



Yaoundé Declaration on Combatting Illicit Financial Flows from Africa
Yaoundé, Cameroon, 7th June 2014

We, the leaders and members of the Pan African Lawyers Union (PALU), and friends of PALU, gathered in Yaoundé, in the Republic of Cameroon from 5th to 7th June 2014:

Preamble

1. Recalling the grave economic, social and developmental cost of illicit financial flows from the continent, estimated at a minimum of Fifty Billion United States Dollars (US\$ 50 billion) per year;
2. Recalling the impact, therefore, on African governments' fiscal policies and transparency in financial transactions;
3. Highlighting the severe negative effects on social and economic development;
4. Recalling the link between illicit financial flows and transnational and international crimes, such as piracy, terrorism and mercenariism, and its consequent threats to peace and security;
5. Emphasizing the role played by certain private sector actors, including some Multi-National Corporations (MNCs), which evade legitimate taxes, abuse tax privileges, engage in transfer mispricing, pay bribes or kickbacks, or distort public procurement processes;
6. Noting, therefore, the negative impacts on government institutions and the rule of law;
7. Acknowledging the ground-breaking work of the African Development Bank, African Union and United Nations Economic Commission for Africa on the issue of Illicit Financial Flows from Africa;
8. Acknowledging and adopting the 2010 Resolution of the Human Rights Institute of the International Bar Association and the 2013 Report of the International Bar Association on Tax Abuses, Poverty and Human Rights;
9. Acknowledging and congratulating law firms that have adopted internal policies on human rights and/ or on transfer pricing and encouraging others to do the same;
10. Conscious that the on-going discussions on the post-2015 Development Agenda, and especially on the place of the rule of law and good governance therein, present an important platform to discuss and have tangible targets and actions on poverty, illicit financial flows and human rights;
11. Cognisant that under existing Anti-Money Laundering legislation within the financial sector, suspicious transactions regularly occur without Compliance Officers having the incentives or management support to file claims;
12. Bearing in mind important international standards and principles, such as the United Nations: -
 - a. Convention on Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (Vienna Convention), 1998
 - b. International Convention for the Suppression of the Financing of Terrorism, 1999
 - c. Convention against Transnational Organized Crime (Palermo Convention), 2004
 - d. Convention against Corruption (UNCAC), 2004
 - e. Guiding Principles on Business and Human Rights, 2011



- f. Guiding Principles on Extreme Poverty and Human Rights, 2012
13. Further bearing in mind the key legal instruments that the Member States of the African Union (AU) have enacted, including the:
- a. **Constitutive Act of the African Union, 2000**, especially the financial institutions envisaged thereunder, which are in the process of being established;
 - b. African Charter on Human and Peoples' Rights, 1981;
 - c. Protocol to the African Charter on Human and Peoples' Rights establishing the African Court on Human and Peoples' Rights, 1998;
 - d. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003;
 - e. African Union Convention on Preventing and Combatting Corruption, 2003;
 - f. African Charter on Democracy, Elections and Governance, 2007;
 - g. Statute of the African Union Commission on International Law, 2009.
14. Recognizing the efforts and the legal framework established in some regional economic communities in the fight against money laundering and illicit financial flows;

Now declare, resolve or recommend as set out hereunder:

15. Thank the President, Prime Minister and Government of Cameroon for the warm welcome to the delegates and facilities for organizing their triennial general meeting;
16. Thank and appreciate H.E. President Thabo Mbeki for his lifelong efforts and achievements in building the African continent and its institutions, for his leadership of the High-Level Panel on Illicit Financial Flows from Africa, for his Keynote Address to – and engagement with – African lawyers at the instant meeting, and further acknowledge and accept the challenge that he made to the legal profession in Africa to rise up and address issues related to illicit financial flows from the continent.

To African Governments to: -

17. Ratify, for those who have not yet done so, domesticate and implement the international and African instruments relating to the fight against illicit financial flows;
18. Prioritize the review of existing national tax systems, including tax incentives, corporate income tax and property tax regimes with a view to increase tax revenues over time, and to ensure that the burden of such revenue growth is fairly distributed amongst their taxpayers;
19. Enact or strengthen laws proscribing foreign bribery and strengthening investigative and prosecutorial agencies and providing them with sufficient resources, equipment and skills;
20. Enact or strengthen laws for freedom of information and effective whistle-blower protection;
21. Enact or strengthen Laws to facilitate the identification, freezing and rapid restitution of stolen assets;
22. Mandate the African Development Bank to hold all frozen assets and/or manage repatriation of stolen assets; and



23. Support the upgrading of the United Nations (UN) Committee of Tax Experts to a well-resourced body in order to facilitate the establishment of international tax norms and principles applicable to all UN Member States.

To African Finance Ministries to: -

24. Establish / strengthen whistle-blower systems so that Compliance Officers in financial institutions can file *bona fide* suspicious activity by High Net Worth Individuals (HNWI) and Multi-National Corporations (MNCs) within the financial sector without fear of reproach;
25. Ensure that Tax Administrators have access to relevant tax information by supporting the ratification of existing Tax Information Exchange Agreements and establishment of the norm of automatic information exchange to be universally adopted;
26. Support the capacity-building of Tax Administrators through membership in the African Tax Administrators' Forum (ATAF);
27. Publicly account for the use of both tax and non-tax revenues and undertake tax expenditure analyses to citizens through budget processes; and
28. Prioritise the coordination of agencies such as the national tax administrators, financial intelligence units, anti-corruption bodies, etc.

To the African Union (AU)

29. **Noting** that the draft Protocol and Statute of the African Court of Justice and Human and Peoples' Rights, makes provision for the crimes of corruption, money laundering, illicit exploitation of natural resources, terrorism, piracy, mercenarism and corporate complicity in crimes;
30. We therefore urge the policy organs of the African Union, especially the Assembly of Heads of State and Government (the Summit) to expeditiously adopt the draft Protocol in the shortest time possible as it is the single greatest tool to combat illicit financial flows from Africa.

To the Pan African Parliament (PAP) to: -

31. Convene a continental dialogue on the issue of illicit financial flows from Africa, and to invite African governments, private sector – including Micro, Small and Medium-scale Enterprises (MSMEs), Trade Unions and civil society, including professional associations, to input into this dialogue.

To the African Peer Review Mechanism (APRM) to: -

32. Include, in their Peer Review Questionnaire, questions relating to Illicit Financial Flows from Africa, especially the role of the private sector.



To the African Union Advisory Board of Corruption (AU-ABC) to:-

33. Include, in their Questionnaire, questions relating to Illicit Financial Flows from Africa, and ensure that results are reflected in their Annual Reports, pursuant to Article 22 of the African Union Convention on Preventing and Combatting Corruption, 2003;
34. Commence reporting on the activities of Multinational Corporations in Africa, as stipulated in Article 22 aforementioned;
35. Consider convening, pursuant to the adoption of the Report of the High-Level Panel on Illicit Financial Flows from Africa, a Dialogue of all relevant Organs, Institutions and Mechanisms of the African Union and of its Regional Economic Communities (RECs) on **practical implementation** of recommendations relating to Illicit Financial Flows from Africa;
36. Compile, with the assistance of National Anti-corruption Authorities and other bodies, a list of all assets requiring repatriation.

To International Financial Institutions to: -

37. Support, in a concrete manner, the efforts of States to identify illicit transactions both nationally and internationally;
38. Establish institutional and regulatory mechanisms required to generate information on foreign corruption;
39. Support the efforts of African countries to identify, freeze and repatriate as soon as possible all illegally acquired or retained assets.

To Foreign Governments to: -

40. Assist African countries to trace, confiscate, freeze and repatriate monies and other assets that have been stolen, corruptly or illegally acquired at the earliest opportunity;
41. Ensure that their host Multinational Corporations facilitate the ability of African States to freeze and confiscate assets in the absence of a criminal conviction (confiscation that is not based on a conviction), especially when the suspect has died or enjoys immunity from prosecution;
42. Develop a national and international legal framework that facilitates access to bank information, and judicial cooperation in the fight against illicit financial flows from Africa.

To the Pan African Lawyers Union (PALU), to direct the incoming Executive Committee to: -

43. Establish a Working Group of Members on Illicit Financial Flows from Africa in the context of domestic resource mobilization;



44. In conjunction with the said Working Group, and in consultation with member Bar Associations and Law Societies, work towards Voluntary Principles and Guidelines for the African legal profession, on the issue of Illicit Financial Flows from Africa;
45. Expedite the necessary research, documentation, dialogue and consensus-building processes towards a Pan-African Code of Ethics, and to ensure that the issue of Illicit Financial Flows from Africa is incorporated therein;
46. With the support of member Bar Associations and Law Societies strengthen the capacity of lawyers and law firms in legal practice in tax law, fighting corruption, asset recovery and other practice areas relevant to fighting illicit financial flows from Africa.

PALU and all signatories hereto commit to remaining engaged on and to collaborate on this matter.

Done in Yaoundé, Republic of Cameroon this 7th day of June 2014

