



Conference on Combating Illicit Financial Flow and Enhancing Asset Recovery to Foster Sustainable Development

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Keynote Speech

Delivered by
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Your Excellency, Professor Yemi Osinbajo, Acting President of the Federal Republic of Nigeria;
Distinguished Minister of Foreign Affairs, Mr. Geofferey Onyeama;
Distinguished Minister of Justice, Mr. Abubakar Malami SAN;
Distinguished Chairperson of the PACAC, Professor Itse Sagay SAN;
Distinguished Members of Government;
Members of the Diplomatic Corps and Honorable Members of Parliament here present
Dear Colleagues of the High Level Panel, President Raymond Baker and Ambassador Segun Apata;
Distinguished Panelists and Participants;
Ladies Gentlemen of the Media; all other protocols duly respected.

I must start by thanking the organizers for inviting me to share some thoughts on an issue which is crucial for the wellbeing of our continent. Nigeria holds a special place in my heart for more than one reason, the most important being that I was born here. I was born in Enugu close to sixty-five years ago, when my father was a member of the government of the then Eastern Region, representing Southern Cameroons. I was actually born in a hospital known as the Park lane Hospital. Those of you who are young enough probably remember that Park Lane Hospital was then known as the “White man’s hospital”. So my claim to fame is the fact that when I was born, the newspaper headlines read, “First Black Child Born in Park Lane Hospital”. Furthermore, I cannot stand up here with you, Your Excellency Mr. President, a Senior Advocate of Nigeria (SAN), as well as two other SANs – Professor Sagay and the Minister of Justice, Mr. Malami – without saluting the Nigerian Bar Association which nominated me right here in Abuja to become the second President of the Pan African Lawyers Union some twelve years ago. So I do have lot to be thankful to this great nation of Nigeria, which has always been dear to me.

In 2011, the 4th Joint African Union Commission/United Nations Economic Commission for Africa (AU/ECA) mandated the ECA to Establish the High Level Panel on Illicit Financial Flows from Africa. This was done in a bid to ensure that many African countries do not fail to meet the Millennium Development Goals. I am honored to be, along with Mr. Raymond Baker, President of Global Financial Integrity, Washington

DC, and Ambassador Segun Apata, Chair of Coca Cola Plc., who are both here today, a member of this panel, headed by President Thabo Mbeki. I must also salute Dr. Abdallah Hamdock, the Executive Secretary of the ECA and head of the panel's results-driven Technical Team with whose assistance we were able to come up with the High Level Panel's report, which is now a benchmark in any discussion on Illicit financial flows from Africa.

You will listen to a slew of experts on the subject of Illicit Financial Flows (IFFs) from Africa throughout this program, who will no doubt delve into the technicalities, intricacies and statistics that inform this issue. I thought I would share with you certain personal thoughts on the issue from the angle of the slogan adopted by the Panel concerning IFFs – “TRACK IT, STOP IT, GET IT.”

Our continent is losing anywhere from \$50-\$80 billion annually through illicit financial outflows, and despite the inflow of Development assistance, Africa still remains a net creditor. Some will zero in on the numbers, arguing that the magnitude has been skewed by one measure or another. This is a non-issue, as the magnitude of these outflows is undeniable. The exactitude of the figures is secondary. Global capital flows have grown much faster than GDP and trade since 1980 but the global financial system continues to look unprepared and, in some cases, simply reluctant to effectively regulate large volumes of cross-border flows.

To be able to track IFFs, it is important to understand the nature of the beast. The Thabo Mbeki Panel made 15 basic findings which can be found on the ECA website, among which are the fact that:

- Transparency is key across all aspects of illicit financial flows
- New and innovative means of generating illicit financial flows are emerging
- More effort is needed in asset recovery and repatriation
- Weak national and regional capacities impede efforts to curb illicit financial flows
- Financial secrecy jurisdictions must come under closer scrutiny

A key factor in being able to “**track it**” is identifying the actual owners of the assets you are tracking, an issue addressed by one of the findings of the Panel – that of Financial Secrecy jurisdictions. One main reason why secrecy in financial system exists is to afford the rich and powerful tax “planning” opportunities. Once again, on our continent, a system that was put in place to ease business processes has been hijacked by greed and self-interests. It is imperative that we make it a priority to double efforts to end the use of financial secrecy for corruption, drug smuggling, money laundering, terrorism, people trafficking and other illicit financial practices.

Also imperative, for the tracking illicit financial flows, is the implementation existing commitments. There is no shortage of these. We have a bad habit, on our continent, of confusing the signature of agreements, the establishment of commissions and other such measures as being the solution to our problems. Wrong. These agreements establish a roadmap. The solution comes from the effective follow up of these commitments.

Multiple commitments have been made at the G20, G7, OECD and others. For example, at the London Anti-corruption summit in May 2016, 43 countries made 600 commitments to tackle corruption. The largest thematic area related to beneficial ownership information: thirty-six countries made a total of 100 commitments. Transparency International has tried to monitor the implementation of these commitments which are very crucial in ensuring any follow-up: TI chapters including in the UK, Ghana, Nigeria and Kenya are tracking the implementation of beneficial ownership commitments made by their countries.

At the global level, progress has unfortunately been very slow. Difficulties can be noticed in many areas:

- **Beneficial Ownership:** Limiting the tracking of this ill-gotten money to legal ownership leaves a large loophole for those who seek to

engage in illicit financial flows. Transparency International's "Just for Show" report in 2015 showed that 16/20 G20 members had weak or average beneficial ownership frameworks in place. These are countries' own standards (G20 High Level principles). The consequence here is that the tracking of stolen money is made difficult. This directly affects the ability of countries to stop these flows, since we must know the real destination of the money in order to recover the stolen assets.

- **Foreign bribery:** The 2015 report on Anti-Foreign Bribery Enforcement shows that most of the 41 OECD convention countries do not perform well and their responses are highly ineffective.

- **Anti-money laundering:** The Financial Action Task Force (FATF) anti-money laundering standards have been in place since 1990. However for the first time, in its current evaluation round (the 4th) FATF is also looking at the **effectiveness** of countries' policies to stop money laundering. No country out of 30 assessed by FATF since 2014, a group which includes the U.S, Canada, Switzerland and Singapore, scores as "highly effective" in preventing the abuse of legal persons and arrangements (beneficial ownership). The majority of countries (86.7%) have either moderate or low effectiveness.

Access to data: beneficial ownership and country-by-country reporting

Public data is an essential tool in order to track Illicit Financial Flows and access to records on beneficial ownership through country-by-country reporting appears as the ultimate way to go.

However,

- EU member states have rejected calls for public access to beneficial ownership data (Parliament is in favour of making data public, debates ongoing).

- Even within countries that are committed to establishing public registers of beneficial owners, there is a huge cost involved. As TI EU found out, the price to get access to the full Dutch database when made available will be 75,000 Euros – how can you effect proper due diligence at that price?

- On public country-by-country reporting, a key measure to increase the accountability of multinationals, the European Parliament in late May 2017 postponed a vote due to disagreements over the extent of information to be made available. Business groups such as Business Europe have claimed that public CBCR would undermine tax administrations, however, tax inspectors have explicitly expressed their support for public CBCR.

In summary, for illicit financial flows to be tracked, we need to know how they move. To recuperate them, we need to know where these flows are parked.

The final prong of the slogan, the “Get It” phase is made difficult by many of the aforementioned hurdles – If we do not know who the beneficial owners are in business transactions, it is very difficult for the funds to be reclaimed. Exacerbating these problems in the “Get It” phase is the use of real estate and luxury goods, and even large-scale farming to park illicit funds:

- TI research published in March 2017 looked at 10 key anti-money laundering measures for the real estate sector in four key markets, and found that Australia and the US had severe deficiencies across their entire real estate sector. (Canada 4/10 areas had severe deficiencies, UK had 1/10 severe deficiency).

- In December 2016, Transparency International Canada found that of the 100 priciest homes in Vancouver, 46 were owned through offshore shell companies, trusts and “nominees”

- In March 2017, Transparency International UK looked at new developments in London worth GBP 1.6 billion and found that 4 in 10 homes have been sold to investors from high corruption risk countries or those hiding behind anonymous companies

- In April 2017, Transparency International Brazil found that in Sao Paulo, Brazil, US\$2.7 billion in property has been linked to offshore companies.

- In April 2017, a Transparency International report on the luxury sector found that compliance by high-value good dealers with due diligence obligations is remarkably low. Legislation and policy also have weaknesses in the largest consumer luxury markets including the US, UK, France, China, Italy and Germany. Time and again large-scale corruption cases show that the proceeds are laundered through luxury assets from cars and super yachts to jewellery and art.

Think about the situation in Africa. I am sure many of you have noticed the sudden upturn in large-scale farming by people with no affinity to the soil, whatsoever. The reason for this is that it is a sector which is labor intensive and in which almost every transaction is done in cash. What is exported or sold thereafter is from an identifiable source. I suppose this one way to “harvest” the fruits of corruption and create a “green economy”!

It is still a mystery, what happens to funds between the time when they are frozen and the time when they are repatriated. The World Bank does have an initiative known as StAR (Stolen Assets Recovery Initiative), which is supposed to deal with the theft of stolen assets from developing countries. If these assets are described as stolen, inevitably therefore those who are keeping those assets are handlers of stolen goods. There is therefore no moral basis for assets to be frozen and then left in the hands of those who were complicit and are otherwise called handlers of stolen goods! Handlers of stolen goods are as punishable as the thieves themselves. In certain countries the handlers even get a more severe punishment than the thieves.

It is important for this meeting to consider what was recommended in the Thabo Mbeki Report: the creation of escrow accounts within the Development Banks. Frozen money should not stay with the complicit bank, but in an escrow account with a third party, pending the courts' or competent authorities' determination as to the rightful owners of the funds.

I have seen, in the context document prepared for the meeting, the issue of the management of recovered funds. I personally resent the fact that people who were complicit in the theft should turn around and start laying down conditionalities for the recovery of the same assets. Funds, whether recovered or still in the government coffers should not be stolen, period. The fact, that for budgeting reasons, these may be earmarked for specific projects and under certain criteria, like the state or region from which the funds were stolen, is entirely a different matter for the countries themselves to decide in all sovereignty.

All I have said underpins the fact that the fight is global and must necessarily be engaged by the originating countries and the destination countries with the same vigor.

I applaud you, Mr. President, because your government has made the fight against corruption its number one priority. The simple fact of your presence here is witness to this. It is not an easy choice. As you know or must have found out by now, when you fight corruption, it fights back. The fight against corruption in our continent is indeed the fight for the soul of Africa. How much longer will we watch our resources depleted and the future of our children mortgaged for the sake of a greedy few? The winds of change are blowing across our continent, and they are inevitable. Our young people know better, want better and deserve better. For those who feel that their own personal interest can always take precedence over that of their people, they should take a good look at history. We can certainly hide to do certain things, but it is certain that we will never be able to always hide the things we do. Thank you, and may God bless our beautiful continent, Africa.