

Recent Tax Policy Insights

Globally, Continentally, Regionally and Domestically

You should know what's being cooked in the kitchen otherwise you might eat a forbidden food.

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1. Understanding Tax Policy

1. What is Tax Policy?



1. What is tax policy?

1. What taxes to levy

2. In what amounts

3. On whom

4. Policy comes before law: regime and is vision based

WORK SHEET: Tax Policies that come to mind?

- The recent policies in place...nationally, regionally and globally?
- The policies you wish were in place...nationally, regionally, globally
- The policies you wish you could change...nationally, regionally, globally

- REASONS WHY?

2. Globally

A. Digital Economy

- Online only services?
- Online only goods?
- A new method of transfer of services
- A new method of communication
- Virtual PE

If beards signified intelligence, the goat would have been a genius.

He who throws a stone in the market will hit his relative.

NIGERIA

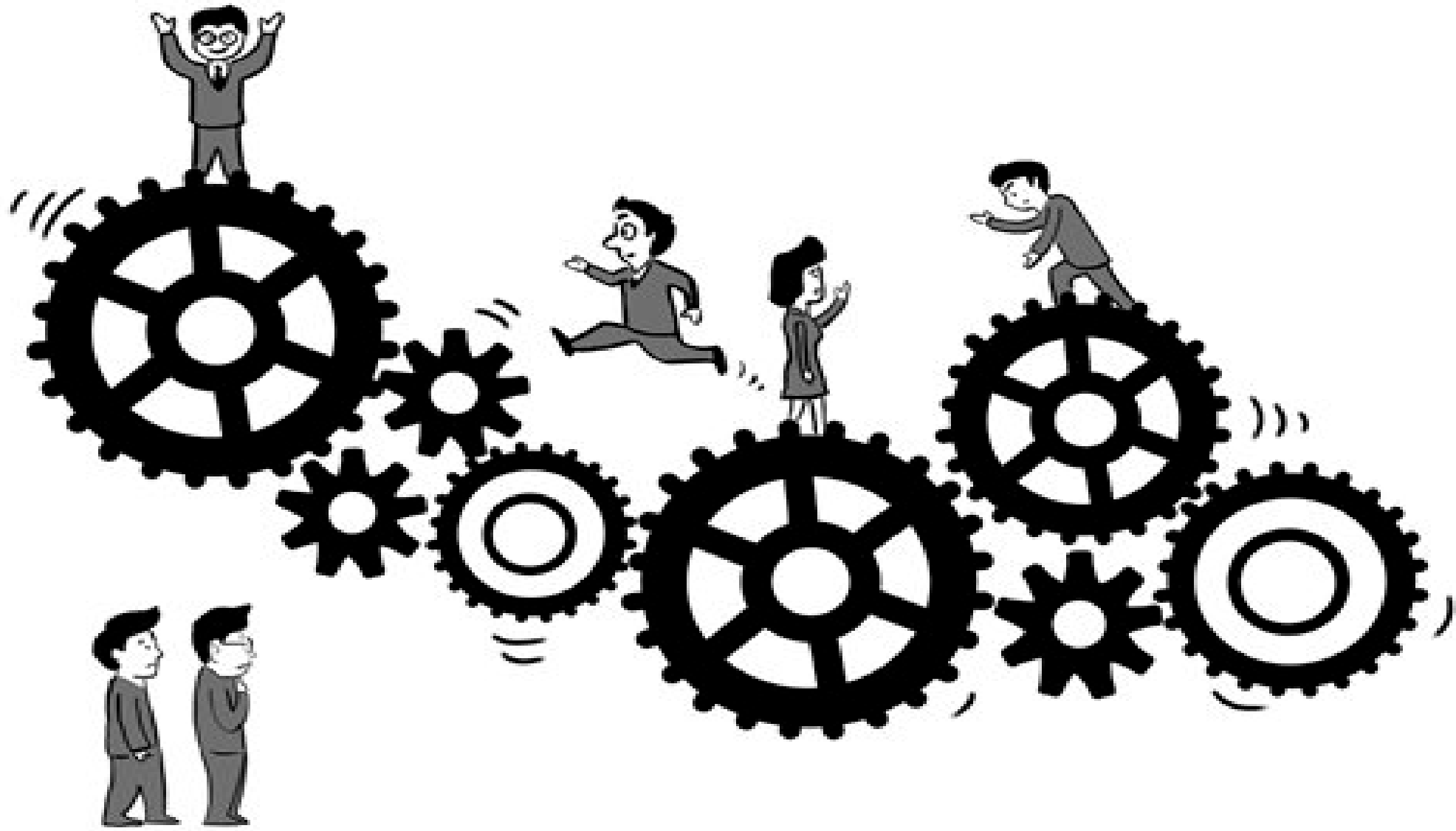
Recent Global Developments

- The Digital Economy
- TISA Australia, Canada, Chile, Colombia, Costa Rica, European Union, Hong Kong China, Iceland, Israel, Japan, Lichtenstein, **Mauritius**, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, South Korea, Sweden, Switzerland, Taiwan, Turkey, United States of America removes all barriers to the global expansion and profitability of their services industries and puts handcuffs on national governments' right to regulate, even when new services and technologies pose unforeseen risks in the future



B. OECD BEPS v UN TAX COMMITTEE

C. TAX MORALITY



2. CONTINENTALLY IN AFRICA

Having a good discussion is like
having riches. Kenya

Knowledge is better than riches.
Cameroon

A. African Union Vision 2063

- Marketing to local and regional economies
- Africa wide retail and distribution
- Simple technology transfer
- Raw material processing on the continent
- Visa free travel
- Preferential licensing times for African investors
- Removal of off continent FDI related tax concessions...level the playing field

B. African Continental Free Trade Area Agreement (AfCFTA)

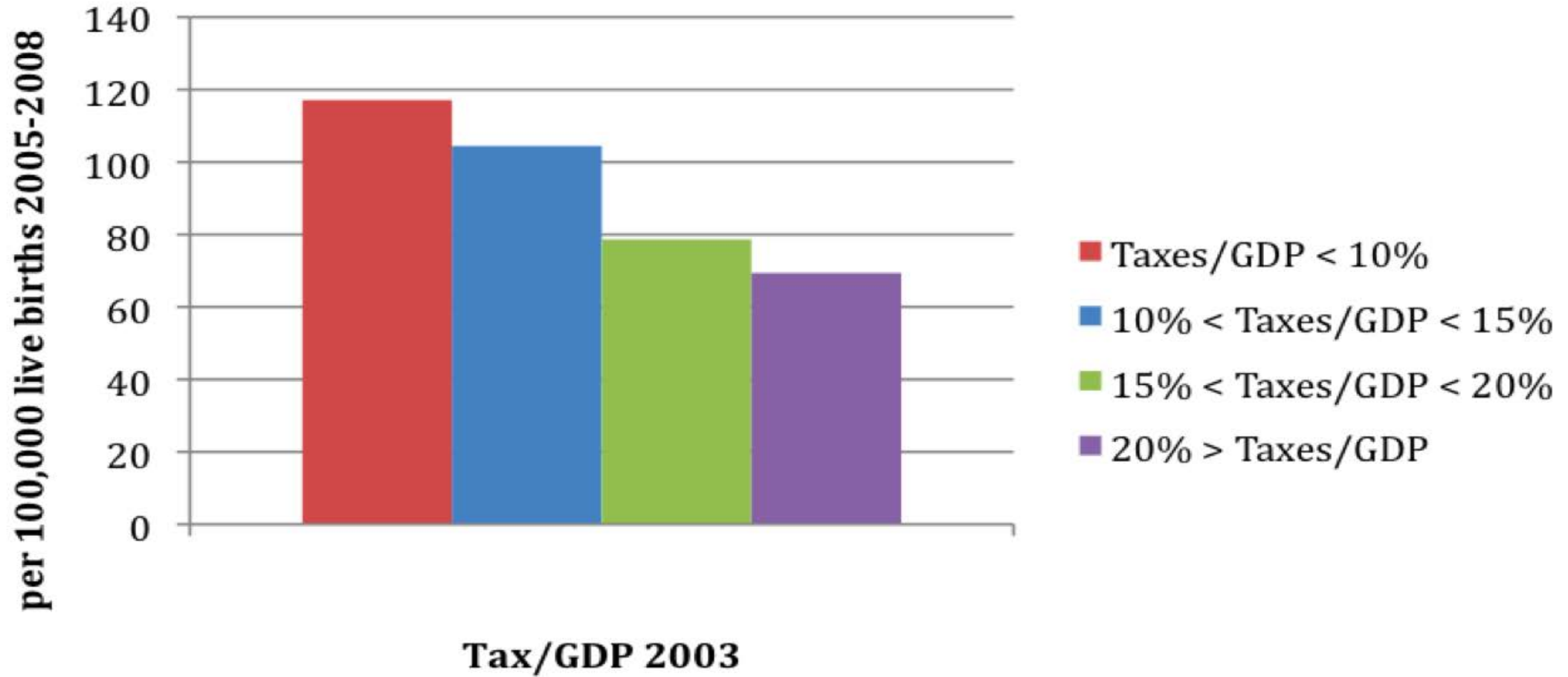


C. Africa's Place in the Global Governance of Wealth Chains

- **Financial Secrecy Index: African countries,**
- Mauritius 23
- Liberia 33rd
- Ghana 48th
- South Africa 61st
- the Seychelles 72nd.
- So while Transparency International's corruption index lists most African countries in the top quintile, they are not obvious places to store or hide money and many jurisdictions within the OECD specialize in providing complex financial services to avoid and evade taxes.

Figure 13.

Maternal mortality ratio
African countries



D. Secrecy, Corruption and Compliance

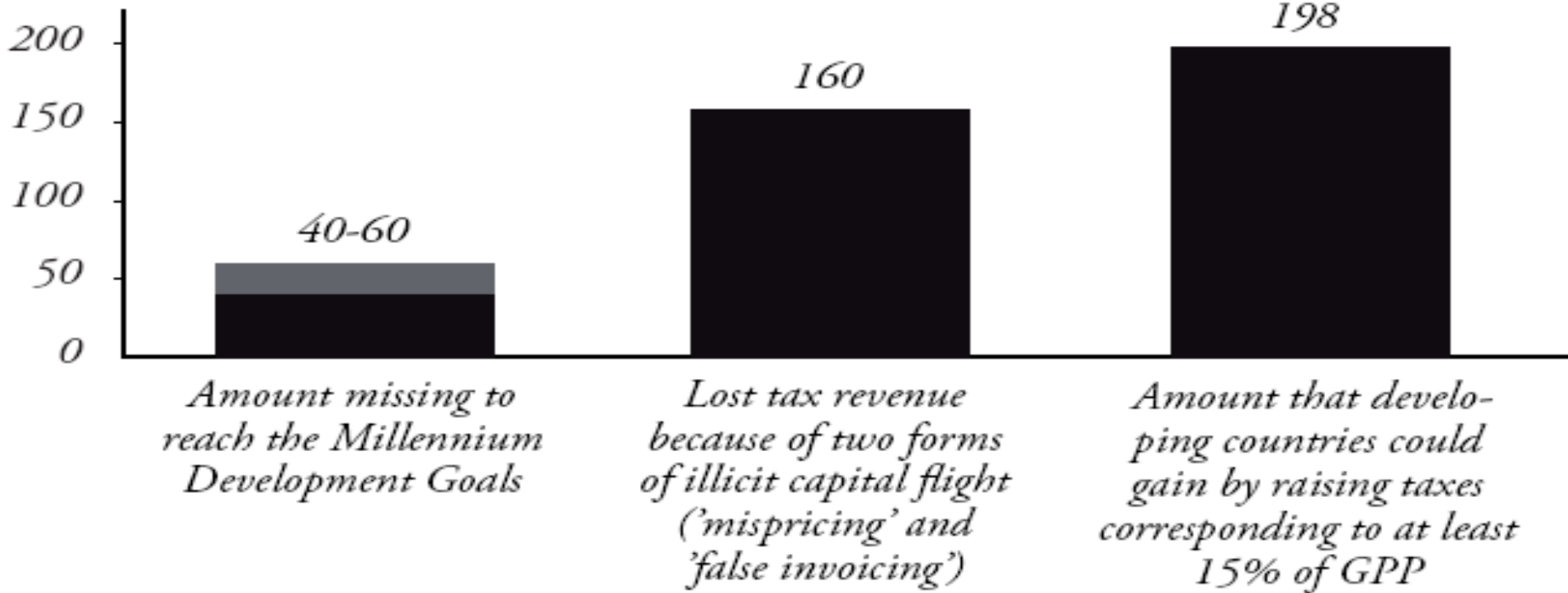
- Cayman Islands (100% compliance), Jersey (100%), Luxembourg (86%), the Seychelles (82%) , USA (25% compliant), UK (51%), Germany (50%), China (22%), Brazil (60%), Russia (71%), Switzerland (55%)
- **African Countries**
- Kenya (16%)
- Nigeria (17%)
- Ghana (21%),
- South Africa (77%)
- Libya (100%)
- Algeria (100%)
- **The easiest place in the world to obtain a false ID and company is Delaware (6% compliant).**

F. High Level Panel Report on Illicit Financial Flows

- Sub Saharan Africa lost an annual average of \$52.9 billion - roughly 5.5% of GDP - in IFF from 2003 - 2012 (the most recent year for which data is available), taking an enormous toll on African economies.

**AMOUNT NEEDED TO REACH THE MDGs, AS WELL AS
LOST TAX REVENUE AND POTENTIAL TAX REVENUE**

US\$ Billion / year

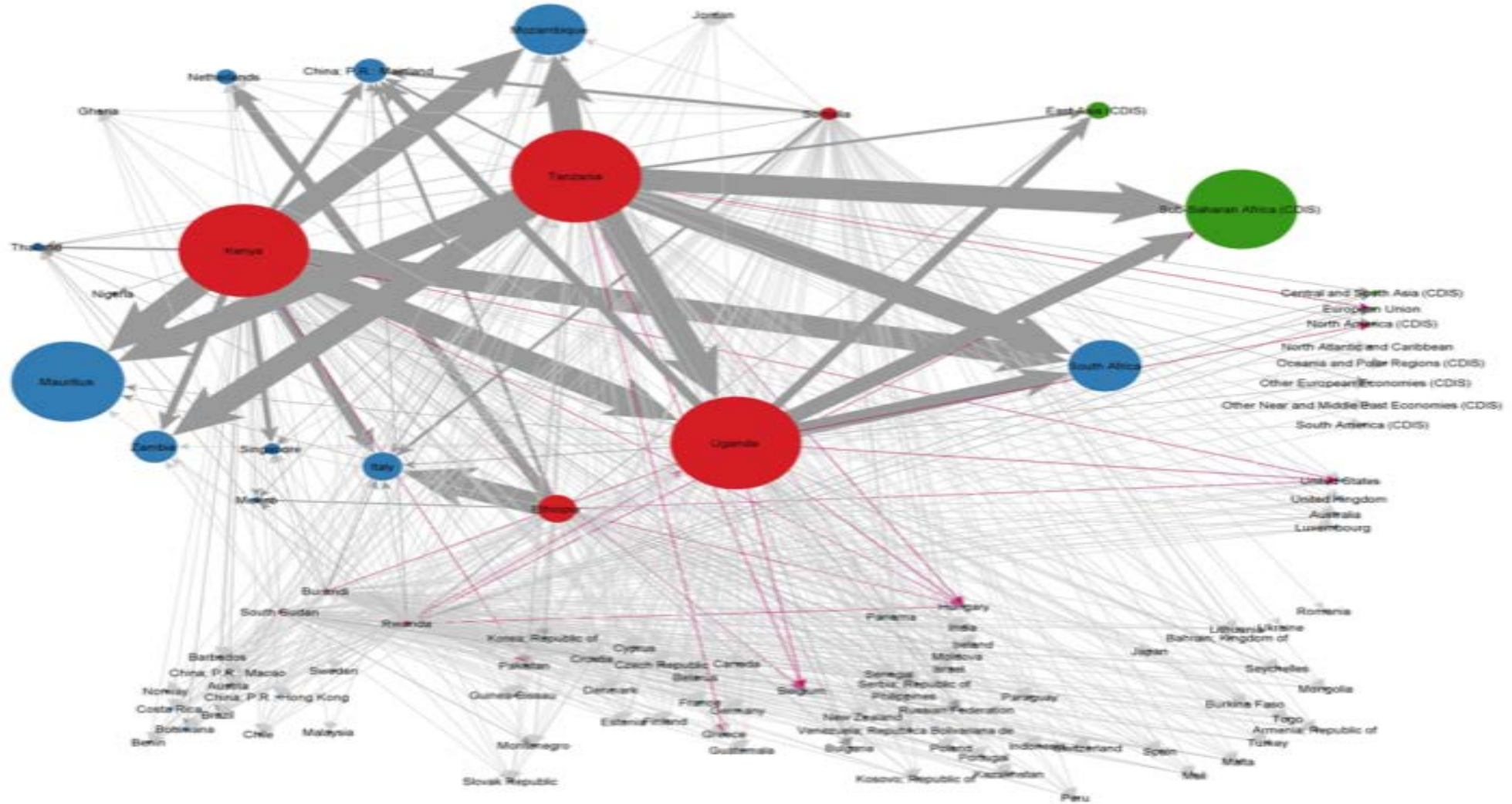


Source: Estimations from the World Bank, Christian Aid (2008), 'Death and taxes: the true toll of tax dodging', and Aciton Aid (2009), 'Accounting for poverty: how international tax rules keep pople poor'

E. Recommendations of the HLP report

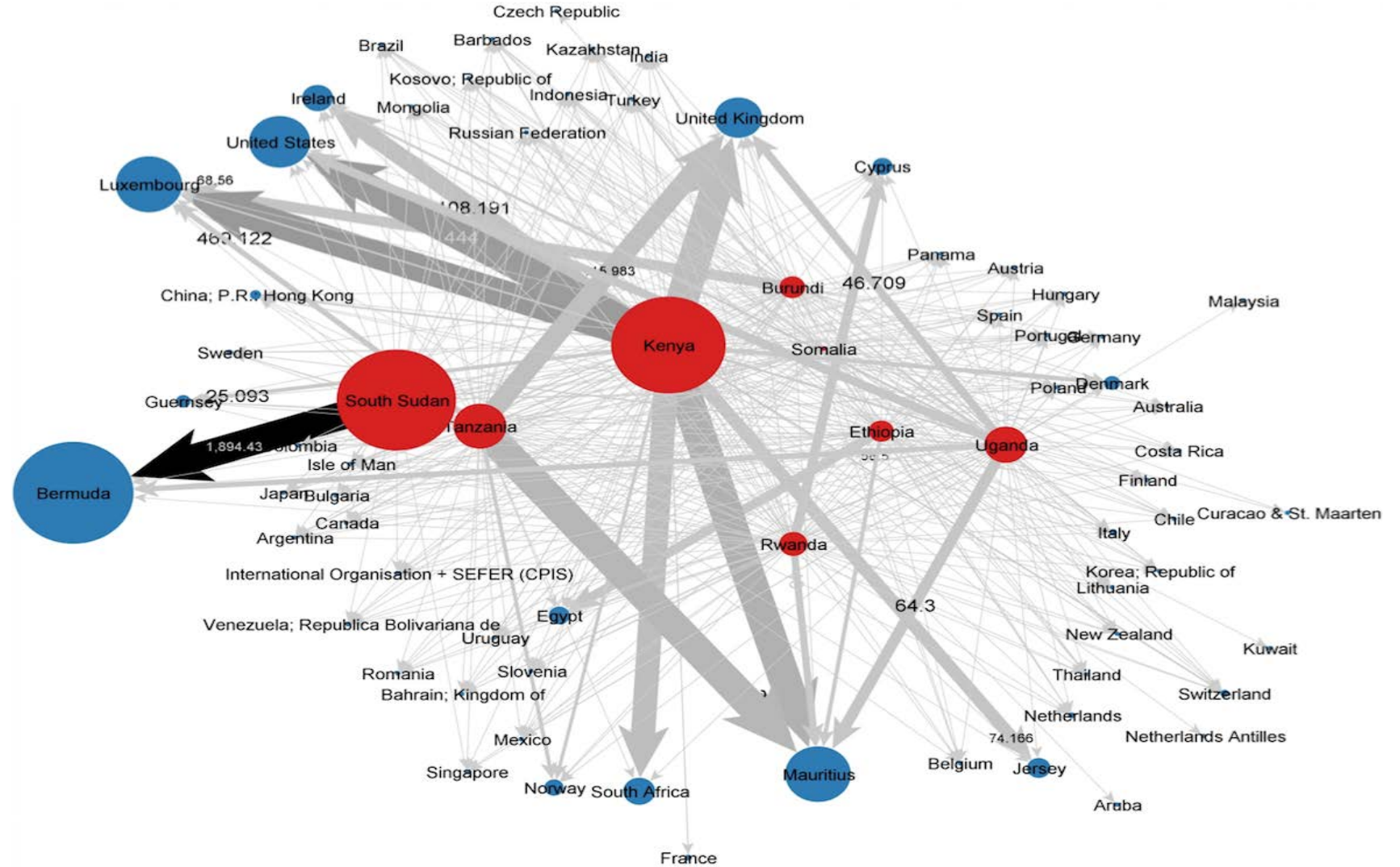
- Unified global architecture on the issue of IFFs in the form of a United Nations Declaration on the issue of IFFs
- IFFs are to be included in the Post-2015 Development Agenda
- Africa to initiate steps for the UN to adopt a unified policy instrument on IFF.
- improving capacity and accountability to curtail trade related IFFs.

Outward Direct Investments, Select African States, 2012, \$US millions



The most recently formed Africa state Southern Sudan had an unprecedented \$1.89 billion Portfolio Investment trade with Bermuda in 2012 (IMF CDIS Data, 2013).

Portfolio Investments Select African States, 2012, \$US millions



E. Methodology

1. Misinvoicing

- requires the Bank for International Settlements to publish the data it holds on international banking assets by country of origin and destination in a matrix format, along the lines of the data published by the IMF for bilateral trade; FDI and portfolio investment, so that it can inform the analysis of IFFs from Africa.

E. Arm's-length Principle

- availability of comparable pricing data on goods and services
- national and multilateral agencies to make fully and freely available, and in a timely manner, data on pricing of goods and services in international transactions, according to accepted coding categories

E. Transfer Pricing

- African countries should establish transfer pricing units as a matter of extreme urgency
- situated in revenue authorities and should be well equipped in accordance with global best practices. Establishing transfer pricing units may entail the training of a selection of existing revenue officers in this specialized area.
- African States should require multinational corporations operating in their countries to provide the transfer pricing units with a comprehensive report showing their disaggregated financial reporting on a country-by-country or subsidiary-by-subsidiary basis.
- African governments could also consider developing a format for this reporting that would be acceptable to multiple African revenue authorities

E. Transfer Pricing in Africa

- 2015 the African Union (AU) and United Nations Economic Commission of Africa (UNECA) listed only three African countries: Kenya, South Africa and Uganda as having separate transfer pricing units within their revenue collection agencies. (AU/UNECA 2015)
- 2016 the Natural Resource Governance Institute (NRGI) added Tanzania, Nigeria, Senegal, Tunisia and Angola and stated that Guinea and Sierra Leone are in the process of setting them up. (Readhead 2016: 19)
- As a result currently there are only 8 TP units with an additional 2 being set up out of the 54 African countries.
- African countries with MNEs having an annual turnover of higher than 750 million Euros include: Kenya, Nigeria, South Africa, Morocco, Egypt, Libya and Mauritius. (IGD & DGDA 2011)

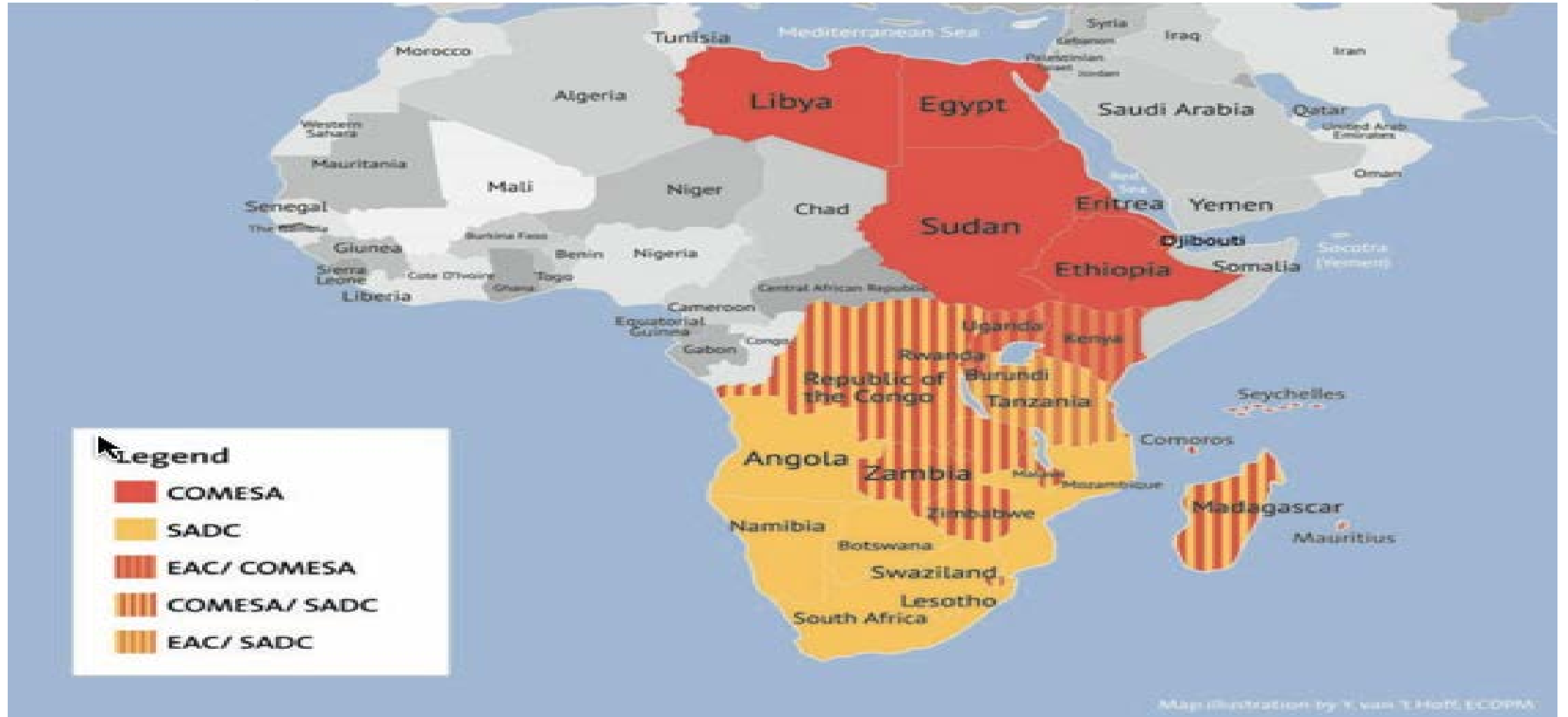
HLP Update (UNECA/AU)

- Report going to print as we speak
- Approach has developed separation of IFF into
 - Movement processes
 - Commercial processes
 - Criminal processes
 - Corruption separated

3. REGIONAL ECONOMIC BLOCS

A single bracelet does not jingle.
Congo

A. Regional Economic Communities



B. EAST AFRICAN COMMUNITY

???

THE SILENT MIDDLE?

???



© 1993
MAD
CHRIS MADDEN 1993

4. Kenya

A. African International Financial Centers

- **Created and Stable**

- Off continent: Mauritius and the Seychelles
- On Continent: Morocco, Djibouti and Liberia

- **Emerging Tax Havens**

- Botswana (2003)
- Ghana (2009)
- Kenya (ongoing)
- Gambia (ongoing)

A. An Update on the NIFC

- Gone ahead
- Legislation in place
- Policies on different limbs being developed
- Islamic finance and secular finance
- Technical Taskforce
- Target market

B. Public Participation

- Article 10 of the Constitution provides for public participation
- A national value and principle of good governance.
- indirect representation through Parliament
- directly contribute to major public decisions and processes

On the 20th of October 2013 this was an exchange between John Githongo and Alex Cobham on the setting up of the Nairobi International Financial Centre

- [John Githongo @johngithongo20 Oct](#) Why terrorists prefer Kenya. It's the easiest place on earth to launder money via ghost companies like Anglo Leasing: <http://is.gd/fqB8O5>
- [Alex Cobham @alexcobham20 Oct @johngithongo](#) & what effect on national+regional illicit flows if the City of London-backed Nairobi international finance centre goes ahead?
- [John Githongo @johngithongo20 Oct @alexcobham](#) Net effect: engineering into being the world's leading bespoke crime servicing multinational enterprise ever devised
- [Alex Cobham @alexcobham20 Oct @johngithongo](#) Do you think there is any way to change the politics to stop it? Would outside pressure help?
- [John Githongo @johngithongo @alexcobham](#) Yes pressure would help. Keeping in mind that this is a technical expertise exchange and consolidation exercise outsourcing graft

One knee doesn't bring up a child.

The water pot presses upon the small
circular pad.

I pointed out to you the stars and all you
saw was the tip of my finger.

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