



INDEPENDENT CORRUPT PRACTICES & OTHER RELATED OFFENCES COMMISSION

PROCEEDINGS OF WEBINAR ON UNDERSTANDING ILLICIT FINANCIAL FLOWS (IFFs)

6th October, 2020

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PROCEEDINGS OF WEBINAR ON UNDERSTANDING ILLICIT FINACIAL FLOWS (IFFs)

Organized by the:

INDEPENDENT CORRUPT PRACTICES AND OTHER RELATED OFFENCES COMMISSION (ICPC)



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The Independent Corrupt Practices and Other Related Offences Commission (ICPC) was established in 2000 by Act No.5 of year 2000. Its mandates include enforcement, prevention, public education and enlightenment.

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FOREWORD

Illicit Financial Flows (IFFs) has continued to disrupt economic growth, meaningful development and worse still, threaten the nation's future. There are various typologies of IFFs. Corruption and commercial agreements typified by poorly negotiated agreements or contracts like of the P & ID variety are the major sources through which Nigeria lose money.

The report of the High Level Panel on Stopping Illicit Financial Flows From Africa, (chaired by H.E. Thabo Mbeki, former President of South Africa) remains a watershed on IFFs going by its comprehensive and internationally acclaimed findings on Illicit Financial Flows. The report of the UN Financial Accountability and Transparency Panel, otherwise known as FACTI Panel, has equally drawn attention to the global impact of IFFs.

The IFF Project of Independent Corrupt Practices and Other Related Offences Commission is designed to support the national effort at tackling IFFs. The proceedings contained herein document the capacity building webinar held by the Independent Corrupt Practices and Other Related Offences Commission which was a part of ICPC IFFs project. The webinar was specifically organised to deepen understanding of investigators, prosecutors, and members of the Inter-Agency Committee on Stopping Illicit Financial Flows from Nigeria, on the concept of IFFs and how the varieties of IFFs implicates grand corruption and money laundering and the over-arching effects on Nigeria.

I have no doubt that this publication will be beneficial to operatives, prosecutors, researchers and other interested stakeholders.

Professor 'Bolaji Owasanoye, SAN
Chairman, ICPC
September, 2022

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LIST OF ACRONYMS

BEPS	Base Erosion and Profit Shifting
CBN	Central Bank of Nigeria
ECOWAS	Economic Community of West African States
EFCC	Economic and Financial Crimes Commission
EU	European Union
FACTI	Financing Sustainable Development by Stemming IFFs (“FACTI Panel”)
FDI	Foreign Direct Investment
FIRS	Federal Inland Revenue Service
G24	Group of 24
ICPC	Independent Corrupt Practices and Other Related Offences Commission
ISDS	Investor State Dispute Settlement
NDLEA	National Drug Law Enforcement Agency
NEITI	Nigeria Extractive Industries Transparency Initiative
NFIU	Nigerian Financial Intelligence Unit
NIPC	Nigerian Investment Promotion Commission
OECD	Organisation for Economic Co-operation and Development
PIB	Petroleum Industry Bill
SDG	Sustainable Development Goals
NOTAP	National Office for Technology Acquisition and Promotion
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UK	United Kingdom

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Ford Foundation is specially acknowledged for support to the Commission in furtherance of her mandate.

The proceedings was transcribed by Eigbe, El-Shammah Omoye, an NYSC member deployed to the Commission for the 2020/2021 NYSC service year.

Professor Bolaji Owasanoye, SAN

Chairman, ICPC

May,2022

OPENING REMARKS

by

PROFESSOR BOLAJI OWASANOYE, SAN

Honourable Chairman, Independent Corrupt Practices and Other Related Offences Commission (ICPC)

Professor 'Bolaji Owasanoye, SAN: It gives me great pleasure to welcome all of you to this Webinar on understanding illicit financial flows. My name is 'Bolaji Owasanoye; I am the Chairman of ICPC, and we are very happy to welcome you to this virtual/physical interaction on understanding illicit financial flows. My task is going to be very brief. First let me welcome the chairman of the webinar, Professor Jonathan Aremu, who is a Professor of Economics with Covenant University, a development economist and consultant to ECOWAS on Regional Economic Integration and many other distinguished affiliations that I cannot mention entirely in my brief iteration. I also want to welcome the Chairman of the IFF Inter-Agency Group, Dr Adeyemi Dipeolu, the Special Adviser to the President on Economic Matters and a distinguished diplomat per excellence. All the way from New York, I want to welcome Honourable Irene Ovonji-Odida, a one-time Chair of ActionAid International, former member of the East African legislative Assembly. She is one of our speakers today. I'm honoured that Irene and I are members of the UN Financial Accountability and Transparency Panel, otherwise known as FACTI Panel. She will be speaking on the FACTI Panel's report and its recommendations for us developing countries.

I am aware that we have in the Meeting Room a number of heads of agencies. I cannot mention everyone, so if I do not mention your name, please forgive me I've seen the DG of NOTAP, the National Office for Technology Acquisition and Promotion, and I see that we have people from CBN, from the Ministry of Finance, from FIRS, and many other agencies of government, Bureau for Statistics and of course from the ICPC. I want to especially welcome the media correspondents, some of who are here with us physically at the Commission, and many more who have joined virtually. Indeed, the media are a critical part of this conversation. We want to breakdown an otherwise technical subject for the media to take forward and

to educate the public, because we are bleeding economically and financially, and we need to stop the hemorrhage; but for us to do that, we need to know where and how we're bleeding; and this conversation is to properly situate that.

I want to also recognize all those who have joined from different parts of the country. We invited States Inland Revenue, we invited Attorney-Generals of some states; and we invited also people from the Ministry of Finance at the State level because if you are going to stop the revenue of your State from disappearing that you need for development, you need to know what you look for. So, this conversation is very important. As some of you know, the ICPC which I chair was set up 20 years ago; indeed, for many of us in the meeting room you know that we have been celebrating our 20th anniversary. We have a threefold mandate: to enforce laws, anti-corruption laws; to prevent corruption by looking at systems and processes and recommending to MDAs to take corrective measures about anything that they are doing or they're prone to that is a push factor for corruption. The third mandate is to enlighten the public and educate the public about the ills of corruption and to solicit the cooperation of the public. This conversation falls within two of our three mandates: one prevention and the second is public enlightenment.

As many of us know, many African countries are struggling to find the capital for development. Oftentimes, the strength, the size and the potential of our economy is discussed but the benefits are never seen or realized for the good of the people because a substantial amount of the capital leaves our shores. They leave in different ways, they leave subtly. The way they leave, one of the ways it is described is illicit financial flows. *Illicit financial flows could be money that is illegally earned, illegally transferred or illegally used; but sometimes money that is legally earned is illegally transferred and it becomes tainted.* So, when companies do business and earn profit and then they transfer it and claim that the money was earned in some other jurisdiction, they are denying the country where the business took place and the country that bears the wrath of the consequences of environmental degradation challenges, they leave the problem behind and take away the money [that should] be used solve the problem. When companies borrow money from offshore and say they have done capital importation and they tell us we borrowed at 15 or 18%, we never saw the agreement and they have to repatriate their profit to settle debts

outside our shores. If it turns out that the borrowing was at far less than the percentage that they claimed, they are taking away our money that we ought to use to develop. When companies claim to have procured technology to assist their operations in our country, and they say they want to pay the consultants for technology that was probably developed by Nigerian experts, that professional fee that is paid is illicit financial flow, it's money that ought to stay here. NOTAP will be interested in 'who did what' so that when you are paying money to a so-called expert, somebody, one white person who comes here, interacts with a few Nigerian experts, the Nigerians do the job, then you come up with one funny agreement and say the agreement; this is an expatriate, he did all the work and you are paying him \$2,000,000 for his fee, that is money that should have stayed within our economy that we could have used. When companies trade amongst their subsidiaries, [for example] Bolaji Limited in Nigeria, is buying products for production in Nigeria from Bolaji that is incorporated in the UK or somewhere else and the price of the product is inflated, something that should be bought for \$1 is priced at \$10 and Bolaji limited from Nigeria place \$10 for what is globally known to be \$1.00 through what they call transfer pricing. Capital that should have stayed here has left.

Many African countries are struggling to find the money to develop. I've just given the tip of the iceberg. The experts will educate us shortly; and this is the beginning of a series of activities we hope to have under our illicit financial flows project to break this thing down to understandable chunks so that people will know what to look for, identify it and be able to stop it. A lot of this requires administrative action; some require legal reform; some require technology intervention; but at least we need to know what we're doing in order to do the right thing; and that's why the media who are in the meeting room are so important to us. We are hoping that they will not just report this as an event; they're going to explain, and analyze to educate the public, and we will be engaging with them in this two-year project.

Before I close my opening remarks, I want to thank the Ford Foundation who is supporting ICPC's IFF Project. Before I joined the ICPC, I have been somewhat actively involved in putting light to the whole IFF challenge from my days from the Presidential Advisory Committee Against Corruption and my role as an educator and Professor International Economic Law, I've been training lawyers on how to

negotiate international economic agreements. We lose a lot of money when you negotiate bad contracts, the country loses money and the most recent example that we have is the P& ID case, just one current interesting example. But in my time, I have seen quite a lot of these things happen through very poorly negotiated agreements. These are some of the things that we will be discussing and projects and capacity building that we will be doing.

So, it gives me great pleasure to invite Professor Jonathan Aremu to make brief opening remarks as chair of this session and thereafter we give the floor, first to Dr Adeyemi Dipeolu who was a part of the Thabo Mbeki Panel that has released the most comprehensive and internationally acclaimed report on illicit financial flows and Honourable Irene Ovonji-Odida, [who] was also a member of that Panel. So we're going to be hearing directly from two distinguished people who went round the entire continent, spoke to people, and wrote a report that so far been a trailblazer on this subject matter globally. So, I want to invite Professor Aremu to make his brief opening remarks as Chairman of this session and thereafter we will go to Dr. Dipeolu who is taking the first presentation. Professor Aremu, Sir, you have the floor.

WELCOME ADDRESS BY CHAIRMAN OF SESSION

Professor Jonathan Aremu: Thank you so much my Chairman. I call him my Chairman because he knows why. He chaired the wonderful group that made ECOWAS to have the ECOWAS Code on Investment Policy that was adopted in 2018. He is also the Chairman here as well. I equally welcome the lead presenter Dr. Adeyemi Dipeolu who is a Senior Special Adviser in the Presidency. I welcome every participant that are here, particularly media. Also, I welcome those of you that are listening to us virtually. I believe that at the end of this program we shall equally go back knowing more than what we have known before on this particular subject matter.

The Chairman has already defined what's illicit financial flow is all about; perhaps let me talk about illicit flow. Illicit flow is the one that is captured under the balance of payment statistics of member states that belong to IFF and World Bank so that one is permissible; but, according to what the chairman of ICPC just said, they are money illegally earned or transferred and that is our major concern today. When I was being invited to this particular programme, I stumbled on a publication... if I can still remember, it said that *the content of this report must not be touched, must not be opened, must not be quoted until the 28th of September 2020*, which means last week. As at last week I cannot quote it, but right now I can quote it, and what was it all about? It was about a publication that talked about tackling illicit financial flows for sustainable development in Africa. It is an UNCTAD publication, *Economic Development in Africa Report 2020*. So, if you go to the internet you can see it there, and then luckily this is coming at a time as well when ICPC thought that it is very important that this subject matter needs to be addressed, and what a wonderful opportunity to have Dr. Adeyemi Dipeolu who participated in the initial assignment which the entire African Union gave to the continent to look at the issues involved in illicit financial flows overtime; he has been involved in this also just as the Chairman was quite involved as well... at some levels when he was in his former place of assignment. So, without wasting much time, I am going to call on Dr. Adeyemi Dipeolu. He will be taking us through as the Lead Presenter on the subject matter "Understanding Illicit Financial Flows." Your Excellency (he is an

Ambassador that is why I had to call him Your Excellency) and we need to respect that. Dr. Adeyemi Dipeolu, good morning, it is your turn.

Professor 'Bolaji Owasanoye, SAN: Just before Dr. Dipeolu takes the floor, thank you Professor Aremu. I want to recognize a number of Attorneys-General of States that are within the Meeting Room; from Zamfara State, from Kano State, from Bayelsa, from Sokoto State, from a number of States and also from State Inland Revenue Services. This is very important for state to retain their revenue because there is no free money anywhere anymore; this is the reality. But there is enough being generated within our economy that if we know how to keep it here, we will not need to borrow for development and we will not need to be subjugated to the whims and caprices of developed countries. So, I recognize all of you. If I did not mention you one by one, please forgive us but we need to get down to business immediately. Dr. Dipeolu, Sir.

LEAD PRESENTATION

UNDERSTANDING ILLICIT FINANCIAL FLOWS

Ambassador (Dr.) Adeyemi Dipeolu

Dr. Adeyemi Dipeolu: Thank you Chair of the ICPC, thank you very much Chair of the Session...I just would start by thanking you for inviting me and for the opportunity to speak to this distinguished audience. May I say that I want to put on record the great efforts that the Chairman of the ICPC had made to help put this matter on the national agenda, regional agenda and again on a global level; and I see this opportunity of talking to very distinguished participants. I think you have brought the right set of people to the table in this regard.

I start by talking about the scale of the problem... So, basically, I have used the cover of the Mbeki Report just to catch your attention which talks about ***track it, stop it and get it***. Basically, the effort being to say there were three dimensions: first of all, ***tracking the flow of illicit finances, stopping it and of course recovering it***. So, I start by talking about the scale of the problem but so I will speak about the background of it and the scale of the problem, I will speak a bit about the definition, the types and some of the estimates around listed financial flows, I'll address some of the debate surrounding financial flows and speak to some of the drivers and enablers of illicit financial flows, the effects and the findings of some of the major panels around illicit financial flows and some required policy actions.

So, I start by identifying the scale of the problem...IFF's are estimated to cause African countries in total a loss of about \$80 billion annually, and more recent estimates, and the report that Professor Aremu spoke about; UNCTAD, put the amount at about \$88 billion from Africa. Now so this points at what Professor [Owasanoye] had said earlier to the importance of tackling illicit financial flows because they are a drain on the resources which Africa needs for its development and to tackle poverty. It also has a negative effect on domestic government in the sense that governments then have less money to provide the services and in some cases it means that when you have a crisis like COVID-19, where you should have a financial stimulus or expansionary fiscal policies, if you don't have enough

revenue, you then have the tendency to austerity which would be the worst thing to do in such circumstances, but, of course, illicit financial flows also undermines the social compact, by which I mean they create feeling of inequity, feeling of unfairness, because some people feel they are paying their taxes while other people are not bearing their fair share of the burden. So, of course, it's important to stop illicit financial flows; but it has become evident that nations cannot do it alone; and stopping illicit financial flows requires international cooperation; but there is as yet no global framework for doing so. Now as the point has been made earlier, Africa has actually led the way in tackling illicit financial flows. **The High-level Panel on Illicit Financial Flows from Africa**, led by former President Mbeki of South Africa. He did blaze the trail in this regard, and help to put the matter squarely on the global agenda, and that led, for instance, to its inclusion in the *Addis Ababa Action Agenda* which was the outcome document of the *Financing for Development Conference* which took place in Addis Ababa; and, of course, it also found its way into **Item 16.4** of the *Sustainable Development Goals*. Leadership of Africa continued, for instance, in the membership for the **Financial Accountability Transparency and Integrity Panel, FACTI Panel**... (our own two very people, Professor 'Bolaji Owasanoye and Mrs. Irene Ovonji-Odida both of whom are here today) and have continued to exhibit that leadership.

Now I want to talk about the definition and the types of illicit financial flows; and basically, there is lots of debate around what exactly illicit financial flows mean. The definition used by the Mbeki Panel and several others has been to consider *illicit financial flows as money either illegally earned, illegally transferred or used*; in other words, at some stage in that process, if there's a change of illegality then it becomes an illicit financial flow so to speak; so in other words, *you could earn money entirely legitimately but if you transfer it by illicit means then it falls into the category of illicit financial flows*. So, *the usual components are commercial variety, the criminal variety and of course corruption*. The commercial aspect usually relates to things like tax evasion, aggressive tax avoidance and dodging of customs duties on domestic levies, and sometimes through trade missing invoices. The *commercial aspect is usually estimated to be about 65% of illicit financial flows*. For instance, and I give an example, there was a case in South Africa which the Mbeki Panel found out, where a company had avoided paying \$2 billion in taxes by claiming that

the bulk of its business took place in the United Kingdom and in Switzerland. When the South Africa Inland Revenues Service investigated the company, they found that the so-called UK and Swiss subsidiaries were no better than Shell offices with very little staff there and they did not handle any or much of the company's business. So, the South Africa Inland Revenue Service was able to reclaim on those unpaid taxes to that value.

Another area of interest around illicit financial flows [is] the commercial type. There are several [types]... but I want to highlight... unequal contracts which is another commercial means of illicit financial flows... I was talking about unequal contracts being another commercial means of illicit financial flows because they [are] intended to circumvent paying true value for acquired assets or to evade the payment of royalties and taxes. I like to always give the example of the Simandou iron deposit in Guinea where a concession was granted by the Guinean government to a company for \$165 million but yet, barely a few years after, about a year or two after, half of that same concession was sold by that company to another company for \$2.5 billion; so, they got the whole concession for \$165 million and they sold it a year or two after, half of that at [\$]2.5 billion.

Of course, there is a criminal aspect of illicit financial flows which many of us are very aware of, ranging from money laundering... to smuggling, to trafficking of drugs, people and other illicit items, as well as using such networks to trade in counterfeit goods and the like. So, we [are] very much aware of the illicit financial flows of the criminal side. There is also the corrupt side... which has a lot of familiarity. There was interesting debate around corruption because *corruption helps to facilitate every single aspect of illicit financial flows because it is cross-cutting; so the person who turns a blind eye to an attempt at tax evasion, or to an attempt at smuggling, is acting corruptly, but also aiding other aspects of illicit financial flows.* The definition preferred [of corruption], because it was not only public sector corruption. It was agreed that *corruption was the abuse of entrusted power or abuse of office and therefore especially for financial gain and therefore could also find roots in the private sector.*

Now, there will be several debates [around] the whole concept of illicit financial flows, and I identified just four to five of them for the purposes of brevity. I think the

first is that there's a lot of debate around the whole issue of tax evasion and tax avoidance. What you find is that even though there is agreement about the corrupt and criminal activities contributing to illicit financial flows, there is a greater debate about what exactly constitutes the commercial component. Corporate bodies in particular pushback against the whole concept of illicit financial flows because they do not like to be tarred with the same brush as criminals, I mean corrupt people. The point though is that tax evasion is illegal and the dividing line between tax evasion and aggressive tax avoidance is very thin, especially if tax is not paid where economic activity is generated. Then there is the whole issue of some conflicting illicit financial flows with capital flight. This is sometimes used to get away from causing offence to the corporate world, but I think has the most ingenious purpose.

I was talking about the debate around illicit financial flows and I will just fly over them given that we have lost a lot of time. I was trying to explain that sometimes people conflate IFF's with capital flight and I'm saying that the Panel I worked with¹ thought that that was a mistake because capital flight can be very legal. In other words, it can happen for reasons that have to do with business decisions; and to conflict it with capital flight sometimes plays into the hands of those who want to point the finger at Africa and talk about governance, and talk about other things, macroeconomic conditions which is not the same thing as evading paying taxes whether the conditions; you like the conditions or not. Then I was talking about the debates about the relative sizes of whether illicit financial flows, whether commercial IFF's account for 65%. Some people feel that actually [it is] more; but some comparative figures have shown that commercial component is quite large. For instance, the FACTI Interim Report shows that profit shifting by multinationals may be up to \$600 billion a year, while some academic estimates think that you have up to \$7 trillion or 10% of global GDP held in offshore financial assets. Whereas corruption is estimated to be about 20 billion to 40 billion [USD] a year. So, I think the data is clear ... that the commercial component is far larger than corruption which though remains crosscutting. Then, of course, the debate around the true extent and measurement of illicit financial flows; but I... always argue that, first of all, these things are illicit, they are hidden so to expect precision in measurement is

¹ The Thabo Mbeki Panel

to expect to wait for a good while. In other words, you cannot get the precise calculation of the size of illicit financial flows because the very intent is to hide it from the people who want to know about [it; the tax authorities, financial intelligence unit, anti-corruption agencies and the like. And then some people want to net out the outflows from Africa with inflows into the continent that are also illicit; but as someone very famously said, *there is no such thing as net crime; so if something is done wrong you cannot net it out because someone else is doing something wrong.*

I end there on talking about the debates around illicit financial flows and then move to talk about some of the key actors in illicit financial flows, mostly government, of course, because they lose the revenues and the resources needed for development purposes but also because they have to establish the agencies needed to tackle illicit financial flows. ... transfer pricing unit, anti-corruption agencies, financial intelligence units. It is quite clear that not all countries in Africa, for instance, have all these units. So, government has that important role to play; but you also have the important role to play as I emphasized earlier, in working together to shape the necessary global environment for managing illicit financial flows. Of course, then we have the private sector, consisting of large, small and medium scale enterprises as well as professional firms of lawyers, accountants and bankers who play a significant role. The big companies, especially multinationals, engage sometimes in abusive transfer pricing by... paying less than arm's length prices to themselves when they are transferring goods from one subsidiary to the other; but then the professional firms also tend to facilitate such flows as we found out in the case of the Panama papers. In the Panama papers, up to 14,000 banks, law offices, accounting firms and company incorporators were identified as working with Mossack Fonseca, the legal firm from which the Panama papers were leaked. With the case of small businesses, they tend to also participate in illicit financial flows, mostly through the miss-invoicing or table society organization which has played a great role in bringing the matter to the fore. We have had players like Global Financial Integrity, the International Consortium, Transparency International have all played leading roles in trying to draw attention to the pernicious effects of illicit financial flows on development. So, I just show for the purposes of our country that there are so many actors that are relevant around illicit financial flows, and many of them are on the Interagency Group that we work together on financing; Central

Bank, EFCC, ICPC, FIRS, Customs and the like. NEITI, Code of Conduct Bureau, NFIU, and other players, NDLEA.

So, what are some the drivers and enablers of illicit financial flows? I think some things that make it easier for these things to happen, of course, are poor governance and weak regulatory structures. Where there are legal loopholes... firms will try to exploit those legal loopholes; even criminals, white collar criminals, will attempt to exploit those legal loopholes in order to perpetuate illicit financial flows; and then, you have sometimes policy inconsistency. So, for instance, if the laws in one country... enable certain forms of activity, and then the law in the other country also gives a loophole, then you might find companies getting away with double non-taxation... Then, you have double taxation agreements which ordinarily should be good, because no businessman wants to be taxed twice for the same activity; but what you then tend to have is that some of the double taxation agreements are negotiated by the more powerful countries' their firms not to pay withholding taxes or to have lower withholding taxes in African countries or developing countries, or to remove the limitation on inter-company loans, the kind...once described so eloquently by the Chairman ICPC, where you go and borrow money from your main branch, more than you need and then use that to load your repayment so you take out more money than you actually borrowed from that company. Then there is the whole issue of tax incentives which a lot of our countries give in order to attract foreign exchange; again, not a very bad thing; but usually what will then happen is that it can lead to tax competition and to profit shifting; in other words, if your tax rate (a tax haven can really benefit from this), if your tax incentives are such that you keep bringing [and] adding incentives, adding incentives very soon all the countries in your neighborhood points will have very low returns on tax, and then the multinationals can treat each other and move from one country to the other; and that also leads to the issue of tax havens and financial secrecy jurisdictions,...where they charge very low or no tax or where they even enable the hiding of illicit financial flows. These issues are important because ultimately, part of illicit financial flows is the whole issue of [lack of] transparency, trying to hide things away from the appropriate authorities, tax returns..., criminal activities and corrupt activities.

Moving very quickly to some of the findings that have been made on illicit financial flows, what I have done, is to draw across the Report of the Mbeki Panel, the FACTI Panel...to highlight some of the key issues that will probably emerge. The first and foremost is that... [illicit] financial flows from Africa are large and increasing, so, for instance, I use a graph just to show the extent you are dealing with. As early as 2000 you are dealing with just over 10 billion, \$12 billion in illicit financial flows a year, and we are now at about \$80 billion in a more recent estimates of illicit financial flows. Then, some of the other findings I wanted to talk about are that IFF's are a political issue, and what I mean by this is not that it's a matter for politician, but it's a matter of political will amongst countries; in other words, cooperation is required among countries if we are to be able to tackle illicit financial flows, otherwise, some countries, of course, take advantage of loopholes; but why we say it is a political issue as well is that we found, for instance, that when powerful countries, say like the United States, wants to act on certain things they are able get the results that are desired. So, for instance, up till the terrorist attacks in 2001, you were able to have shell banks all over the world; but once the United States determined that shell banks were no longer to be tolerated, what you found is that [we]... stopped having shell banks all over the world. So by the same token, once you put illicit financial flows on the political agenda, you would tend to find action, which is also why you found that the G20 and the OECD also began to address the issue, at least from the tax perspective, around the issue of perps; around the issue of the visitation, and profit shifting; around the issue of BEPS; around the issue of Base Erosion and Profits Shifting; around the issue of grand corruption , there is UN Convention Against Corruption; so again, once those things come to the forefront you usually find them, once there is political cooperation you get traction in attacking it. Then one of the issues I wanted to highlight is that natural resource dependent countries are particularly prone to illicit financial flows; and I gave example of the Simandou oil mine in Guinea, but ... across the board..., natural resources...; but I want to highlight the importance of the economy.

The digital economy has become a major source of illicit financial flows, where some of the biggest companies in the world are doing business in a lot of our countries, and they're not paying any taxes because they claim not to have permanent establishments in our countries, but they are doing business; as you

know, nearly everybody has a Google account; nearly everybody shops on Amazon; but other countries don't get the benefits of those economic activities; so it's important and imperative to pay attention to that. Corruption and abuse of power, as most of us know what that entails, I wanted to talk a bit about asset recovery and repatriation but I suspect we can talk a bit more about that later. Money laundering as well, weak domestical capacities and an incomplete global architecture; and then we move to my last slide Mr. Chairman.

Some of the recommended policy actions I think to tighten legal loopholes...[are], make greater use of existing rules such as capitalization rules, such as withholding taxes, and to also, for African countries, to strive, as they try to improve the international tax system, or to also try and incorporate basic international tax rules into the domestic framework; most of us have not done so. There is also the need to improve coordination amongst anti-IFF's agencies; and I want to applaud Nigeria in particular, because it's actually what we're doing here today, which is to begin to sit together amongst all the agencies and share information, and share a common understanding of the problem. Key also is the building of domestic capacities; again, part of the project ICPC is helping to lead on. You need to understand these issues; you need to know what they imply for tax; what they imply for money laundering; what they imply for anti-corruption efforts; and we need to pay attention to legal, financial, accounting and negotiation capacities in order to be able to deal with those that we have to negotiate at the end of the day. I end by talking about making greater use of technology, making greater use of international processes, and of course, urging that we adopt and use the *Common African Position on Asset Recovery* to detect and identify the assets that have been taken away; to recover and return them; and to manage them well, working closely with our partners, but also, that also requires strengthening the relevant institutions.

Mr. Chairman, I thank you.

Professor Jonathan Aremu: Thank you very much for the wonderful presentation. It is so difficult to stop you. When you hear from the horse's mouth, that is the truth, you have been there from the beginning of this project so he is the best person to address this matter. That is why he started by giving us the definition, showing us the various scale and problems, particularly the historical development, bringing out

the most culprit which is found in commercial transaction though criminal as well as corruption are still there. Then he went ahead to let us know the size of the IFF now, and the actors that are involved now, the government coming to private sector ... companies, the accountant, bankers including lawyers –but the major culprits, transnational corporations and professionals as well. Then he talked about the drivers of IFF: poor governance, weak regulation instructions, tax incentives that allow a lot of corruption to be there, tax incentive of 1960, something like tax holidays for young companies they are still young since 1960 till date. When will they be adults; and also a lot of financial issues that are being involved in this... Then he addressed the Mbeki Report which he was equally involved in, letting us know the magnitude of the problem conflating to 80 billion now and then he looked at the physical economy as a major culprit which nobody is looking at. Then he finally gave us certain recommendations: tightening of loopholes, improving coordination, making use of technology, and then that Africa needs to have a common position, we have Africa tax forum, what are they really doing? But most importantly, we need to build domestic capacity which is what we are doing here.

Once again thank you Dr. Dipeolu. That is a wonderful presentation. You cannot have it better because he has been there right from the beginning of it. Let me call on the next speaker, he FACTI Panel Interim Report and the Recommendation for Tackling IFFs. I am calling on Honourable Irene Ovonji-Odida... Please you are welcome. Thank you, Madam.

PRESENTATION II

THE FACTI PANEL INTERIM REPORT AND THE RECOMMENDATIONS FOR TACKLING IFFS

Honourable Irene Ovonji-Odida

Honourable Ovonji-Odida: Thank you very much! I will also like to join my colleague in thanking you for inviting me to this program and to recognize the chair of this session, and the Chair ICPC, and also just say all protocols observed. It's been a pleasure for me to listen to this session and also to participate in it; but I think these sorts of dialogue, these sorts of discussions are really important for Africa. I say this, both of them [Prof Owasanoye and Dr.Dipeolu] are ... of the FACTI Panel under the UN process, but also from the Mbeki High Level Panel; having seen all the challenges that we face in Africa, in Africa ... domestic resource mobilization and in receiving our fair share of taxation. I would just like to remind all of us that while Africa on the global stage is seen as a very poor continent, in actual fact, when one looks at the resources, the wealth of the natural endowment, as well as the human endowment that you have in Africa, Africa is actually the richest continent; but we have this contradiction between huge amounts of natural resources, very rich culture, very rich and creative and resilient human beings, with the poverty and so on that we see in all sorts of global statistics. So, this kind of dialogue, and the reflection that I hope will attend it, is really critical; we have... to fix this, we have to change this equation because it does not reflect what it should be.

Domestic public resources are central to development; and here, I would want to emphasize public resources because there is no country that has advanced its economies through reliance on foreign investment, or even on official development assistance. If one looks at the trajectory of all now advanced economies, it is largely based on domestic public resources so this issue of illicit financial flows is really critical, because while Africa is on the one hand crying about debt and looking for overseas development aid, we have these huge leaks that are going on and have been going on for more than 50 years. In the past 50 years the estimates are that we have lost over \$1.3 trillion which works out to over a billion, probably over a million for each country in Africa. The Covid pandemic has illustrated again why domestic public resources are really critical, and also the role of the state, the

central role that only state, only governments, can play in development. So, in looking at this whole question of illicit financial flows, I think one of the challenges that we have is to rethink about the role that state actors play, state officials, and I'm really pleased that this meeting is largely composed of officials who can make a difference for Nigeria. Taking into account as well that among the top four Sub-Saharan African countries losing funds through illicit financial flows, we have South Africa, DRC, Ethiopia and Nigeria, and so the four countries account for over 50% of the illicit financial flow from Africa. So, this issue is really critical for Nigeria and I'm really happy that you are taking the lead in this sort of engagement; and I will say as well that in the work that we've been doing at the FACTI Panel, besides the strong input that my Professor Bolaji has been making there, we also have seen, I have personally seen, because I've been interacting with officials from your embassy here and in New York, and they are playing quite a major role in this. So, it's really important.

Some of the statistics have already been mentioned by Dr.Yemi; just again for emphasis that in this issue, we are talking about a subcategory of illicit finance which is related to national and cross border financing of illicit activities. The other controversies around the definition, scale and so on and all that is fine; but as far as policy makers go, the critical issue is that this is a major problem. The amounts are hugely growing; and so we do need to take action, and both the Mbeki Panel and FACTI Panel came out very clearly to say that the solution to end illicit financial flows have to happen at different levels. There has to be national level action; there has to be continental or regional action; and this problem cannot be solved without global international cooperation. So, at all those levels, there is a need for action. The other thing I was going to emphasize is that, and this comes through some of the inputs already made, is that illicit financial flows primarily are a governance issue. It's a political issue for many different reasons. Besides what has already been mentioned, one of the core issues is that there are vested interest invested in this; there are beneficiaries, individuals, and institutions that benefit; and countries that benefit from this, and which have a lot of power, and which have a lot of influence; and that is why it becomes a highly political, highly sensitive issue for countries do to deal with; but that also emphasizes the importance of regional cooperation, of continental cooperation by African countries to bring together their

resources, and their power in order to push for solutions that have been identified by many different studies and many different processes. The big challenge even for us with the FACTI process is not just a technical thing, but primarily the political thing of ensuring that there is political will for solutions and mobilizing that at the level of UN members States.

In a recent address that was made by His Excellency Thabo Mbeki who chaired the Mbeki Panel, he talked of three principal challenges for the AU around illicit financial flows. He said the first is to build capacity to combat illicit financial flows; so, building capacity at national level and at continental level is quite critical. Secondly, he talked about the importance of establishing global coherence on agreed action between African countries which already have a common position flowing from the Mbeki Report, and also from the AU Special Declaration that was adopted in 2015 based on the Mbeki Report; so building that coherence and agreement, that consensus between African countries that already have a policy position collectively, and non-African countries that is the second challenge for the AU; and the third that His Excellency talked about is developing global mechanisms to ensure full adherence to an implementation of what is agreed as the solution.

So this is where I come to the FACTI Panel itself. The FACTI Panel was set up in February of this year. The work that we have will run for one year. We are to complete our final report by February of 2021, that is next year; and to date, we have done consultations and we released an Interim Report that came out in September of this year; and the main focus of our report and the consultations that we have been doing is to identify the gaps in the international financial architecture to deal with financial accountability, financial transparency and financial integrity. So, looking at the international financial system and identifying the gaps in that system, and which gaps enable illicit financial flows, so that is the link between what we're doing at the FACTI Panel and the Mbeki Panel of the African Union. And just to remind ourselves, when we talk about the global financial system we are looking; there is, and has grown organically over the past hundred years or so, a worldwide framework of legal agreements, of institutions and economic access and those economic access can be formal actors or informal economic actors. So, this worldwide framework of legal agreements that are instruments of institutions and of

economic actors that together they facilitate international flows or financial capital for investment and for trade financing. So that is the international system; the international financial system which has got loopholes, which has got gaps, which has got rules that do not necessarily work for every country; that do not necessarily give a fair taxing right between countries that we are looking at. And it is also relevant to recognize that that system, that international financial system that emerged, that started developing about a 100 years ago, emerged the modern economic globalization, and at that time, as we know, none of our countries in the developing world in the global South were independent. So, the rules, the decisions, the system that was set up, or setup by the West, and the rules really benefit the West; so that is the kind of challenge that we have today. How to deal with these rules, how to reform those rules so that they fairly look at the situation of different countries, different economies, and the different competing priorities and needs that we have. Just to give you one example; we know that right now, the global north [meaning] the Western countries, advanced economies, whatever you want to call them, the rich countries, they are largely capital exporting countries; so when we look at foreign direct investment, the trend is capital coming from those countries; USA and so on, now China, flowing into developing countries; so, our countries are largely capital importing countries. That is one difference, and because of that difference, our needs, our concerns, around say foreign investment, will not be the same; and our priorities will not be the same as those of countries which are exporting capital. In their case, their focus will be on protecting the rights of their companies which are investing abroad; in our case will be on ensuring that that investment contributes to development in our countries as well, and also does not cause harm; and that was the point which was mentioned by the chair of this session. For example, harm around... the labor practices, or from environmental impact and things like that. So different needs, but both of them important.

Another difference is that most multinationals in the world today are headquartered in the rich countries largely in the global North, but also increasingly in some of the larger emerging markets like China and so on; so that is where they are headquartered; but they come and operate in our countries, where we have a huge natural resource endowment, we have the cheaper labor and so on; and so, again, our priorities will not be the same. The rules that we have currently, say, around

international corporate taxation, tends to favor the home countries where the multinationals come from and to strengthen the right to tax those companies by the countries where they are resident as opposed to the host countries of FDI. So again, you see there conflicting interests and conflicting needs, and need for the international rules around this to be rewritten to have more balance between the host countries and the home countries. So for the FACTI Panel, we are looking at all of that context, and ... looking at recommendations relating to that to find a fair solution that ensures that the international financial system is fair to the different needs and priorities of the countries.

Some of the selected findings that we have so far, that came out in our Interim Report... one of them was that international norms and their implementation in the areas of financial accountability, transparency and integrity are shaped by history, by power relations and by country specific characteristics including the political context. I have alluded to some of those; and we found that a web of existing international treaties or agreements has grown organically over time, responding to a wide variety of interests in the fields of tax cooperation, anti-money laundering and anti-corruption efforts, which broadly connect to the three areas of illicit financial flows: the commercial, the criminal, and those related to corruption. However, we found that these international instruments' lack of coordination, leave gaps and sometimes overlap, or conflict with each other; so, unlike in the area of anti-corruption where there is a UN treaty, in the areas to do with commercial issues, of commercial IFF's and tax, for example, there isn't one overarching instrument at an international level; instead, there are many different bodies; most of these bodies are actually headquartered in the global North; they are either under EU or the OECD and... they deal with different aspects of the problem; so sometimes they are gaps between the rules; sometimes there's overlap or there is duplication.

So, I will rush then to the broad recommendations that we had; we clustered our work in the FACTI Panel in three areas. One is in cooperation in tax matters; another has to do with accountability, public reporting and anti-corruption; so things like money laundering, trafficking and so on are within that area. Beneficial ownership; and then international cooperation and settling disputes; and we also had some cross-cutting issues such as governance, capacity building, issues to do with

system... dealing with the systemic problem and the role of any enablers and particularly among non-state actors. And very broadly, because of time, we have seen, and I think this already has come through in what I have said, that there is a need to strengthen the architecture for cooperation in tax matters; there is a need to deal with taxation [of] the digital economy; that process Dr Adeyemi talked about briefly is currently being led by the OECD under a process called the *base erosion and profit shifting process*. However, that process, in my personal view (we haven't come out to see it clearly) but in my personal view that BEPS process under the OECD has got a lot of challenges, and institutions like the South Center and so on which I'm involved with, have identified some of the weaknesses in that process; that they are largely focusing on the needs and priorities of the rich and advanced countries, and the framework for negotiation does not give equal rights and equal access to countries from the global South; and so what will be more important will be to have a UN led process that deals with allocation of taxing rights between countries. So, what are the taxing rights that different sorts of countries could have, should have under the new rules; and so the view of many, from the developing countries is that, that kind of negotiation is to move into a UN process rather than that which is led by the rich countries, because as it is now, they focus more on their interests.

Lastly, just very quickly, there's a lot of data around the losses and how much money is being lost by different countries. I can share this later, I can send it in a document which has some of the data; some has been mentioned, 600 billion USD a year lost from profit shifting by multinational corporations, [\$]7 trillion of private wealth hidden in haven countries; there are lots of myths. Many people think that these havens, tax havens are mainly Caribbean small Islands but a lot of the research has shown that that is not necessarily the case FACTI Panel and many other bodies show that many of these havens are in the global North, they are big countries like Netherlands and so on. So, some of those myths need to be, we need to share them.

Lastly, what I want really to emphasize is that illicit financial flows, without dealing with illicit financial flows, Africa will not achieve its development agendas. We will not be able to control our priorities. We will have much less power than we should

in global spaces including the UN, or even in the OECD processes negotiating new taxing rules. We would not be able to deal with some of the governance impact of some of these losses, which basically undermine our economies, but also our position in the world; and I leave you with one thing to think; that if today under these current rules, such as issues around transfer pricing and so on, 22 of the richest men in the world own the same amount of wealth, a whole 22 men, none from the global South, have the same amount of wealth as all the adult African women put together all, 300 million, there is something very wrong with this picture and I will stop here. I can respond to any particular questions. Thank you!

Professor Jonathan Aremu: Thank you. You over shot your time by 2 ½ minutes. That is ok. Just briefly, what Madam Irene has been talking about-she is a member of the-FACTI Panel, and then they look at this issue as well. She started by saying there is a paradox in Africa; Africa is a [continent] that is very rich but is a [continent] that holds poor people; so, it's a continent that is rich but inhabited by the poor. That is a paradox and then she discovered that one of the main reasons is the issue of illicit financial flows and she mentioned Nigeria... I am so happy that they mentioned Nigeria because the UNCTAD Report that was released last week actually, chapter six of it, is specifically talking about Nigeria, which is a serious matter, and then she goes ahead and [said] the matter of IFF's, it cannot only be categorized with only the criminal as well as corruption or commercial but they are equal; those ones that are of major concern particularly towards here which is cross border activities as well. That is a new dimension. She then said that [for the] challenges to be resolved involve building of capacity to recognize these problems. Not only that global coherence is very important, there is need for global action; need to identify the various gaps which have to be blocked; and then she equally discovered that some of the problem we are having are related to history. History of the past governance, the colonial masters, the dominance of transnational corporations, headquarters in overseas and many of this transnational corporation are owned by our colonial masters in the global North and these are the issues. She mentioned that the FACTI Panel discovered that history is very important, and therefore there is need to re-look at that history. The FACTI Panel recommend greater publishing, there must be good public reporting, international cooperation among countries, among particularly over here in ECOWAS, in African Union as well as the global space.

The issue of capacity building which was mentioned by the earlier speaker was equally addressed by her as well. So, that is briefly what I could catch. The floor is now open to you to ask our presenters questions.

INTERVENTIONS/QUESTIONS & ANSWERS

Adamu FIRS: what precisely are the challenges mentioned by the last speaker the BEPS has with OECD?

Adamawa Ministry of Justice: My question goes to Mrs. Irene about the African capital importing nations is quite different from the developed nations which are capital exporting; now my question is that most of these capital exporting countries have their multinational companies here in Nigeria; now the Mobil unlimited, Shell and the rest now, what basically will we do now because they are the ones severally evading tax because mostly they repatriate money; I think if I should remember very well, some companies that mostly present here, the capital they repatriate it to their country and then basically we find out that Nigeria loses; so what can we do now to curb all these things?

Professor Jonathan Aremu: Ok thank you. Please Madam and Dr Dipeolu please if you have a problem, the question has been written.

Honorable Irene Ovonji-Odida: I can respond the written. BEPS question, the BEPS problem.

Professor Jonathan Aremu: Can you let me call you then you can speak. Patience Okala please.

Patience Okala from NIPC: Yes Sir, thank you very much Prof. I think the presenters have done an excellent job. I wanted to find out if they were familiar with the work that is being done now on the review of Nigeria's bilateral investment treaties in order to balance the profit expectations of investors with the developmental expectations and objectives of Nigeria. Quite some work has been done and the last speaker mentioned a few of the things that we needed to do; so part of the things we are also doing is to ensure our rights to regulate and to stop our limitless exposure to ISDS; prepare a plan to integrate this reform of our bilateral investment treaties scheme in the whole action plan that is ... is ongoing on the illicit financial flow... My network is shaking so I'm not sure whether everyone heard me.

Professor Jonathan Aremu: We heard you very well, you said that “you don’t know if the speakers are aware of what Nigeria is currently doing in respect to some of those issues on bilateral investment agreement that will resolve this IFF”. So, they will respond to us later on. That is Patience from Nigeria Investment Promotion Commission -NIPC.

Can I call on Godwin; then two more intervention?

Mr. Godwin Okpene from NEITI: Good afternoon everyone... Mr. Chairman, I am Mr. Godwin Okpene, I work with the Nigerian Extractive Industry Transparent Initiative, NEITI. I just want to make two quick points. One is to request for clarification from Dr Dipeolu to say that when we define IFF’s in terms of loans and in terms of transfers are we talking only of illicit funds that flow out of the country across borders? Are we talking for instance, in the case of extracting mineral, maybe oil mineral asset that is acquired by a politically exposed person and just a portion of that asset is sold to another party for a lot more money than the entire asset is acquired for. Sometimes this money does not necessarily go outside the country, it ends up in the pockets of this politically exposed person, I don’t want to say corrupt political exposed persons, but it ends up in their pocket, so it might not necessarily be that this money flowed outside the country, so I want a clarification of whether the definition also covers money that stays in the country. Secondly, when you have these activities, some of them are backed up by laws, for instance, you have fiscal provisions that are exploited by multinationals. A quick brief example, the PIB, the Petroleum Industry Bill, is currently before the Senate. There might be provisions in that law that will allow companies to transfer losses from unproductive assets, assets that are unprofitable to assets that are profitable where it will reduce the taxes that those companies are required to pay; so if there are provisions in the law that allow these companies to shift ...

Professor Jonathan Aremu: We lost him again. Dr. Dipeolu please if you can hear part of what he said and answer.

Dr. Adeyemi Dipeolu: I thought Honorable Irene Ovonji-Odida was going to respond on BEPS. I can do so but I wanted her to speak first.

Honorable Irene Ovonji-Odida: Thank you very much Chair. The BEPS process: BEPS refers to base erosion and profit shifting and the BEPS process is the process that the OECD began some years ago to look at the issues, to change rules relating to taxation of digital companies. The issue is that the process was set up by the OECD following the 2007/2009 financial crisis so it was in response to shortfalls in revenue and challenges around taxation. The first round of the process ended, I think it was about 2015 or something like that, and then the second round was begun which is currently ongoing, that was meant to look at taxation of digital economy and that one was responding to the growth of digitalization in business practices, the use of digitalization which created challenges for countries to tax companies, multinational companies that use digitalization in their business model.

Initially in the first BEPS process, it was only OECD countries that were involved and there was pressure put by African and developing countries, because the rules that they were going to come up with would eventually not only be applied to OECD members, but because of the connection of OECD and EU those rules tends to end up [to] apply to everybody, to all countries apart from countries like the US which are very strong and can resist them. So other groups have been pushing and saying you need to open up the process so that those negotiations do not just happen between OECD countries but other countries can come in, and so the second phase other countries can come in. I think African countries that only maybe, about 20 or if they even fewer than that, who are involved in that, in that process and I think Nigeria is one of the countries. Now the challenges of the OECD BEPS process, they call it the inclusive framework, but in reality it's not as inclusive as the term would seem to be. The first problem is at the level of the membership of that, of that negotiation, unlike the UN where members of the UN are countries. In the OECD [tax] inclusive framework process, it is jurisdictions; so a jurisdiction can include an entity that is not independent, and there are quite a number of those which are actually overseas dependencies or territories of former colonial countries that are there as independent members of the inclusive framework. So, they are controlled, so, the UK for example, has about eight overseas dependencies: Jersey, the Isle of Wright and so on, and many of these actually tax havens. The Netherlands has got two: Aruba and Curacao. So, ... because of that, it means that those dependencies which are in reality still controlled politically by the UK add their voice to the UK, so

you do not have equal weight of all the members of that process. So right from the level of the membership and the composition there is an imbalance between the richer countries and the others.

Secondly in the way in which the rules are done, the rules are not clear, so how decision making is done is not evident as it is, maybe [under] the UN process; and often, decisions that are made within there seem to be, it to be biased mainly towards the views of the developed countries. One example I can give; there are two pillars in that ...; negotiation one of them is relating to digital economy. Pillar one and pillar two negotiations are looking at issues arising from tax competition... looking at insurance ... minimum corporate tax. There were proposals that were made on pillar one from the US, from the EU and some EU members, and some from developing countries who are negotiating on something, the Group of 24. In the final proposal that are taken forward in the negotiations, they drew on the proposals that came from the US and the EU and left out those from the G24 which represents the developing countries within that process. So that's just one example that shows how the process is skewed towards the priorities of the advanced economies.

That process is really important, because at the end of the day, it will decide on allocation of taxing rights between countries; so what... a country will have to tax multinationals operating in the country will be determined coming back from that process; and currently the final decisions are meant to be done in October. So, the challenge that developing countries have had is around equal access, equal influence and equal participation; that's one of the major challenges. From our own perspective, the other challenges we have internally is that many of the developing countries, say particularly many of the African countries that are participating in that process, have challenges around the cost involved. The negotiations are in Paris so it involves flying [to] [to] Paris participate in them, which for African countries is a higher cost than it is for European countries where it is quite closer even cost wise.

Internally in terms of how we are arranged, many African countries have got their revenue administrators in the process much more involved than the policymakers. There's a disconnect in some cases between the policymakers and the revenue

bodies which are likely involved in the negotiations. That is an internal issue that African countries need to deal with, and other developing countries, and ensure that the policymakers are as involved in those processes. At the end of the day, what will be important for the outcome of the BEPS process is that it results in stronger taxing rights for developing countries. That doesn't seem to be the case right now. Some of the measures that have been produced would leave out a lot of multinationals from being touched by the new rules because of high thresholds; so that again means that our economy will not benefit because it is often smaller multinationals who are operating in the global South and in African countries. So that is a summary of some of the issues. I can include more information in the write up that I sent on analysis that was done by the South Center about the BEPS process.

Professor Jonathan Aremu: That is a wonderful explanation. Thank you, Madam! Dr Dipeolu, over to you.

Dr. Adeyemi Dipeolu: Thank you very much and I thank the Honourable Irene Ovonji-Odida my very good friend for explaining that beautifully. I think I summarize her by saying we were not in the room [but] then [we are] expected to implement what was agreed. But I think there are two other [reasons] why I find the BEPS process inadequate. The first is that they still haven't done much on the digital economy, and we all know that the digital economy is fast becoming an area in which we stand to suffer huge losses if care is not taken; even powerful countries like the United States and the UK have had to take the unilateral action on digital economy issues, and is closely related to that; and for me also fundamental is that the BEPS process doesn't address the issue of the separate entity, very hard ... the aggressive tax avoidance. So, if you allowed to continue to pretend about arm's length pricing, you will continue to deal with the same problems of abusive transfer pricing once you have the same separate entity.

I missed the second question, the review of the PIB. Yes I'm aware of the review of the PIB but you haven't kept us posted on what you are doing; how would we know what you are doing if you are not letting us know by way of public communication or private direct communication; but I know about the work because I did speak to your ES when she was about to start the process, and if you

remember, offline we discussed the issue with [a] particular country and ... we are aware there was pressure to sign; but you said that you were undertaking a review. So we once were indeed aware but you [have] not updated; so I really can't comment, maybe what I will do is suggest to our Secretariat to invite you to our Inter-agency Group so we can factor some of your thinking into it; but the Mbeki Panel did talk about the BEPS and the need for African countries to be careful about the provisions that they signed up to in some of those treaties.

The questions by Godwin are pretty straightforward. He says that some of the illicit flows that don't flow across the border, but the example he gave answers his question. Do you think that somebody could transfer the equivalent of a billion dollars in this economy and our people will not know, any of agencies involved will not know? It's not possible, so chances are 90% that the transaction involved a flow that was offshore. For sure, I don't see how you sell off an oil block domestically and then it will not record in the accounts of either bank or any of the agencies, so I think that's pretty straightforward. The very nature of what we're talking about, those things take place and then you get the thing locally here. Similarly, to the Simandou example I gave.... you know you get the rights by whatever means, you get the rights and then you use that to trade invariably offshore.

The second question again is pretty straightforward. You [Okpene] said some activities are allowed by law, and I think that's the very point this exercise [capacity building workshop] is about. We shouldn't allow such laws; we shouldn't give such loopholes; we must close them if you are aware of them, we must make an effort to close it. In other words, if it's a loophole that is there and will lead to an illicit flow, of course then we must act to close it. But we must be careful not to abuse every incentive; therefore... I think it's important to bear that in mind, that not every incentive that leads to illicit financial flow. We are just saying that the incentives can lead to a race to the bottom, and a race to the bottom can lead to lower tax returns to governments, and can also help people to start thinking of whether they should become tax havens or not... I thought I should make that clear. Those are the questions I thought I heard I'm not sure if there was any other one. Thank you, Chairman.

Professor Jonathan Aremu: Thank you. We appreciate all. We couldn't have enough time to take further interventions from people because our time is up. We thank our lead presenter Dr Adeyemi Dipeolu. We equally thank Honourable Irene for that wonderful presentation, particularly the issue of the BEPS. I think two things emerged from this presentation: how do we redeem the IFFs so that we can finance our sustainable development in Africa, particularly with African Continental Free Trade Area coming in. Let me say that with the capital account liberalization coming along with African Continental Free Trade Area, if we are not very careful, illicit financial flow will continue to thrive because Africans can easily move across borders, so how do we reclaim this huge amount of money, and not only reclaiming it, but stopping it totally. The second question that arose from this presentation is this: what should be done at multilateral level? We have heard that BEPS is not doing what it should do because when you are not there, they may not know how you are feeling and then they just decide and pop it up on you that this is what you should do. At multilateral level our both speakers have said that there is need for better positions, better things to be done. At continental level, I think Africa Forum they need to wake up. At regional level in ECOWAS there is also need to be able to see this as important level. In Nigeria, FIRS and other institutions, they need to be able to see what they can do at national level to resolve this. So, we zero in to capacity building which is the real subject of what we are doing today. This is the main way in which we can ensure that more money does not go out then the possibilities of reclaiming the ones that have gone out comes back. So, thanks for the opportunity to allow me to chair this wonderful seminar and over to the Chairman for the closing remark. Thank you all, our senior special advisor to the President, Madam Irene thank you so much, and Chairman ICPC over to you.

CLOSING REMARKS

Professor ‘Bolaji Owasanoye: Thank you very much Professor Aremu. Many thanks to our speakers. Irene all the way from New York, Irene is from Uganda but she has Nigerian in-laws who are also in this meeting room, so she’s Nigerian half Nigerian half East African. Thank you very much for sharing your insight. Irene most appreciated. Everybody wants your paper so please email your paper to me and we will share it to all those who have participated in this meeting. Dr.Yemi Dipeolu, the Special Adviser to the President on Economic Matters, thank you for sharing your wealth of knowledge.

This is the beginning of a long conversation. It’s very broad and part of the intention of this project is to breakdown this thing into chunks, and then we begin to tackle each chunk with intense capacity building, telling people what to look for. As many of us in this meeting may know, negotiating anything at the multilateral level is a long painstaking process; it’s not a one year, two years, five years process; it may even be a 10-year project. But in the interim, there are many things that we can do internally; there are regulatory actions that we can take; there are local laws that can be amended or introduced that can help us to improve the situation the way they are, but the starting point is for those of us who advise government, those who take decisions both at the Federal and State level, to know exactly what it is that we’re dealing with; so we’re not able to teach all that there is available to be taught on IFF in a short two or three hour webinar, but it’s a starts off point to know what to do.

Then I’m very delighted that the number of Attorneys-General from across the State in the meeting room or have people from Ministry of Justice, because at the end of the day, this challenge begins with agreements, very badly negotiated agreements, agreements that are signed by States, agreements that are signed at the federal level, and people sell away the fortunes of the State or the country without knowing in the very fine clauses. So, part of what we intend to do with our project is also to train very well in the area of capacity building.

Dr Dipeolu talked about the vulnerability of natural resource endowed countries to IFF’s. Now that Nigeria is focusing on non-oil natural resource, and these are all

across the country, that's why we make sure that States are part of this conversation. As State governments bring people to their states on investment roadshows, go out to market their States and all that, know that you are also marketing IFF's, except you know what sort of agreement you want to be signing, and the Federal government is giving some leeway to states to participate in natural resource exploitation and all that, so the conversation continues along those lines; and then of course, the role that ISDS – Investor-State Dispute Settlement; I think that the kind of clauses we agree to for dispute resolution is also very important. When you agree to an arbitration forum that is far away from your country and there is a dispute, when you calculate the amount of money you need...; when there is a dispute you are not going to resolve it in one meeting; when you have to take ten officials to an arbitration in the UK and the US or wherever, and you are going to take 10 trips because the other side will keep requesting for adjournment, you begin to understand that there are strategies to all of these things and it's very important.

So, we are quite delighted about the work that an NIPC is doing. I'm aware of the work because the Executive Secretary gave me insight, but as Dr Dipeolu has said, we will invite NIPC to the Inter-agency [Group] conversation to come and say what you are doing and where it links with IFF's. It is one thing to invite and desperately want investors in your country, but when there is a little dispute you have to resolve it and they all want arbitration, and they want arbitration outside of Nigeria, and now we all know that the arbitration process is not transparent and it's not foolproof given Nigeria's recent experience, and arbitration panel can easily be hoodwinked with all manner of criminal and contrived reports and findings.

So, I want to thank everyone of you who have joined this meeting. This is, like I said, it's a matter we have just started with a small step; there will be a lot more of these interactions but at a smaller chunk to look intensely at various aspects of IFF's... including the area mentioned by Professor Aremu, the whole conversation around asset recovery which is as challenging as getting the international framework to change. So, thank you Irene from New York. We are very grateful that you are able to join us. Dr.Dipeolu from the Presidency, thank you very much. Professor Aremu from Covenant University and ECOWAS, thank you very much; and to all of you

who have joined from across the country, thank you very much.

God bless you! Have a lovely October.

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 150. Joseph Mshelbwala Gana
 151. Aminu Abdullahi I.R.S KB.
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 153. Mfon Edemekong
 154. AKWA IBOM SSG OFFICE
 155. Yahaya Baitu
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 157. Barr. Yakubu Bello Kirfi
 158. Rotimi Adewuyi
 159. BARR.ISAAC Nwachukwul
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