect the latest standards, including in the area of tax information exchange, and to allow the Convention to be signed by all States (not only OECD or Council of Europe members).
OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the OECD Anti Bribery Convention / ABC)	Countries which join the OECD ABC ¹⁹ agree to establish a criminal offence of bribing a foreign public official in their national laws, and to implement effective policies to prevent, detect, investigate and sanction foreign bribery committed by individuals and/or companies.
Global Forum on Transparency and Exchange of Information for Tax Purposes	The Global Forum is the multilateral framework through which the international standards on tax transparency and exchange of information are monitored and reviewed.
The Financial Action Task Force	FATF is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations ²⁰ are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard.
UN Security Council Resolution 1267 (1999) and its successor resolutions	A number of UN Security Council Resolutions have introduced measures to counter illicit financial flows, in particular by establishing targeted financial sanctions regimes applied to Al Qaeda and other terrorist groups.

¹⁹ The Parties to the OECD ABC are currently: the 34 OECD member countries and seven non-member countries - Argentina, Brazil, Bulgaria, Colombia, Latvia, Russia, and South Africa.

The Working Group on Bribery monitors the enforcement of the Convention and related instruments including: the 2009 *OECD Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions and other related instruments*; the 2009 *Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions*; the *OECD Recommendation on Bribery and Officially Supported Export Credits*; the 1996 *Recommendation on Anti-Corruption Proposals for Bilateral Aid Procurement*; and the *OECD Guidelines for Multinational Enterprises*

²⁰ International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation; the FATF Recommendations, FATF 2012.

In addition to the conventions and standards above, there are a range of initiatives and dialogues which aim to improve the capacity of governments and the functioning of the international systems for combating illicit financial flows, many of them led by the OECD. These include:	
Regional Anti-Corruption Initiatives reaching out to non-OECD countries on bribery and corruption issues.	These include the Joint ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, the joint AfDB/OECD Initiative to Support Business Integrity and Anti-Bribery Efforts in Africa; The Anti-Corruption Network for Eastern Europe and Central Asia (in partnership with the Basel Institute on Governance; the Asset Recovery Center, the UNODC and the GRECO); and the Latin America Anti-Corruption Programme (jointly led with the Organisation of American States (OAS) and the Inter-American Development Bank.
CleanGovBiz	This initiative supports governments, business and civil society to build integrity and fight corruption. It draws together existing anti-corruption tools in its CleanGovBiz Toolkit, reinforces their implementation, improves co-ordination among relevant players and monitors progress towards integrity.
The OECD Recommendation on Public Procurement (and corresponding Toolkit)	Include guidelines for enhancing integrity and transparency in public procurement, which is vulnerable to corruption (including mis-invoicing) and/or bribery (whether from domestic or foreign sources).
The OECD Principles on Transparency and Integrity in Lobbying, as well as the OECD Recommendations for Managing Conflict of Interest and Improving Ethical Conduct in the Public Service	All address the risk factors for potential policy capture and undue influence resulting from political contributions/donations, conflict-of-interest situations including those arising from previous employments (“revolving doors”) which can hinder government’s ability to effectively combat IFFs.
OECD Guidelines for Multinational Enterprises	Encourage the positive contribution MNEs can make to economic and social progress, including chapters on human rights, combating bribery and taxation.
OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas	Provides detailed recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. The Due Diligence Guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas. It is one of the only international frameworks available to help companies meet their due diligence reporting requirements.
Oslo Dialogue on Tax and Crime	Promoting a whole of government approach to fighting tax crime and other financial crimes, this initiative was launched in 2011 and has included the establishment in 2014 of the OECD International Academy for Tax Crime Investigation near Rome, Italy.
The Trust and Business (TNB) Project	Is a multidisciplinary and multi-stakeholder initiative that aims to bridge the gap between business standards and their implementation, in order to promote business integrity.
Stolen Asset Recovery Initiative (StAR)	Is a partnership between the World Bank Group and the United Nations Office on Drugs and Crime (UNODC) that works with developing countries and financial centres to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets. The StAR Initiative has jointly published with the OECD Working Group on Bribery an analysis on the Identification and Quantification of the Proceeds of Bribery.
Tax and Development	The OECD’s Task Force on Tax and Development was created in 2010 and has an advisory role to the OECD’s Committee on Fiscal Affairs and the Development Assistance Committee. Participants are officials from OECD and developing countries, business, NGOs and other international organisations. Key elements of the Tax and Development Programme’s work agenda include: promoting the link between State building, Taxation and Aid; supporting developing countries build capacity on transfer pricing and other international tax issues as well as natural resource taxation; and supporting low-income countries improve transparency and governance of tax incentive regimes.

Extractive Industries Transparency Initiative (EITI)	A global standard to promote openness and accountable management of natural resources, through full disclosure of taxes and other payments made by oil, gas, and mining companies.
Egmont Group of Financial Intelligence Units	Promotes good practice among FIUs, and facilitates international exchange of information on IFFs.
International Corruption Hunters Alliance (ICHA)	Hosted by the World Bank Group, ICHA brings together heads and senior officials of corruption investigating bodies and prosecuting authorities, anti-corruption experts, academics, and representatives of international organizations from over 130 countries.
G20	Which has taken a leadership role on several aspects of IFF policy, including through the G20 Principles on Beneficial Ownership.
The Kimberley Process Certification Scheme (KPCS),	The KPCS, launched in May 2000, aims to promote transparency and accountability in the diamond trade. It requires member states to certify that diamonds mined within their borders are conflict-free. Eleven African countries are members to the process. The process has helped to reduce conflicts and civil wars as well as improved revenues in diamond rich African countries.
Public What You Pay (PWYP) Campaign	The Publish What You Pay (PWYP), which is an initiative, launched in 2002, by a coalition of civil society groups, calls for <i>“the mandatory disclosure of payments made by oil, gas and mining extractive companies to each national government”</i> . ²¹ There are at present 26 countries that have joined this Initiative. By encouraging private firms to <i>“publish what they pay”</i> to governments, the initiative enables citizens in resource rich countries to hold their governments accountable.
Open Government Partnership (OGP)	The OGP is an international platform, which seeks to promote transparency, accountability and civic partnership in its member states. It was established in 2011. For countries to participate in the OGP, they must meet the minimum standards of its eligibility criteria. The eligibility criteria are assessed by an evaluation of a country’s performance in four main areas: access to information, fiscal transparency, citizen engagement and public official’s asset disclosure. States that score 75% and above in the evaluation are able to join. Once approved to join, states must follow the requirements of the OGP, which includes defining a national action plan with civil society, incorporating the OGP’s commitments therein and preparing annual self-assessment reports. ²² OGP currently has 65 member States, of which only eight are African: Ghana, Kenya, Liberia, Malawi, Sierra Leone, South Africa, Tanzania and Tunisia. Out of the eight African countries, only three are mineral-rich. ²³ The very low number of African countries, particularly the mineral rich countries, which have joined this Partnership, is concerning. The reason for this low membership of African countries, is that many are unable to meet the OGP’s requirements. The above-mentioned instruments have contributed to improved governance in the extractives industry in Africa. However, several studies have shown that in many countries, these instruments remain stand-alone and/or parallel structures, which are not sufficiently embedded in national policy and decision-making processes. Moreover, these instruments lack the comprehensive approach taken by African-owned instruments and mechanisms for the promotion of developmental mining for structural transformation and inclusive growth.

²¹ See Publish What You Pay Campaign website. Available at <http://www.publishwhatyoupay.org/en/resources/new-report-history-and-achievements-publish-what-you-pay-coalition>

²²“How it works”, Open Government Partnership, Available at <http://www.opengovpartnership.org/how-it-works/requirements>(assessed January 28, 2015)

²³“Eligibility criteria”, Open Government Partnership, Available at <http://www.opengovpartnership.org/how-it-works/eligibility-criteria>, (assessed January 28, 2015)

1.3.2. Overview of the continental framework

African Union Convention on Preventing and Combating Corruption (AUCPCC) 2003	Objective to prevent, detect, punish and eradicate corruption and related offences in Africa. The Convention defines corruption and covers a wide range of offences including bribery, illicit enrichment, illegal funding of political parties, money laundering and diversion of property by public officials. The Convention, among others requires member states to establish anti-corruption legislations and bodies and urges African government officials to declare their assets and abide by ethical codes of conduct. AUCPCC is the most comprehensive amongst regional anti-corruption conventions and serves as a milestone, since it adopted measures against corruption, which are specific to Africa. It also signifies the consensus of African states in the areas of prevention and criminalization of corruption.
African Union Advisory Board on Corruption	The Board with 11 members from different African countries was established mainly to monitor the implementation of the AUCPCC, and to advise the AU and its member states in fighting corruption. It is also mandated to facilitate dialogue among different stakeholders including CSOs and collect and analyse information on the scope and nature of corruption in Africa.
African Charter on the Values and Principles of Public Service and Administration	Focuses on establishing quality public service that meets the needs of users and ensures that citizens can participate in the public administration process. Article 12 focuses specifically on preventing and combating corruption: (1) "Shall enact laws and adopt strategies to fight corruption through the establishment of independent anti-corruption institutions. (2) Public Service and Administration shall constantly sensitise public service agents and users on legal instruments, strategies and mechanisms used to fight corruption. (3) States parties shall institute national accountability and integrity systems to promote value-based societal behaviour and attitudes as a means of preventing corruption. (4) States parties shall promote and recognise exemplary leadership in creating value-based and corruption-free societies."
Pan-African Body of National Anti-Corruption Institutions in Africa	Promoting information and knowledge exchange amongst national anti-corruption bodies and devising way outs for the ratification of the AU convention by all member states.
African Peer Review Mechanism	Major instrument of political dialogue through which African countries seek to promote the culture of good democratic governance on the African continent. It is a self-assessment mechanism put in place by Africa's political leadership by which African countries seek to identify their country-specific governance challenges and build a coalition for political reforms in the country. As an African-owned mechanism, offers an opportunity to improve Africa's governance standards in the extractives sector and the management of Africa's mineral resources. As a home-grown peer review process it creates mutual accountability and benchmarking amongst African States. It also encourages public discussions with all stakeholders through an inclusive, participative and consultative process that has the potential of ensuring domestic accountability. Furthermore, by including a specific chapter on extractive industry governance to its country review questionnaire, the APRM has made a significant step towards deepening the ownership of natural resources governance.
Africa Mining Vision (AMV)	Since 2009, the AMV has advocated for an effective governance of the mineral resources sector on the African continent. These governance areas include: (a) peace, security and political stability; (b) clear, transparent, predictable and efficient legal and regulatory frameworks to ensure mineral wealth creation; (c) fair and equitable fiscal regimes to facilitate equity in the distribution of benefits and (d) credible public participation to enhance ownership and shape shared development outcomes. The AMV identifies effective and innovative fiscal regimes as an integral component of a developmental and well-governed mining sector that aims at apportioning "rent" fairly between the investor and the country in which the minerals are located. According to the AMV, while investors should be compensated through a rate of return for investment risk, the host government should receive commensurate returns from the exploitation of its non-renewable resources. It is worth recalling that the AMV also recognizes the need to ensure active participation and consultation of all relevant stakeholders in the management of mineral resources. Lesson learned from AMV implementation at country level have shown that participatory approaches

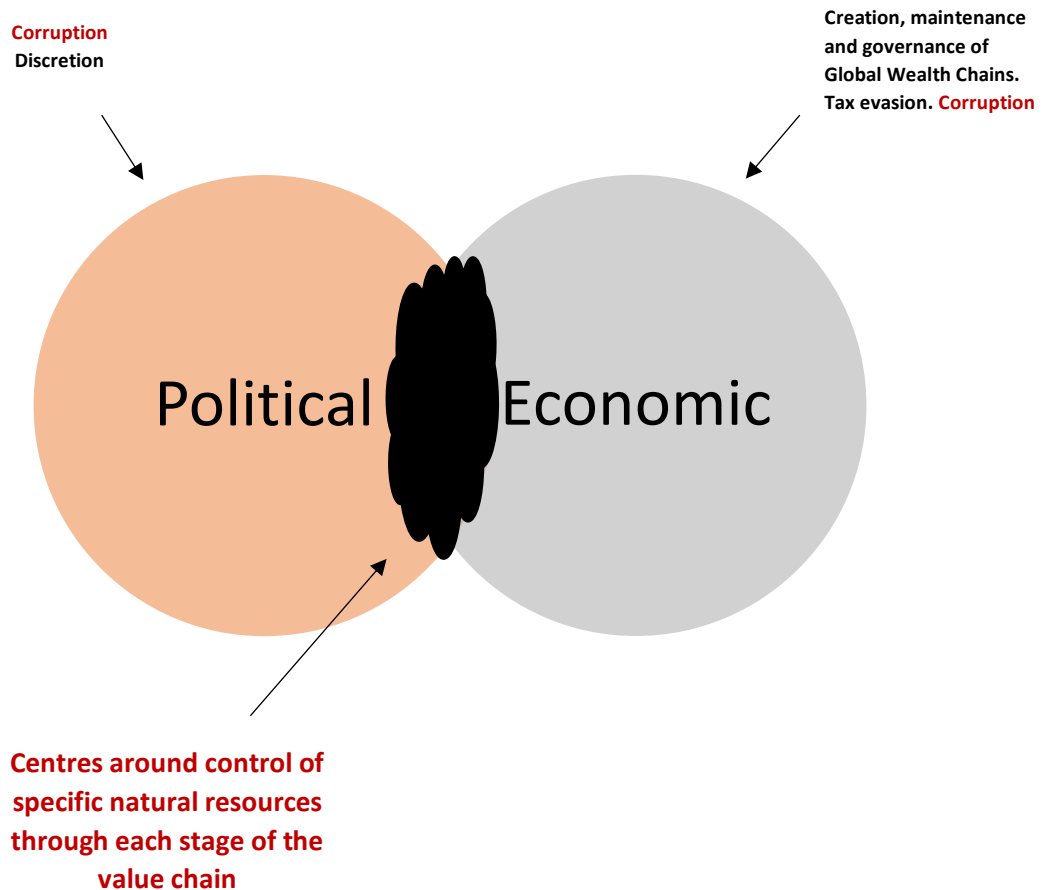
	<p>have contributed in enhancing quality, ownership, and sustainability, in addition to empowering targeted beneficiaries, and promoting greater transparency in the management of revenues. Nevertheless, in line with AMV, visionary leadership and multi-stakeholder participation, increased transparency and accountability in the mineral sector are perceived as key elements for the achievement of wider goals in terms of structural transformation and inclusive economic growth. In other words, good economic and political governance have been recognized as critical factors in facilitating the structural transformation of mineral rich Africa.</p>
Regional Anti-Corruption Programme for Africa	<p>An initiative of UNECA, being undertaken in collaboration with the African Union Advisory Board on Corruption aimed at up scaling the fight against corruption on the continent with a view to ensuring a corruption free, better governed and economically prosperous continent. The United Nations Convention against Corruption (UNCAC) (2003) and the African Union Convention on Preventing and Combating Corruption (AUCPCC) (2003) constitute the main policy and political frameworks for the formulation of this programme, and its main objective is to facilitate the elaboration and implementation of these two frameworks on the African continent. The programme adopts a multi-track strategic approach which combines policy research and analysis, with training and capacity development, peer learning and knowledge and information sharing and documentation of best practices on anti-corruption, policy dialogue and special events on corruption in Africa. The project engages at the national, sub-regional and regional levels with support to national anti-corruption institutions, the pan-African Body of National Anti-Corruption institutions, sub-regional networks of national anti-corruption institutions, and the African Union Advisory Board on Anti-Corruption. In addition, non-state actors such as civil society groupings, media, and private sector are also mainstreamed into the anti-corruption agenda.</p>
New Partnership for Africa's Development	<p>NEPAD is a technical body of the AU that serves as both a vision and a policy framework for socio-economic development in Africa, and as the institutional arm for implementing the AU development agenda. It links poverty reduction to governance issues such as democracy, human rights and corruption.</p>
African Tax Administration Forum	<p>ATAF has remained a leader on tax policy and tax administration matters. It promotes economic development by building capacity of African Tax Administrations and other relevant and interested stakeholders on tax matters through trainings. Furthermore, it represents an African viewpoint on tax matters at the UN Committee of Experts on International Cooperation in Tax Matters and at the OECD. Thus, representing an African voice in global tax standards setting foras. ATAF has also produced various guidelines for African countries on: treaties, transfer pricing, interest rules, and permanent establishment, among others, to ensure that African countries can build on this work to find solutions to various aspects of IFFs and corruption.</p>
ECOWAS Protocol on the Fight Against Corruption	<p>It provides for preventive measures in the public and private sectors. These include requirements in the public service of declarations of assets and establishment of codes of conduct, requirements of access to information, whistleblower protection, procurement standards, transparency in the funding of political parties and civil society participation, and the establishment and strengthening of an independent national anti-corruption authority (Article 5). The protocol calls for criminalisation of a wide range of offences with respect to public officials or employees of companies in the private sector, including bribery, trading in influence, and aiding and abetting the commission of corruption offences (Article 6). The protocol further requires states parties to establish diversion of property by a public official as an offence, as well as accounting and money-laundering offences (Article 7). Additional provisions relate to the protection of witnesses and victims (Articles 8 and 9), effective sanctions (Article 10) and liability of legal persons (Article 11). States are also required to prohibit and punish bribery of foreign public officials (Article 12). The protocol also covers seizure and forfeiture (Article 13), extradition (Article 14), mutual legal assistance and law enforcement cooperation (Article 15), and harmonisation of national legislation (Article 18)</p>
SADC Protocol Against Corruption	<p>The protocol provides for both preventive and enforcement measures. Its purpose is to promote the development of anti-corruption mechanisms at the national level and cooperation in the fight against corruption by states parties, and to harmonise national anti-corruption legislation in the region. It includes the following preventive measures: development of codes of conduct for public officials, transparency in public procurement of goods and services, easy access to public information, protection of whistleblowers, establishment of anti-corruption agencies, development of systems</p>

	of accountability and controls, participation of the media and civil society, and use of public education and awareness as a way of introducing zero tolerance of corruption. States parties are required to establish as criminal offences acts of corruption including: bribery of, and diversion of property by, public officials as well as trading in influence with respect to such officials; bribery of employees of private sector entities and trading in influence with respect to such persons; fraudulent use or concealment of corruptly obtained property, as well as participation in any collaboration or conspiracy to commit acts of corruption.
Draft EAC Protocol on Preventing and Combating Corruption	Aims to promote and strengthen the development of mechanisms to prevent and combat corruption, to promote and regulate cooperation among states parties, and to develop and harmonise laws and policies related to preventing and combating corruption across the region. It provides for preventive measures, enforcement, a definitive list of offences, asset recovery, jurisdiction, fair trial and transfer of criminal proceedings, financial intelligence units, and development and harmonisation of policies and legislation.
Addis Ababa Action Agenda	Commitment to combating tax evasion and corruption through strengthened national regulation and increased international cooperation.

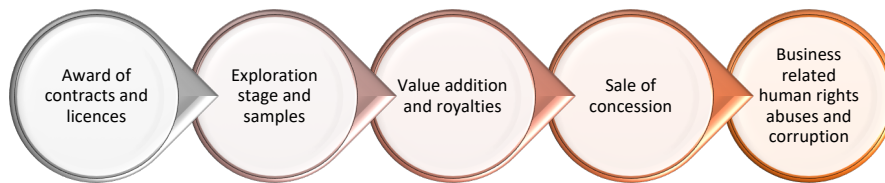


2.0. Understanding the linkages between corruption, taxation and IFF from Africa

2.1. Factors that drive the corruption, taxation and IFF link



2.1.1. Value Chains Creation Stages



In the absence of a strong legal and regulatory framework, corruption presents itself at each stage of this value chain creation;

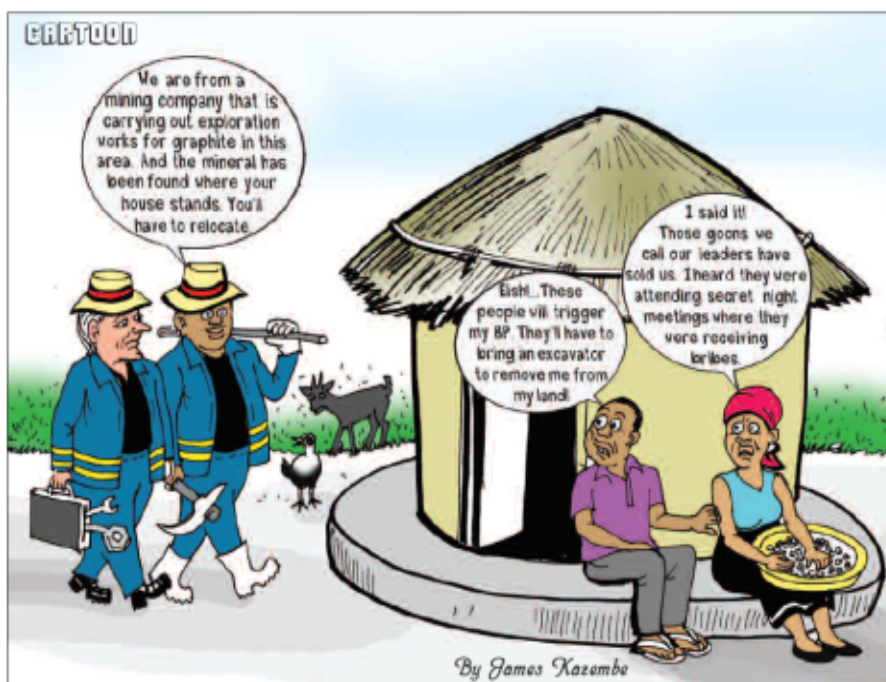
Award of contracts and licences: e.g., flawed procurement process, procurement process manipulated to favour one MNC over another, political interest, official with significant interest in one bidding company over another

Exploration stage and samples: e.g., MNC continuously seeking renewal of exploration licences with no cap on renewals, taking out unlimited and unregulated samples from the country during exploration stage, processing value from samples and making taxable gains, which are not accounted

Value addition and royalties: e.g., MNC acquiring licence for Titanium and processing it to extract Uranium –no royalties paid for the Uranium to the country from which the Titanium was extracted

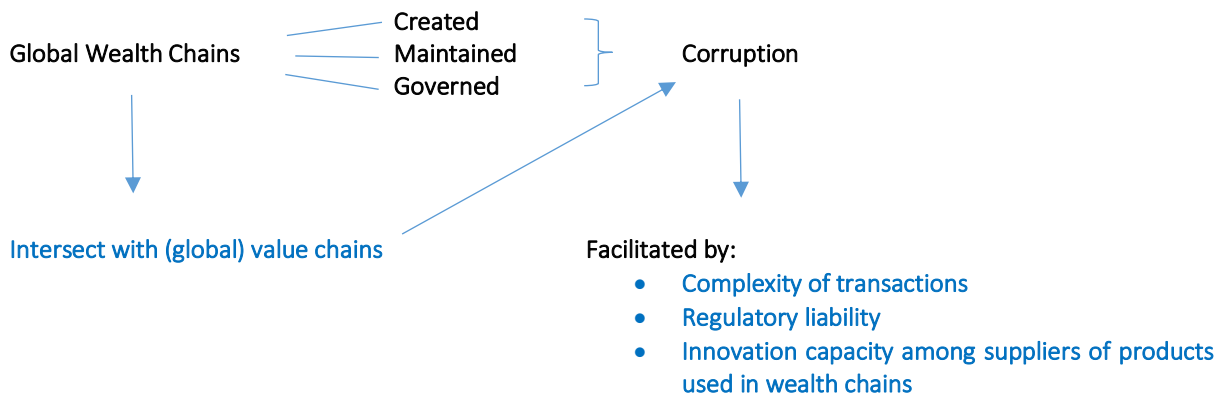
Sale of concessions: e.g., losing out on CGT during the concession period/exploration stage when the MNC sells its shares to another MNC

Business related human rights abuses: e.g., corruption impacts the remedies affected communities can receive against MNCs that violate their human rights during the mining process



2.1.2. Global Wealth Chains: Linking corruption, taxation and IFF

Overview of GWCs



Corporations have changed their use of global value chains, **disaggregating and allocating activities across jurisdictions** to maximise competitive advantage and market position (Seabrooke and Wigan, 2017).

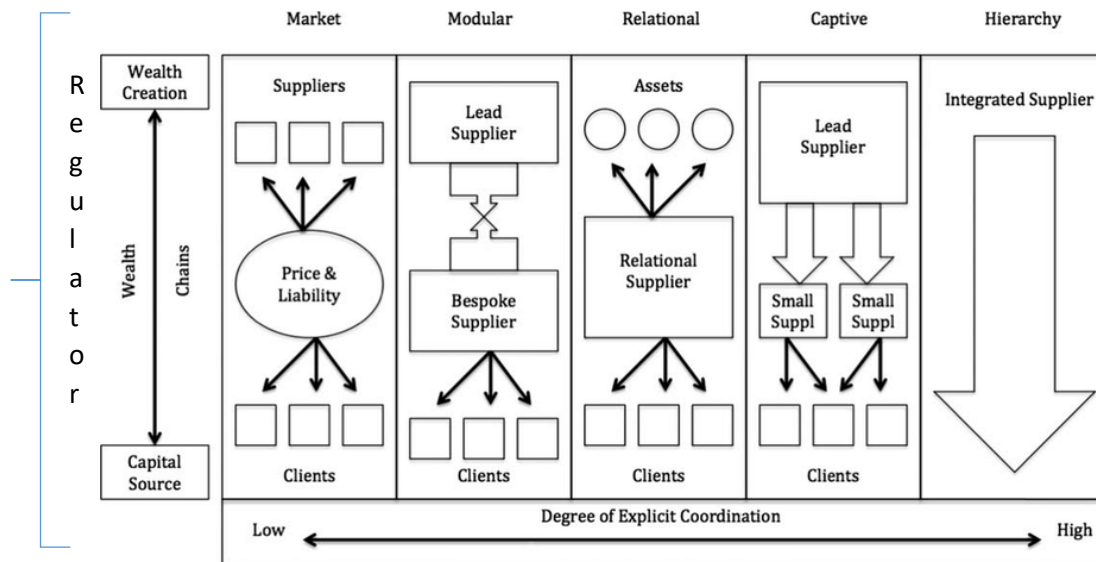
Paralleling these developments has been the increasing size, mobility, and fluidity of finance. Not only have financial markets and businesses grown, but **the capacity of actors to shift assets, costs, profits and liabilities across borders** has increased exponentially.

The mobility of capital and its ability to **switch asset identity and jurisdictional home** has raised the spectre of a permanent schism between the location of value creation and the geographical allocation of profits and wealth (Leyshon and Thrift, 1997).

Five types of GWCs – where corruption can potentially occur – tracing corruption at each stage and impact on taxation depends on understanding these three elements:

- Complexity of information and knowledge transfer with regard to the product or service being provided by the supplier to meet the client's requirement (complexity of the transaction)
- The regulatory liability involved in transactions and the ease of multi-jurisdictional regulatory intervention
- The capabilities of suppliers to create solutions to mitigate challenges to the status of the product or service by regulators

2.1.3. Types of GWCs as potential conduits of IFF



These GWC types are to be understood as not only comprising suppliers and clients but also regulators. The role of the regulators is limited to the information provided by the supplier. **Information asymmetry** therefore, provides a channel for corrupt activities.

Illustration:

Hierarchy GWC – the case of Apple Inc²⁴.

Impact on taxation: Apple's global tax planning has led it to reduce its taxes payable to the US by US\$10 billion a year. E.g., through its 2011 Cost Sharing Agreement with its subsidiary in Ireland, Apple routed approximately US\$22 billion into its Irish Holding Company which represented 64% of its global pre-tax profits. Its Irish company represents only 4% of its global workforce and 1% of worldwide sales.

Type of GWC that facilitated the tax loss: Apple's multi-jurisdictional tax planning constitutes a Hierarchy GWC:

- Products are made either in house or in close relationships between Supplier and Client. The ability to gain regulatory traction on these wealth chains is circumscribed by product complexity, flexibility via the iterative re-design of products, and low information asymmetry between Client and Supplier.
- Levels of coordination are extremely high between Supplier and Client.
- Regulatory ability is lowest in this GWC as the high levels of capacity between the Client and Supplier ensure that Regulators are in a constant game of cat and mouse.

²⁴ Seabrooke and Wigan, 2017. The governance of global wealth chains. Review of International Political Economy, Vol. 24, No. 1, 1-29.

Factors that led to the creation of the GWC:

- **Conceptual ambiguity surrounding the definition, identification and valuation of intangible assets** mitigates against the traction of regulatory apparatus built in an earlier era and for other purposes. Apple Operations International (AOI) and Apple Sales International (ASI) take economic ownership of a large share of Apple’s IP via a CSA, wherein for a contribution towards the development of IP the purchaser gains economic rights accruing to the revenue from that ownership worldwide. The price paid is transferred to the company holding the IP – Ireland. (Note: a licencing agreement would mean that the IP investment and ROI remain in the USA and not Ireland).
- **Tax residency manipulation.** Apple established AOI in Ireland to act as a group holding company as early as 1980. AOI since has not declared tax residency in any jurisdiction (neither Ireland nor USA). It has filed no corporate income tax returns and paid no taxes. AOI, the first among many of Apple’s offshore affiliates, is able to take advantage of that Ireland establishes tax residency on the basis of the *location of management and control*, while the US bases determination of tax residency on *place of incorporation*. For USA, AOI is Irish, for Ireland it is a US entity. In this way, AOI operates in a spread between these different national jurisdictions and arbitrages that spread.

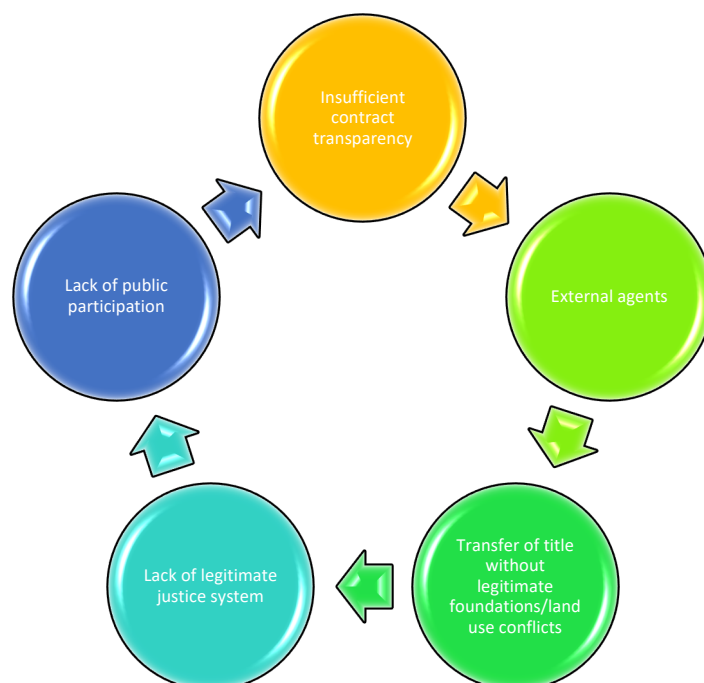
Reflective Exercise:

What strategic efforts can you think of in mitigating the corruption, taxation and IFF link through GWCs?

1	
2	
3	
4	
5	

3.0. Case Studies

Salient features



Legislation on value addition: South Africa

South Africa's success in using its minerals, metals and precious stones to achieve diversification and value addition has seen the country attain the status of an important hub in the global mining value chain. The country's mining companies are key players in the global industry, with their high levels of technical and production know-how.

The legal and regulatory framework of South Africa promotes value addition. For instance, the Metal Act (2005), Article 6. (1), grants priority to applicant mining companies, which ensures that value addition is included in their production. Furthermore, research tax incentives have been offered in amendments of Section 11D of the Income Tax Act (1962) so as to encourage companies to invest in research and development, specifically in regard to science and technology. The Government also developed a minerals beneficiation strategy in 2011 to transform its iron, carbon, steel, stainless steel, aluminum, and gold extractive sectors from largely resource-based to knowledge-based ones. South Africa's beneficiation strategy developed overarching structures and frameworks, implemented through State intervention to promote value addition within its mining sector.

Downstream activities are already well developed and high local content and industry linkages have been achieved as evidenced by the fact that downstream industries use locally produced cement, steel, liquid fuels, electricity, polymers and plastics. Revenues from mining circulate throughout the economy targeting sectors as diverse as financial services and housing. Therefore, through beneficiation and value addition structural transformation creates employment opportunities for broad based segments of society and ultimately development in mineral rich African countries.

Sources: UNECA

Private gain: DRC, Nigeria, Egypt, Zambia, Ghana

Transparency International States that corrupt Heads of States in poor countries have been responsible for large amounts of IFF out of their countries during their respective tenures in office. Their list includes Mobutu Sese Seko President of Zaire (now the **DRC**) between 1965–97, who allegedly embezzled USD 5 billion when the country's GDP per capita was USD 99 and Sani Abacha, President of **Nigeria** between 1993–98, who allegedly embezzled USD 2 to 5 billion at a time when the GDP country's GDP per capita was USD 319. There was also the highly publicized attempt by Hosni Mubarak, President of **Egypt** to send large transfers of over 80 million USD to his bank accounts in Switzerland in the last few days of his reign.

In **Zambia**, the chairperson, of Vendata, owners of one of the largest mine in the country, was quoted as saying that he makes about ½ a billion annually from operations in Zambia, whilst the mining company has been declaring that it is making losses and no revenues were being remitted to the treasury.

ActionAid further indicates that between 2007 and 2012, despite annual sales of over GBP 60 million, SAB Miller's brewery in **Ghana** registered overall losses. This was achieved through strategies that included receipt of GBP 8.5 million loan from a subsidiary in Mauritius with an 18% interest rate, enabling the company to move GBP 400,000 of its profits to the tax haven where it paid a rate of just 3% tax. ActionAid have also highlighted that in 2009, Barclays Bank paid less than 10% of its profits in tax and in 2010 they estimated that SAB Miller was shifting GBP 100 million of profits from Africa into tax havens, with an estimated tax loss of GBP 20 million.

Sources: Transparency International, 2010; Transparency International, Global Corruption Report 2004, ActionAid 2010,2012, Ndikumana and Boyce 2008

Unequal contracts and concessions: Guinea

Case studies and related research by Boyce and Ndikumana (2012) show that the mineral sector in Africa is highly vulnerable to IFF. Reliance on extractive industries for revenue and export earnings by many African mineral-rich countries generally implies that the sector has a high degree of discretionary power and political influence. This is the source of the secret and unequal contracts that African countries sometimes enter into with multinational mining companies. These contracts in turn undermine efforts to promote transparency and accountability in the extractives industry.

For instance, in **Guinea**, the ore from one of its mines is estimated to be able to generate revenues of up to USD 140 billion over the next twenty years, although a concession was granted in 2008 by the government at the time to a multinational for only USD 165 million. A new government terminated this concession for reasons, which included allegations of corruption, after it was discovered that half of the rights to the concession had been sold to another multinational for USD 2.5 billion. Since then, the Guinean government has re-awarded the concessions for USD 20 billion to three other mining firms. The disparity in the values illustrates the potential losses of financial flows from unequal contracts in the extractive sector of any continent, including Africa.

Sources: Boyce, James K., and Léonce Ndikumana (2012). Capital Flight from Sub-Saharan African Countries: Updated Estimates, 1970–2010. PERI Research Report. Amherst, MA: University of Massachusetts Amherst, Political Economy Research Institute and Cobham, Alex (2012). Tax Havens and Illicit Flows. In Draining Development? Controlling Flows of Illicit Funds from Developing Countries, P. Reuter, ed., pp. 337–372. Washington, DC, World Bank

IFF: DRC, Tanzania, South Africa, Zambia

The **Democratic Republic of the Congo** is among the countries that are most affected by the illegal exploitation of resources. Several Congolese commissions and UN panels of experts have documented illegal mineral exploitation and exports, some of which even finance armed groups in the DRC. Even in the diamond sector, which comes under international monitoring through the KPCS, about 30% to 50% of the value of production is reported to be exported without proper declaration or valuation and about USD 23.7 million may have been embezzled from a USD100 million signature bonus for a copper mining contract.

Tanzania currently loses through illicit flows due to trade mis-invoicing. More than USD 8 billion in domestic capital has been drained out of the economy illegally from 2002–2011, and government coffers may have missed out on an average of USD 248 million per year from trade-based tax evasion.

In **South Africa**, from 2005 to 2012, diamond exporters, primarily De Beers, appear to have downplayed the market value of their rough diamond exports by USD 3 billion, according to an analysis of declarations in corporate filings under the KPCS, the rough diamond tracking system used to keep conflict gems off the world market. The same undervalued gems were then sold at market prices around the world.

In **Zambia**, from 1995 one mine specifically failed to declare gold it extracted together with the copper. In another incident, a leaked report, prepared at the request of the Zambia Revenue Agency (ZRA), confirmed how the Glencore's Mopani Copper Mines (MCM) used transfer mispricing, as well as overestimated operating costs and underestimated production volumes, to declare no profits, and rob Zambia's exchequer out of millions of dollars, while making a fortune. ZRA confirmed that the contents of the report had not yet gone through the whole audit process, making the numbers quoted to be overly exaggerated. Subsequently, it has been claimed that some tax was collected from the company as a result of the audit.

Source: UNECA

Lost capital gains tax and under-pricing: Uganda, DRC

The Africa Progress Panel, chaired by former UN Secretary General Kofi Anan, reports that in **Uganda**, the government lost USD 400 million in capital gains tax, a figure equivalent to more than its national health budget, when a minerals company sold its license.

Similarly, the Africa Progress Panel examined a selection of five deals relating to **DRC** between 2010 and 2012. It was found that the DRC lost USD 1.36 billion in revenues from the under-pricing of mining assets sold to offshore companies operating in tax havens. This is almost double the country's combined annual budgets for health and education in 2012, with each citizen of the DRC losing the equivalent of USD 21, or 7% of average income.

Source: Africa Progress Panel, 2013. Equity in Extractives, <http://africaprogresspanel.org/publications/policy-papers/africa-progress-report-2013/>

Tax holidays: Tanzania

Tax holidays in countries like Tanzania have been a hindrance to the collection of royalties. Although an IMF report indicated that Tanzania's gold exports increased from around USD 500 million to USD 1.5 billion in the last five years, the government's revenues have remained at USD 100 million a year mainly due to the granting of corporate income tax holidays. In fact, *'none of the existing gold projects have paid substantive income tax to date'*. In addition, companies, which are granted 10 year tax holidays sell off their holding interests to other companies in order to extend the holiday. As a result, there was almost no collection of corporate taxes from mining companies in Tanzania hence impacting on domestic resources.

Source: IMF, Staff Report, 2011. Article IV Consultation and Second Review under the Policy Support Instrument, 21 April 2011, p.17

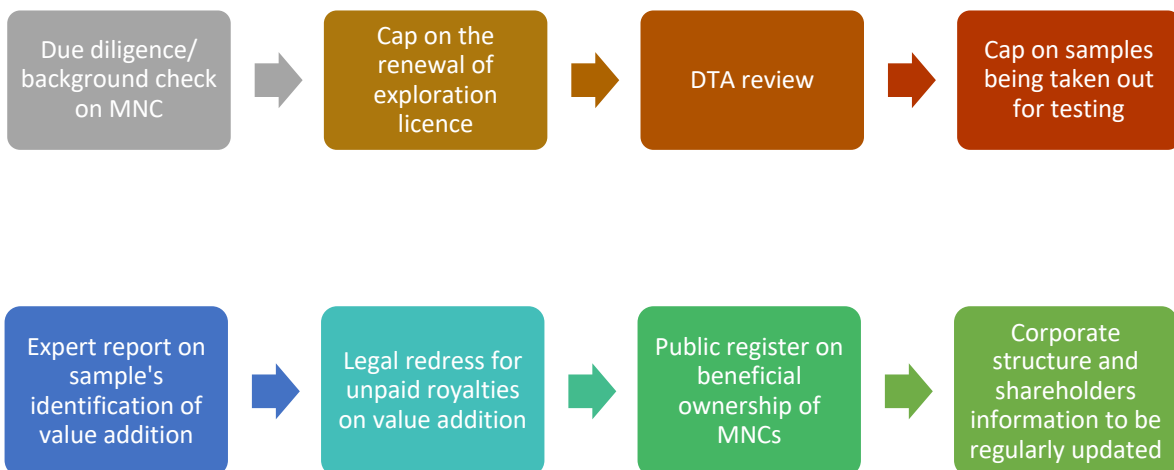
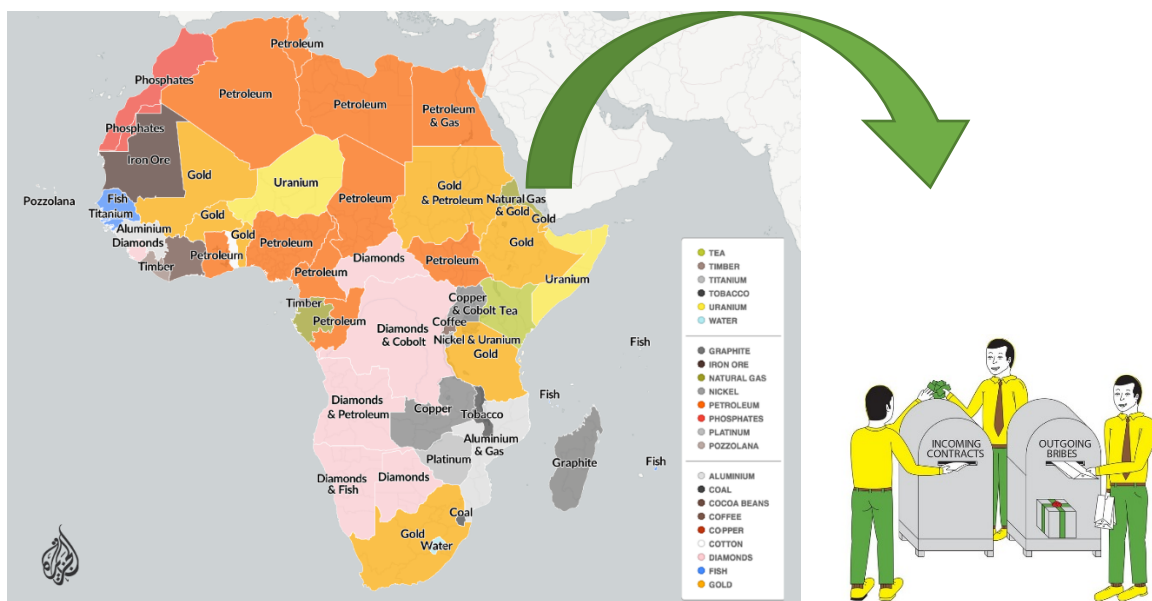
Reflection Exercise:

- a. Pick out the main problems that you have identified from the case studies that lead to tax losses as a result of corruption and/or IFF:

- b. What solutions would you propose/recommend to overcome the problems you identified in (a) above?

Proposed solution	What would it address/target

4.0. How to identify, pre-empt and if necessary re-direct policy choices that tend to cause or exacerbate the corruption, taxation and IFF



5.0. Spot Check Toolkit to Understand Scale of Corruption, Tax Evasion Practices and IFF

Useful for government, academics and civil society. The list is not exhaustive.

CORRUPTION AND IFF FEATURES	Yes/ No	Evidence
Is there a good understanding of the types and levels of IFF in the country?		
Has there been a formal national risk assessment on corruption, tax evasion practices and IFF?		
What are the main domestic sources of illicit finance?		
What are the main foreign sources and destinations for illicit finance?		
What are the channels used for inflows and outflows of corruption and IFF?		
Which domestic sectors are affected by illicit finance?		
Are there indicators of the scale and impact of IFF in the country (estimates of tax gaps, black economy, digital economy)		
INSTITUTIONS		
Are there strong government institutions?		
Do they have an accountability framework and a culture of integrity?		
Role of the courts and convictions on corruption, tax evasion and IFF?		
Is there legislation to curb corruption and IFF		
Does the revenue authority have the requisite competence skills and department dedicated to identifying and targeting IFF?		
INFRASTRUCTURE		
How large is your country's financial sector?		
Does it act as an international financial sector?		
Are there close international connections with countries that have high levels of IFF (including borders, trade or cultural links)?		
Are there secrecy and transparency provisions that can help or hinder IFFs (including in banking, ownership of legal persons, and other transparency requirements)?		
What level of resources and capacity is available for preventive measures, supervision, risk mitigation and justice sector?		
POLITICAL AND LEGAL RESPONSIBILITY		
Due diligence on MNCs seeking to work in your countries extractives sector?		

Have you identified the loopholes in the extractives sector?		
Have you reviewed the DTAS?		
Does your government have a national level strategy to end corruption and fight against IFF?		
What measures are being taken?		
Are IFFs considered as a single issue or separately (corruption, tax evasion, money laundering) If considered separately, what strategies are in place for different types of IFFs to take account?		
Are there plans for asset recovery and risk mitigation?		
Who has overall responsibility for IFFs within government?		
Is there a responsible minister at Cabinet level?		
Is there a clear accountability framework?		
Which government actors are involved in deciding strategy on IFF?		
Which government actors are involved in implementing measures to combat IFFs?		
Do relevant agencies have clear objectives regarding IFFs?		
Do investigators, prosecutors have sufficient operational independence?		
CROSS BORDER CONCERNS		
Is there significant smuggling of goods across the country's borders?		
Do the authorities take part in the exchange of tax information?		
Are other countries exerting diplomatic or political pressure to influence actions against IFF (e.g., investigations)		
DATA SPECIFIC QUESTIONS AND REFORM INDICATORS		
What proportion of the population uses the formal financial sector?		
What proportion rely on the informal sector for access to financial services? Is this taken into account in coming up with measures to combat IFF?		
Is your government generating data and statistics on the implementation and effect of measures to combat IFFs?		
Data on the indicators of change or trends in the sources, methods, and risks of IFFs?		
Does your government consider feedback from NGOs on the impact of preventive measures and control?		
Are there periodic reporting or accountability mechanisms on the impact of measures to combat IFFs (e.g., reports to parliament)?		
Is there sufficient capacity to assess new evidence or development and to amend or reform policies in response?		

6.0. Recommendations/Way Forward

Strategic Efforts	How	Outcome/Target	Responsible body
Improve the tools to measure IFF			
Develop greater integration across interventions at country level			
Explore the lessons from StAR and their relevance for recovering other IFFs			
Build capacity in critical areas for reducing IFFs			
Strengthen global coalitions to reduce IFF			
AUCPCC			
ATAF and NEPAD			
APRM			
Agenda 2063 respect for human rights, corruption, justice and rule of law			
Political will			
Transparency and freedom of information			

Notes

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